

CITY AND BOROUGH OF SITKA, ALASKA  
ELECTRIC REVENUE AND REFUNDING BONDS, 2010

\$50,000,000

ORDINANCE NO. 2010-29

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA ("CITY"), AUTHORIZING THE SEPARATION OF THE CITY'S ELECTRIC GENERATION AND TRANSMISSION UTILITY FROM THE CITY'S WATER UTILITY FOR BORROWING PURPOSES; AUTHORIZING THE ISSUANCE OF ELECTRIC REVENUE BONDS OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$50,000,000 TO REFUND AND DEFEASE ALL OUTSTANDING SENIOR LIEN OBLIGATIONS OF THE COMBINED ELECTRIC AND WATER UTILITIES AND TO FINANCE A PORTION OF THE COST OF EXPANDING THE BLUE LAKE HYDROELECTRIC PROJECT, AS APPROVED BY SITKA'S VOTERS IN AN ADVISORY VOTE HELD ON OCTOBER 5, 2010; AND AUTHORIZING THE SALE OF THE BONDS TO THE ALASKA MUNICIPAL BOND BANK ON THE TERMS AND CONDITIONS PROVIDED IN THIS ORDINANCE.

PASSED: November 9, 2010

Prepared by:

K&L GATES LLP  
Seattle, Washington

CITY AND BOROUGH OF SITKA, ALASKA

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\* Neither this table of contents nor the preceding cover page is a part of this ordinance.

## CITY AND BOROUGH OF SITKA

### ORDINANCE NO. 2010-29

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA (“CITY”), AUTHORIZING THE SEPARATION OF THE CITY’S ELECTRIC GENERATION AND TRANSMISSION UTILITY FROM THE CITY’S WATER UTILITY FOR BORROWING PURPOSES; AUTHORIZING THE ISSUANCE OF ELECTRIC REVENUE BONDS OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$50,000,000 TO REFUND AND DEFEASE ALL OUTSTANDING SENIOR LIEN OBLIGATIONS OF THE COMBINED ELECTRIC AND WATER UTILITIES AND TO FINANCE A PORTION OF THE COST OF EXPANDING THE BLUE LAKE HYDROELECTRIC PROJECT, AS APPROVED BY SITKA’S VOTERS IN AN ADVISORY VOTE HELD ON OCTOBER 5, 2010; AND AUTHORIZING THE SALE OF THE BONDS TO THE ALASKA MUNICIPAL BOND BANK ON THE TERMS AND CONDITIONS PROVIDED IN THIS ORDINANCE.

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

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

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

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

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

WHEREAS, the Assembly deems it necessary and advisable for the City to issue approximately \$20,000,000 in electric revenue bonds to pay a portion of the cost of the Project

(the "Project Bonds") and approximately \$30,000,000 in electric revenue bonds to refund and defease the City's outstanding 1992 and 1997 municipal utilities revenue bonds (the "Refunding Bonds," and together with the Project Bonds, the "Bonds"); and

WHEREAS, to gauge the wishes of the City's voters, the Assembly adopted Resolution No. 10-20 on August 10, 2010, submitting to the qualified voters of the City for their approval or disapproval the question of whether the Bonds in approximately the amount of \$50,000,000 should be issued for the purposes described above; and

WHEREAS, in the advisory vote held on October 5, 2010, a majority of the City's voters voting on the proposition approved the proposition; and

WHEREAS, the Assembly now wishes to authorize issuance of the Bonds for the purposes described above; and

WHEREAS, it is in the best interest of the City to sell the Bonds to the Alaska Municipal Bond Bank (the "Bond Bank") in one or more series on the terms and conditions set forth herein and in a loan agreement authorized by this ordinance to be entered into by the Municipal Administrator;

NOW, THEREFORE, BE IT ENACTED by the Assembly of the City 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 shall have the following meanings, unless a different meaning clearly appears from the context:

"Accreted Value" means (1) with respect to any Capital Appreciation Bonds, as of any date of calculation, the sum of the amount set forth in the ordinance authorizing their issuance as the amount representing the initial principal amount of such Capital Appreciation Bonds plus the interest accumulated, compounded and unpaid thereon as of the most recent compounding date, or (2) with respect to Original Issue Discount Bonds, as of the date of calculation, the amount representing the initial public offering price of such Original Issue Discount Bonds plus the amount of discounted principal that has accreted since the date of issue. In each case, the Accreted Value will be determined in accordance with the provisions of the ordinance authorizing the issuance of such Balloon Maturity Bonds

"Annual Debt Service" means the total amount of Debt Service for any Parity Bonds or other evidences of indebtedness payable from Revenue of the System in any fiscal year or Base Period.

