

CITY AND BOROUGH OF SITKA, ALASKA

JUNIOR LIEN ELECTRIC REVENUE BONDS

ORDINANCE NO. 2013-38

AN ORDINANCE of the City and Borough of Sitka authorizing the issuance of junior lien electric revenue bonds of the City in the principal amount of not to exceed \$50,000,000 to finance a portion of the cost of expanding the Blue Lake hydroelectric project; providing for the issuance of the bonds in one or more series; and authorizing the sale of the bonds to the Alaska Municipal Bond Bank.

PASSED: September 24, 2013

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CITY AND BOROUGH OF SITKA, ALASKA

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## CITY AND BOROUGH OF SITKA

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AN ORDINANCE of the City and Borough of Sitka authorizing the issuance of junior lien electric revenue bonds of the City in the principal amount of not to exceed \$50,000,000 to finance a portion of the cost of expanding the Blue Lake hydroelectric project; providing for the issuance of the bonds in one or more series; and authorizing the sale of the bonds to the Alaska Municipal Bond Bank.

WHEREAS, the City and Borough of Sitka, Alaska (the "City"), owns and operates electric generation and transmission facilities (the "Electric System"); and

WHEREAS, the City has undertaken an expansion of the Blue Lake hydroelectric project (as further described herein, the "Project"), which is a component of the Electric System; and

WHEREAS, to pay a portion of the cost of the Project, the City has received grants from the State of Alaska and has issued and sold to the Alaska Municipal Bond Bank (the "Bond Bank") the City's Electric Revenue Bonds, 2010, Series B and Series C, in the aggregate principal amount of \$22,820,000 (together with the City's Electric Revenue Refunding Bond, 2010 Series A, the "2010 Bonds") and the City's Junior Lien Electric Revenue Bond, 2013, in the principal amount of \$35,530,000 (the "2013 Bond"); and

WHEREAS, the City anticipates paying the rest of the cost of the Project from the issuance of up to \$50,000,000 of additional electric revenue bonds of the City on a parity with the 2013 Bond, with a first series of such bonds to be issued before the end of 2013 and a second series of such bonds to be issued in 2014; and

WHEREAS, the City may receive additional grant funds from the State, which may reduce or eliminate the second series of bonds in 2014; and

WHEREAS, the Assembly has determined that it is in the best interest of the City to delegate to the City's Finance Director authority to sell the bonds in one or two series, as authorized by this ordinance, so long as the aggregate principal amount of such bonds does not exceed \$50,000,000; and

WHEREAS, the Assembly finds that it is in the best interest of the City and ratepayers of the Electric System to issue these bonds through the Bond Bank, on the terms and conditions set forth in this ordinance and in loan agreements authorized by this ordinance to be entered into with the Bond Bank; and

WHEREAS, the City learned after the issuance of the 2013 Bond that the Bond Bank does not require certain provisions relating to the value of investments in the Reserve Account and now wishes to amend Ordinance No. 2013-02 by deleting those provisions;

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. Definitions. As used in this ordinance, the following words have the following meanings, unless a different meaning clearly appears from the context:

“Annual Debt Service” means the total amount of Debt Service for any bonds or other evidences of indebtedness payable from Revenue of the System in any fiscal year.

“Assembly” means the Assembly of the City and Borough of Sitka, Alaska, the general legislative authority of the City, as duly constituted from time to time, or any successor body.

“Balloon Maturity Bonds” means any bonds or other evidences of indebtedness of the City payable from Revenue of the System that are so designated in the ordinance pursuant to which such bonds are issued or such indebtedness is incurred.

“Base Period” means any consecutive 12-month period selected by the City out of the 36-month period next preceding the date of issuance of a series of Future Parity Bonds.

“Bond Bank” means the Alaska Municipal Bond Bank, a public corporation and instrumentality of the State of Alaska, created pursuant to the provisions of Chapter 85, Title 44, Alaska Statutes, as amended.

“Bonds” means the Junior Lien Electric Revenue Bonds authorized to be issued in a principal amount not to exceed \$50,000,000 pursuant to this ordinance, which may be issued in one or more series as the Finance Director determines, as provided herein..

“Bond Bank Bonds” means bonds to be issued by the Bond Bank to provide funds to be loaned to the City pursuant to each Loan Agreement.

“Bond Fund” means the “City and Borough of Sitka 2013 Electric Revenue Bond Redemption Fund,” created pursuant to Ordinance No. 2013-02 and continued by this ordinance to pay and secure the payment of all Parity Bonds.

“Bond Register” means the registration books for the Bonds maintained by the Registrar, for the purpose of complying with the requirements of Section 149 of the Code and listing, inter alia, the names and addresses of all Registered Owners of Bonds.

“City” means the City and Borough of Sitka, Alaska, a home rule municipal corporation duly organized and existing under the Constitution and laws of the State of Alaska and its Charter.

“Code” means the federal Internal Revenue Code of 1986, as amended, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings

issued or amended with respect thereto by the United States Treasury Department or the Internal Revenue Service, to the extent applicable to the Bonds or any Future Parity Bonds.

“Consultant” means an independent municipal financial consultant, including but not limited to an independent accounting firm or engineer, having a favorable reputation for skill and experience with electric utilities comparable to the Electric System in such matters as are relevant to the purpose for which he or she is retained, appointed from time to time by the City to perform the duties of the Consultant as required by this ordinance.

“Covered Bonds” means the 2013 Bond, the Bonds, any Future Parity Bonds designated in the ordinance authorizing their issuance as Covered Bonds secured by the Reserve Account, subject to the approval of the Bond Bank, as provided in Section 8(b), and the 2010 Bonds, subject to the approval of the Bond Bank, as provided in Section 8(b).

“Debt Service” means, for any period of time,

(a) for outstanding Fixed Rate Bonds, an amount equal to the sum of:

(1) all interest payable on such Fixed Rate Bonds during the period;

(2) the amount of principal of such Fixed Rate Bonds due or subject to mandatory redemption during such period and for which no Sinking Fund Requirement has been established, and

(3) the amount of the Sinking Fund Requirement for the period;

plus

(b) for outstanding Parity Bonds other than Fixed Rate Bonds, including but not limited to Balloon Maturity Bonds and Parity Bonds bearing variable rates of interest, an amount for the period equal to the amount that would have been payable for principal and interest on these Parity Bonds during that period computed on the assumption that the amount of Parity Bonds as of the date of such computation would be amortized (i) in accordance with the mandatory redemption provisions, if any, set forth in the ordinance authorizing the issuance of such Parity Bonds, or if mandatory redemption provisions are not provided, during a period commencing on the date of computation and ending on the date 30 years after the date of issuance (ii) at an interest rate equal to the yield to maturity set forth in the 40-Bond Index published in the edition of *The Bond Buyer* (or comparable publication or such other similar index selected by the City) and published within ten days prior to the date of calculation or, if such calculation is being made in connection with the certificate required by Section 11 hereof, then within ten days of such certificate, (iii) to provide for approximately level annual debt service of principal and interest over such period.

Debt Service shall be net of any capitalized interest funded out of bond proceeds and any Debt Service Offsets.

“Debt Service Offset” means receipts of the City, including but not limited to federal interest subsidy payments, designated as such by the City that are not included in Revenue of the System and are legally available to pay debt service on Parity Bonds.

“Electric System” means the electric utility properties, rights and assets, real and personal, tangible and intangible, now owned and operated by the City and used or useful in the generation, transmission, distribution and sale of electric energy and the business incidental thereto and all properties, rights and assets, real and personal, tangible and intangible, hereafter constructed or acquired by the City as additions, betterments, improvements or extensions to those electric utility properties, rights and assets, but shall not include any other generating, conservation, transmission or distribution facilities that have been or may hereafter be acquired or constructed by the City as a utility system designated by the Assembly at the time of financing thereof to be separate from the Electric System, the revenues of which may be pledged to the payment of bonds issued to purchase, construct or otherwise acquire or expand that separate utility system or are otherwise pledged to the payment of the bonds of another separate utility system of the City other than the Electric System. The Assembly may, by ordinance, elect to combine with and include as a part of the Electric System any other separate utility of the City, provided that full provision for the payment of any outstanding indebtedness of that separate system must first be paid or that indebtedness must be refunded with bonds issued in accordance with this ordinance.

“Event of Default” means any of those events described as such in Section 19 of this ordinance.

“Finance Director” means the Finance Director of the City or the successor to the duties of that office.

“Fitch” means Fitch, Inc., organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such organization is dissolved or liquidated or no longer performs the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P or Moody’s) designated by the Finance Director.

“Fixed Rate Bonds” means those Parity Bonds other than Balloon Maturity Bonds the rates of interest of which are fixed and determinable through their final maturity or for a specified period of time. If so provided in the ordinance authorizing their issuance, Parity Bonds may be deemed to be Fixed Rate Bonds for only a portion of their term.

“Future Parity Bonds” means electric revenue bonds of the City issued after the date of issuance of the Bonds that have a lien on Revenue of the System for the payment of the principal thereof and interest thereon equal to the lien on the Revenue of the System for the payment of the principal of and interest on the 2013 Bond and the Bonds.

“Government Obligations” means any bonds or other obligations that, as to principal and interest, constitute direct obligations of, or are unconditionally guaranteed by, the United States of America.

“Loan Agreement” means each Loan Agreement by and between the City and the Bond Bank authorized to be entered into pursuant to Section 18 of this ordinance for the sale of the Bonds.

“Moody’s” means Moody’s Investors Service, its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P and Fitch) designated by the Finance Director.

“Net Revenue” means, for any period, Revenue of the System less Operating Expenses for that period, excluding from the computation of Revenue of the System (a) any profit or loss derived from the sale or other disposition, not in the ordinary course of business, of properties, rights or facilities of the Electric System, or resulting from the early extinguishment of debt; and (b) insurance proceeds other than proceeds to replace lost revenue.

“Operating Expenses” mean the City’s expenses for operating and maintaining the Electric System, and ordinary repairs, renewals, replacements and reconstruction of the Electric System, including all costs of delivering electric power and energy, and payments into reasonable reserves in the Revenue Fund for items of operation and maintenance the payment for which is not immediately required, and shall include, without limiting the generality of the foregoing, costs of purchased power; costs of transmission and distribution operation and maintenance expenses; rents; administrative and general expenses; engineering expenses; legal and financial advisory expenses; required payments to pension, retirement, health and hospitalization funds; insurance premiums; and any taxes, assessments, payments in lieu of taxes or other lawful governmental charges, all to the extent properly allocable to the Electric System; and the fees and expenses of the Registrar. Operating Expenses shall not include any costs or expenses for new construction, interest, amortization, non-cash losses or costs with respect to any real or personal property, investment or agreement that may be required to be recognized under generally accepted accounting principles, including but not limited to depreciation expense and unrealized mark-to-market losses.

