

CITY AND BOROUGH OF SITKA

ORDINANCE NUMBER 2010-24

**AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF SITKA
AMENDING THE FY2011 OPERATING BUDGET BY APPROPRIATING FUNDS IN
THE AMOUNT OF \$10,000 FROM THE ADMINISTRATION DEPARTMENT WITHIN
THE ELECTRICAL FUND BALANCE TO SUPPORT RESOLUTION 2010-20 RE-
GARDING THE ELECTRIC REVENUE BONDS BALLOT QUESTION FOR THE
OCTOBER 5, 2010 REGULAR MUNICIPAL ELECTION**

1. **CLASSIFICATION.** This ordinance is of a permanent nature but is not intended to become a part of the Sitka General Code.

2. **SEVERABILITY.** If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. **PURPOSE.** This ordinance would allow representatives of the City and Borough of Sitka to advocate for passage of the advisory ballot question related to Resolution 2010-20 for the October 5, 2010 regular municipal election concerning the electric revenue bonds, and appropriate funds for this purpose.

The electric revenue bonds will assist in part the funding of the Blue Lake Hydroelectric Project, a project that will have substantial effects on the City and Borough of Sitka and its residents now and in the future. It is the Assembly's duty and desire to ensure that all Sitka voters are aware of the potential financial impact of not securing these electrical bonds on the finances of City and Borough of Sitka and its residents.

AS 15.13.145(c)(2) permits municipalities to provide the public with nonpartisan information about a ballot proposition, but AS 15.13.145(b) states "money held by a municipality may be used to influence the outcome of a ballot proposition or question, but only if the funds have been specifically appropriated for that purpose by a municipal ordinance."

Alaska Public Offices Commission (APOC) which enforces AS 15.13.145, has interpreted nonpartisan information permitted under AS 15.13.145(c)(2) very narrowly, so that the City and Borough of Sitka cannot inform the public fully about the effects of Resolution 2010-20 without including information that APOC likely would categorize as meant to influence the outcome of the election on the ballot proposition.

44 4. **NOW, THEREFORE, BE IT ORDAINED** by the City and Borough of
45 Sitka, Alaska, as follows:

46
47 **Section 1:** The planned expenditures for Administration Department within the Elec-
48 trical Fund 200-600-601-5290.000 are increased in the amount of \$10,000
49 for the purpose of advocating for passage of the electric revenue bonds
50 question at Advisory Question/Proposition Number 1 set forth in Resolu-
51 tion 2010-20 to appear on the October 5, 2010 regular Municipal Election
52 Ballot, including but without limitation, advertisements in print and broad-
53 cast media, brochures and posters, meeting costs, and costs associated with
54 municipal staff and official time expenditures.

55
56 5. **EFFECTIVE DATE:** This ordinance shall become effective on the day
57 after the date of its passage.

58
59 **PASSED, APPROVED and ADOPTED** by the City and Borough of Sitka on
60 this 31st day of August, 2010.

61

CITY AND BOROUGH OF SITKA

Scott McAdams, Mayor or
Jack Ozment, Deputy Mayor

ATTEST:

Colleen Ingman, MMC
Municipal Clerk

62

63

64

65

66 First Reading: August 20, 2010

67 Second Reading: August 31, 2010

68 Effective Date:

Sponsor: Administrator

CITY AND BOROUGH OF SITKA, ALASKA

RESOLUTION NO. 2010-20

A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF SITKA PROVIDING FOR SUBMISSION OF AN ADVISORY QUESTION TO THE SITKA VOTERS AT THE REGULAR ELECTION ON OCTOBER 5, 2010, AS TO WHETHER THE CITY AND BOROUGH OF SITKA SHOULD ISSUE APPROXIMATELY \$50,000,000 IN ELECTRIC REVENUE BONDS TO PAY A PORTION OF THE COST OF EXPANDING THE BLUE LAKE HYDROELECTRIC PROJECT AND TO RETIRE CERTAIN OUTSTANDING MUNICIPAL UTILITY REVENUE BONDS

WHEREAS, the City and Borough of Sitka, Alaska (“Sitka”) owns, operates and maintains electric generation and transmission facilities (the “Electric System”), revenues of which are currently combined with revenues of the Sitka’s water utility (the “Water System”) for borrowing purposes; and

WHEREAS, Sitka wishes to separate the Electric System from the Water System for borrowing purposes once all outstanding revenue obligations of the combined utilities are retired; and

WHEREAS, Sitka wishes to undertake an expansion of the Blue Lake hydroelectric project (as further described herein, the “Project”), which is a component of the Electric System; and

WHEREAS, Sitka has received grants from the State of Alaska to pay a portion of the cost of the Project and anticipates receiving additional State or federal grants for the Project; and

WHEREAS, Sitka issued its municipal utilities revenue bonds in 1992 and 1997 to finance or refinance the cost of facilities of the Electric System, and Sitka has been advised that it could achieve substantial savings by refunding callable portions of the outstanding 1992 and 1997 municipal utilities revenue bonds and defeasing the noncallable portions of the 1992 municipal utilities revenue bonds; and

WHEREAS, the Assembly deems it necessary and advisable for Sitka to issue approximately \$20,000,000 in electric revenue bonds to pay a portion of the cost of the Project and approximately \$30,000,000 in electric revenue bonds to refund and defease Sitka’s outstanding 1992 and 1997 municipal utilities revenue bonds; and

