

APPENDIX C

**PROPOSED FORM
OF
CONTINUING DISCLOSURE AGREEMENT**

[This page left intentionally blank.]

**TOWN OF KENNEBUNKPORT, MAINE
PROPOSED FORM OF
CONTINUING DISCLOSURE AGREEMENT**

In connection with the issuance by the Town of Kennebunkport, Maine (the “Issuer”) of its \$ _____,000 2019 General Obligation Bonds– Series A, dated as of _____, 2019 and \$ _____,000 2019 General Obligation Bonds – Series B (Federally Taxable), dated as of _____, 2019, (the “Bonds”) and with reference to the continuing disclosure requirements of Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended, and officially interpreted from time to time (the “Rule”), the Issuer hereby covenants under this Continuing Disclosure Agreement (the “Agreement”) that it will engage in the undertakings described in ~~Paragraph Sections~~ 1, 2 and 3 herein for the benefit of the ~~beneficial owner~~ **Beneficial Owners** of the Bonds, subject to the conditions and limitations specified herein. Under the Agreement, the Issuer is obligated to provide certain updated ~~financial information~~ **Annual Financial Information** and operating data annually, and timely notice of specified material events, to the Municipal Securities Rulemaking Board established under the Securities and Exchange Act of 1934, as amended, or any successor thereto (the “MSRB”). This information will be available from the MSRB via its Electronic Municipal Market Access (“EMMA”) system at www.emma.msrb.org. The Issuer incorporates by reference its Official Statement dated _____, 2019 relating to the Bonds (~~the “Official Statement”~~), which will be submitted to the MSRB, as hereinafter defined, at the time of delivery of the Bonds, in any future disclosure provided hereunder.

In addition to the definitions set forth above, which apply to any capitalized term used in this Agreement unless otherwise defined, the following capitalized terms, if used, shall have the following meanings:

“Annual Financial Information” shall mean financial information or operating data of the type included in the final Official Statement, provided at least annually by the Issuer pursuant to, and as described in, Sections 1 of this Agreement.

“Beneficial Owner” shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“Business Day” shall mean a day other than a Saturday or a Sunday or a day on which banks in Maine are authorized or required by law to close.

“Dissemination Agent” shall mean the Issuer or any Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

“Financial Obligation” shall mean a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term “Financial Obligation” does not include municipal securities as to which a final official statement has been provided to the MSRB consistent with SEC Rule 15c2-12.

“Holders” shall mean the registered Holders of the Bonds, as recorded in the registration books of the Registrar.

“Listed Events” shall mean any of the events listed in Section 2(a) and 2(b) of this Agreement.

“Municipal Securities Rulemaking Board” or “MSRB” shall mean the Municipal Securities Rulemaking Board, 1300 I Street NW, Suite 1000, Washington, DC 20005.

“National Repository” shall mean the MSRB’s Electronic Municipal Market Access website, a/k/a EMMA (emma.msrb.org).

“Official Statement” shall mean the Issuer’s Official Statement for the Bonds, dated _____, 2019.

“State” shall mean the State of Maine.

1. The Issuer will provide to the MSRB: (a) not later than 270 days after the end of each fiscal year, commencing with the fiscal year ending June 30, 2019, certain updated ~~financial information~~ **Annual**

Financial Information and operating data relating to the Issuer for the preceding fiscal year of the type presented in the Official Statement prepared in connection with the Bonds under the headings “TOWN FINANCES,” “INDEBTEDNESS,” “RETIREMENT” and in APPENDIX A to the Official Statement and such other ~~financial information~~**Annual Financial Information** and operating data as may be required to comply with the Rule; and (b) the updated information discussed in clause (a) above will include audited financial statements, if the Issuer commissions an audit and it is completed by the required time. If audited financial statements are not available by the required time, the Issuer will provide audited financial statements when and if such audited financial statements become available. Such filings, if not completed by the required time in clause (a) above, but if filed when available, will not be deemed to be a “late filing”. Any such financial statements will be prepared in accordance with the accounting principles described in APPENDIX A to the Official Statement or such other accounting principles as the Issuer may be required to employ from time to time pursuant to State law or regulation.

The Issuer reserves the right to modify from time to time the specific types of information provided under clause (a) above or the format of the presentation of such information to reflect changed circumstances, provided that any such modification will be done in a manner consistent with the Rule.

2. The Issuer will provide in a timely manner, not in excess of ten (10) ~~business day~~**Business Days**, after the occurrence of an event listed in this Section 2 to the MSRB through EMMA (in an electronic format as prescribed by the MSRB) notice of the occurrence of any of the following events with respect to the Bonds.

