

Order authorizing street, sidewalk, sewer upgrades and other infrastructure and improvements to Route 100 with a total project cost not to exceed \$10,500,000, to include and be funded from the following:

- 1. Acceptance and use of a grant of up to \$4,000,000 from the Maine Department of Transportation**
- 2. Issuance of general obligation bonds in an amount not to exceed \$6,000,000; and**
- 3. Use of up to \$500,000 from the existing balance of TIF funds in the Town's West Falmouth Crossing TIF account;**

WHEREAS, the Town of Falmouth has developed plan to renovate and improve the Route 100 corridor with a variety of street, sidewalk, sewer upgrades and other infrastructure and improvements, with a project cost of approximately \$10,500,000; and

WHEREAS, the Town anticipates funding the improvements through issuance of its general obligation bonds in an amount not to exceed \$6,000,000, up to \$500,000 of TIF funds in the Town's West Falmouth Crossing TIF account, and up to \$4,000,000 of grant funds from the Maine Department of Transportation; and

NOW THEREFORE, BE IT HEREBY ORDERED BY THE TOWN COUNCIL OF THE TOWN OF FALMOUTH:

That pursuant to 30-A M.R.S.A. §5772, the Charter of the Town of Falmouth and all other authority thereto enabling and subject to approval of the voters of the Town of Falmouth at a referendum election to be held pursuant to Section 903 of the Town Charter, the Town Council hereby authorizes infrastructure improvements along Route 100, including street, sidewalks, intersections, sewer and storm water improvements, traffic signalization and signage, pedestrian and other public safety improvements and other related improvements on and about Route 100, (the "Route 100 Project), with total costs not to exceed \$10,500,000, to be funded from the following sources, which funds be and hereby are appropriated for the Route 100 Project:

- 1. Acceptance and use of a grant of up to \$4,000,000 from the Maine Department of Transportation**
- 2. Issuance of general obligation bonds in an amount not to exceed \$6,000,000 (the "Bonds");**
- 3. Use of up to \$500,000 from the existing balance of TIF funds in the Town's West Falmouth Crossing TIF account; and**

BE IT FURTHER ORDERED, subject to approval of the voters of the Town of Falmouth,

1. That the Treasurer of the Town be and hereby are authorized, in the name of and on behalf of the Town, to accept a grant of up to \$4,000,000 from the Maine Department of Transportation in furtherance of the Route 100 Project;

2. That the Treasurer of the Town and the Chair of the Town Council be and hereby are authorized, in the name of and on behalf of the Town, to borrow up to \$6,000,000 to finance the Route 100 Project and to prepare, issue, and sell the Bonds herein authorized, and notes in anticipation thereof, in the name of and on behalf of the Town, 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 he may approve, such approval to be conclusively evidenced by the execution thereof;

3. That to the extent such loan (or portion thereof) may be financed under the Maine Municipal Bond Bank (the "Bond Bank") Clean Water Revolving Loan Fund Program, the Treasurer of the Town and the Chair of the Town Council be and hereby are authorized and empowered, in the name and on behalf of the Town, to execute and deliver a Loan Agreement between the Town and the Bond Bank, with such usual and customary terms and provisions, not contrary to the general tenor hereof, as the Bond Bank may require in connection with the Clean Water State Revolving Loan Fund, and as the Treasurer and the Chair of the Town Council may approve, their approval to be conclusively evidenced by the execution thereof.

4. That the Treasurer be and hereby is authorized to provide that any of the Bonds and notes 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;

5. That each bond or note issued hereunder shall be executed in the name of the Town and on its behalf by the manual or facsimile signatures of the Treasurer, 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;

6. That the Treasurer be and hereby is authorized to select the underwriter for the Bonds and notes 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;

7. That the Treasurer 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 and notes, 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 or notes for sale be and hereby is approved;

8. That the Treasurer and the Chair of the Town Council from time to time shall execute such Bonds or notes as may be required to provide for exchanges or transfers of the Bonds and notes, all such Bonds or notes to bear the original signature of the Treasurer and the Chair of the Town Council, and in case any officer of the Town whose signature appears on any bond or note shall cease to be such officer before the delivery of said bond or note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

