

NON-CODE ORDINANCE

By: Borough Manager  
Introduced: 06/07/16  
Public Hearing: 06/21/16  
Adopted: 06/21/16

**MATANUSKA-SUSITNA BOROUGH  
ORDINANCE SERIAL NO. 16-080**

AN ORDINANCE AUTHORIZING THE MATANUSKA-SUSITNA BOROUGH TO CAUSE TO BE EXECUTED AND DELIVERED AND TO SELL NOT TO EXCEED \$5,700,000 FIRE STATION LEASE CERTIFICATES OF PARTICIPATION, 2016A; AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE, A LEASE PURCHASE AGREEMENT AND TRUST INDENTURE, AND A DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, AND SECURITY AGREEMENT TO SECURE THE CERTIFICATES; AUTHORIZING THE EXECUTION OF A CERTIFICATE PURCHASE AGREEMENT; AND PROVIDING FOR RELATED MATTERS.

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WHEREAS, the Assembly of the Matanuska-Susitna Borough (the "Borough") finds that it is in the best interest of the Borough and in furtherance of the public purposes of the Borough to acquire, construct, and equip a fire station and fleet maintenance facility (the "Project") within the Borough; and

WHEREAS, the Assembly finds that the Project will be used for an essential public function of the Borough; and

WHEREAS, the Assembly finds that it is in the best interest of the Borough and in furtherance of the public purposes of the Borough to finance the construction and acquisition of the Project by causing the execution and delivery of certificates of participation (the "Certificates") in lease payments to be made by the Borough for the use and occupancy of the Project; and

WHEREAS, the Borough has acquired title to real property more particularly described in Exhibit "A" hereto (the "Property") as the site for the Project; and

WHEREAS, the Borough proposes to lease the Property, and the Project to be constructed thereon, to a corporate trustee, which will lease the Project back to the Borough under a lease-purchase agreement under which the Borough will make lease payments consisting of a principal component and an interest component; and

WHEREAS, the right to receive the principal and interest components of lease payments to be made by the Borough under the lease-purchase agreement will be evidenced by the Certificates, which will be executed and delivered to investors in exchange for proceeds that will be used to finance the construction and acquisition of the Project; and

WHEREAS, there have been presented to the Borough forms of the following documents:

1. a Lease (the "Lease") between the Borough and U.S. Bank National Association, as trustee (the "Trustee"); and
2. a Lease Purchase Agreement and Trust Indenture (the "Indenture") between the Borough and the Trustee; and
3. a Deed of Trust, Assignment of Leases and Rents, and Security Agreement (the "Deed of Trust") on the Property securing the Borough's obligations under the Indenture, made by

the Borough, as grantor, in favor of the Trustee, as beneficiary;

and it appears that each such document, which now is before the Borough, is an appropriate document for the purpose intended;

NOW THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE MATANUSKA-SUSITNA BOROUGH:

Section 1. Classification. This Ordinance is a non-code ordinance.

Section 2. Authorization of Lease. The Assembly finds under Matanuska-Susitna Borough Code Section 23.05.030(G) that leasing the Property to the Trustee under the Lease without regard to its fair rental value is in the best interest of the Borough. The Property may be leased under the Lease without first being classified as required by Matanuska-Susitna Borough Code Section 23.10.030(B). Notwithstanding Matanuska-Susitna Borough Code Section 23.10.060(C), the Property may be leased for the consideration that is provided in the Lease. The Assembly finds that the leasing of the Project by the Trustee to the Borough under the terms of the Indenture, and the financing of the Project through the execution and delivery of the Certificates in the aggregate principal amount of not to exceed \$5,700,000, will serve the public interest and be in the best interest of the Borough, and are approved.

Section 3. Approval of Documents. The form and content of the Lease, the Indenture, and the Deed of Trust are in all respects authorized, approved, and confirmed, and the Manager is authorized, empowered, and directed to execute and deliver such documents to the other parties thereto for and on behalf of the Borough, with such changes, modifications, additions, and deletions therein as shall to the Manager, in consultation with counsel, seem necessary, desirable, or appropriate, the execution thereof to constitute conclusive evidence of the approval of any and all changes, modifications, additions, or deletions therein from the form and content of such documents now before this meeting, and from and after the execution and delivery of such documents, the Manager, the Finance Director, the Attorney, and the Clerk each is authorized, empowered, and directed to do all such acts and things and to execute all documents as may be necessary to carry out and comply with the provisions of such documents as executed.