(a) Certain events whether material or not material:

- (1) Principal and interest payment delinquencies;
- (2) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (3) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (4) Substitution of credit or liquidity providers, or their failure to perform;
- (5) Adverse tax opinions or events affecting the tax-exempt status of the Bonds, the issuance by the Internal Revenue Service of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (6) Tender offers;
- (7) Defeasances;
- (8) Rating changes;
- (9) Bankruptcy, insolvency, receivership or similar event of the Issuer (Note: For the purposes of the event identified in ~~paragraph~~**Section 1**, the event is considered to occur when any of the following occur: The appointment of a receiver, fiscal agent or similar officer for the Issuer in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Issuer, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer.);or
- (10) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the ~~financial obligation~~**Annual Financial Obligation** of the issuer or obligated person, any of which reflect financial difficulties

(b) Certain events if material:

- (1) Non-payment related defaults;

- (2) Modifications to the rights of ~~holders~~ **Holders** of the Bonds;
- (3) Bond calls;
- (4) The release, substitution, or sale of property securing repayment of the Bonds;
- (5) The consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (6) Appointment of a successor or additional trustee or the change of name of a trustee; and
- (7) Incurrence of a ~~financial obligation~~ **Financial Obligation** of the issuer or obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a ~~financial obligation~~ **Financial Obligation** of the issuer or obligated person, any of which affect security ~~holders~~ **Holders**, if material.

The Issuer from time to time may choose to provide notice of the occurrence of certain other events, in addition to those listed above, but the Issuer does not undertake to commit to provide any such notice of the occurrence of any material event except those listed above.

- 3. The Issuer will provide in a timely manner to the MSRB notice of a failure to satisfy the requirements of ~~Paragraph~~ **Section** 1 herein.
- 4. The intent of the Issuer²'s undertaking in this Agreement is to provide on a continuing basis the information described in the Rule. The provisions of the Agreement may be amended by the Issuer without the consent of, or notice to, any ~~beneficial owner~~ **Beneficial Owners** of the Bonds, (a) to comply with or conform to the provisions of the Rule or any amendments thereto or authoritative interpretations thereof by the Securities and Exchange Commission ("SEC") or its staff (whether required or optional), (b) to add a ~~dissemination agent~~ **Dissemination Agent** for the information required to be provided by such undertakings and to make any necessary or desirable provisions with respect thereto, (c) to add to the covenants of the Issuer for the benefit of the ~~beneficial owner~~ **Beneficial Owners** of the Bonds, (d) to modify the contents, presentation and format of the ~~financial information~~ **Annual Financial Information** from time to time as a result of a change in circumstances that arises from a change in legal requirements, or (e) to otherwise modify the undertakings in a manner consistent with the requirements of the Rule concerning continuing disclosure; provided, however, that in the case of any amendment pursuant to clause (d) or (e), (i) the undertaking, as amended, would have complied with the requirements of the Rule at the time of the offering of the Bonds, after taking into account any amendments or authoritative interpretations of the Rule, as well as any change in circumstances, and (ii) the amendment does not materially impair the interests of the ~~beneficial owner~~ **Beneficial Owners** of the Bonds, as determined either by a party unaffiliated with the Issuer (such as bond counsel), or by the vote or consent of ~~beneficial owner~~ **Beneficial Owners** of a majority in outstanding principal amount of the Bonds affected thereby at or prior to the time of such amendment.

Furthermore, the Issuer²'s obligations under this Agreement shall terminate upon the legal defeasance, prior redemption or payment of in full of all of the Bonds or to the extent that the Rule, as in effect from time to time, no longer requires the issuers of municipal securities to provide all or any portion of the information the Issuer has agreed to provide pursuant to the Agreement, the obligation of the Issuer to provide such information also shall cease immediately.

- 5. The purpose of the Issuer²'s undertaking is to conform to the requirements of the Rule and, except for creating the right on the part of the ~~beneficial owner~~ **Beneficial Owners** of the Bonds, from time to time, to specifically enforce the Issuer²'s obligations hereunder, not to create new contractual or other rights for any ~~beneficial owner~~ **Beneficial Owner** of the Bonds, any municipal securities broker or dealer, any potential purchaser of the Bonds, the SEC or any other person. The sole remedy in the event of any actual or alleged failure by the Issuer to comply with any provision herein shall be an action for the specific performance of the Issuer²'s obligations hereunder and not for money damages in any amount.

Any failure by the Issuer to comply with any provision of this undertaking shall not constitute an event of default with respect to the Bonds.

6. Except as disclosed in its Official Statement, the Issuer has never failed to comply in all material respects with any previous undertakings to provide ~~financial information~~ **Annual Financial Information** or notices of material events in accordance with the Rule.
7. The Issuer²'s Treasurer, or such official²'s designee from time to time, shall be the contact person on behalf of the Issuer from whom the foregoing information, data and notices may be obtained. The name, address and telephone number of the initial contact person is: Jennifer L. Lord, Treasurer, Town of Kennebunkport, 6 Elm Street, PO Box 566, Kennebunkport, ME 04046; Telephone: (207) 967-1606.

TOWN OF KENNEBUNKPORT, MAINE

By: _____

Dated: _____, 2019

Its: _____