“Parity Bonds” mean the 2013 Bond, the Bonds, and any Future Parity Bonds.

“Permitted Investments” means any of the following to the extent permitted by the laws of the State of Alaska:

(1) Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America, and CATS and TIGRS) or obligations the timely payment of the principal of and interest on which are fully guaranteed by the United States of America.

(2) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

A. Farmers Home Administration: certificates of beneficial ownership;

- B. Federal Financing Bank;
- C. General Services Administration: participation certificates;
- D. Government National Mortgage Association (GNMA): GNMA-guaranteed mortgage-backed bonds and GNMA-guaranteed pass-through obligations;
- E. U.S. Maritime Administration: guaranteed Title XI financing; and
- F. U.S. Department of Housing and Urban Development: project notes; local authority bonds; U.S. government-guaranteed new communities debentures; U.S. government-guaranteed public housing notes and bonds.

(3) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

- A. Federal Home Loan Bank System: senior debt obligations;
- B. Federal Home Loan Mortgage Corporation (FHLMC): participation certificates and senior debt obligations rated AAA by S&P or Aaa by Moody's;
- C. Federal National Mortgage Association (FNMA): mortgage-backed securities and senior debt obligations rated AAA by S&P or Aaa by Moody's;
- D. Student Loan Marketing Association (SLMA): senior debt obligations;
- E. Resolution Funding Corp. (REFCORP): only the interest component of REFCORP strips that have been stripped by request to the Federal Reserve Bank of New York; and
- F. Farm Credit System: consolidated systemwide bonds and notes.

(4) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AAAM-G, AAAM or AAM or having a rating by Moody's of Aaa, Aa1 or Aa2.

(5) Certificates of deposit secured at all times by collateral described in (1) and/or (2) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks whose short-term obligations are rated A-1+ or better by S&P and Prime-1 or better by Moody's. The collateral must be held by a third party and Bondowners must have a perfected first security interest in the collateral.

(6) Certificates of deposit, savings accounts, deposit accounts or money market deposits that are fully insured by FDIC, including BIF and SAIF.

(7) Commercial paper rated, at the time of purchase, Prime-1 by Moody's and A-1 or better by S&P.

(8) Bonds or notes issued by any state or municipality rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies.



(9) Federal funds or bankers acceptances with a maximum term of one year of any bank that has an unsecured, uninsured and unguaranteed obligation rating of Prime-1 or A3 or better by Moody's and A-1 or A or better.

(10) Repurchase agreements providing for the transfer of securities from a dealer bank or securities firm (seller/borrower) to the City or its agent or trustee (buyer/lender), and the transfer of cash from the City or its agent or trustee to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the City or its agent or trustee in exchange for the securities at a specified date. Repurchase Agreements for a term of 30 days or less must satisfy the following criteria:

- A. Repos must be between the City or its agent or trustee and a dealer bank or securities firm.
  - a. Primary dealers on the Federal Reserve reporting dealer list that fall under the jurisdiction of the SIPC and that are rated A or better by S&P and Moody's, or
  - b. Banks rated A or above by S&P and Moody's.
- B. The written repo contract must include the following:
  - a. Securities that are acceptable for transfer are:
    - (1) Direct U.S. governments, or
    - (2) Federal agencies backed by the full faith and credit of the U.S. government (and FNMA & FHLMC).
  - b. The term of the repo may be up to 30 days.
  - c. The collateral must be delivered to the City (if the City is not supplying the collateral) or to a third party acting as agent for the City (if the City is supplying the collateral) before or simultaneously with payment (perfection by possession of certificated securities).
  - d. The securities must be valued weekly, marked-to-market at current market price plus accrued interest. The value of collateral must be equal to 104% of the amount of cash transferred by the City or its agent or trustee to the dealer bank or securities firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.

“Private Person” means any natural person engaged in a trade or business or any trust, estate, partnership, association, company or corporation.

“Private Person Use” means the use of property in a trade or business by a Private Person if such use is other than as a member of the general public. Private Person Use includes ownership of the property by the Private Person as well as other arrangements that transfer to the Private Person the actual or beneficial use of the property (such as a lease, management or incentive payment contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use of property as a member of the general public includes attendance by the Private Person at municipal meetings or business rental of property to the Private Person on a day-to-day basis if the rental paid by such Private Person is the same as the rental paid by any Private Person who desires to rent the property. Use of property by nonprofit community groups or community recreational groups is not treated as Private Person Use if such use is incidental to the governmental uses of property, the property is made available for such use by all such community groups on an equal basis and such community groups are charged only a *de minimis* fee to cover custodial expenses.

“Project” means the improvements to the Blue Lake hydroelectric facilities described in Section 3(a) of this ordinance.

“Project Fund” means the special funds for proceeds of the Bonds authorized to be created pursuant to Section 17 of this ordinance.

“Qualified Insurance” means any non-cancelable municipal bond insurance policy or surety bond issued by any insurance company licensed to conduct an insurance business in any state of the United States (or by a service corporation acting on behalf of one or more such insurance companies) which insurance company or companies, as of the time of issuance of such policy or surety bond, are currently rated in one of the two highest Rating Categories by two Rating Agencies.

“Qualified Letter of Credit” means any irrevocable letter of credit issued by a financial institution for the account of the City on behalf of registered owners of the applicable Parity Bonds, which institution maintains an office, agency or branch in the United States and as of the time of issuance of such letter of credit, is currently rated in one of the two highest Rating Categories by any Rating Agency.

“Rate Stabilization Account” means the account of that name within the Revenue Fund.

“Rating Agency” means Moody’s, S&P or Fitch.

“Registrar” means the Finance Director, for the purposes of registering and authenticating the Bonds, maintaining the Bond Register, and paying principal and interest on the Bonds.

“Registered Owner” means the person in whose name the Bond is registered on the Bond Register.

“Reserve Account” means the Parity Bond Reserve Account created within the Bond Fund pursuant to Ordinance No. 2012-02 and continued by this ordinance.

“Reserve Requirement” means the amount to be calculated with respect to all Covered Bonds and separately with respect to other Parity Bonds, as follows:

(a) For Covered Bonds, the Reserve Requirement is equal to the least of: (1) maximum Annual Debt Service for Covered Bonds, (2) 10% of the initial principal amount of each series of Covered Bonds, and (3) 125% of average Annual Debt Service for Covered Bonds; provided, however, that the amount required to be contributed, if any, as a result of the issuance of a series of Future Parity Bonds will not be greater than the Tax Maximum. If the amount required to be contributed at the time of issuance of a series exceeds the Tax Maximum, then the amount required to be contributed shall be equal to the Tax Maximum.

(b) For any Parity Bonds that are not designated as Covered Bonds, the Reserve Requirement will be the amount, if any, specified in the ordinance authorizing the issuance of those Parity Bonds.

The amount of the Reserve Requirement may be recalculated from time to time as principal of Parity Bonds is paid or Future Parity Bonds are issued.

“Revenue of the System” means all income and revenue derived by the City from the sale of electric energy and all other commodities, services and facilities sold, furnished or supplied by the City through the ownership or operation of the Electric System, together with the proceeds received by the City directly or indirectly from the sale, lease or other disposition of any of the properties, rights or facilities of the Electric System, any federal interest subsidy payments received in connection with Parity Bonds (to the extent such payments are not designated as Debt Service Offsets), and any investment income earned on money held in any fund or account of the City, including any bond redemption funds and the accounts therein, in connection with the ownership and operation of the Electric System (but excluding income derived from investments irrevocably pledged to the payment of any specific revenue bonds of the City, such as bonds heretofore or hereafter refunded or defeased, investment income earned on money in any arbitrage rebate account, grants for capital purposes, and non-cash marked-to-market gains with respect to any real or personal property, investment or agreement that may be required to be recognized under generally accepted accounting principles).

“Revenue Fund” means the Electric Utility Revenue Fund heretofore established in the office of the Finance Director.

“Rule” means the SEC’s Rule 15c2-12 under the Securities Exchange Act of 1934.

“SEC” means the Securities and Exchange Commission.

“S&P” means Standard & Poor’s Ratings Services, its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency (other than Moody’s and Fitch) designated by the Finance Director.

“Sinking Fund Requirement” means, for any fiscal year, the principal amount and premium, if any, of Term Bonds required to be purchased, redeemed or paid at maturity in that

fiscal year as established by the ordinance or other proceedings of the City authorizing the issuance of those Term Bonds.

“Subordinated Note” means the junior lien obligation of the City, dated August 24, 1982, and maturing on January 1, 2033, which evidences a loan to the City from the State of Alaska Department of Community and Regional Affairs under a loan agreement dated August 24, 1982.

“Tax Certificate” means the certificate with respect to federal tax matters relating to the Bonds authorized to be executed by the Finance Director pursuant to the provisions of Section 7 of this ordinance.

“Tax Maximum” means the maximum amount permitted by the Code to be allocated to a bond reserve account from bond proceeds without requiring a balance to be invested at a restricted yield.

“Term Bonds” means any Future Parity Bonds identified as such in the proceedings for the sale thereof, the payment of the principal of which is fully provided for by a Sinking Fund Requirement.

“2010 Bonds” means the City’s Electric Revenue and Refunding Bonds, 2010, issued in three series on December 9, 2010, in the initial aggregate principal amount of \$48,700,000, as authorized by Ordinance No. 2010-29.

“2013 Bond” means the City’s Junior Lien Electric Revenue Bond, 2013, issued on March 12, 2013, in the initial aggregate principal amount of \$35,530,000, as authorized by Ordinance No. 2013-02.

*Rules of Interpretation.* Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words imparting the singular number shall include the plural numbers and vice versa unless the context shall otherwise indicate. Reference to sections and other subdivisions of this ordinance are to the sections and other subdivisions of this ordinance as originally adopted unless expressly stated to the contrary. The headings or titles of the sections hereof, and the table of contents appended hereto, are for convenience of reference only and shall not define or limit the provisions hereof.

Section 3. The Blue Lake Project; Findings.

