

**South Portland City Council**  
***Position Paper of the City Manager***

***Subject:***

**RESOLVE #27-15/16 - Pursuant to Section 612 of the City Charter determining details of issue of \$14,000,000 principal amount of bonds authorized by bond ordinance finally passed and enacted June 17, 2013. Passage requires majority vote.**

***Position:***

The City Council placed before the voters on November 5, 2013, a \$14,000,000 bond referendum to finance the new Community Services Facility (now better known as Municipal Services Facility) housing the Public Works, Parks and Transportation Departments. This bond issue was approved by the voters (with 57.9% voting in favor) and the Section 612 resolve gives formal approval to proceed and provides notice of official intent and relevant disclosure on the financing. As was discussed earlier this year during the budget workshops, the City has been monitoring bond rates and was evaluating whether to go to market for the bonds earlier than was originally planned. In order to schedule the debt service payments to fall in line with present retiring debt, the plan has been to issue the bonds this summer. Overall rates actually have come down some since this past fall with shorter term rates rising some, but the mid and longer term rates coming down. At this time we are leaning to do the financing sometime in August but feel it warrants starting the formal approval process at this time.

**Future Option for Council Consideration – Lowering Amount to be Borrowed**

As was discussed at the Council Workshop on March 14, 2016, something for the City Council to still consider is contributing Unassigned Fund Balance toward the amount to be borrowed. This was discussed as a possible option in Greg L'Heureux's January 27, 2016 memo to the City Council and during the March 14, 2016 Workshop.

At that time, it was proposed that the City might contribute \$500,000 to \$1,000,000 to lower the amount to be borrowed. For example, if the City contributed \$500,000 that would lower the amount bonded to \$13,500,000. Effectively lowering future debt service payments by \$500,000 principal (\$25,000 annually) and approximately \$122,750 in interest over the life of the bonds/\$11,600 first year then declining. If the Council wanted to go this route, I would bring forth a future Order to appropriate an additional amount from

Unassigned Fund Balance towards the project. This would not impact the Resolve proposed for this agenda item.

### **Municipal Service Facility – Remaining Local Share to be Raised**

From the beginning of the facility discussion in 2012, the intent was always to raise a certain portion of the total project internally and not bond 100% of the project. All the early financial proformas for the project had the City's internal budgeting process contributing \$1,285,542 towards the project. Additionally, \$571,566 FTA grant was earmarked as well as the City's match on the FTA grant of \$142,892. In totality, these amounts total the remaining \$2,000,000 of project funding for the proposed \$16,000,000 Municipal Service Facility.

To date, the City has set aside \$851,992 local contribution of the \$1,428,434 leaving a balance of \$576,442 needed to still be funded. One of the key pieces of the plan to raise the funds locally was through the sale of the armory property and existing public works facility. At this time, knowing what we know now, the existing public works facility may be a breakeven transaction. The armory property will close within the next two weeks at a sale price of \$700,000 (minus some reductions for costs association with sale). Applying the Land Bank Ordinance to the sale of the property requires 30% of the sale to credit the Land Bank account. This allocates roughly \$490,000 towards the Municipal Service Facility, slightly short of what is needed to be raised. In reviewing Section 18-76, the 30% allocation is associated with sale of City property that is improved. There is a waiver provision by the City Council if a good cause is shown. If this is not a desired direction the Council wants to take, there is the use of the Undesignated Fund Balance. The Council may remember that we talked back in March of using this funding to fill any gaps the project would have as we have made this commitment to the project a number of years ago.

I thought it would be appropriate to provide the Council with this information as it is all related to the full financial package of the new facility. However, this evening the Council is only acting on the information provided in the first paragraph of this position paper.

The City's Finance Director, Greg L'Heureux, will be available to answer any questions on the resolve, fund balance contribution or remaining local contribution towards the project.

#### ***Requested Action:***

Council passage of RESOLVE #7-15/16.

  
City Manager



CITY OF SOUTH PORTLAND

THOMAS E. BLAKE  
Mayor

JAMES H. GAILEY  
City Manager

EMILY F. CARRINGTON  
City Clerk

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

**IN CITY COUNCIL**

**RESOLVE #27-15/16**

District One  
CLAUDE V. Z. MORGAN

District Two  
PATRICIA A. SMITH

District Three  
EBEN C. ROSE

District Four  
LINDA C. COHEN

District Five  
BRAD FOX

At Large  
MAXINE R. BEECHER

At Large  
THOMAS E. BLAKE

Resolution pursuant to Section 612 of the City Charter Determining Details of Issue of \$14,000,000 Principal Amount of Bonds Authorized by Bond Ordinance finally Passed and Enacted June 17, 2013.

**WHEREAS**, the City Council of the City of South Portland, Maine, pursuant to applicable provisions of the City Charter, finally passed and enacted on June 17, 2013 Ordinance No. 15-12/13 entitled "Bond Ordinance to Appropriate 14,000,000(\*) for Construction and Equipping of a Community Services Facility and to Authorize \$14,000,000(\*) Principal Amount of Bonds to Finance Such Appropriations"; and

**WHEREAS**, the legal voters of the City of South Portland at a municipal election held on November 5, 2013 approved the issuance of \$14,000,000 principal amount of bonds for such project; and

**WHEREAS**, the City has not previously issued any of its bonds for such project; and

**WHEREAS**, the City Council wishes at this time to issue \$14,000,000 of bonds for such project; and

**WHEREAS**, Section 612 of the City Charter, as amended, provides in substance that all matters in connection with the authorization, sale and issuance of bonds not specifically required to be provided in a Bond Ordinance may be determined or provided by resolutions adopted after final passage of a Bond Ordinance by the affirmative votes of at least a majority of the members of the City Council.

