

ORDINANCE NO. 2010-18

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA, AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED \$2,410,000 TO FINANCE REFURBISHMENT AND UPGRADES TO THE MECHANICAL AND ELECTRICAL SYSTEMS OF BLATCHLEY MIDDLE SCHOOL; AND PROVIDING FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF THE CITY AND BOROUGH AT THE REGULAR ELECTION TO BE HELD ON OCTOBER 5, 2010, OF A PROPOSITION APPROVING THIS ORDINANCE AND RATIFYING THE AUTHORIZATION OF THE BONDS.

WHEREAS, the School Board of the City and Borough of Sitka, Alaska (the “City and Borough”) has proposed refurbishment and upgrades to the mechanical and electrical systems of Blatchley Middle School (as further described herein, the “Project”).

WHEREAS, the Assembly has determined that the question of incurring debt and issuing not to exceed \$2,410,000 principal amount of general obligation bonds (the “Bonds”) to pay costs of the Project should be placed before the voters of the City and Borough at the regular election to be held in the City and Borough on October 5, 2010.

WHEREAS, the Alaska Department of Education and Early Development (“DEED”) has approved the Project for reimbursement to the City and Borough by the State of Alaska of 70% of the debt service on the Bonds in accordance with AS 14.11.100(a)(16), subject to annual appropriation by the state legislature.

NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka, Alaska, as follows:

Section 1. Classification. This ordinance is not of a permanent nature and is not intended to become part of the Sitka General Code.

Section 2. Findings; Capital Improvements. It is hereby found and declared that the public welfare and benefit require that the City and Borough undertake the following capital improvements to Blatchley Middle School: refurbishing and upgrades of mechanical and electrical systems, including HVAC equipment and controls, replacement of water piping (including asbestos removal), intercom, and related electrical systems (collectively, the “Project”). Subject to the approval of DEED, other capital improvements to school facilities of the City and Borough may be substituted for improvements identified above as part of the Project.

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

The City and Borough shall determine the application of Bond proceeds to accomplish as nearly as may be the entire Project. If proceeds of the Bonds are insufficient to accomplish all of the improvements comprising the Project, the City and Borough shall use Bond proceeds for those improvements deemed by the Assembly most necessary and in the best interest of the City and Borough, subject to DEED approval, if required. If proceeds of the Bonds remain unexpended and unencumbered for costs of the Project, such remaining Bond proceeds may be applied to pay the cost of additional improvements on the School District CIP List or to pay debt service on the Bonds, as the Assembly may determine, subject to DEED approval, if required.

If the Assembly determines that it has become impractical to accomplish a portion of the Project because of changed conditions, incompatible development or costs substantially in excess of those estimated, the City and Borough will not be required to undertake such portion of the Project and may apply the Bond proceeds or any portion thereof to other portions of the Project, to other improvements on the School District CIP List, or to payment of principal of or interest on the Bonds, subject to DEED approval, if required.

Section 3. Authorization of Bonds. For the purpose of providing all or a portion of the funds necessary to pay costs of the Project and costs of issuance of the Bonds, the City and Borough shall issue and sell its general obligation bonds in the aggregate principal amount of not to exceed \$2,410,000 (the "Bonds"). The Bonds shall be issued in an amount not exceeding the amount approved by the electors of the City and 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 Project shall be paid out of any other legally available funds. The Bond proceeds shall not be used for other than a capital purpose.

The Bonds shall be issued 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 shall bear interest payable at a rate or rates authorized by the Assembly. The Bonds shall 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 Bonds shall be general obligations of the City and Borough, and the full faith, credit and resources of the City and Borough shall 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 shall be payable out of annual tax levies to be made upon all taxable property within the City and Borough without limitation as to rate or amount and in excess of any constitutional or statutory tax limitation.

88 The date, form, terms, redemption provisions, maturities, covenants and manner of sale of
89 the Bonds shall be as hereafter provided by ordinance or ordinances of the Assembly. After voter
90 approval of the Bond proposition and in anticipation of the issuance of the Bonds, the City and
91 Borough may issue short-term obligations as authorized by the laws of the State of Alaska.
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93 Section 4. Bond Election. The proposition that this ordinance shall be approved and
94 that the City and Borough shall issue the Bonds to pay costs of the Project shall be submitted to
95 the qualified voters of the City and Borough for their ratification or rejection at the regular
96 election to be held in the City and Borough on October 5, 2010. The bond proposition shall be in
97 substantially the following form:
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99 CITY AND BOROUGH OF SITKA

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101 **PROPOSITION 3**

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103 **\$2,410,000 GENERAL OBLIGATION BONDS**
104 **BLATCHLEY SCHOOL MECHANICAL AND ELECTRICAL SYSTEM**
105 **IMPROVEMENTS**
106

107 Shall the City and Borough of Sitka incur debt and issue general
108 obligation bonds in the principal amount of not to exceed \$2,410,000,
109 maturing within a maximum of 20 years, to pay for refurbishment and
110 upgrades to mechanical and electrical systems of Blatchley Middle School,
111 and shall Ordinance No. 2010-18 of the City and Borough authorizing the
112 issuance of the bonds for these capital improvements be approved?
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114 This project has been approved by the State of Alaska Department
115 of Education and Early Development, so that the City and Borough is
116 eligible for reimbursement of 70% of debt service on the bonds.
117 Reimbursement payments by the State are subject to annual appropriation
118 by the legislature, and the full faith and credit of the City and Borough will
119 be pledged for 100% of debt service on the bonds if necessary.
120

BONDS Yes

BONDS No

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125 Section 5. Cooperation with DEED. City and Borough staff is directed to take all
126 actions necessary and desirable to cooperate with DEED to permit reimbursement to the City and
127 Borough by the State of Alaska of 70% of the debt service on the Bonds, subject to annual
128 appropriation by the state legislature.

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Section 6. Appropriation and Reimbursement. If the issuance of the Bonds is ratified at said election, so much of the total authorization as shall be necessary is hereby appropriated from the general fund of the City and Borough 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 shall be reimbursed to the general fund from the proceeds of the sale of the Bonds or the short-term obligations authorized by this ordinance. The Assembly hereby declares that this section shall constitute a declaration of the City and 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 7. Notice. Notice, publication and posting shall be given by the Clerk of the City and Borough in accordance with the provisions of the Sitka General Code, the Charter of the City and Borough, and Alaska law.

Section 8. Severability. In the event that any one or more of the provisions of this ordinance shall for any reason be held to be invalid, such invalidity shall not affect or invalidate any other provision of this ordinance or the Bonds authorized herein, 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 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 9. Effective Date. This ordinance shall be in full force and effect immediately upon its final passage by the Assembly.

READ FOR THE FIRST TIME at a regular meeting of the Assembly held on July 13, 2010.

PASSED AND APPROVED by the Assembly of the City and Borough of Sitka, Alaska, on second reading on July 27, 2010 and again on third reading on August , 2010.

CITY AND BOROUGH OF SITKA,
ALASKA

By _____
Scott McAdams Mayor

ATTEST:

By _____
Colleen Ingman, MMC
Municipal Clerk

CLERK'S CERTIFICATE

I, the undersigned, Clerk of the City and Borough of Sitka, Alaska (the "City and Borough"), and keeper of the records of the Assembly of the City and Borough (the "Assembly"), DO HEREBY CERTIFY:

1. That the attached Ordinance (the "Ordinance") is a true and correct copy of Ordinance No. 2010-18 of the City and Borough, as finally passed at a meeting of the Assembly held on July 27, 2010, 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 27th day of July, 2010.

Colleen Ingman Municipal Clerk,
City and Borough of Sitka, Alaska