(a) *The Project.* The Assembly hereby ratifies and confirms its findings, in Resolution Nos. 10-20 and 2013-02 and subsequent actions, that the public welfare and convenience require the City to make the following capital improvements to facilities of the Electric System: expansion of the Blue Lake hydroelectric project by constructing a new powerhouse with three new turbines, replacing the fish valve unit, adding or upgrading the diesel plant, raising the height of the Blue Lake dam, and making such other additions and improvements to the Blue Lake project as are described in the City’s licensing application to the Federal Energy Regulatory Commission (collectively, the “Project”). The Assembly further finds that it is in the best interest of the City and ratepayers of the Electric System that a portion of the cost of completing the Project be financed from proceeds of the Bonds.

Because the City may receive additional State grants or other money to pay a portion of the cost of the Project, the Assembly further finds that it is in the best interests of the City and ratepayers of the System that the City retain the flexibility to issue the Bonds in multiple series, to be determined by the Finance Director, as provided in Section 18.

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. The City will determine the extent and specifications for the Project.

The City will determine the application of available funds 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 the City legally available for such purpose, including any grant funds received for the Project, are insufficient to accomplish all of the Project, the City will use the available funds to accomplish those components of the Project that the Assembly deems most necessary and in the best interest of the City.

If the City determines that it has become impracticable to accomplish one or more components of the Project because of changed conditions, incompatible development or costs substantially in excess of those estimated, the City 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 impracticable, and Project 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.

(b) *Satisfaction of Parity Conditions.* The City hereby finds that the conditions required for issuance of the Bonds as Parity Bonds have been or will be met. The City finds that: (1) there will be no deficiency in the Bond Fund or any of the accounts therein; (2) this ordinance contains the required covenants (provided in Section 10 hereof) and provides that the Reserve Requirement, if any, will be funded no later than the date of delivery of each series of the Bonds; and (3) the City will have on file a certificate (dated no earlier than the date that is 90 days prior to the date of issuance of the Bonds) relating to Net Revenue, as described in Section 11 (c) or (d) of Ordinance No. 2013-02, except as otherwise permitted under subsection (e) of Section 11 therein.

Section 4. Authorization of Bonds. The City shall now issue and sell not to exceed \$50,000,000 principal amount of electric revenue bonds in multiple series to provide funds to pay a portion of the cost of the Project. Each series of the Bonds shall be issued to the Bond Bank as a single bond to be designated as "City and Borough of Sitka Junior Lien Electric Revenue Bond," with such year and series designation as may be appropriate. Each Bond shall be dated the date of its sale and delivery to the Bond Bank, in accordance with Section 18 hereof, shall be fully registered as to both principal and interest, shall be numbered in such manner and with any additional designation as the Registrar deems necessary for purposes of identification and control, shall bear interest at the rate or rates, shall mature on the date or dates and shall be paid in installments in the principal amounts and on the dates to be determined in accordance

with Section 18 hereof. Interest on the Bonds shall be calculated based on a 360-day year of twelve 30-day months.

The Bonds shall be obligations only of the Bond Fund and shall be payable and secured as provided herein. The Bonds do not constitute an indebtedness or general obligation of the City within the meaning of the constitutional provisions and limitations of the State of Alaska.

Section 5. Registration, Payment and Transfer. The Finance Director shall act as authenticating agent, transfer agent, paying agent and registrar for the Bonds (collectively, the "Registrar"). Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid by check or draft of the Registrar mailed (on the date such interest is due) to the Registered Owner or nominee at the addresses appearing on the Bond Register on the fifteenth day of the month preceding each interest payment date. Principal of the Bonds shall be payable upon presentation and surrender of the Bonds to the Registrar by the Registered Owner or nominee at the office of the Registrar in Sitka, Alaska. Notwithstanding the foregoing, if the Bonds are sold to the Bond Bank pursuant to the provisions of Section 18 of this ordinance, and for so long as the Bond Bank is the owner of a Bond, payments of principal of and interest on that Bond shall be made to the Bond Bank in accordance with the applicable Loan Agreement.

The Bonds may be transferred only on the Bond Register maintained by the Registrar for that purpose upon the surrender thereof by the Registered Owner or nominee or his or her duly authorized agent and only if endorsed in the manner provided thereon, and thereupon a new fully registered Bond of like, principal amount, maturity and interest rate shall be issued to the transferee in exchange therefore. Upon surrender thereof to the Registrar, each Bond is interchangeable for a bond or bonds (in denominations of \$5,000 or any integral multiple thereof) of an equal aggregate principal amount and of the same series, interest rates and principal payment amounts as such Bond. Such transfer or exchange shall be without cost to the Registered Owner or transferee.

The City may deem the person in whose name each Bond is registered to be the absolute owner thereof for the purpose of receiving payment of the principal of and interest on the Bond and for any and all other purposes whatsoever.

Section 6. Prepayment. Provisions for the optional prepayment of some or all principal installments of the Bonds may be established pursuant to Section 18 and shall be set forth in each Loan Agreement. Portions of the principal amount of each Bond, in increments of \$5,000 or any integral multiple of \$5,000, may be prepaid.

So long as the Bond Bank is the owner of a Bond, notice of prepayment shall be given according to the terms of the applicable Loan Agreement. If the Bond Bank is not the owner of a Bond, notice of prepayment shall be given not less than 30 nor more than 60 days prior to the date fixed for prepayment by first class mail, postage prepaid, to the Registered Owner of the Bond at the address appearing on the Bond Register. The requirements of this section shall be deemed complied with when notice is mailed as herein provided, regardless of whether it is actually received by the owner of the Bond. Each official notice of prepayment shall be dated and shall state: (i) the prepayment date, (ii) the prepayment price or prepayment premium, if any,

payable upon such prepayment; (iii) if less than all of an installment of principal is to be prepaid, the principal amount to be prepaid (which must be an integral multiple of \$5,000); (iv) that the interest on the Bond, or on the principal amount thereof to be prepaid, designated for prepayment in such notice, shall cease to accrue from and after such prepayment date; and (v) that on such date there will become due and payable on the Bond the principal amount thereof to be prepaid and the interest accrued on such principal amount to the prepayment date.

Section 7. Revenue Fund.

(a) *Revenue Fund Established.* There has heretofore been established in the office of the Finance Director a separate enterprise fund of the City designated as the "City and Borough of Sitka Electric Utility Revenue Fund" (the "Revenue Fund") All Revenue of the System shall be deposited in the Revenue Fund. Notwithstanding the foregoing, the Finance Director may maintain separate funds and accounts in such names and under such additional designations as may be required to comply with City practices and State law.

(b) *Priority of Application of Revenue of the System.* The Revenue Fund shall be held separate and apart from all other funds and accounts of the City and the Revenue of the System deposited in this fund shall be used only for the following purposes and in the following order of priority:

First, to pay the Operating Costs;

Second, to pay principal of and interest on the 2010 Bonds;

Third, to make all payments required to be made into the reserve account for the 2010 Bonds;

Fourth, to pay principal of and interest on any Parity Bonds, including reimbursements to the issuer of a Qualified Letter of Credit or Qualified Insurance if the Qualified Letter of Credit or Qualified Insurance secures the payment of debt service on Parity Bonds and the ordinance authorizing those Parity Bonds provides for such reimbursement;

Fifth, to make all payments required to be made into the Reserve Account for Covered Bonds and to any reserve account created in the future for the payment of debt service on Future Parity Bonds, including reimbursements to the issuer of a Qualified Letter of Credit or Qualified Insurance if the Qualified Letter of Credit or Qualified Insurance has been issued to fund the Reserve Requirement or the reserve requirement(s) for any Future Parity Bonds and the ordinance authorizing those Future Parity Bonds provides for such reimbursement;

Sixth, to pay principal of and interest on the Subordinated Note and to make all payments required to be made into any revenue bond redemption fund or revenue warrant redemption fund and debt service fund or reserve account created to pay and secure the payment of the principal of and interest on any other revenue bonds or revenue warrants of the City having a lien on Revenue of the System junior and inferior to the lien thereon to pay or secure the payment of Parity Bonds; and

Seventh, to retire by redemption or purchase any outstanding revenue bonds or revenue warrants of the City, to make necessary additions, betterments, improvements and repairs to or extensions and replacements of the Electric System, to make deposits into the Rate Stabilization Account, or for any other lawful City purposes.

The City may transfer any money from any funds or accounts of the Electric System legally available therefor, except bond redemption funds, refunding escrow funds or defeasance funds, to meet the required payments to be made into the Bond Fund.

(c) *Rate Stabilization Account.* As authorized by Ordinance No. 2010-29, the Finance Director has established a Rate Stabilization Account within the Revenue Fund, which Account currently has on deposit therein approximately \$751,000. The City may make additional payments into the Rate Stabilization Account from the Revenue Fund at any time. Money in the Rate Stabilization Account may be withdrawn at any time for deposit into the Revenue Fund and used for the purposes for which Revenue of the System may be used. Amounts withdrawn from the Rate Stabilization Account and deposited into the Revenue Fund shall increase Revenue of the System for the period in which they are withdrawn, and amounts deposited in the Rate Stabilization Account shall reduce Revenue of the System for the period during which they are deposited. Credits to or from the Rate Stabilization Account that occur within 90 days after the end of a fiscal year may be treated as occurring within that fiscal year. Earnings on the Rate Stabilization Account shall be credited to the Revenue Fund.

Section 8. Bond Fund. A special fund of the City known as the "City and Borough of Sitka 2013 Electric Revenue Bond Redemption Fund" (the "Bond Fund") has heretofore been created in the office of the Finance Director, with the Debt Service Account and Reserve Account established therein, and that Fund and the Accounts therein are hereby authorized to be continued so long as the Bonds are outstanding. The Bond Fund shall be drawn upon for the sole purpose of paying the principal of and interest on the 2013 Bond, the Bonds and any Future Parity Bonds.

(a) *Payments into Debt Service Account.* As long as any Parity Bond remains outstanding, the City hereby irrevocably obligates and binds itself to set aside and pay into the Debt Service Account out of money in the Revenue Fund, on or before the date due as provided in the Loan Agreement, the amounts necessary, together with money already in the Debt Service Account, to pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable.

If there is a deficiency in the Debt Service Account for such purpose, the City shall make up the deficiency from the Reserve Account by the withdrawal of cash there from for that purpose, and, if necessary, by sale or redemption of any authorized investments in the amount that will provide cash in the Reserve Account sufficient to make up any such deficiency.

Whenever and so long as the assets of the Debt Service Account are sufficient to provide money to pay when due a principal installment on the Bonds in full, including such interest as may be due thereon, no payments need be made into the Debt Service Account pursuant to this ordinance.