"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.

“Authority” means the Alaska Energy Authority, a body corporate and politic constituted as an instrumentality of the State of Alaska, created pursuant to the provisions of Chapter 83, Title 44, Alaska Statutes, as amended.

“Balloon Maturity Bonds” means any evidences of indebtedness of the City payable from Revenue of the System that are so designated in the ordinance pursuant to which 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 an additional 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.

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

“Bond Fund” means the “City and Borough of Sitka Electric Revenue Bond Redemption Fund, 2010,” authorized to be created by Section 9 of this ordinance.

“Bond Register” means the registration books for the Bond 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 Bond.

“Bonds” means the Project Bonds and the Refunding Bonds.

“Capital Appreciation Bonds” means any Future Parity Bonds all or a portion of the interest on which is compounded, accumulated and payable only upon redemption or on the maturity date of such Capital Appreciation Bonds. If so provided in the ordinance authorizing their issuance, Future Parity Bonds may be deemed to be Capital Appreciation Bonds for only a portion of their term. On the date on which Future Parity Bonds no longer are Capital Appreciation Bonds, they shall be deemed outstanding in a principal amount equal to their Accreted Value.

“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 at any time an independent municipal financial consultant appointed by the City to perform the duties of the Consultant as required by this ordinance. For the

purposes of delivering any certificate required by Section 12 hereof and making the calculation required by Section 12 hereof, the term Consultant shall also include any independent public accounting firm or engineer appointed by the City to make such calculation or to provide such certificate.

“Contract Resource Obligation” means an obligation of the City, designated as a Contract Resource Obligation and entered into pursuant to Section 8 of this ordinance, to make payments for power and energy or other goods and services to another person or entity.

“Covered Bonds” means the Bonds and any Future Parity Bonds designated in the ordinance authorizing their issuance as Covered Bonds secured by the Reserve Account.

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

(a) with respect to any outstanding Original Issue Discount Bonds or Capital Appreciation Bonds that are not designated as Balloon Maturity Bonds in the ordinance authorizing their issuance, the principal amount thereof shall be equal to the Accreted Value thereof maturing or scheduled for redemption in such period, and the interest payable during such period;

(b) with respect to any outstanding Fixed Rate Bonds, an amount equal to (1) the principal amount of such Fixed Rate Bonds due or subject to mandatory redemption during such period and for which no sinking fund installments have been established, (2) the amount of any payments required to be made during such period into any sinking fund established for the payment of any such Fixed Rate Bonds, plus (3) all interest payable during such period on any such outstanding Fixed Rate Bonds and with respect to Fixed Rate Bonds with mandatory sinking fund requirements, calculated on the assumption that mandatory sinking fund installments will be applied to the redemption or retirement of those Fixed Rate Bonds on the date specified in the ordinance authorizing those Fixed Rate Bonds; and

(c) with respect to all other series of Parity Bonds, other than Fixed Rate Bonds, Original Issue Discount Bonds or Capital Appreciation Bonds, specifically including but not limited to Balloon Maturity Bonds and Parity Bonds bearing variable rates of interest, an amount for any period equal to the amount that would have been payable for principal and interest on such Parity Bonds during such 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 12 hereof, then within ten days of such certificate, (iii) to provide for essentially level annual debt service of principal and interest over such period.

Debt Service shall be net of any interest funded out of Bond proceeds and any Debt Service Offsets. Debt Service shall include reimbursement obligations to providers of Credit Facilities to the extent authorized by ordinance.

