

Proposed by:	Assemblymember Hanson		
Bond Counsel:	07/12/2022		
First Reading:	07/21/2022		
Second Reading:	_____		
Vote:	Aye	Nay	Absent

## MUNICIPALITY OF SKAGWAY BOROUGH

### ORDINANCE NO. 22-07

AN ORDINANCE of the Municipality of Skagway Borough authorizing the issuance of port revenue bonds in an aggregate principal amount not to exceed \$65,000,000 to acquire, construct and equip improvements to the Borough’s port facilities; authorizing submission to the qualified voters of the Borough at the regular election to be held on October 4, 2022, of a proposition for the port improvement project; appropriating funds for the project, if approved by the voters; and providing for an effective date.

### RECITALS

**WHEREAS**, as provided in Section 12.01.010 of the Skagway Municipal Code (“SMC”), the Municipality of Skagway Borough (the “Borough”), owns and operates the Port of Skagway (the “Port”) for, among other purposes, expanding the cruise ship industry and expanding the trading, cargo, and transportation access to the downtown area for fishing and industrial vessels; and

**WHEREAS**, the Assembly of the Borough (the “Assembly”) deems it necessary and advisable that certain improvements be made to dock, wharf, and public facilities of the Port (as further described herein, the “Project”); and

**WHEREAS**, to provide part of the funds to pay the costs of such improvements, it is deemed necessary and advisable by the Assembly that the Port issue and sell its port revenue bonds in the aggregate principal amount of not to exceed \$65,000,000 (the “Bonds”); and

**WHEREAS**, revenue bonds are municipal bonds issued to finance public projects that are backed by revenue to be generated by the project; as such, the Municipality intends to repay revenue bond debt with revenue generated at the Port of Skagway; and

**WHEREAS**, SMC 4.06.030 requires revenue bond authorizations to be submitted to the qualified voters of the Borough for their ratification or rejection, and the Assembly wishes to submit a question relating to the Project to the voters at the regular October 4, 2022, election;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH ASSEMBLY OF THE MUNICIPALITY OF SKAGWAY BOROUGH**, as follows:

**Section 1. Classification.** This ordinance is not of a permanent and general nature and will not be codified.

**Section 2. Findings; Capital Improvements.** It is hereby found and declared that the public welfare and benefit require that the Borough make the following capital improvements described as the Ore Peninsula Redevelopment Base Project (collectively, the “Project”): construction of a new floating cruise ship dock, a new roll-on roll-off industrial transfer bridge, relocation of a marine fuel header and lines, and associated upland improvements.

The cost of all necessary design, architectural, engineering, legal, and other consulting services, inspection and testing, administrative and relocation expenses, on- and off-site utilities, purchases of furnishings and equipment, and other costs incurred in connection with the Project shall be deemed a part of the costs of the Project. The Borough shall determine the extent and specifications for the Project.

The Borough will determine how to apply available funds to accomplish as nearly as may be the entire Project. If proceeds of the Bonds, plus other funds of the Borough legally available for this purpose, are insufficient to accomplish all of the improvements comprising the Project, the Borough will use the available funds, including Bond proceeds, to pay the cost of those improvements included in the Project that the Borough deems most necessary and in the best interest of the Borough.

If the Assembly determines that it has become impracticable to accomplish all or a portion of the Project because of changed conditions, incompatible development or costs substantially in excess of those estimated, the Borough will not be required to undertake the Project or portion thereof and may apply the Bond proceeds or any portion thereof to pay the cost of other capital improvements to Port facilities or to the payment of debt service on the Bonds.

If proceeds of the Bonds remain unexpended and unencumbered for costs of the Project, those remaining Bond proceeds may be applied to pay the cost of other capital improvements to Port facilities or to pay debt service on the Bonds, as the Assembly shall determine.

**Section 3. Authorization of Bonds.** To provide all or a portion of the funds necessary to pay or reimburse costs of the Project and costs of issuance of the Bonds, the Borough will issue and sell its port revenue bonds in an aggregate principal amount not to exceed \$65,000,000 (the “Bonds”). The Bonds will be issued in an amount not exceeding the amount approved by the voters of the Borough. The balance, if any, of the cost of the Project will be paid out of any other legally available funds, including grants. The Bond proceeds may only be used for capital purposes.

Both principal of and interest on the Bonds shall be payable solely out of revenues of the Port Enterprise Fund established pursuant to SMC 12.01.070. The Bonds are not general obligations of the Borough, and the full faith, credit and resources of the Borough will not be pledged to the payment of principal of and interest on the Bonds.

