



CITY COUNCIL ACTION

08/10/2020 20-254

Council Meeting Date: 08/10/2020

Item No: 20-254

Responsible Dept: School Department

Requested Action: Order

Map/Lot: N/A

Title, Order

Authorizing Issuance of \$2,730,000 of the City's General Obligation Bonds and a Tax Levy Therefor to Fund Cameron Stadium Improvements - Multi Sport Turf/Field - Track Replacement

Summary

This Order would authorize the issuance of up to \$2,730,000 in general obligation bonds to fund improvements at Cameron Stadium and initiate the process for voter approval in November 2020. Specifically, the bonds will pay for the installation of artificial turf to create a multi-sport/use recreation facility at Cameron Stadium as well as replace the degraded 6 lane track with a new 8 lane track.

Article VIII, Section 19(a) of the Charter, approved by the voters in 2012, set threshold bond amounts the City could issue for all non emergency projects. Based on that charter language, the current threshold is approximately \$1.3 million. In 2013, the City issued general obligation bonds to fund improvements to Cameron Stadium including the bleachers, restrooms, cold storage facility, and lighting/electrical systems. A portion of the bonds used to fund necessary safety improvements including the bleachers and lighting/electrical systems were exempt from the Charter requirements. In 2016, the school indicated a desire to make additional improvements including the locker rooms and track. Due to the threshold limits imposed by the Charter, the City only issued an additional \$668k in general obligation bonds to fund the locker room improvements. The school department had intended to seek private donations to complete additional work on the turf and track, however, fundraising efforts were not successful. Because non-emergency projects from 2013 through 2020 were envisioned as one project, it is appropriate that bond expenditures for total non-emergency projects over \$1.3 million be subject to voter approval pursuant to the above Charter requirements. The combination of bonds issued in 2013 and 2016 for non-emergency improvements remained within the Charter threshold. However, the additional bonds for artificial turf and track improvements are not deemed emergency/safety improvements and therefore require voter approval.

Committee Action

Committee: Finance Committee
Action: Recommend for passage

Meeting Date: 08/03/2020
For: 5 Against: 0

Staff Comments & Approvals

This item will require a public hearing prior to any action being taken.

City Manager

City Solicitor

Finance Director

Introduced for: First Reading



CITY OF BANGOR ORDER

08/10/2020 20-254

Date: 08/10/2020

Item No: 20-254

Assigned to Councilor: Sprague

Authorizing Issuance of \$2,730,000 of the City's General Obligation Bonds and a Tax Levy Therefor to Fund Cameron Stadium Improvements - Multi Sport Turf/Field - Track Replacement

Following a public hearing held upon due notice posted and published pursuant to Article VIII, Section 13 of the City Charter,

Be it Ordered by the City Council of the City of Bangor that,

THAT pursuant to 30 A.M.R.S.A. §5772, Section 13 of Article VIII of the City Charter (Private and Special Laws of 1931, Chapter 54 and all amendments thereof and acts additional thereto), and all other authority thereto enabling, there is hereby authorized and approved the issue and sale of the City's general obligation bonds in an amount not to exceed the aggregate principal amount of Two Million Seven Hundred Thirty Thousand Dollars (\$2,730,000). The proceeds derived from the sale of said bonds, including premium, if any, and any investment earnings thereon shall be used and are hereby appropriated to pay a portion of the costs (as herein defined) of the following Projects.

| Description | Amount Estimated | Life |
|---|------------------|----------|
| Cameron Stadium Improvements - Multi Sport Turf/Field - Track Replacement | \$2,730,000 | 20 years |

THAT the estimated weighted period of utility for the property constituting the Projects to be financed with the proceeds of the bonds is hereby determined to be the period of time indicated above for said Projects.

THAT the Finance Director, with the approval of the Finance Committee, be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, at one time, or from time to time, as one or more separate bond issues, and to determine the date(s), maturities (not to exceed the maximum term permitted by law), denominations, interest rate or rates, place of payment, and other details of said bonds, including the timing and provision for their sale and award, such approval to be conclusively evidenced by the execution thereof.

THAT the Finance Director, with the approval of the Finance Committee, be and hereby is authorized to provide that any of the bonds hereby authorized may be made subject to call for redemption, with or without a premium, before the date fixed for final payment of the bonds, as provided in 30 A M.R.S.A. §5772(6), as amended.

THAT in each of the years during which any of the bonds are outstanding, there shall be levied a tax in an amount that, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said bonds, payable in such years, and the principal of such bonds maturing in such years.

THAT pursuant to 30 A M.R.S.A. §5772, Section 15 of Article VIII of the City Charter and any other authority thereto enabling, the Finance Director, with the approval of the Finance Committee is hereby authorized to issue temporary notes of the City in anticipation of the forgoing bond issue, to be in such form and contain such terms and provisions including, without limitation, maturities (not to exceed 3 years from the issue date), denominations, interest rate or rates, place of payment, and other details as they shall approve, their approval to be conclusively evidenced by their execution thereof.

THAT said bonds and notes in anticipation thereof shall be signed by the Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk, and that said bonds 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.

THAT the Finance Director be and hereby is authorized and empowered in the name of and on behalf of the City to execute and deliver all such contracts, agreements, certificates, instruments and other documents as may be necessary or advisable, with the advice of counsel for the City, in connection with the financing of the Projects and the sale, execution, issuance, and delivery by the City of the bonds and notes.