“Debt Service Offset” means receipts of the City, including but not limited to federal interest subsidy payments, designated as such by the City and not included in Revenue of the System and that 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 resolution, 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 made or that indebtedness must be refunded with bonds issued in accordance with this ordinance.

“Finance Director” means the Finance Director of the City or the successor to the duties of such 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 Capital Appreciation Bonds, Original Issue Discount Bonds or Balloon Maturity Bonds issued under an ordinance in which the rate of interest on such Parity Bonds is 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 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 the Loan Agreement by and between the City and the Bond Bank authorized to be entered into pursuant to Section 13 of this ordinance.

“Maximum Annual Debt Service” means highest dollar amount of Annual Debt Service in any fiscal year or Base Period for all outstanding Parity 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 such 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.

“Original Issue Discount Bonds” means Parity Bonds that are sold at an initial public offering price of less than 95% of their face value and are specifically designated as Original Issue Discount Bonds in the proceedings authorizing their issuance.

“Parity Bonds” mean the Bond and Future Parity Bonds.

“Parity Requirement” means Net Revenue equal to or greater than 125% of Maximum Annual Debt Service for all Parity Bonds.

“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 4 of this ordinance.

“Project Bonds” means the electric revenue bonds authorized by this ordinance to be issued to pay a portion of the cost of the Project.

“Project Fund” means the Blue Lake Project Fund, 2010, 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 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 Covenant” means Net Revenue in each fiscal year at least equal to 125% of the amounts required in such fiscal year to be paid as Debt Service on all Parity Bonds:

“Rate Stabilization Account” means the account of that name established within the Revenue Fund pursuant to Section 8 of this ordinance.

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

“Rating Category” means the generic rating categories of a Rating Agency, without regard to any refinement or gradation of such rating category by a numerical modifier or otherwise.

“Refunded Bonds” means all of the outstanding 1992 Bonds and 1997 Bonds.

“Refunding Account” means the 2010 Electric Revenue Bond Refunding Account authorized to be established with the Escrow Agent pursuant to Section 18 of this ordinance..

“Refunding Bonds” means the electric revenue bonds authorized by this ordinance to be issued to refund and defease the Refunded Bonds.

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

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

“Reserve Account” means the Parity Bond Reserve Account authorized to be created within the Bond Fund pursuant to Section 9 of 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) With respect to 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 Covered Bonds of each series, 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) With respect to other series of Parity Bonds, the Reserve Requirement will be equal to the amount, if any, specified in the ordinance authorizing the issuance of that series of Parity Bonds.

The Reserve Requirement shall be adjusted accordingly and remain in effect until the earlier of (i) at the City’s option, a payment of principal of Parity Bonds or (ii) the issuance of a subsequent series of Future Parity Bonds (when the Reserve Requirement shall be re-calculated).

“Revenue of the System” means all income and revenues received 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 any Bonds defeased pursuant to Section 10 or other bonds defeased, or the payment of which is provided for, under any similar provision of any other bond ordinance of the City, exclusive of investment income earned on money in any arbitrage rebate account, grants for capital purposes, and non-cash mark-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 authorized to be created pursuant to Section 8 of this ordinance.

“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.

“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 8 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.

“1992 Bonds” means the City and Borough of Sitka Municipal Utilities Revenue Bonds, 1992 Refunding Series, issued to the Authority under date of April 1, 1992, pursuant to Ordinance No. 92-1046 and Resolution No. 92-501, a portion of which were refunded by exchange through the Authority by the issuance of the 1997 Bonds. The currently outstanding 1992 Bonds mature on July 1, 2015, are in the aggregate principal amount of \$12,900,000, bear interest at the rate of 6.6%, and are subject to mandatory redemption in principal installments, as follows:

Installment Payment	
Years (July 1)	Principal Amounts
2011	\$2,300,000
2012	2,400,000
2013	2,600,000
2014	2,700,000
2015	2,900,000

“1997 Bonds” means the City and Borough of Sitka Municipal Utilities Revenue Bonds, 1997 Refunding Series, issued to the Authority under date of November 1, 1997, pursuant to Ordinance No. 97- 464 and Resolution No. 97-689. The 1997 Bonds are currently outstanding in the aggregate principal amount of \$15,190,000, and are payable in the principal amounts and at the interest rates, as follows:

