

POSSIBLE OPTIONS AND MOTIONS

- **Option A:**

I MOVE to approve Ordinance 2017-37S on second and final reading.

- **Option B:**

Step 1: I MOVE to go into Executive Session with the Municipal Attorney to discuss possible legal consequences associated with passage of Ordinance 2017-37S, a donation to St. Michael's Cathedrals' renovation fund.

Step 2: I MOVE to reconvene as the Assembly in regular session.

Step 3: I MOVE to _____.

- **Option C:**

I MOVE to _____.



City and Borough of Sitka

LEGAL DEPARTMENT

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

TO: Mayor and Assembly Members

FROM: Brian E. Hanson
Municipal Attorney

DATE: December 6, 2017

SUBJECT: St. Michael's Cathedral Renovation Donation Ordinance

With respect to the propriety of the municipality donating \$5,000 towards the renovation of St. Michael's Cathedral, it is my opinion that such a donation, under its particular circumstances, is permissible and not violative of the First Amendment Establishment Clause of the State and Federal Constitutions. My conclusion is based on an examination of relevant case law and legal commentaries.

The general rule as to permissible involvement of government in religious actions and causes was first enunciated in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), when the U.S. Supreme Court adopted a three-part test for examining Establishment Clause cases, stating:

First, the legislature must have adopted the law with a secular purpose. Second, the statute's principal or primary effect must be one that neither advances nor inhibits religion. Third, the statute must not result in excessive entanglement of government with religion.

Here, the religious action and cause is the renovation of St. Michael's Cathedral. The proposed governmental involvement is the donation of \$5,000 towards that renovation project. Applying the *Lemon* test: First, the purpose of the donation is secular (public), i.e., to renovate and preserve a historic and iconic building in the center of downtown Sitka which promotes community and business for the benefit of all the citizens of Sitka. Second, the donation's principal or primary effect neither advances nor inhibits religion; rather, the donation advances the public purpose. Third, the donation does not result in an excessive entanglement with religion, as it is a relatively small one-time donation, placed in a renovation fund, ear-marked for exterior renovation, and which doesn't require administration by the municipality.

In summary, I believe it is constitutionally permissible for the municipality to donate \$5,000 towards the renovation of St. Michael's Cathedral because (1) the donation is for a secular (public) purpose, (2) the donation neither advances nor inhibits religion, and (3) the donation does not result in excessive entanglement of the municipality with religion.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Hunter and Assembly Members
Keith Brady, Municipal Administrator

From: Assembly Member Steven Eisenbeisz
Assembly Member Bob Potrzuski

Date: October 31, 2017

Subject: Approval of appropriation for a donation to the St. Michael's Cathedral renovation project

Issue:

We are requesting a supplemental appropriation for a donation to help with the cost of renovating St. Michael's Cathedral.

Facts:

1. St. Michael's Cathedral is undergoing renovation and repainting. Funds are being solicited from the public to help defray the cost.
2. The Municipality levies a 6% hotel, motel, and bed and breakfast transient room rental tax. The proceeds from the room rental tax are deposited in the Visitor Enhancement Fund.
3. The Visitor Enhancement Fund can be used, per SGC 4.24.070 (D), as follows:

D. The proceeds contained in the visitor activities enhancement fund may be appropriated by the assembly for any purpose related to the enhancement of tourism and visitor-related activities in the municipality, to include but not be limited to contractual funding of a convention and visitor's bureau, funding of travel of municipal officials to travel-related conventions and trade shows, and procurement of tourism-related advertising. All such procurements shall be subject to municipal procurement regulations in accordance with Title 3.

4. As of June 30, 2017, the Visitor Enhancement Fund ended the fiscal year with an unencumbered fund balance of \$304,039.

Discussion:

1. St. Michael's Cathedral is a significant historical and cultural landmark in downtown Sitka. The Cathedral figures prominently in many promotional materials for Sitka as a visitor destination.
2. Keeping St. Michael's Cathedral a well-maintained facility benefits all Sitkans. Its landmark status contributes to the attractiveness of Sitka as a visitor destination which, in turn, contributes to the vibrancy of the local economy.
3. As sufficient funds exist in the Visitor Enhancement Fund, a small donation to the St. Michael's Cathedral renovation project is appropriate.

Recommendation:

1. Approve the supplemental budget ordinance for a donation to the St. Michael's Cathedral renovation project.

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2017-37S
AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA
ADJUSTING THE FY18 BUDGET

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

1. **CLASSIFICATION.** This ordinance is not of a permanent nature and is not intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.

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

3. **PURPOSE.** The purpose of this ordinance is to adjust the FY18 budgets for known changes.

4. **ENACTMENT.** The Assembly of the City and Borough of Sitka hereby adjusts the FY18 budget for known changes. In accordance with Section 11.10(a) of the Charter of the City and Borough of Sitka, Alaska, the budget for the fiscal period beginning July 1, 2017 and ending June 30, 2018 is hereby adjusted as follows:

FISCAL YEAR 2018 EXPENDITURE BUDGETS	
SPECIAL REVENUE FUND	
Visitor Enhancement Fund - Operations: An appropriation shall be made in the amount of \$5,000 as a donation to St. Michael's Cathedrals' renovation fund. This donation is made on the conditions that the donation will be deposited in a renovation fund account separate from the church's general fund account and the donation will be used only for exterior renovation of the building. The purpose of this donation is public by renovating and preserving a historic and iconic building in the center of downtown Sitka which promotes community and business for the benefit of all the citizens of Sitka.	

EXPLANATION

Necessary revisions in the FY 2018 budget were identified. These changes involve the increase of expenditure accounts and causes decreased cash flows to the fund balance of various funds.

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

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 26th Day of December, 2017.

ATTEST:

Matthew Hunter, Mayor

Melissa Henshaw, CMC
Acting Municipal Clerk

1st reading 12/12/17
2nd reading 12/26/17