THAT the Finance Director be and hereby is authorized to select the underwriter, registrar, paying agent and transfer agent for the bonds or notes heretofore authorized and the Finance Director be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.

THAT the Finance Director 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 or notes heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Finance Director, 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 or notes for sale be and hereby is approved.

THAT the bonds and notes shall be transferable only on the registration books of the City kept by the transfer agent, and said principal amount of the bonds and notes of the same maturity (but not of other maturity), 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 or her attorney duly authorized in writing.

THAT the Finance Director and Chair of the City Council from time to time shall execute such bonds or notes as may be required to provide for exchanges or transfers of bonds or notes as heretofore authorized, all such bonds or notes to bear the original signature of the Finance Director and Chair of the City Council, and in case any officer of the City 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.

THAT upon each exchange or transfer of bonds or notes, the City and transfer agent shall make a charge sufficient to cover any tax, fee, or other governmental charge required to be paid with respect to such transfer or exchange, and subsequent to the first exchange or transfer, the cost of which shall be borne by the City, the cost of preparing new bonds or notes upon exchanges or transfers thereof shall be paid by the person requesting the same.

THAT in lieu of physical certificates of the bonds and notes hereinbefore authorized, the Finance Director be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such bonds and notes in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraphs regarding physical transfer of bonds, and the Finance Director be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in her opinion, appropriate in order to qualify the bonds for and participate in the Depository Trust Company Book-Entry Only System.

THAT the bonds and notes issued in anticipation thereof be issued on either a taxable or a tax-exempt basis, or a combination thereof, as determined by the Finance Director, with the approval of the Finance Committee.

THAT, if the bonds or notes, or any part of them are issued on a tax exempt basis, Finance Director be and hereby is authorized and directed to covenant and certify in the name of and on behalf of the City that no part of the proceeds of the issue and sale of the bonds or notes authorized to be issued hereunder and no part of the Projects shall be used directly or indirectly in any manner that 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 (the "Code").

THAT, if the bonds or notes, or any part of them, are issued on a tax exempt basis, the Finance Director be and hereby is authorized to covenant and agree, in the name of and on behalf of the City, for the benefit of the holders of such bonds or notes, that the City will file any required reports and take any other action that may be necessary to ensure that interest on the bonds or notes will remain exempt from federal income taxation and that the City will refrain from any action that would cause interest on the bonds or notes to be subject to federal income taxation.

THAT, if the bonds or notes, or any part of them, are issued on a tax exempt basis, the Finance Director 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 City Council's intention that, to the extent permitted under the Code, the bonds or notes be Section 265(b) designated and that the Finance Director with advice of bond counsel, make the required Section 265(b) election with respect to such bonds to the extent that the election may be available and advisable as determined by the Finance Director.

THAT the Finance Director be and hereby is authorized to covenant, certify, and agree, in the name of and on behalf of the City, for the benefit of the holders of such bonds or notes, 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 ensure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

THAT the term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to: (1) the cost to design, construct, renovate, refurbish, improve, acquire, replace, furnish and equip the Projects; (2) the cost of land, easements and other real property interests, landscaping and site preparation, utility extensions, all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Projects; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Projects; (4) issuance costs, including premiums for insurance, capitalized interest and other financing charges, fees and expenses relating to the financing transaction.

THAT the investment earnings on the proceeds of the bonds and notes, if any, and the excess proceeds of the bonds or notes (including premium), if any, be and hereby are appropriated for the following purposes:

1. To any costs of the Projects in excess of the principal amount of the bonds or notes authorized hereunder;
2. If the bonds or notes are issued on a tax exempt basis, in accordance with applicable terms and provisions of the Arbitrage and Use of Proceeds Certificate delivered in connection with the sale of the bonds or notes including, to the extent permitted thereunder, to the City's General Fund;
3. To pay debt service on the bonds.

THAT the Finance Director, Chair of the City Council, Clerk, and other proper officials of the City be, and hereby are, authorized and empowered in the name of and on behalf of the City to do or cause to be done all such acts and things as may be necessary or advisable, with the advice of counsel for the City, in order to effect the sale, issuance, execution, and delivery by the City of the bonds and notes.

THAT if any of the officers or officials of the City who have signed or sealed the bonds and notes hereinbefore authorized 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 City, 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 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 City 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 City, although at the nominal date of such bonds or notes any such person shall not have been such officer or official.

THAT if the Finance Director, Chair of the City Council, or Clerk are for any reason unavailable to approve and execute the bonds, notes in anticipation thereof, or any related financing documents, 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 himself or herself performed such act.

THAT any issue of bonds may be consolidated with and issued at the same time as any other issue of bonds authorized prior to their issuance, and the bonds may be divided into multiple series and issued in separate plans of financing, with the approval of the Finance Committee.

THAT during the term any of the bonds are outstanding, the Finance Director is hereby authorized, in the name and on behalf of the City, to issue and deliver refunding bonds on either a current or advance refunding basis, to refund some or all of the bonds then outstanding, and to determine the date, form, interest rate, maturities (not to exceed 30 years from the date of issuance of the original bonds) and all other details of such refunding bonds including the form and manner of their sale and award. The Finance Director is hereby 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 Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk.

THAT it is the intent of the City Council that this Order constitute the City's declaration of official intent within the meaning of Treasury Regulation §1.150-2.