Money in the Debt Service Account shall be held for the benefit of the owners of all Parity Bonds then outstanding and payable equally and ratably and without preference or distinction as between different series, installments or maturities.

(b) *The Reserve Account.* The Reserve Account shall be maintained as a common reserve, securing the payment of the principal of and interest on the 2013 Bonds, the Bonds, any Future Parity Bonds that (i) are designated as Covered Bonds in the ordinance authorizing their issuance and (ii) so long as the Bond Bank is the owner of any of the Parity Bonds, are approved as "Covered Bonds" by the Bond Bank, and the 2010 Bonds, if the Bond Bank approves designating the 2010 Bonds as "Covered Bonds" (inclusively, "Covered Bonds"). Prior to or upon the issuance of the Bonds, the City will deposit into the Reserve Account funds sufficient to satisfy the Reserve Requirement for the Bonds. The City covenants and agrees that from and after the closing and delivery of the Bonds, it will at all times maintain an amount in the Reserve Account at least equal to the Reserve Requirement, except for withdrawals therefrom authorized by this ordinance, so long as any Covered Bonds remain outstanding. The Reserve Requirement may be maintained by deposits of cash, a Qualified Letter of Credit or Qualified Insurance, or a combination of the foregoing. All amounts other than a Qualified Letter of Credit or Qualified Insurance held in the Reserve Account shall be invested solely in Permitted Investments. In computing the amount on hand in the Reserve Account, Qualified Insurance and/or a Qualified Letter of Credit shall be valued at the face amount thereof, and all other Reserve Account investments shall be valued as provided in (d) below. As used herein, the term "cash" includes U.S. currency, cash equivalents and evidences thereof, including demand deposits, certified or cashier's check. The deposit to the Reserve Account may be satisfied initially by the transfer of qualified investments to that account.

If the balances on hand in the Reserve Account are sufficient to satisfy the Reserve Requirement, interest earnings shall be applied as provided in the following sentences. Whenever there is a sufficient amount in the Bond Fund, including the Reserve Account to pay the principal of and interest on all outstanding Covered Bonds, the money in the Reserve Account may be used to pay such principal and interest. As long as the money left remaining on deposit in the Reserve Account is equal to the Reserve Requirement, money in the Reserve Account may be transferred to the Bond Fund and used to pay the principal of and interest on Covered Bonds as the same become due and payable. The City also may transfer out of the Reserve Account any money required in order to prevent any Parity Bonds from becoming "arbitrage bonds" under the Code.

If a deficiency in the Bond Fund for the payment of debt service on Covered Bonds occurs, the deficiency shall be made up from the Reserve Account by the withdrawal of cash therefrom for that purpose and by the sale or redemption of obligations held in the Reserve Account, in such amounts as will provide cash in the Reserve Account sufficient to make up any such deficiency with respect to Covered Bonds, and if a deficiency still exists immediately prior to an interest payment date and after the withdrawal of cash, the City shall then draw from any Qualified Letter of Credit or Qualified Insurance for Covered Bonds in sufficient amount to make up the deficiency. Such draw shall be made at such times and under such conditions as the agreement for such Qualified Letter of Credit or such Qualified Insurance provides.

In making the payments and credits to the Reserve Account required by this Section 8(b), to the extent that the City has obtained Qualified Insurance or a Qualified Letter of Credit for specific amounts required pursuant to this section to be paid out of the Reserve Account such amounts so covered by Qualified Insurance or a Qualified Letter of Credit will be credited against the amounts required to be maintained in the Reserve Account by this Section 8(b) to the extent that such payments and credits to be made are insured by an insurance company, or guaranteed by a letter of credit from a financial institution.

Any deficiency created in the Reserve Account by reason of any such withdrawal shall then be made up within one year of the date of withdrawal from Net Revenue (or out of any other money on hand legally available for such purpose) after making necessary provision for the payments required to be made by paragraphs First through Fourth in Section 7 of this ordinance.

Any Qualified Letter of Credit or Qualified Insurance shall not be cancelable on less than 30 days' notice to the City. In the event of any cancellation, the Reserve Account shall be funded as if the Covered Bonds that remain outstanding had been issued on the date of such notice of cancellation.

If the City elects to meet the Reserve Requirement by using a Qualified Letter of Credit, Qualified Insurance or other equivalent credit enhancement device, the City may contract with the entity providing such Qualified Letter of Credit, Qualified Insurance or other equivalent credit enhancement device that the City's reimbursement obligation, if any, to such entity shall be made from payments of principal and interest on Covered Bonds from the City subject only to the prior lien thereon for the payments required hereunder to be made to registered owners of Parity Bonds.

(c) *Priority of Lien of Payments into Bond Fund and Reserve Account.* The amounts so pledged to be paid into the Bond Fund and the accounts therein from the Revenue Fund are hereby declared to be a prior lien and charge on the Revenue of the System superior to all other charges of any kind or nature whatsoever except the Operating Costs and payments required to be made to pay and secure the payment of the 2010 Bonds, and equal in rank to the lien and charge on Revenue of the System to pay and secure the payment of any Future Parity Bonds.

(d) *Application and Investment of Money in the Bond Fund.* Money in the Bond Fund may be kept in cash or Permitted Investments. Investments in the Debt Service Account shall mature prior to the date on which such money is needed for required interest or principal payments or having a guaranteed redemption price prior to maturity. Investments in the Reserve Account shall mature not later than the last maturity of any then outstanding Parity Bonds.

(e) *Sufficiency of Revenues.* The Assembly hereby finds that in fixing the amounts to be paid into the Bond Fund and the accounts therein out of Revenue of the System, it has exercised due regard for the Operating Costs and has not obligated the City to set aside and pay into the Bond Fund and the accounts therein a greater amount of such Revenue than in its judgment will be available over and above the Operating Costs and costs of paying debt service on the 2010 Bonds.

Section 9. Defeasance. If money and/or Government Obligations, maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to redeem and retire the Bonds or a portion thereof in accordance with its terms, are set aside in a special account to effect such prepayment and retirement, and such money and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund for the payment of the principal of and interest on the Bonds or portion thereof so provided for, and such Bonds or portion thereof shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive the money so set aside and pledged, and such Bonds or portion thereof shall be deemed not to be outstanding hereunder.

Section 10. Specific Covenants.

(a) *Rate Covenant.* The City will establish, maintain and collect rates and charges for service of the Electric System for so long as the Bonds are outstanding that will provide in any fiscal year hereafter Net Revenue, taking into account transfers from the Rate Stabilization Account in accordance with Section 7(c), in an amount equal to at least 125% of the Debt Service required to be paid in that fiscal year on the outstanding 2010 Bonds and Parity Bonds.

The City shall cause the rate coverage calculation described in this Section 10(a) to be made no later than 90 days following the end of each fiscal year. Failure to collect Revenue of the System in any fiscal year sufficient to comply with the rate covenant set forth in this Section 10(a) will not constitute an Event of Default under this ordinance if, before the 180th day of the following fiscal year, the City:

(1) employs a Consultant to recommend changes in the Electric System rates that are estimated to produce Revenue of the System sufficient to satisfy the rate covenant set forth in this Section 10(a); and

(2) imposes Electric System rates at least as high as those recommended by the Consultant that will become effective at the time or times so recommended.

(b) *Electric System Maintenance.* The City will at all times maintain and keep the Electric System in good repair, working order and condition, and also will at all times operate the Electric System and the business in connection therewith in an efficient manner and at a reasonable cost.

(c) *Disposal of Properties.* The City will not mortgage, sell, lease, or in any manner encumber or dispose of all or substantially all the property of the Electric System (voluntarily or involuntarily), unless provision is made for payment into the Bond Fund of a sum sufficient to pay the principal of, premium, if any, and interest on all outstanding Parity Bonds, nor will it mortgage, sell, lease, or in any manner encumber or dispose of (including but not limited to a disposition by transfer to another public or private organization) voluntarily or involuntarily any part of the Electric System that is used, useful and material to the operation of the Electric System unless:

(1) the City certifies, based upon reasonable expectations, that the remaining assets of the Electric System will be sufficient to continue regular operations of the City on a financially sound basis for a period of at least five years and

(2) provision is made for replacement thereof or for payment into the Bond Fund of the total amount of revenue received, which shall not be less than an amount that bears the same ratio to the amount of outstanding Parity Bonds as the greatest of

(A) the Net Revenue available for Debt Service for such outstanding Parity Bonds for the 12 months preceding such sale, lease, encumbrance or disposal from the portion of the Electric System sold, leased, encumbered or disposed of bears to the Net Revenue available for Debt Service for such Parity Bonds from the entire Electric System for the same period;

(B) the Revenue of the System for the 12 months preceding such sale, lease, encumbrance or disposal from the portion of the Electric System sold, leased, encumbered or disposed of bears to the Revenue of the System for the same period;

(C) the proportion of assets (on a depreciated basis) allocable to the assets being sold, leased, encumbered or disposed of bears to the total assets of the Electric System; or

(D) the ratio of the number of customers of the City allocable to the assets being sold, leased, encumbered or disposed of to the total number of customers of the Electric System,

except that the City may dispose of any portion of the facilities of the Electric System up to an aggregate of 5% of the book value of the total assets of the Electric System without the requirement for any deposit to the Bond Fund as hereinabove provided.

Any such money so paid into the Bond Fund must be used to retire such outstanding Parity Bonds at the earliest possible date. Any money received by the City as condemnation awards, insurance proceeds or the proceeds of sale, if not deposited to the Bond Fund, shall be used for the replacement of facilities of the Electric System.

(d) *Books and Records.* The City will, while the Bonds remain outstanding, keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to the Electric System, and it will furnish the registered owner of the Bonds, at the written request of the owner, complete operating and income statements of the Electric System in reasonable detail covering any fiscal year, showing compliance with the terms and conditions of this ordinance, not more than 150 days after the close of such fiscal year, and it will grant the owner of the Bonds the right at all reasonable times to inspect the entire Electric System and all records, accounts and data of the City relating thereto. Upon request of the owner of the Bonds, it will also furnish to the owner a copy of the most recently completed audit of the City's accounts by an independent certified public accountant.

(e) *No Free Service.* The City will not furnish any commodity or service of the Electric System to any customer whatsoever free of charge (except as permitted by law to aid the poor, to provide for resource conservation or to provide for the proper handling of hazardous materials) and will promptly take legal action to enforce collection of all delinquent accounts.

