

MEMO

Date: May 1, 2020 2020

To: Matthew Strugis, Town Manager

From: John Quartararo, Finance Director

Re: Bond Order for Refunding of

CC: Debra Lane, Town Clerk

Enclosed with this memo is a bond order authorizing the Town to issue refunding bonds for the 2008 General Obligation Bond Issue. The bonds are dated May 15, 2008 for \$2,250,000. The bonds mature April 15, 2028. The current principal balance is \$1,000,000 and the schedule interest payments are \$181,688. Both the Town and School are responsible for the debt service as both components had projects financed. The school's share is 18.0864% of the principal and interest payments. The town is responsible for the balance or 81.9136%. We will share the savings realized proportionally between the school and town.

Joe Cuetara, Moors & Cabot, our financial advisor reviewed our portfolio of outstanding debt and this is the last bond that is eligible for refunding. Our bond counsel, James Saffian, Esq., Pierce Atwood, Portland, prepared the order and along with Joe Cuetara will handle the closing and settlement of the issue.

We anticipate selling the refunding bonds in late May and although dependent upon the market, the current estimate is for net savings of \$70,000 over the 8 years life of the bonds (2028). When we sell the refunding bonds, we will know the actual savings. The estimated \$40,000 cost of issuance is included in the interest rate and does not require an out-of-pocket disbursement.

Please add the approval of the bond order, as prepared by bond counsel, James Saffian, Esq. to the Council's next agenda.

Attached to the transmittal email as a separate Word document is the bond order.

TOWN OF CAPE ELIZABETH

**TOWN COUNCIL VOTE AUTHORIZING REFUNDING BONDS
IN AN AMOUNT NOT TO EXCEED \$1,000,000**

WHEREAS, the Town has previously issued its \$2,550,000 2008 General Obligation Bonds dated May 15, 2008 (the "Prior Bonds"); and

WHEREAS, the Town desires to refinance, through a current refunding, an amount of up to \$1,000,000 of its 2008 Bonds;

NOW, THEREFORE, it is:

VOTED: That there be and hereby is authorized, pursuant to the provisions of 30-A M.R.S. §5772, the issue and sale of the Town's general obligation bonds in the principal amount not to exceed \$1,000,000 (the "Bonds") to refinance the Prior Bonds in a current refunding.

VOTED: That in order to effect the borrowing heretofore authorized, the Treasurer be and hereby is authorized to prepare, issue and sell the Bonds in the aggregate principal amount not to exceed \$1,000,000, such Bonds to be signed by the Treasurer, countersigned by the Chairman of the Town Council and attested by the Town Clerk.

VOTED: That the form, maturity, interest rates and other details of said Bonds shall be as determined by the Treasurer and the Chairman of the Town Council by their execution thereof, but shall have their respective final maturity not later than the respective final maturities for the Prior Bonds and shall not be inconsistent with the provisions hereof. Such Bonds may be issued as callable bonds, at the discretion of the Treasurer and Chairman of the Town Council.

VOTED: That the Treasurer be and hereby is authorized to negotiate, execute, and deliver, in the name of and on behalf of the Town such contracts, agreements, and other documents, including refunding escrow agreements, verification reports, Bond Purchase Agreements, instruments and certificates as may be necessary or appropriate as determined and approved by the Treasurer in connection with the refinancing of the Prior 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.

VOTED: That the Treasurer be and hereby is authorized to engage Moors & Cabot, Inc. as financial advisor to the Town in connection with the issuance and sale of the Bonds.

VOTED: That the Treasurer be and hereby is authorized to select the underwriter for the Bonds heretofore authorized and to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.

VOTED: 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 heretofore 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 for sale be and hereby is approved.

VOTED: That the Treasurer be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds heretofore authorized and an escrow agent for the Prior Bonds and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services.

VOTED: That the Bonds heretofore authorized shall be transferable only on the registration books of the Town kept by the Transfer Agent, and said Bonds of one maturity may be exchanged for an equal aggregate 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 denomination as the Treasurer shall 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.

VOTED: That the Treasurer be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds heretofore 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, 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.

VOTED That the Treasurer and Chairman of the Town Council from time to time shall execute such Bonds as may be required to provide for exchanges or transfers of Bonds as heretofore authorized, all such Bonds to bear the original signature of the Treasurer and Chairman of the Town Council.

VOTED: 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 authorized to be issued hereunder 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 (the "Code").

VOTED: That if the Bonds or any part of them, are issued on a tax-exempt basis, the officers 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 notes 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.

- VOTED: That the officers executing the Bonds 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, 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.
- VOTED: That any or all of the Bonds issued hereunder may be consolidated with and become a part of any other issue of or general obligation bonds authorized to be issued by any previous or subsequent order of the Town Council.
- VOTED: That the Treasurer, Chairman 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 hereinabove authorized.
- VOTED: That if any of the officers of the Town who have signed or sealed the Bonds shall cease to be such officers 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; 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, shall be the proper officers of the Town, although at the nominal date of such Bonds any such person shall not have been such officer.
- VOTED: That if the Treasurer, Chairman 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, be and hereby are authorized to act for such official with the same force and effect as if such official had performed such act.
- VOTED: That the investment earnings on the proceeds of the Bonds, if any, and the excess proceeds of the Bonds (including premium), if any, be and hereby are authorized to be used to fund the refunding escrow for the Prior Bonds, to pay redemption premium on the Prior Bonds, if any, to pay interest on the Prior Bonds or the Bonds and to pay issuance costs for the Bonds.
- VOTED: The Bonds herein authorized shall be either sold at public sale upon sealed bid, or by negotiated sale in such manner as the Treasurer deems appropriate and in the best interest of the Town, and the Treasurer be and hereby is authorized to provide that any of the Bonds herein authorized be made callable, with or without premium, prior to their maturity.
- VOTED: That the Treasurer, with the advice of the bond counsel for the Town and to the extent permitted under the Code, be and hereby is authorized to designate the Bonds as “qualified tax-exempt obligations” under Section 265(b)(3) of the Code.