Section 4. Sale of Certificates. The Certificates shall be sold at negotiated sale to RBC Capital Markets, LLC (the "Underwriter"). The Borough's financial advisor has advised the Assembly that bond market conditions are fluctuating and that the most favorable market conditions for the sale of the Certificates may not occur on the date of a regular Assembly meeting. The Assembly has determined that it would be

inconvenient to hold a special meeting on short notice to approve the terms of the sale of the Certificates. Therefore, the Assembly determines that it is in the best interest of the Borough to delegate the authority to approve the terms of the Certificates to the Manager and the Finance Director, and the Manager and the Finance Director each is authorized to determine the aggregate principal amount, principal amount per maturity, sinking fund installments, if any, interest rates, yields, dated date, principal and interest payment dates, and redemption terms, if any, and other details of the Certificates; provided, that the true interest cost of the Certificates, expressed as an annual rate, does not exceed 5.00 percent. In determining the aggregate principal amount, principal amount per maturity, sinking fund installments, if any, interest rates, yields, dated date, principal and interest payment dates, redemption terms, if any, and other details of the Certificates, the Manager or the Finance Director shall, in consultation with the Borough's financial advisor, take into account those factors which, in his or her judgment, will result in the lowest true interest cost on the Certificates to their maturity or prior redemption, including without limitation current financial market conditions and current interest rates for obligations comparable in tenor and quality to the Certificates. The Manager and the Finance Director each is authorized to determine, in consultation with

the Borough's financial advisor and the Underwriter, whether there shall be bond insurance for the Certificates; provided, that bond insurance shall be obtained only if the present value of the bond insurance premium will be less than the present value of the expected interest savings on the Certificates as a result of the bond insurance. Based upon the foregoing determinations, the Manager and the Finance Director each is authorized to execute a purchase contract for the Certificates with the Underwriter. The authority granted to the Borough Manager and the Finance Director by this section shall expire 270 days after the effective date of this Ordinance. If the Manager or the Finance Director has not executed a purchase contract for the Certificates with the Underwriter within 270 days after the effective date of this Ordinance, no purchase contract for the Certificates may be executed on behalf of the Borough without further authorization from the Assembly.

Section 5. Official Statement. The Manager and the Finance Director each is authorized to approve a preliminary official statement for distribution in relation to the offering of the Certificates for sale. The Manager and the Finance Director each is authorized to deem the preliminary Official Statement final for purposes of Securities and Exchange Commission Rule 15c2-12, and to approve the form of, and execute and deliver, the final Official Statement for the Certificates.

Section 6. Authority of Officers. The Mayor, the Manager, the Finance Director, the Attorney, and the Clerk each is authorized and directed to execute and deliver for and on behalf of the Borough any and all additional certificates, documents, opinions, or other papers and to do and perform all things and determine all matters not determined by this Ordinance, to the end that the Borough may carry out its obligations under the Lease, the Indenture, the Deed of Trust, and related documents and this Ordinance.

Section 7. Prohibited Sale of Certificates. No person, firm, or corporation, or any agent or employee thereof, acting as financial consultant to the Borough under an agreement for payment in connection with the sale of the Certificates, is eligible to purchase the Certificates as a member of the original underwriting syndicate, either at public or private sale.

Section 8. Continuing Disclosure. The Borough covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate in substantially the form presented at this meeting. Notwithstanding any other provision of this Ordinance, failure of the Borough to comply with the Continuing Disclosure Certificate shall not be considered a default of the Borough's obligations under the Lease, the Indenture, the Deed of Trust,

or the Certificates; however, the Beneficial Owner of any Certificate may bring an action for specific performance to cause the Borough to comply with its obligations under this section.

Section 9. Severability. If any one or more of the provisions of this Ordinance shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Lease, the Indenture, the Deed of Trust, the Continuing Disclosure Certificate, or the Certificates.

Section 10. Effective Date. This Ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this  
21 day of June, 2016.

  
VERN HALTER, Borough Mayor

ATTEST:

  
LONNIE R. McKECHNIE, CMC, Borough Clerk  
(SEAL)

YES: Beck, Colligan, Mayfield, Doty, and Kowalke

NO: McKee

EXHIBIT A

DESCRIPTION OF PROPERTY

Tract A, Meadow Creek Subdivision Addition No. 1, according to Plat No. 2000-132, located in the Palmer Recording District, Third Judicial District, State of Alaska.