(f) *Insurance.* The City will either self-insure or, as needed, and to the extent insurance coverage is available at reasonable cost with responsible insurers, keep, or cause to be kept, the Electric System and the operation thereof insured, with policies payable to the City, against the risks of direct physical loss, damage to or destruction of the Electric System, or any part thereof, and against accidents, casualties or negligence, including liability insurance and employer's liability, at least to the extent that similar insurance is usually carried by municipalities operating like utilities. If insurance policies to provide coverage required by this subsection are not obtainable at reasonable cost with responsible insurers, the City shall, prior to the lapse of such policies, deliver an opinion to that effect to the Registered Owner of the Bonds.

Section 11. Issuing Future Parity Bonds.

(a) *No Senior Lien Bonds.* The City hereby covenants and agrees with the owner of the Bonds that the City will hereafter issue no bonds with a lien on Revenue of the System superior to the lien thereon of the Bonds, and by this covenant and agreement the City expressly waives its rights under Ordinance No. 2010-29 to issue additional bonds on a parity of lien with the 2010 Bonds.

(b) *Conditions for Issuing Future Parity Bonds.* Except as provided in subsections (e) and (f) below, the City will issue Future Parity Bonds or incur any additional indebtedness with a parity lien or charge on Net Revenue (*i.e.*, on a parity of lien with the Bonds and any other Parity Bonds at the time outstanding) only in compliance with the following conditions:

(1) At the time of the issuance of any Future Parity Bonds, there is no deficiency in the Bond Fund or any of the accounts therein;

(2) The ordinance authorizing the issuance of Future Parity Bonds will include the covenants provided in Section 10 hereof and provide that the Reserve Requirement, if any, will be funded no later than the date of delivery of the Future Parity Bonds; and

(3) the City will have on file a certificate (dated no earlier than the date that is 90 days prior to the date of issuance of the Future Parity Bonds) relating to Net Revenue, as described in subsection (c) or (d) below, except as otherwise permitted under subsection (e) below.

(c) *Certificate of the City Without A Consultant.* If required pursuant to subsection (b)(3) above, a certificate may be delivered by the City, executed by the Finance Director without a Consultant, showing that Net Revenue (which may be based on unaudited financial statements of the City if the audit has not yet been completed) for the Base Period equals at least 125% of the maximum Annual Debt Service for all 2010 Bonds and Parity Bonds then outstanding plus the proposed Future Parity Bonds.

(d) *Certificate of a Consultant.* If required pursuant to subsection (b)(3) above, a certificate of a Consultant may be delivered by the City showing that Net Revenue for the Base Period equals at least 125% of the maximum Annual Debt Service for all 2010 Bonds and Parity Bonds then outstanding plus the proposed Future Parity Bonds. In computing Net Revenue for the purpose of this certificate, the Consultant shall use as a basis the Net Revenue (which may be

based on unaudited financial statements of the City if the audit has not yet been completed) for the Base Period. Such Net Revenue may be adjusted to take into consideration changes in Net Revenue estimated to occur under one or more of the following conditions after delivery of the proposed Future Parity Bonds:

(1) any increase or decrease in Net Revenue projected to result from changes in rates and charges (A) adopted prior to the date of the certificate but after the beginning of the Base Period and (B) effective at any time prior to the date needed for payment of Debt Service on Parity Bonds;

(2) any increase or decrease in Net Revenue estimated by such engineer or accountant to result from any additions, betterments and improvements to and extensions of any facilities of the Electric System that (A) became fully operational after the beginning of the Base Period, (B) were under construction at the time of such certificate, or (c) will be constructed from the proceeds of the Future Parity Bonds to be issued;

(3) the additional Net Revenue that would have been received if any customers added to the Electric System after the beginning of the Base Period had been customers for the entire period.

The Consultant shall base the certification upon, and the certificate shall have attached thereto, financial statements of the Electric System, certified by the Finance Director, showing income and expenses for the Base Period.

(e) *No Certificate Required.* The certificate described in subsection (b)(3) and subsections (c) or (d) above is not be required as a condition to the issuance of Future Parity Bonds:

(1) if the Future Parity Bonds being issued are for the purpose of refunding outstanding Parity Bonds; or

(2) if the Future Parity Bonds are being issued to pay costs of construction of facilities of the Electric System for which Parity Bonds have been issued previously and the principal amount of such Future Parity Bonds being issued for completion purposes does not exceed an amount equal to an aggregate of 15% of the principal amount of Parity Bonds theretofore issued for such facilities and reasonably allocable to the facilities to be completed as shown in a written certificate of the Finance Director, and there is delivered a certificate of the Municipal Administrator stating that the nature and purpose of such facilities has not materially changed.

(f) *Refunding Obligations.* Nothing herein contained shall prevent the City from issuing revenue bonds to refund maturing Parity Bonds for the payment of which money is not otherwise available.

Section 12. Junior Lien Bonds. Nothing herein contained shall prevent the City from issuing revenue bonds or other obligations that are a charge upon the Revenue of the System junior or inferior to the payments required by this ordinance to be made out of such Revenue to pay and secure the payment of any outstanding Parity Bonds. Except for the Subordinated Note,

such junior or subordinate obligations may not be subject to acceleration. This prohibition against acceleration does not prohibit mandatory tender or other tender provisions with respect to variable rate obligations.

Section 13. Tax Covenants.

(a) *General.* The City covenants not to take any action, or knowingly to omit to take any action within its control, that if taken or omitted would cause the interest on the Bonds to be includable in gross income, as defined in section 61 of the Code, for federal income tax purposes.

(b) *Tax Certificate.* Upon the issuance of each Bond, the Finance Director is authorized to execute a federal tax certificate (the "Tax Certificate"), which will certify to various facts and representations concerning the Bond, based on the facts and estimates known or reasonably expected on the date of their issuance, and make certain covenants with respect to the Bond as may be necessary or desirable to obtain or maintain the benefits conferred under the Code relating to tax-exempt bonds. The City covenants that it will comply with the Tax Certificate unless it receives advice from nationally recognized bond counsel or the Internal Revenue Service that certain provisions have been amended or no longer apply to that Bond.

(c) *Arbitrage Covenant.* The City covenants that it will not take any action or fail to take any action with respect to the proceeds of sale of the Bonds or any other funds of the City that may be deemed to be proceeds of the Bonds pursuant to Section 148 of the Code that will cause the Bonds to be "arbitrage bonds" within the meaning of that term in Section 148 of the Code. The City will comply with the requirements of Section 148 of the Code throughout the term of the Bonds. The City represents that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is an issuer whose arbitrage certifications may not be relied upon.

(d) *Private Person Use Limitation.* The City covenants that for as long as the Bonds are outstanding, it will not permit:

(1) More than 10% of the Net Proceeds of each Bond to be used for any Private Person Use; and

(2) More than 10% of the principal or interest payments on each Bond in a Bond Year to be directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use.

The City further covenants that, if:

(3) More than 5% of the Net Proceeds of a Bond are to be used for any Private Person Use; and

(4) More than 5% of the principal or interest payments on a Bond in a Bond Year are (under the terms of this ordinance or any underlying arrangement) directly or indirectly:

(A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or

(B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use, then, (i) any Private Person Use of the projects described in subsection (3) hereof or Private Person Use payments described in subsection (4) hereof that is in excess of the 5% limitations described in such subsections (3) or (4) will be for a Private Person Use that is related to the state or local governmental use of the Project, and (ii) any Private Person Use will not exceed the amount of Net Proceeds of the Bond used for the state or local governmental use portion of the project to which the Private Person Use of such portion of the Project relates. The City further covenants that it will comply with any limitations on the use of the Project by other than state and local governmental users that are necessary, in the opinion of its Bond Counsel, to preserve any benefits under the Code applicable to the Bonds. The covenants of this Section are specified solely to assure the continued benefits under the Code relating to the Bonds.

(f) *No Hedge Bonds.* The City reasonably expects that at least 85% of the proceeds of each Bond will be spent within three years of the date that Bond is issued to carry out the governmental purposes of the Bonds.

Section 14. Form of the Bonds. The Bonds shall be in substantially the following form:

NO. \_\_\_\_\_ \$ \_\_\_\_\_

UNITED STATES OF AMERICA

STATE OF ALASKA

CITY AND BOROUGH OF SITKA

JUNIOR LIEN ELECTRIC REVENUE BOND, 20\_\_ (\_\_\_\_\_ Series)

INTEREST RATE:

FINAL MATURITY DATE:

SEE BELOW

REGISTERED OWNER: ALASKA MUNICIPAL BOND BANK

PRINCIPAL AMOUNT: \_\_\_\_\_ AND NO/100 DOLLARS

The City and Borough of Sitka, Alaska (the "City"), a municipal corporation organized and existing under and by virtue of its charter and the laws and Constitution of the State of Alaska, hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, the principal amount specified above, in installments payable as set forth below, together with interest on such installments from the date hereof or the most recent date to which interest has been paid or duly provided for, at the interest rates set forth below, on \_\_\_\_\_ 1, 20\_\_, and on each \_\_\_\_\_ 1 and \_\_\_\_\_ 1 thereafter until payment of the principal sum has been made or duly provided for.



Principal Installment Payment Year (_____ 1)	Principal Installment Amount	Interest Rate
2014		
2015		
2016		
2017		
2018		
2019		
2020		
2021		
2022		
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2024		
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2046		
2047		
2048		

Both principal of and interest on this bond are payable solely from the special fund of the City known as the City and Borough of Sitka 2013 Electric Revenue Bond Redemption Fund (the "Bond Fund"). Payments of principal of and interest on this bond shall be made in lawful money of the United States of America. Installments of principal of and interest on this bond are payable by check or draft of the Finance Director of the City (the "Registrar") mailed on the date such interest is due to the Registered Owner at the address appearing on the Bond Register as of the fifteenth day of the month preceding the interest payment date. The final installment of

principal of and interest on this bond shall be paid to the Registered Owner upon presentation and surrender of this bond at the office of the Registrar. Notwithstanding the foregoing, so long as the Bond Bank is the Registered Owner of this bond, payments of principal of and interest on this bond shall be made to the Bond Bank in accordance with the Loan Agreement.

This bond is issued pursuant to Ordinance No. 2013-38, passed September 28, 2013 (the "Bond Ordinance"), to provide funds to finance the cost of capital improvements to facilities of the Electric System. Capitalized terms used in this bond and not otherwise defined herein shall have the meanings given such terms in the Bond Ordinance.

Principal installments of this bond are subject to prepayment as provided in the Bond Ordinance and in the Loan Agreement.