WHEREAS, to gauge the wishes of Sitka’s voters, the Assembly wishes to submit to the qualified voters of Sitka for their approval or disapproval the question of whether approximately \$50,000,000 in electric revenue bonds (the “Bonds”) should be issued for these purposes;

NOW THEREFORE, be it resolved by the Assembly of the City and Borough of Sitka, Alaska, as follows:

Section 1. Proposed Refunding; Capital Improvements. The Assembly finds that it is in the best interests of Sitka and ratepayers of the Electric System to issue approximately \$50,000,000 in electric revenue bonds to retire (by defeasance and refunding) all of Sitka's outstanding Municipal Utilities Revenue Bonds, 1992 Refunding Series, and Municipal Utilities Revenue Bonds, 1997 Refunding Series (the "Refunded Bonds").

The Assembly further finds that the public welfare and convenience require that Sitka make the following capital improvements to facilities of the Electric System: expansion of the Blue Lake hydroelectric project by adding a third turbine in the Blue Lake powerhouse, raising the height of the Blue Lake dam, and making such other additions and improvements to the Blue Lake project as are described in Sitka's licensing application to the Federal Energy Regulatory Commission (collectively, the "Project").

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

Sitka will determine the application of available funds as among the various components of the Project to accomplish, as nearly as may be, the entire Project. If proceeds of sale of the Bonds, plus any other money of Sitka legally available for such purpose, are insufficient to accomplish all of the Project, Sitka will use the available funds for paying the cost of those components of the Project deemed by the Assembly most necessary and in the best interest of Sitka.

If Sitka determines that it has become impractical to accomplish one or more components of the Project because of changed conditions, incompatible development or costs substantially in excess of those estimated, Sitka shall not be required to accomplish such component or components and may apply the Bond proceeds to other components of the Project.

If the entire Project has been constructed or duly provided for, or found to be impractical, and Bond proceeds remain available, the Assembly may apply Bond proceeds to other capital repairs or improvements to the Electric System or to retiring the Bonds.

Section 2. Authorization of Bonds. To provide all or a portion of the funds necessary to retire by defeasance and refunding the Refunded Bonds, pay costs of the Project, and pay costs of issuing the Bonds, Sitka will issue and sell the Bonds in the principal amount of approximately \$50,000,000. Both principal of and interest on the Bonds shall be payable solely out of revenues of the Electric System deposited in the Electric Fund in accordance with Section 11.15 of the Home Rule Charter of the City and Borough of Sitka (the "Charter").

The Bonds will be issued and sold in such amounts and at such time or times as found necessary and advisable by the Assembly and as permitted by law. The Bonds may be issued in one or more series and will bear interest at a rate or rates as authorized by the Assembly. The Bonds shall mature in such amounts and at such times within a maximum term of 20 years from date of issue, all as authorized by the Assembly and as provided by law.

The date, form, terms, options of redemption, maturities, covenants and manner of sale of the Bonds shall be as hereafter provided by Sitka ordinance or ordinances. Sitka may issue short-term obligations as authorized by the laws of the State of Alaska and the Charter.

Section 3. Bond Election. Voter approval for the Bonds is not required by Alaska law or the Charter. To gauge the wishes of Sitka’s voters, however, the Assembly wishes to submit to the voters of Sitka an advisory question at the regular election to be held in Sitka on October 5, 2010, as to whether the Bonds should be issued for the purposes described in Section 1 of this resolution. The ballot proposition shall be in substantially the following form:

CITY AND BOROUGH OF SITKA, ALASKA

PROPOSITION No. 1

ADVISORY QUESTION

**ELECTRIC REVENUE BONDS \$50,000,000
BLUE LAKE HYDROELECTRIC PROJECT AND
RETIRING ELECTRIC REVENUE BONDS**

To pay a portion of the cost of expanding the Blue Lake hydroelectric project and all or a portion of the cost of retiring the City and Borough of Sitka’s outstanding municipal utilities revenue bonds, shall the City and Borough of Sitka issue and sell approximately \$50,000,000 of its electric revenue bonds maturing within a maximum term of 20 years and payable solely from revenues of the Electric System, all as described in Resolution No.2010-20 of the Sitka Assembly?

BONDS, YES

BONDS, NO

Section 4. Notice of Election. Notice, publication and posting shall be given by the Municipal Clerk in accordance with the provisions of the Sitka General Code, the Charter and state law.

Section 5. Severability. In the event that any one or more of the provisions of this resolution shall for any reason be held to be invalid, such invalidity shall not affect or invalidate any other provision of this resolution or the Bonds, but this resolution and the Bonds shall be construed and enforced as if such invalid provision had not been contained herein; provided,

however, that any provision that shall for any reason be held by reason of its extent to be invalid shall be deemed to be in effect to the extent permitted by law.

Section 6. Effective Date. This resolution is effective immediately upon passage and approval.

PASSED AND APPROVED by the Assembly of the City and Borough of Sitka, Alaska, this August 10, 2010.

CITY AND BOROUGH OF SITKA, ALASKA

By _____
Scott McAdams, Mayor

ATTEST:

By _____
Colleen Ingman, MMC
Municipal Clerk