9. That the Treasurer be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or notes herein authorized 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 or notes, 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 or notes for and participate in the Depository Trust Company Book-Entry Only System;

10. That if the Bonds or notes, or any part of them, are issued on a tax-exempt basis, the Treasurer be and hereby is authorized and directed to covenant and certify on behalf of the Town that no part of the proceeds of the issue and sale of the Bonds or notes shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or notes 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;

11. That the Treasurer be and hereby is authorized and empowered to take all such action as may be necessary to designate the Bonds or notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; it being the Town Council's intention that the Treasurer, with advice of bond counsel, make the required Section 265(b) election with respect to such Bonds and notes to the extent the election may be available and advisable as determined by the Treasurer.

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

13. That the officers executing the Bonds or notes be and hereby are individually authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of such Bonds or notes, 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;

14. That any or all of the Bonds or notes may be consolidated with and become a part of any other issue of temporary notes or general obligation Bonds authorized to be issued by any previous or subsequent order of the Town Council of the Town of Falmouth;

15. That the term "cost" or "costs" as used herein and applied to the Route 100 Project, or any portion thereof, includes, but is not limited to (1) the cost of all appurtenances and other facilities either on, above, or under the ground which are used or usable in connection with the Route 100 Project; (2) the cost of landscaping, site preparation and remodeling of any improvements or facilities related to the Route 100 Project; (3) the cost of land, structures, real property interests, rights and easements that may be acquired in the future in connection with the Route 100 Project; (4) the cost of all utility extensions and site improvements and development; (5) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Route 100 Project; (6) the cost of environmental studies and assessments; and (7) the cost of financing charges and issuance costs, including premiums for insurance, capitalized interest, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction;

16. 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, loan agreements, tax certificates, arbitrage and use of proceeds certificates, 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 or notes, 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.

17. That the Treasurer, 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 or notes;

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

19. That if the Treasurer, the Chair of the Town Council or Clerk are for any reason unavailable to approve and execute the Bonds or notes or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or notes, 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.

20. That the Bonds or notes authorized by this Order are in addition to any Bonds or notes previously authorized for the same or similar purposes;

21. 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 or any notes issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or notes is extinguished.

22. That if the Bonds or notes are issued through the Bond Bank's Clean Water Revolving Loan Fund Program, the following resolutions required by Section C(4)(e) of the State of Maine Revolving Loan Fund Rules, Chapter 595, Department of Environmental Protection and the Bond Bank (the "SRF Regulations"), and governing the loan to be made to the Town under the State Revolving Loan Fund Program be and hereby are adopted:

1) that a Project Account shall be created for the Route 100 Project which shall be separate from all other accounts of the Town. If operating revenues are to be used to retire the debt, a sub-account will be established.

(2) that the Project Account shall be maintained in accordance with standards set forth by the Maine Municipal Bond Bank and in accordance with generally accepted government account standards.

(3) that a final accounting shall be made to the Bond Bank of the total cost of the Route 100 Project upon completion of the project performance certification as set out in Section G(3) of the SRF Regulations and the Town acknowledges that the Bond Bank reserves the right at its sole discretion to be provided with a cost certification of the Route 100 Project as built.

(4) that an annual audit of the Town, prepared by a certified public accountant or licensed public accountant be provided to the Bond Bank for the term of the loan.

(5) that the Town shall maintain insurance coverage on the Route 100 Project in an amount adequate to protect the Bond Bank's interest for the term of the loan with the Bond Bank named as loss payee.

(6) that the Town will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged.

(7) that the Town certify to the Bond Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment.

(8) that the Town establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bond Bank is sufficient.

(9) that the Town must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Project.

(10) that the Town abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine

23. That during the term any of the Bonds (or Bonds issued to refund such Bonds) are outstanding, the Treasurer 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.

24. That notwithstanding any other provision of this Order, the Treasurer may, in his discretion, issue some or all of the bond and notes herein authorized as sewer revenue Bonds rather than general obligation Bonds of the Town.

25. 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 _____, 2016.

Attest, _____, 2016:

Ellen Planer
Town Clerk