The City does hereby pledge and bind itself to set aside from the Electric System Revenue Fund of the City created by the Bond Ordinance, and to pay into the Bond Fund and the Accounts therein, the various amounts required by the Bond Ordinance to be paid into and maintained in said Fund and Accounts, all within the times provided by the Bond Ordinance. The City has further pledged and bound itself to pay into the Revenue Fund as collected, all Revenue of the System.

The amounts so pledged to be paid out of the Revenue Fund into the Bond Fund and Accounts therein are hereby declared to be a prior lien and charge upon money in the Revenue Fund superior to all other charges of any kind or nature except Operating Costs and the costs of paying and securing payment of the 2010 Bonds and equal in rank to the lien and charge on the money in the Bond Fund to pay and secure the payment of Parity Bonds and any Future Parity Bonds.

The pledge of Revenue of the System for payment of principal of and interest on this bond may be discharged prior to maturity of this bond by making provision for the payment thereof on the terms and conditions set forth in the Bond Ordinance and Loan Agreement.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by the Registrar.

It is hereby certified and declared that this bond is issued pursuant to and in strict compliance with the Constitution and laws of the State of Alaska and the charter, ordinances, and resolutions of the City, that all acts, conditions and things required to be done precedent to and in the issuance of this bond have happened, been done and performed, and that this bond does not exceed any Constitutional or statutory limitations.

IN WITNESS WHEREOF, the City and Borough of Sitka, Alaska, has caused this bond to be signed on behalf of the City with the manual or facsimile signature of the Mayor, to be attested by the manual or facsimile signature of the Clerk, and the seal of the City to be imprinted or impressed hereon, as of this 24th day of September, 2013.

CITY AND BOROUGH OF SITKA,  
ALASKA

By Mim McConnell  
Mim McConnell, Mayor

[SEAL]

ATTEST:



Colleen Ingman, MMC  
Municipal Clerk

CERTIFICATE OF AUTHENTICATION

Date of Authentication: \_\_\_\_\_

This is the City and Borough of Sitka, Alaska, Junior Lien Electric Revenue Bond, \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_, as described in the Bond Ordinance.

\_\_\_\_\_  
Finance Director, City and Borough of  
Sitka, Alaska, as Registrar

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_

PLEASE INSERT SOCIAL SECURITY OR TAXPAYER IDENTIFICATION NUMBER OF TRANSFEREE

92-0041163

\_\_\_\_\_  
(Please print or typewrite name and address, including zip code of Transferee)

the within bond and all rights there under and does hereby irrevocably constitute and appoint \_\_\_\_\_ of \_\_\_\_\_, or its successor, as agent to transfer said bond on the books kept by the Registrar for registration thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_, \_\_\_\_\_.

SIGNATURE GUARANTEED:  
\_\_\_\_\_

NOTE: The signature of this Assignment must correspond with the name of the Registered Owner as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Section 15. Execution of the Bonds. Each Bond shall be signed on behalf of the City by the manual or facsimile signature of the Mayor, shall be attested by the manual or facsimile signature of the Clerk, and the seal of the City shall be impressed or imprinted thereon.

Only a Bond that bears thereon a Certificate of Authentication in the form set forth in Section 14 hereof, manually executed by the Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance. The Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated, registered, and delivered hereunder and is entitled to the benefits of this ordinance.

In case any officer of the City who has signed, attested, authenticated, registered or sealed the Bond ceases to hold that office before the Bond so signed, attested, authenticated, registered or sealed has been actually issued and delivered, the Bond shall be valid nevertheless and may be issued by the City with the same effect as though the person who had signed, attested, authenticated, registered or sealed that Bond had not ceased to hold that office. Any Bond may also be signed, attested, authenticated, registered or sealed on behalf of the City by a person who, at the actual date of execution of the Bond is a proper officer of the City although at the original date of the Bond that person did not hold that office.

Section 16. Lost or Destroyed Bonds. If a Bond is lost, stolen or destroyed, the Registrar may authenticate and deliver a new Bond of like series, amount, date, and tenor to the Registered Owner upon such owner's paying the expenses and charges of the City in connection with preparation and authentication of the replacement Bond and upon his or her filing with the Registrar evidence satisfactory to the Registrar that the Bond was actually lost, stolen or destroyed and of his or her ownership, and upon furnishing the City with indemnity satisfactory to the Registrar.

Section 17. Application of Bond Proceeds. Upon the issuance of each Bond authorized by this ordinance, a special fund of the City known as the "Blue Lake Project Fund," with such year and series designation as may be appropriate (the "Project Fund"), is hereby

authorized to be created in the office of the Finance Director. At the time of delivery of each Bond issued hereunder, proceeds of that Bond shall be deposited as follows:

(a) The accrued interest, if any, to the date of delivery shall be deposited in the Bond Fund and used to pay a portion of interest on the Bond on the first interest payment date;

(b) An amount shall be deposited in the Reserve Account that is sufficient, with other funds on deposit therein, to satisfy the Reserve Requirement for the Bond; and

(c) The remaining proceeds of the Bond shall be deposited in the appropriate Project Fund and used to pay costs of the Project(which may include capitalized interest on the Bonds) and costs of issuance of the Bond.

Money remaining in each Project Fund after all such costs have been paid or reimbursed shall be applied to other capital improvements of the Electric System. Money in each Project Fund may be invested as permitted by law. All interest earned and profits derived from such investments shall be retained in and become a part of the applicable Project Fund.

Section 18. Sale of the Bonds. The Finance Director is authorized to determine whether the Bonds shall be sold in one or more series and to negotiate the sale of the Bonds to the Bond Bank on terms and conditions consistent with this ordinance and the Bond Bank's loan approval to be set forth in a Loan Agreement by and between the City and the Bond Bank (a sample of which is set forth on Exhibit A attached hereto). Each Loan Agreement will include the principal amounts, date, principal installment payment schedules, interest rates, and prepayment provisions for that series of Bonds (each issued as a single Bond), all as provided for in this ordinance, subject to the approval of the Municipal Administrator, which approval shall be evidenced by the Municipal Administrator's execution of the Loan Agreement. Following the execution of a Loan Agreement, the Finance Director shall provide a report to the Assembly, describing the final terms of the Bonds approved pursuant to the authority delegated by this ordinance.

The authority granted to the Finance Director by this section shall expire on December 31, 2014. If Loan Agreement(s) for the Bonds have not been executed by December 31, 2014, the authorization for the issuance of such Bonds shall be rescinded, and such Bonds shall not be issued nor their sale approved unless such Bonds are re-authorized by ordinance. The ordinance reauthorizing the issuance and sale of the Bonds may be in the form of a new ordinance repealing this ordinance in whole or in part (only with respect to the Bonds not issued) or may be in the form of an amendatory ordinance approving a Loan Agreement or establishing terms and conditions for the authority delegated under this section.

The proper officials of the City and their agents and representatives are hereby authorized and directed to do everything necessary for the prompt execution and delivery of each Bond to the Bond Bank in accordance with the provisions of this ordinance and the applicable Loan Agreement.

Section 19. Events of Default.

To protect and safeguard the covenants and obligations undertaken by the City securing the Bonds, the City hereby covenants and agrees with the purchaser and owner from time to time of the Bonds that the following shall constitute "Events of Default":

(1) If default is made in the due and punctual payment of the principal of or premium, if any, on any of the Parity Bonds when the same become due and payable, either at maturity or by proceedings for redemption or otherwise;

(2) If default is made in the due and punctual payment of any installment of interest on any Parity Bond;

(3) If the City fails, by any Sinking Fund Requirement date, to have purchased or redeemed Term Bonds in a cumulative principal amount at least equal to the cumulative Sinking Fund Requirements at such Sinking Fund requirement date;

(4) If the City defaults in the observance and performance of any other of the covenants, conditions and agreements on the part of the City contained in this ordinance and such default or defaults continues for a period of 90 days after the City receives from a representative of (a) owners of not less than 66% in principal amount of the Parity Bonds then outstanding or (b) the Bond Bank, if the Bond Bank is then the Registered Owner of any of the Parity Bonds, a written notice specifying and demanding the cure of such default;

(5) If the City (except as herein permitted) sells, transfers, assigns or conveys any properties constituting the Electric System or interests therein, or makes any agreement for such sale or transfer (except as expressly authorized herein);

(6) If an order, judgment or decree is entered by any court of competent jurisdiction: (a) appointing a receiver, trustee or liquidator for the City or the whole or any substantial part of the Electric System; (b) approving a petition filed against the City seeking the bankruptcy, arrangement or reorganization of the City under any applicable law of the United States or the State of Alaska; or (c) assuming custody or control of the City or of the whole or any substantial part of the Electric System under the provisions of any other law for the relief or aid of debtors and such order, judgment or decree is not vacated or set aside or stayed (or, in case custody or control is assumed by said order, such custody or control is not otherwise terminated) within 90 days from the date of the entry of such order, judgment or decree; or

(7) If the City: (a) admits in writing its inability to pay its debts generally as they become due; (b) files a petition in bankruptcy or seeking a composition of indebtedness under any state or federal bankruptcy or insolvency law; (c) makes an assignment for the benefit of its creditors; (d) consents to the appointment of a receiver of the whole or any substantial part of the Electric System; or (e) consents to the assumption by any court of competent jurisdiction under the provisions of any other law for the relief or aid of debtors of custody or control of the City or of the whole or any substantial part of the Electric System.

Section 20. Remedies Available for an Event of Default.

(a) *Waivers of Default.* No delay or omission of the owners of the Parity Bonds to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or to be an acquiescence therein; and every power and remedy given by this Section to the owners of Parity Bonds may be exercised from time to time and as often as may be deemed expedient by such owners.

The owners of not less than 66% in principal amount of the Parity Bonds at the time outstanding (the "Majority Bondowners"), or their attorneys-in-fact duly authorized, may on behalf of the owners of all of the Parity Bonds waive any past default under this ordinance and its consequences, except a default in the payment of the principal of, premium, if any, or interest on any of the Parity Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

(b) *Suits at Law or in Equity.* The Majority Bondowners may, upon the happening of an Event of Default, and during the continuance thereof, take such steps and institute such suits, actions or other proceedings all as may be deemed appropriate for the protection and enforcement of the rights of owners of the Parity Bonds to collect any amounts due and owing the City, or to obtain other appropriate relief, and may enforce the specific performance of any covenant, agreement or condition contained in this ordinance, or in any of the Parity Bonds.

