



TOWN OF FALMOUTH

ORDER NO 49-2018

Order Authorizing General Obligation Refunding Bonds to Refinance and Refund a Portion of the Town's Outstanding 2011 General Obligation Bonds

WHEREAS, in 2011, the City previously issued its \$37,735,000 2011 General Obligation Bonds (the "2011 Bonds") to finance a portion of the costs of a new elementary school (the "Elementary School Project");

WHEREAS, 28,285,000 of the 2011 Bonds are currently outstanding; and

WHEREAS, \$18,850,000 the 2011 Bonds currently outstanding are callable on or after November 15, 2021 (the "Callable 2011 Bonds"); and

WHEREAS, due to the drop in interest rates, the Town desires to advance refund and refinance the Callable 2011 Bonds through issuance of its general obligation refunding bonds in order to achieve debt service savings;

NOW THEREFORE, BE IT HEREBY ORDERED THIS 11th DAY OF OCTOBER, 2017, BY THE FALMOUTH TOWN COUNCIL, FALMOUTH MAINE, IN TOWN COUNCIL ASSEMBLED THAT:

Pursuant to 30-A M.R.S.A. §5772, the Charter of the Town of Falmouth and all other authority thereto enabling, the Town Council hereby authorizes and approves the refinancing of the Callable 2011 Bonds and in furtherance thereof authorizes and approves the issue and sale of the Town's general obligation refunding bonds in the aggregate principal amount not to exceed Eighteen Million Eight Hundred Fifty Thousand Dollars (\$18,850,000) (the "Bonds"), the proceeds of which (including bond premium and investment earnings thereon, if any) are hereby appropriated and shall be used to refinance and advance refund the Callable 2011 Bonds, to pay redemption premium and interest accrued and unpaid on the Callable 2011 Bonds to the redemption date, issuance costs and any other costs related or ancillary thereto.

BE IT FURTHER ORDERED:

1. That the Treasurer of the Town and the Chair of the Town Council be and hereby are authorized to prepare, issue, and sell such Bonds in the name of and on behalf of the Town, in the aggregate amount of up to \$18,850,000 at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as they may approve, their approval to be conclusively evidenced by their execution thereof.

2. That the Treasurer of the Town be and hereby is authorized to provide that the Bonds may be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended.

3. That the Bonds shall be executed in the name of the Town and on its behalf by the manual or facsimile signatures of the Treasurer of the Town, countersigned by the Chair of the Town Council (provided that at least one of such signatures shall be a manual signature), sealed with the seal of the Town, attested by its Clerk.

4. That the Treasurer of the Town be and hereby is authorized to select the underwriter, financial advisor, bond counsel, and the registrar / paying agent / transfer agent (the "Transfer Agent") for the Bonds and the Treasurer be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith to secure such services.

5. That the Treasurer of the Town be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, with the advice of the bond counsel for the Town, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the Bonds for sale be and hereby is approved.

6. That the Bonds shall be transferable only on the registration books of the Town kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof (or such other minimum denominations as the Treasurer, in his discretion, may approve) upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the Town and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same.

7. That the Treasurer of the Town and the Chair of the Town Council from time to time shall execute such Bonds as may be required to provide for exchanges or transfers of the Bonds.

8. That the Treasurer of the Town be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds, and the Treasurer be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds for and participate in the Depository Trust Company Book-Entry Only System.

9. That if the Bonds, or any part of them, are issued on a tax-exempt basis, the Treasurer of the Town be and hereby is authorized and directed to covenant and certify in the name of the Town and on its behalf, that no part of the proceeds of the issue and sale of the Bonds shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended.

10. That if the Bonds, or any part of them, are issued on a tax-exempt basis, the officers or officials executing the Bonds be and hereby are individually authorized to covenant and agree, on behalf of the Town, for the benefit of the holders of such Bonds, that the Town will file any required reports and take any other action that may be necessary to insure that interest on the Bonds will remain exempt from federal income taxation, and that the Town will refrain from any action that would cause interest on the Bonds to be subject to federal income taxation.

11. That the Treasurer of the Town is authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of such Bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

12. That the Treasurer of the Town is authorized to negotiate, execute, and deliver, in the name of and on behalf of the Town such contracts, agreements, tax certificates, arbitrage and use of proceeds certificates, refunding escrow agreements, certificates and other documents as may be necessary or advisable, with the advice of counsel for the Town, to carry out the provisions hereof, in order to effect the issuance, execution, sale, and delivery by the Town of the Bonds, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Treasurer such approval to be conclusively evidenced by his execution thereof.

13. That the Treasurer of the Town, the Chair of the Town Council and Clerk and other proper officials of the Town be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds.

14. The proceeds of the Bonds may be used and are hereby appropriated to refinance and advance refund the Callable 2011 Bonds and to pay issuance costs for the Bonds, interest on the

Callable 2011 Bonds, interest and principal on the Bonds, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction.

15. That if any of the officers or officials of the Town who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to be such officer or official; and also any such Bonds may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such Bonds, shall be the proper officers and officials of the Town, although at the nominal date of such Bonds any such person shall not have been such officer or official.

16. That if the Treasurer of the Town, the Chair of the Town Council or Clerk are for any reason unavailable to approve and execute the Bonds or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

17. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Treasurer of the Town be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Treasurer be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Treasurer, countersigned by the Chair of the Town Council, sealed with the seal of the Town, attested by its Clerk, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

18. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds is extinguished.

That it is the intent of the Town Council that this Bond Order shall constitute the Town's declaration of official intent within the meaning of Treasury Regulation 1.150-2.

I hereby certify that this is a true copy of the order adopted by the Falmouth Town Council on October 11, 2017.

A true copy,

Attest: _____ **Date:** _____

Ellen Planer
Town Clerk