

**TOWN COUNCIL
TOWN OF FALMOUTH, MAINE
ORDER AUTHORIZING ENERGY CONSERVATION
AND HEATING SYSTEM IMPROVEMENTS**

Order authorizing energy conservation and heating system improvements at the Falmouth Middle School including conversion of the heat distribution system from steam to hot water, installation of a new domestic hot water system, installation of an energy efficient window wall system and connection of the Middle School biomass boiler to the Elementary School and High School heat distribution system (the “Project”) and the issuance of general obligation bonds in an amount not to exceed \$3,250,000 (plus issuance costs) for a term not to exceed 20 years to fund Project costs.

Be it ORDERED by the Town Council of the Town of Falmouth, Maine in Town Council assembled, that:

Pursuant to 30-A M.R.S. § 5772, the Charter of the Town of Falmouth and all other authority thereto enabling and subject to the approval of the voters of the Town of Falmouth at a referendum election held pursuant to Section 903 of the Charter of the Town of Falmouth the Town Council hereby authorizes energy conservation and heating system improvements at the Falmouth Middle School including conversion of the heat distribution system from steam to hot water, installation of a new domestic hot water system, installation of an energy efficient window wall system and connection of the Middle School biomass boiler to the Elementary School and High School heat distribution system (the “Project”) and the issuance of general obligation bonds in an amount not to exceed \$3,250,000 (plus issuance costs) for a term not to exceed 20 years to fund Project costs (the “Bonds”).

Be it FURTHER ORDERED:

1. That the Treasurer be and hereby is authorized to prepare, issue, and sell such Bonds at one time, or from time to time, as one or more separate bond issues, and to determine the date(s), form, interest rate(s), maturities (with the last maturity not to exceed 20 years from the issue date of the Bonds or any series of Bonds) and all other details of each issue of Bonds, including the form and manner of their sale and award, subject to the provisions of law, the Town Charter and this Order;
2. That the Treasurer be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes, as a single issue or in series, in anticipation of said Bonds in such minimum denominations as the Treasurer shall approve, and to determine the date(s), form, interest rate(s), maturities (with the last maturity, including renewals thereof, not to exceed 3 years from the issue date of said note) and all other details of each issue of notes, including the form and manner of their sale and award, subject to the provisions of the law, the Town Charter and this Order.
3. That the maturity(ies), interest rate(s) and sale price of the Bonds and notes herein authorized shall be either set out to bid or negotiated by the Treasurer in such manner as he

deems appropriate and in the best interest of the Town and the financing of the Project and the Treasurer be and hereby is authorized to provide that any of the Bonds and notes herein authorized be made callable, with or without premium, prior to their maturity, and each Bond or note issued hereunder shall be signed by the Treasurer, countersigned by the Chairman of the Town Council, sealed with the seal of the Town, attested by its Clerk, and otherwise to be in such form and contain such terms and provisions, not inconsistent herewith, as they shall approve, their approval to be conclusively evidenced by their execution thereof;

4. That the Treasurer is authorized to negotiate, execute, and deliver, in the name of and on behalf of the Town such contracts, agreements, and other documents, including agreements, contracts, leases, instruments, documents and certificates as may be necessary or appropriate as determined and approved by the Treasurer in connection with the financing of the Project and the issuance of the Bonds and note herein authorized, 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;

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

6. 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 herein authorized, 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 and notes for sale be and hereby is approved;

7. That the Treasurer be and hereby is authorized as necessary to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds and notes herein authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

8. That the Bonds and notes herein authorized 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 such 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;

9. That, the Treasurer 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 preceding 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;

10. That the Treasurer and Chairman of the Town Council from time to time shall execute such Bonds and notes as may be required to provide for exchanges or transfers of the Bonds and notes herein authorized, all such Bonds or notes to bear the original signature of the Treasurer and Chairman of the Town Council, sealed with the seal of the Town, attested by its Clerk and in case any officer of the Town whose signature appears on any Bond shall cease to be such officer before the delivery of said Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof.

11. That 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 and notes herein authorized shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or notes to be "private activity bonds" or "arbitrage bonds" within the meaning of Sections 141 and 148 of the Internal Revenue Code of 1986, as amended;

12. That the officers executing the Bonds and notes herein authorized 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 or 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 and notes herein authorized 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 and 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 an amount sufficient for the payment of the annual payments of principal and interest on the Bonds and any notes issued hereunder, not payable from other sources, shall be included in the tax levy of each year until the debt represented by said Bonds and notes is extinguished.

15. That the Bonds and notes herein authorized by this Order are in addition to any other indebtedness authorized for the same or similar purposes;

16. That any or all of the Bonds and notes issued hereunder 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;

17. That the term "cost" or "costs" as used herein and applied to the Project, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Project; (2) the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, and equipping of the Project; (3) the cost of all appurtenances and other facilities either on, above, or under the ground which are used or usable in connection with the Project; (4) the cost of landscaping, site preparation and remodeling of any improvements or facilities; (5) the cost of all labor, materials, building systems, machinery and equipment; (6) the cost of land, structures, real property interests, rights, easements, and franchises acquired in connection with the Project; (7) the cost of all utility extensions and site improvements and development; (8) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Project; (9) the cost of environmental studies and assessments; (10) the cost of financing charges and issuance costs, including premiums for insurance, interest for a period not to exceed three years from the issue date of the Bonds, and for any additional period permitted under Section 148 of the Internal Revenue Code of 1986, as amended, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (11) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing;

18. That the Treasurer be and hereby is authorized and empowered to take all such action as may be necessary to designate the Bonds and notes herein authorized 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.

19. That if any of the officers or officials of the Town who have signed or sealed the Bonds or notes herein authorized shall cease to be such officers or officials before such Bonds and notes so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds and 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; and

20. That the Treasurer, Chairman of the Town Council and Clerk and other proper officials of the Town be, and hereby are individually 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 and notes herein authorized;

21. That if the Treasurer, Chairman of the Town Council or Clerk are for any reason unavailable to approve and execute the Bonds and notes herein authorized 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.

22. That the proceeds of the Bonds and notes issued hereunder and the investment earnings on the proceeds of the Bonds and notes issued hereunder, if any, and the excess proceeds of the Bonds, if any, be and hereby are appropriated for the following purposes, such proceeds to be held and applied in the following order of priority:

1. To any costs of the Project in excess of the principal amount of the Bonds;
2. In accordance with applicable terms and provisions of the Arbitrage and the Use of Proceeds Certificate delivered in connection with the sale of the bonds including, to the extent permitted thereunder, to the Town's general fund.

23. 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 _____, 2013. .

Attest:_____

Town Clerk

Date:_____I