**NOW, THEREFORE, IT IS HEREBY RESOLVED:**

(1) That, pursuant to Section 612 of the City Charter, as amended, and the aforesaid Bond Ordinance finally passed and enacted by the City Council of the City of South Portland on June 17, 2013, \$14,000,000 aggregate principal amount of bonds of the City shall be issued to pay the costs of such project.

(2) That such bonds shall be dated the date of their delivery and shall mature \$700,000 principal amount on September 1<sup>st</sup> in each of the years 2017 through 2036 or such other dates as determined by the Director of Finance.

(3) That all such bonds shall be fully registered bonds in the denomination of \$5,000 and any multiple thereof, shall bear interest at such rate or rates as may be designated by the successful bidder therefore and approved unanimously by the Mayor and Chairman of the City Council, the City Manager and the Director of Finance, payable semi-annually on the 1<sup>st</sup> day of March and September of each year, beginning March 1, 2017, or such other dates as determined by the Director of Finance, to the registered owner on the record date provided in the bonds and shall be in such form and contain such terms and provisions not inconsistent with said Bond Ordinance and this Resolution as the Director of Finance may approve, and said bonds shall be executed in the name and on behalf of the City of South Portland by its Director of Finance, shall bear the corporate seal of the City of South Portland, Maine and the manual or facsimile signature of the Mayor and Chairman of the City Council; and the Director of Finance of the City of South Portland, Maine be and hereby is authorized and empowered to sell said \$14,000,000 aggregate principal amount of bonds of the City of South Portland, Maine.

(4) That the Director of Finance be and hereby is authorized to engage Moors & Cabot, Inc. as financial advisor to the City in connection with the issuance and sale of the bonds.

(5) That the Director of Finance 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 Director of Finance, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the bonds for sale be and hereby is approved.

(6) That U.S. Bank National Association, Boston, Massachusetts, its successors and assigns, or such other qualified financial institution as may be approved by the Mayor and Chairman of the City Council and the Director of Finance be and hereby is appointed Registrar, Transfer Agent and Paying Agent (the "Transfer Agent") for said \$14,000,000 aggregate principal amount of bonds of the City of South Portland.

(7) That said \$14,000,000 aggregate principal amount of bonds of the City of South Portland shall be transferable only on registration books of the City kept by the Transfer Agent, and said bonds of one maturity may be exchanged for an equal aggregate principal amount of bonds of the same maturity (but not of other maturities) in the denomination of \$5,000 or any multiple thereof, 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 bonds, the City of South Portland and the Transfer Agent may 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 subsequent to the first exchange or transfer, the cost of which shall be borne by the City, the cost of preparing new bonds upon exchanges or transfers thereof shall be paid by the person requesting the same.

(8) That the Director of Finance, Mayor and Chairman of the City 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 Director of Finance, Mayor and Chairman of the City Council, and in case any officer of the City 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.

(9) That the Director of Finance 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 Director of Finance 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 Director of Finance be and hereby is authorized and directed to covenant and certify on behalf of the City 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.

(11) 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 City, for the benefit of the holders of such bonds, that the City 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 City will refrain from any action that would cause interest on the bonds to be subject to federal income taxation.

(12) That the officers executing the bonds be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such bonds, that the City 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.

(13) That any or all of the bonds 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 City Council of the City of South Portland.

(14) That the Director of Finance, Mayor and Chairman of the City Council, City Manager and Clerk and other proper officials of the City 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.

(15) That if any of the officers or officials of the City 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 City, 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 or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such bonds, shall be the proper officers and officials of the City, although at the nominal date of such bonds any such person shall not have been such officer or official.

(16) That if the Director of Finance, Mayor and Chairman of the City Council, City Manager 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 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 pay interest on the bonds and to pay issuance costs for the bonds to the extent permitted by the Internal Revenue Code and regulations and rulings thereunder.

(18) That during the term any of the bonds (or bonds issued to refund such bonds) are outstanding, the Director of Finance be and hereby is authorized to issue and deliver refunding bonds to refund on either a current or advance refunding basis some or all of the bonds then outstanding, to the extent allowed by the Internal Revenue Code, 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 Director of Finance 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 Director of Finance and by the Mayor and Chairman of the City Council, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, 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.

(19) That the Director of Finance be and hereby is authorized to covenant and agree, on behalf of the City, for the benefit of the holders of the bonds, that the City will file any required reports and take any other action that may be necessary to ensure that interest on the bonds will remain exempt from Federal income taxation, and that the City will refrain from taking any action that would cause interest on the bonds to be subject to Federal income taxation.

(20) The bonds shall be sold at a public sale pursuant to the provisions of Section 623 of the City Charter, provided, however, that if this Resolve is approved by at least a two-thirds (2/3<sup>rd</sup>s) vote of the City Council, then in lieu of a public sale pursuant to the provisions of Section 623 of the City Charter, the bonds may be sold either by negotiated sale in such manner as the Director of Finance deems appropriate and in the best interests of the City, or by a public offering with a distribution of a Preliminary Official Statement and notice of sale as the Director of Finance deems appropriate and in the best interests of the City, and the Director of Finance 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.

(21) That the Issuer expects to incur expenditures on the Projects prior to the issuances of the proposed bonds (the "Prior Expenditures"). The Issuer intends to reimburse itself for the Prior Expenditures from the proceeds of the bonds in an amount not to exceed \$14,000,000. Expenditures made prior to the issuance of the bonds are expected to be funded either with operating and non-operating revenues of the Issuer or with the proceeds of an interim loan. This Declaration of Official Intent shall be maintained as a public record of the Issuer.

Fiscal Note:

\$14,000,000 Principal  
\$ 3,537,000 Interest  
\$17,537,000 Total

Dated: May 16, 2016