Any action, suit or other proceedings instituted by the Majority Bondowners hereunder shall be brought in its name on behalf of all owners of the Parity Bonds, and all such rights of action upon or under any of the Parity Bonds or the provisions of this ordinance may be enforced by the Majority Bondowners without the possession of any of said Parity Bonds and without the production of the same at any trial or proceedings relative thereto except where otherwise required by law, and the respective owners of said Parity Bonds, by taking and holding the same, shall be conclusively deemed irrevocably to appoint the Majority Bondowners the true and lawful trustee of the respective owners of the Parity Bonds, with authority to institute any such action, suit or proceeding; to receive as trustee and deposit in trust any sums becoming distributable on account of the Parity Bonds; to execute any paper or documents for the receipt of such money, and to do all acts with respect thereto that the owner of a Parity Bond might have done in person. Nothing herein contained shall be deemed to authorize or empower the Majority Bondowners to consent to accept or adopt, on behalf of any owner of any Parity Bond, any plan or reorganization or adjustment affecting the Parity Bonds or any right of any owner thereof, or to authorize or empower the Majority Bondowners to vote the claims of the owners thereof in any receivership, insolvency, liquidation, bankruptcy, reorganization or other proceeding to which the City shall be a party.

Nothing contained in this ordinance shall, in any event or under any circumstance, be deemed to authorize the acceleration of maturity of principal on Parity Bonds outstanding, and the remedy of acceleration is expressly denied to the owners of Parity Bonds outstanding under any circumstances including, without limitation, upon the occurrence and continuance of an Event of Default.

(c) *Books of City Open to Inspection.* The City covenants that if an Event of Default occurs and is not remedied, the books of record and account of the City will at all reasonable times be subject to the inspection and use of the owners of any Parity Bonds.

The City covenants that if an Event of Default happens and is not remedied, the City will continue to account, as trustee of an express trust, for all Revenues of the System and other money, securities and funds pledged under this ordinance.

Section 21. Ongoing Disclosure. The City acknowledges that, under Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), the City may now or in the future be an "obligated person" with respect to the Bond Bank Bonds or other bonds issued by the Bond Bank. In accordance with the Rule and as the Bond Bank may require, the City shall undertake to provide certain annual financial information and operating as shall be set forth in the Loan Agreement.

Section 22. Amending Section 8(d) of Ordinance No. 2013-02. Section 8(d) of Ordinance No. 2013-02 is hereby amended, as follows (deletions are stricken):

(d) Application and Investment of Money in the Bond Fund. Money in the Bond Fund may be kept in cash or Permitted Investments. Investments in the Debt Service Account shall mature prior to the date on which such money is needed for required interest or principal payments or having a guaranteed redemption price prior to maturity. Investments in the Reserve Account shall mature not later than the last maturity of any then outstanding Parity Bonds. ~~For the purpose of determining the amount credited to the Reserve Account, investments in the Reserve Account shall be valued at the market value thereof. The term "market value" means, in the case of securities that are not then currently redeemable at the option of the owner, the current bid quotation for such securities, as reported to the City by such sources it selects, and the current redemption value in the case of securities that are then redeemable at the option of the owner. For obligations that mature within six months, the market value will be the par value thereof. The valuation of the amount in the Reserve Account shall be made by the City as of the close of business on each December 31 (or on the next preceding business day if December 31 does not fall on a business day) and on each June 30 (or on the next preceding business day if June 30 does not fall on a business day).~~

Section 23. General Authorization; Prior Acts. The Mayor, Municipal Administrator, Finance Director, Municipal Attorney and Clerk of the City and any other appropriate officers of the City are each hereby authorized and directed to take such steps, to do such other acts and things, and to execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this ordinance. All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified and confirmed.



Section 24. Severability. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City are declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bonds.

Section 25. Effective Date. This ordinance shall be in full force and effect 30 days after its adoption by the Assembly.

READ FOR THE FIRST TIME at a regular meeting of the Assembly held on September 10, 2013.

PASSED AND APPROVED by the Assembly on September 24, 2013.

CITY AND BOROUGH OF SITKA,  
ALASKA

By Mimi McConnell  
Mim McConnell Mayor

ATTEST:



Colleen Ingman, MMC  
Municipal Clerk

CERTIFICATE

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

1. That the attached is a true and correct copy of Ordinance No. 2013-38 of the City (the "Ordinance"), as finally passed at a regular meeting of the Assembly held on September 24, 2013, 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 legal quorum of the Assembly was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of said Ordinance have been duly 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 24th day of September, 2013.


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

EXHIBIT A

[Attach here a sample of Bond Bank Loan Agreement]

**FORM OF  
LOAN AGREEMENT**

THIS LOAN AGREEMENT, dated as of the \_\_\_\_ day of November 2013, between the Alaska Municipal Bond Bank (the "Bank"), a body corporate and politic constituted as an instrumentality of the State of Alaska (the "State") exercising public and essential governmental functions, created pursuant to the provisions of Chapter 85, Title 44, Alaska Statutes, as amended (the "Act"), having its principal place of business at Juneau, Alaska, and the [City] [Borough], Alaska, a duly constituted \_\_\_\_\_ [City] [Borough] of the State (the "[City] [Borough]"):

**WITNESSETH:**

WHEREAS, pursuant to the Act, the Bank is authorized to make loans of money (the "Loan" or "Loans") to governmental units; and

WHEREAS, the [City] [Borough] is a Governmental Unit as defined in the General Bond Resolution of the Bank hereinafter mentioned and pursuant to the Act is authorized to accept a Loan from the Bank to be evidenced by its municipal bonds; and

WHEREAS, the [City] [Borough] desires to borrow money from the Bank in the amount of not to exceed \$\_\_\_\_\_ and has submitted an application to the Bank for a Loan in the amount of not to exceed \$\_\_\_\_\_, and the [City] [Borough] has duly authorized the issuance of its fully registered bond in the aggregate principal amount of \$\_\_\_\_\_ (the "Municipal Bond"), which bond is to be purchased by the Bank as evidence of the Loan in accordance with this Loan Agreement; and

WHEREAS, the application of the [City] [Borough] contains the information requested by the Bank; and

WHEREAS, to provide for the issuance of bonds of the Bank in order to obtain from time to time money with which to make Loans, the Bank has adopted the General Obligation Bond Resolution on July 13, 2005, as amended August 19, 2009 (the "General Bond Resolution") and Series Resolution No. 2013-04, approved on August \_\_, 2013 (together with the General Bond Resolution, the "Bond Resolution"), authorizing the making of such Loan to the [City] [Borough] and the purchase of the Municipal Bond; and

WHEREAS, the Board approved certain modifications to the General Bond Resolution, effective on the date when all bonds issued under the terms of the General Bond Resolution, prior to February 19, 2013, cease to be outstanding.

**EXHIBIT A (INSERT)**

NOW, THEREFORE, the parties agree:

1. The Bank hereby makes the Loan and the [City] [Borough] accepts the Loan in the aggregate principal amount of \$\_\_\_\_\_. As evidence of the Loan made to the [City] [Borough] and such money borrowed from the Bank by the [City] [Borough], the [City] [Borough] hereby sells to the Bank the Municipal Bond in the principal amount, with the principal installment payments, and bearing interest from its date at the rate or rates per annum, stated in Exhibit A appended hereto. For purposes of this Loan Agreement, the interest on the Municipal Bond will be computed without regard to the provision in Section 7 hereof for the [City] [Borough] to make funds available to the Trustee acting under the General Bond Resolution for the payment of principal and interest due at least seven (7) business days prior to each respective principal and interest payment date.

2. The [City] [Borough] represents that it has duly adopted or will adopt all necessary ordinances or resolutions, including [Ordinance] [Resolution] No. \_\_\_\_\_, adopted on \_\_\_\_\_, 20\_\_ (the "[City] [Borough] [Ordinance] [Resolution]"), and has taken or will take all proceedings required by law to enable it to enter into this Loan Agreement and issue its Municipal Bond to the Bank and that the Municipal Bond will constitute [a general obligation bond, secured by the full faith and credit] [a revenue bond, a special and limited obligation] of the [City] [Borough], all duly authorized by the [City] [Borough] [Ordinance] [Resolution].

3. Subject to any applicable legal limitations, the amounts to be paid by the [City] [Borough] pursuant to this Loan Agreement representing interest due on its Municipal Bond (the "Municipal Bond Interest Payments") shall be computed at the same rate or rates of interest borne by the corresponding maturities of the bonds sold by the Bank in order to obtain the money with which to make the Loan and to purchase the Municipal Bond (the "Loan Obligations") and shall be paid by the [City] [Borough] at least seven (7) business days before the interest payment date so as to provide funds sufficient to pay interest as the same becomes due on the Loan Obligations.

4. The amounts to be paid by the [City] [Borough] pursuant to this Loan Agreement representing principal due on its Municipal Bond (the "Municipal Bond Principal Payments"), shall be paid at least seven (7) business days before the payment date stated in the Municipal Bond so as to provide funds sufficient to pay the principal of the Loan Obligations as the same matures based upon the maturity schedule stated in Exhibit A appended hereto.

5. In the event the amounts referred to in Sections 3 and 4 hereof to be paid by the [City] [Borough] pursuant to this Loan Agreement are not made available at any time specified herein, the [City] [Borough] agrees that any money payable to it by any department or agency of the State may be withheld from it and paid over directly to the

Trustee acting under the General Bond Resolution, and this Loan Agreement shall be full warrant, authority and direction to make such payment upon notice to such department or agency by the Bank, with a copy provided to the [City] [Borough], as provided in the Act.

6. In the event Loan Obligations have been refunded and the interest rates the Bank is required to pay on its refunding bonds in any year are less than the interest rates payable by the [City] [Borough] on the Municipal Bond for the corresponding year pursuant to the terms of the Municipal Bond, then both the Municipal Bond Interest Payments and the Municipal Bond Principal Payments will be adjusted in such a manner that (i) the interest rate paid by the [City] [Borough] on any principal installment of the Municipal Bond is equal to the interest rate paid by the Bank on the corresponding principal installment of the Bank's refunding bonds and (ii) on a present value basis the sum of the adjusted Municipal Bond Interest Payments and Municipal Bond Principal Payments is equal to or less than the sum of the Municipal Bond Interest Payments and Municipal Bond Principal Payments due over the remaining term of the Municipal Bond as previously established under this Loan Agreement. In the event of such a refunding of Loan Obligations, the Bank shall present to the [City] [Borough] for the [City's] [Borough's] approval, a revised schedule of principal installment amounts and interest rates for the Municipal Bond. If approved by the [City] [Borough] the revised schedule shall be attached hereto as Exhibit A and incorporated herein in replacement of the previous Exhibit A detailing said principal installment amounts and interest rates.