The Bonds will be issued and sold in the amounts and at the time or times as the Assembly finds necessary and advisable and as permitted by law. The Bonds may be issued in one or more series and mature in the amounts and at the times within a maximum term of 30 years from the date of

issuance of the Bonds, all as authorized by the Assembly and as provided by law. The date, form, interest rates, terms, redemption provisions, maturities, covenants and manner of sale of the Bonds shall be as hereafter provided by ordinance or resolution of the Assembly. After voter approval of the Bond proposition set forth in Section 4 of this ordinance, and in anticipation of the issuance of the Bonds, the Borough may issue short-term obligations as authorized by the laws of the State of Alaska.

**Section 4. Bond Election.** A proposition to approve this ordinance and approve issuing the Bonds to pay costs of the Project will be submitted to the qualified voters of the Borough for their ratification or rejection at the regular election to be held in the Borough on October 4, 2022.

### Explanation of Proposition 1

The Ore Peninsula Dock Redevelopment base project will construct a cruise terminal floating dock and a roll-on roll-off industrial transfer bridge, relocate a marine fuel header and lines, and construct associated upland improvements at an estimated cost of \$65,000,000. The Municipality proposes to pay the cost of this base project with Revenue Bonds.

Revenue bonds are municipal bonds issued to finance public projects that are backed by revenue to be generated by the project; as such, the Municipality intends to repay revenue bond debt with revenue generated at the Port of Skagway. Sales Tax and General Fund revenues are not proposed to be utilized to retire the revenue bond debt.

The bond proposition will be in substantially the following form:

MUNICIPALITY OF SKAGWAY BOROUGH

#### PROPOSITION 1

\$65,000,000 PORT REVENUE BONDS

Shall the Municipality of Skagway Borough incur debt and issue port revenue bonds to pay costs to acquire, construct, and equip a floating cruise ship dock, an industrial transfer bridge, relocation of marine fuel header and lines, and associated improvements in the Borough's port facilities (Ore Peninsula Redevelopment Base Project), in a principal amount not to exceed \$65,000,000, maturing within a maximum of 30 years, payable solely from revenues of the Port Enterprise Fund, including proceeds of service fees and passenger wharfage fees charged to cruise ships arriving in the Borough, as further described in Ordinance No. 2022-07, and shall Ordinance No. 2022-07 of the Borough authorizing the issuance of bonds for this purpose be approved?

BONDS

Yes

BONDS

No

\* \* \* \* \*

\* \* \* \* \*

**Section 5. Appropriation and Reimbursement.** If the issuance of Bonds for the Project is ratified at the election authorized by this ordinance, the Borough anticipates that prior to the issuance of those Bonds it may be necessary or desirable to pay certain costs of the Project. Therefore, the Assembly hereby appropriates from the Borough's general fund so much of the total authorization as may be necessary to carry out the provisions of this ordinance, including paying costs of the Project and costs of issuance of the Bonds. The amounts expended under the appropriation made in this section will be reimbursed to the general fund from the proceeds of sale of those Bonds or short-term obligations authorized by this ordinance. The Assembly hereby declares that this section constitutes a declaration of the Borough's intent to reimburse the general fund from proceeds of tax-exempt bonds within the meaning of Treasury Regulation § 1.150-2, as promulgated under the Internal Revenue Code of 1986, as amended.

**Section 6. Notice.** The Borough Clerk will provide for notice, publication, and posting of this ordinance and the ballot proposition authorized by this ordinance in accordance with the provisions of the Borough Municipal Code and state law.

**Section 7. Severability.** If any one or more of the provisions of this ordinance is for any reason held to be invalid, such invalidity shall not affect or invalidate any other provision of this ordinance or the Bonds, but this ordinance and the voter-approved Bonds shall be construed and enforced as if such invalid provision had not been contained herein; provided, however, that any provision that is for any reason held by reason of its extent to be invalid shall be deemed to be in effect to the extent permitted by law.

**Section 8. Effective Date.** This ordinance will become effective from and after the date of its passage, as provided in Section 3.01.080(B)(1) of the Borough Municipal Code. All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified.

**PASSED AND APPROVED** by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this \_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Andrew Cremata, Mayor

ATTEST:

\_\_\_\_\_  
Steve Burnham Jr., Borough Clerk

(SEAL)

CLERK'S CERTIFICATE

I, the undersigned, Borough Clerk of the Municipality of Skagway (the "Borough"), and keeper of the records of the Borough Assembly (the "Assembly"), DO HEREBY CERTIFY:

1. That the attached Ordinance (the "Ordinance") is a true and correct copy of Ordinance No. 2022-07 of the Borough, as finally passed at a meeting of the Assembly held on August \_\_\_\_, 2022, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the adoption of the Ordinance; that all other requirements and proceedings incident to the proper adoption of the Ordinance have been fully fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this August \_\_\_\_, 2022.

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Borough Clerk  
Municipality of Skagway