

Proposed by:	Bond Counsel
First Reading:	01/20/2011
Second Reading:	02/03/2011
Vote: 6 Aye	0 Nay 0 Absent

**MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 11-01**

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY BOROUGH, authorizing the issuance of general obligation bonds in an amount of not to exceed \$9,000,000 to finance all or part of the cost of capital improvements to public facilities in the Borough; authorizing submission to the qualified voters of the Borough at a special election to be held on May 10, 2011, of four propositions approving the capital improvements, approving this ordinance, and ratifying the authorization of the bonds; appropriating funds for the projects; and providing for an effective date.

WHEREAS, the Assembly of the Municipality of Skagway Borough (the “Borough”) has determined that it is in the best interests of the Borough and its residents to (i) acquire, construct and equip an Open Cell dock facility and related infrastructure at the Port of Skagway; (ii) acquire, construct and equip Phase 1B of improvements to the Skagway Small Boat Harbor; (iii) renovate, improve and enlarge the Borough’s public library; and (iv) replace and improve the Main Street right of way, including sidewalk, street and utility-related improvements (as further described in this ordinance, each a “Project” and collectively, the “Projects”); and

WHEREAS, the State of Alaska has appropriated \$10,000,000 in its proposed budget for fiscal year 2012 to pay for a portion of the cost of acquiring, constructing and equipping an Open Cell dock facility and related infrastructure at the Port of Skagway; and

WHEREAS, the State of Alaska has appropriated \$4,000,000 in its budget for fiscal year 2011 to pay for a portion of the cost of acquiring, constructing and equipping Phase 1B of the improvements to the Skagway Small Boat Harbor; and

WHEREAS, the Borough has submitted to the Alaska Department of Transportation (“DOT”) a Harbor Grant—Tier 1 Harbor grant proposal in the amount of \$5,000,000 to pay for a portion of the cost of acquiring, constructing and equipping Phase 1B of the improvements to the Skagway Small Boat Harbor; and

WHEREAS, the Borough has applied to the State of Alaska for a Library Construction and Expansion grant in the amount of \$500,000 to pay a portion of the cost to renovate, improve and enlarge the Borough’s public library; and

WHEREAS, to provide the matching funds necessary to qualify for the State funding described above and to pay a portion of the costs of the Projects, the Assembly wishes to authorize the issuance of not to exceed \$9,000,000 principal amount of general obligation bonds (the “Bonds”); and

WHEREAS, the constitution and laws of the State of Alaska require the bond authorization to be submitted to the qualified voters of the Borough for their ratification or rejection, and the Assembly wishes to submit this question to the voters at a special election to be held in the Borough on May 10, 2011;

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NOW, THEREFORE, BE IT ORDAINED BY THE 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 to public facilities of the Borough, each of which is identified in this ordinance as a "Project," and collectively as the "Projects":

a. Acquire, construct and equip an Open Cell dock facility and related infrastructure to enable increased industrial and tourist capacity at the Port of Skagway (the "Port Project"); and

b. Acquire, construct and equip Phase 1B of improvements to the Skagway Small Boat Harbor, including the construction of new small boat docks and harbor dredging and material handling (the "Small Boat Harbor Project"); and

c. Renovate, improve and enlarge the Borough's public library (the "Library Project"); and

d. Replace and make improvements to the Main Street right of way, including sidewalk, street and related utility improvements (the "Street Project").

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 each Project shall be deemed a part of the cost of the Project. The Borough shall determine the specifications for the Projects.

The Borough will determine the application of available funds to accomplish as nearly as may be all of the Projects approved by the voters. If proceeds of the Bonds, plus other funds of the Borough legally available for such purpose, are insufficient to accomplish all of the improvements comprising the voter-approved Projects, the Borough will use the available funds, including Bond proceeds, to pay the cost of those improvements that the Assembly 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 any voter-approved Project because of changed conditions, incompatible development or costs substantially in excess of those estimated, the Borough will not be required to undertake that Project or portion of that Project and may apply the Bond proceeds or any portion thereof to other voter-approved Projects or to the payment of principal of or interest on the Bonds.

If proceeds of the Bonds remain unexpended and unencumbered for costs of the voter-approved Projects, those remaining Bond proceeds will be applied for a purpose determined by the Assembly in accordance with SMC 4.06.060.

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Section 3. Authorization of Bonds. The Bonds are authorized to be issued in a total principal amount not to exceed \$9,000,000 (the "Bonds") for the following purposes: (i) not to exceed \$5,000,000 principal amount for the Port Project; (ii) not to exceed \$1,000,000 principal amount for the Small Boat Harbor Project; (iii) not to exceed \$500,000 principal amount for the Library Project; and (iv) not to exceed \$2,500,000 principal amount for the Street Project, and in each case also to pay the costs of issuing the Bonds.

The Bonds will be issued in an amount not exceeding the amount approved by the voters of the Borough and not exceeding the amount permitted by the constitution and laws of the State of Alaska. The balance, if any, of the cost of the Projects will be paid out of any other legally available funds, including grants. The Bond proceeds may be used only for capital purposes.