7. The [City] [Borough] is obligated to pay to the Bank Fees and Charges. Such Fees and Charges actually collected from the [City] [Borough] shall be in an amount sufficient, together with the [City's] [Borough's] Allocable Proportion (as defined below) of other money available therefor under the provisions of the Bond Resolution, and other money available therefor, including any specific grants made by the United States of America or any agency or instrumentality thereof or by the State or any agency or instrumentality thereof and amounts applied therefor from amounts transferred to the Operating Fund pursuant to Section 606 of the General Bond Resolution:

(a) to pay, as the same become due, the [City's] [Borough's] Allocable Proportion of the Administrative Expenses of the Bank; and

(b) to pay, as the same become due, the [City's] [Borough's] Allocable Proportion of the fees and expenses of the Trustee and paying agent for the Loan Obligations.

The [City's] [Borough's] Allocable Proportion as used herein shall mean the proportionate amount of the total requirement in respect to which the term is used

determined by the ratio that the principal amount of the Municipal Bond outstanding bears to the total of all Loans then outstanding to all Governmental Units under the General Bond Resolution, as certified by the Bank. The waiver by the Bank of any fees payable pursuant to this Section 7 shall not constitute a subsequent waiver thereof.

8. The [City] [Borough] is obligated to make the Municipal Bond Principal Payments scheduled by the Bank. The first such Municipal Bond Principal Payment is due at least seven (7) business days prior to the date indicated on Exhibit A appended hereto, and thereafter on the anniversary thereof each year. The [City] [Borough] is obligated to make the Municipal Bond Interest Payments scheduled by the Bank on a semi-annual basis commencing seven (7) business days prior to the date indicated on Exhibit A appended hereto, and to pay any Fees and Charges imposed by the Bank within 30 days of receiving the invoice of the Bank therefor.

9. The Bank shall not sell and the [City] [Borough] shall not redeem prior to maturity any portion of the Municipal Bond in an amount greater than the Loan Obligations which are then outstanding and which are then redeemable, and in the event of any such sale or redemption, the same shall be in an amount not less than the aggregate of (i) the principal amount of the Municipal Bond (or portion thereof) to be redeemed, (ii) the interest to accrue on the Municipal Bond (or portion thereof) to be redeemed to the next redemption date thereof not previously paid, (iii) the applicable premium, if any, payable on the Municipal Bond (or portion thereof) to be redeemed, and (iv) the cost and expenses of the Bank in effecting the redemption of the Municipal Bond (or portion thereof) to be redeemed. The [City] [Borough] shall give the Bank at least 50 days' notice of intention to redeem its Municipal Bond.

In the event the Loan Obligations with respect to which the sale or redemption prior to maturity of such Municipal Bond is being made have been refunded and the refunding bonds of the Bank issued for the purpose of refunding such Loan Obligations were issued in a principal amount in excess of or less than the principal amount of the Municipal Bond remaining unpaid at the date of issuance of such refunding bonds, the amount which the [City] [Borough] shall be obligated to pay or the Bank shall receive under item (i) above shall be the principal amount of such refunding bonds outstanding.

In the event the Loan Obligations have been refunded and the interest the Bank is required to pay on the refunding bonds is less than the interest the Bank was required to pay on the Loan Obligations, the amount which the [City] [Borough] shall be obligated to pay or the Bank shall receive under item (ii) above shall be the amount of interest to accrue on such refunding bonds outstanding.

In the event the Loan Obligations have been refunded, the amount which the [City] [Borough] shall be obligated to pay or the Bank shall receive under item (iii)

above, when the refunded Loan Obligations are to be redeemed, shall be the applicable premium, if any, on the Loan Obligations to be redeemed.

Nothing in this Section shall be construed as preventing the [City] [Borough] from refunding the Municipal Bond in exchange for a new Municipal Bond in conjunction with a refunding of the Loan Obligations.

10. Simultaneously with the delivery of the Municipal Bond to the Bank, the [City] [Borough] shall furnish to the Bank evidence satisfactory to the Bank which shall set forth, among other things, that the Municipal Bond will constitute a valid and binding [general obligation] [special and limited obligation] of the [City] [Borough], secured by the [full faith and credit] [revenue of the \_\_\_\_\_] of the [City] [Borough].

11. Invoices for payments under this Loan Agreement shall be addressed to the [City] [Borough], Attention: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, Alaska 99\_\_\_\_. The [City] [Borough] shall give the Bank and the corporate trust office of the Trustee under the General Bond Resolution at least 30 days' written notice of any change in such address.

12. [The [City] [Borough] hereby agrees that it shall fully fund, at the time of loan funding, its debt service reserve fund (in an amount equal to \$\_\_\_\_\_) which secures payment of principal and interest on its Municipal Bond, that such fund shall be held in the name of the [City] [Borough] with the Trustee, and that the yield on amounts held in such fund shall be restricted to a yield not in excess of \_\_\_\_\_ percent. **(Applies to revenue bonds only.)**

**13. [Rate covenant language – if applicable.]**

14. The [City] [Borough] hereby agrees to keep and retain, until the date six years after the retirement of the Municipal Bond, or any bond issued to refund the Municipal Bond, or such longer period as may be required by the [City's] [Borough's] record retention policies and procedures, records with respect to the investment, expenditure and use of the proceeds derived from the sale of its Municipal Bond, including without limitation, records, schedules, bills, invoices, check registers, cancelled checks and supporting documentation evidencing use of proceeds, and investments and/or reinvestments of proceeds. The [City] [Borough] agrees that all records required by the preceding sentence shall be made available to the Bond Bank upon request.

15. Prior to payment of the amount of the Loan or any portion thereof, and the delivery of the Municipal Bond to the Bank or its designee, the Bank shall have the right to cancel all or any part of its obligations hereunder if:



(a) Any representation, warranty or other statement made by the [City] [Borough] to the Bank in connection with its application to the Bank for a Loan shall be incorrect or incomplete in any material respect.

(b) The [City] [Borough] has violated commitments made by it in the terms of this Loan Agreement.

(c) The financial position of the [City] [Borough] has, in the opinion of the Bank, suffered a materially adverse change between the date of this Loan Agreement and the scheduled time of delivery of the Municipal Bond to the Bank.

16. The obligation of the Bank under this Loan Agreement is contingent upon delivery of its General Obligation Bonds, 20\_\_ Series \_\_\_\_\_ (the "20\_\_ Series \_\_\_\_\_ Bonds") and receipt of the proceeds thereof.

17. The [City] [Borough] agrees that it will provide the Bank with written notice of any default in covenants under the [City] [Borough] [Ordinance] [Resolution] within 30 days from the date thereof.

18. The [City] [Borough] shall not take, or omit to take, any action lawful and within its power to take, which action or omission would cause interest on the Municipal Bond to become subject to federal income taxes in addition to federal income taxes to which interest on such Municipal Bond is subject on the date of original issuance thereof.

The [City] [Borough] shall not permit any of the proceeds of the Municipal Bond, or any facilities financed with such proceeds, to be used in any manner that would cause the Municipal Bond to constitute a "private activity bond" within the meaning of Section 141 of the Code.

The [City] [Borough] shall make no use or investment of the proceeds of the Municipal Bond which will cause the Municipal Bond to be an "arbitrage bond" under Section 148 of the Code. So long as the Municipal Bond is outstanding, the [City] [Borough], shall comply with all requirements of said Section 148 and all regulations of the United States Department of Treasury issued thereunder, to the extent that such requirements are, at the time, applicable and in effect. The [City] [Borough] shall indemnify and hold harmless the Bank from any obligation of the [City] [Borough] to make rebate payments to the United States under said Section 148 arising from the [City's] [Borough's] use or investment of the proceeds of the Municipal Bond.

19. The [City] [Borough] agrees that if it is one of the Governmental Units that has a ten percent or greater amount of outstanding bonds held by the Bank under its General Bond Resolution, it shall execute a continuing disclosure agreement for

purposes of Securities and Exchange Commission Rule 15c2-12, adopted under the Securities and Exchange Act of 1934, and provide the Bank for inclusion in future official statements, upon request, financial information generally of the type included in Appendix D, under the heading "Summaries of Borrowers Representing 10% or More of Outstanding Principal of Bonds Issued Under the 2005 General Bond Resolution," to the Official Statement and attached hereto as Exhibit B.

20. If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

21. This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments, and take such other actions as are necessary, to give effect to the terms of this Loan Agreement.

22. No waiver by either party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other term or condition hereof, nor shall a waiver of any breach of this Loan Agreement be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

23. In this Loan Agreement, unless otherwise defined herein, all capitalized terms which are defined in Article I of the General Bond Resolution shall have the same meanings, respectively, as such terms are given in Article I of the General Bond Resolution.

24. This Loan Agreement merges and supersedes all prior negotiations, representations and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire agreement between the parties hereto in respect thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Loan Agreement the day and year first above written.

ALASKA MUNICIPAL BOND BANK

By: \_\_\_\_\_  
DEVEN J. MITCHELL  
Executive Director

[CITY] [BOROUGH] OF \_\_\_\_\_,  
ALASKA

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**

\$ \_\_\_\_\_  
[City] [Borough], Alaska  
[General Obligation] [Revenue] Bond, 20\_\_ [ ]  
("Municipal Bond")

<u>Due</u>	<u>Principal</u>	<u>Interest</u>
_____ 1	<u>Amount</u>	<u>Rate</u>

Principal installments shall be payable on \_\_\_\_\_ 1 in each of the years, and in the amounts set forth above. Interest on the Municipal Bond shall be payable on \_\_\_\_\_ 1, 20\_\_, and thereafter on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year.

Prepayment Provisions: The Municipal Bond is not subject to prepayment prior to maturity.

Optional Prepayment: The Municipal Bond principal payments due on or after \_\_\_\_\_ 1, 20\_\_ are subject to prepayment in whole or in part at the option of the [City] [Borough] on any date on or after \_\_\_\_\_ 1, 20\_\_, at a price of 100% of the principal amount thereof to be prepaid, plus accrued interest to the date of prepayment.

**EXHIBIT B**

AMBB/General Obligation Bonds, 2013 Series Three  
**Loan Agreement – Exhibit B**  
I:\Docs\37421735\Form Of Loan Agreement.Docx

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