The Bonds will be general obligations of the Borough, and the full faith, credit and resources of the Borough will be pledged to the payment of principal of and interest on the Bonds. Unless paid from other sources, both principal of and interest on the Bonds will be payable out of annual tax levies to be made upon all taxable property within the Borough without limitation as to rate or amount and in excess of any constitutional or statutory tax limitation.

The Bonds will be issued and sold in such amounts and at such 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 such amounts and at such times within a maximum term of 20 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 one or more of the Bond propositions 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. At a special election to be held in the Borough on May 10, 2011, there shall be submitted to the qualified voters of the Borough four propositions, each approving this ordinance and one of the four Projects described herein and ratifying the authorization of that portion of the Bonds allocated to such Project. The Borough Clerk is authorized and directed to do all things necessary to conduct the election. The propositions to be submitted shall be in substantially the following forms:

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THE MUNICIPALITY OF SKAGWAY BOROUGH

PROPOSITION 1

\$5,000,000 GENERAL OBLIGATION BONDS
PORT OF SKAGWAY CAPITAL IMPROVEMENTS

Shall the Municipality of Skagway incur debt and issue general obligation bonds in the principal amount of not to exceed \$5,000,000, maturing within a maximum of 20 years, to finance a portion of the cost of acquiring, constructing and equipping an Open Cell dock facility and related infrastructure to enable increased industrial and tourist capacity at the Port of Skagway, and shall Ordinance No. 11-01 of the Borough authorizing the issuance of bonds for this capital purpose be approved?

BONDS Yes

BONDS No

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PROPOSITION 2

\$1,000,000 GENERAL OBLIGATION BONDS
SKAGWAY SMALL BOAT HARBOR CAPITAL IMPROVEMENTS

Shall the Municipality of Skagway incur debt and issue general obligation bonds in the principal amount of not to exceed \$1,000,000, maturing within a maximum of 20 years, to finance a portion of the cost to acquire, construct and equip Phase 1B of improvements to the Skagway Small Boat Harbor, including the construction of new small boat docks and harbor dredging and material handling, and shall Ordinance No. 11-01 of the Borough authorizing the issuance of bonds for this capital purpose be approved?

BONDS Yes

BONDS No

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PROPOSITION 3

**\$500,000 GENERAL OBLIGATION BONDS
PUBLIC LIBRARY CAPITAL IMPROVEMENTS**

Shall the Municipality of Skagway incur debt and issue general obligation bonds in the principal amount of not to exceed \$500,000, maturing within a maximum of 20 years, to finance a portion of the cost of renovating, improving and enlarging the Municipality of Skagway's public library, and shall Ordinance No. 11-01 of the Borough authorizing the issuance of bonds for this capital purpose be approved?

BONDS Yes

BONDS No

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PROPOSITION 4

**\$2,500,000 GENERAL OBLIGATION BONDS
MAIN STREET CAPITAL IMPROVEMENTS**

Shall the Municipality of Skagway incur debt and issue general obligation bonds in the principal amount of not to exceed \$2,500,000, maturing within a maximum of 20 years, to finance all or a portion of the cost to replace and improve the Main Street right of way including sidewalk, street and utility-related improvements, and shall Ordinance No. 11-01 of the Borough authorizing the issuance of bonds for this capital purpose be approved?

BONDS Yes

BONDS No

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Section 5. Appropriation and Reimbursement. If the issuance of any of the Bonds is ratified at the election authorized by this ordinance, the Borough anticipates that prior to the issuance of the voter-approved Bonds it may be necessary or desirable to pay certain costs of the voter-approved Projects. 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 voter-approved Projects and costs of issuance of the voter-approved Bonds. The amounts expended under the appropriation made in this section will be reimbursed to the general fund from the proceeds of sale of the 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 such 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, the ballot propositions authorized by this ordinance, and the special election at which this ordinance and the ballot propositions will be submitted to the qualified voters of the Borough for their ratification in accordance with the provisions of the Borough Municipal Code and state law, including but not limited to SMC 2.12.010(C) and AS 29.47.190(b).

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 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 adoption, 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.

ADOPTED AT A REGULAR MEETING OF THE ASSEMBLY OF THE MUNICIPALITY OF SKAGWAY BOROUGH ON FEBRUARY 3, 2011.

MUNICIPALITY OF SKAGWAY
BOROUGH



By: Thomas D. Cochran
Thomas D. Cochran, Mayor

ATTEST:

Emily A. Deach
Emily A. Deach, Borough Clerk

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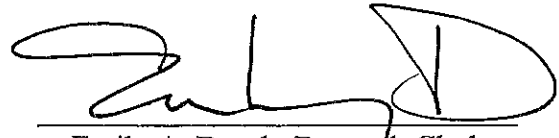
CLERK'S CERTIFICATE

I, the undersigned, Borough Clerk of the Municipality of Skagway Borough (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. 11-01 of the Borough, as finally adopted at a meeting of the Assembly held on February 3, 2011, 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 February 4, 2011.



Emily A. Deach, Borough Clerk
Municipality of Skagway Borough