Installment Payment		
Years (July 1)	Principal Amounts	Interest Rates
2011	\$ 155,000	5.125%
2012	210,000	5.20
2013	150,000	5.25
2014	210,000	5.25
2015	195,000	5.25
2016	3,300,000	5.20
2017	3,475,000	5.20
2018	3,650,000	5.375
2019	3,845,000	5.375

*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. Separation of Electric System and Water System. The Assembly hereby finds and determines that it is in the best interests of the City and ratepayers of the Electric System and the Water System that the two systems be separated for borrowing purposes. The Assembly hereby further finds and determines that the 1992 Bonds and the 1997 Bonds are the only currently outstanding obligations of the City secured by a pledge of revenues of both the Electric System and Water System. Therefore, the separation of the Electric System from the Water System for borrowing purposes shall take effect from and after the date that all outstanding 1992 Bonds and 1997 Bonds are defeased in accordance with the ordinances providing for their issuance and as provided in this ordinance.

Section 4. The Blue Lake Project. The Assembly hereby ratifies and confirms its findings, in Resolution No. 10-20, 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 building a new powerhouse for Blue Lake, 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 the Project be financed from proceeds of the Project Bonds.

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

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

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

Section 5. Authorization of Bonds. The City shall now issue and sell not to exceed \$50,000,000 principal amount of electric revenue bonds to provide funds to refund and defease the 1992 Bond and the 1997 Bonds and to pay a portion of the cost of the Project. The Bonds shall be issued in one or more series (as provided in Section 19 of this ordinance) in an aggregate principal amount not to exceed \$50,000,000, with a single bond issued to the Bond Bank for each series to be designated as "City and Borough of Sitka Electric Revenue [and Refunding] Bond," with such year and series designations as may be appropriate. Each Bond shall be dated the date of its sale and delivery to the Bond Bank, in accordance with Section 19 hereof, shall be fully registered as to both principal and interest, shall be numbered separately 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 19 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 6. Registration, Payment and Transfer. The Finance Director shall act as authenticating agent, transfer agent, paying agent and registrar for the Bond (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 13 of this ordinance, and for so long as the Bond Bank is the owner of the Bonds, payments of principal of and interest on the Bonds shall be made to the Bond Bank in accordance with the Loan Agreement.

A Bond 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 series, principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor. Upon surrender thereof to the Registrar, a 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 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 a 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 7. Prepayment. Provisions for the optional prepayment of some or all principal installments of the Bonds may be established pursuant to Section 19 and shall be set forth in the 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 the Bonds, notice of prepayment shall be given according to the terms of the 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 a 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 8. Revenue Fund.

(a) *Revenue Fund Established.* There is hereby authorized to be established in the office of the Finance Director a separate enterprise fund of the City to be designated as the "City and Borough of Sitka Electric Utility Revenue Fund" (the "Revenue Funds") 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 the 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 interest on Parity Bonds and the ordinance authorizing such Parity Bonds provides for such reimbursement;

Third, to pay the principal of 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 principal of Parity Bonds and the ordinance authorizing those Parity Bonds provides for such reimbursement;

Fourth, 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 such Parity Bonds provides for such reimbursement;

Fifth, 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 for the payment of the principal of and interest on Parity Bonds; and

Sixth, 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.* The Finance Director is hereby authorized and directed to create a Rate Stabilization Account within the Revenue Fund. The City hereby determines that the maintenance of a Rate Stabilization Account will moderate fluctuations in Net Revenue and help to alleviate the need for short-term rate adjustments. Money in the Rate Stabilization Account may be transferred as determined from time to time by the City. The City may make 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 and used for the purpose for which Revenue of the System may be used. Amounts withdrawn from the Rate Stabilization Account 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 such fiscal year. Earnings on the Rate Stabilization Account shall be credited to the Revenue Fund.

(d) *Contract Resource Obligations.* The City may at any time enter into one or more contracts or other obligations for the acquisition, from facilities to be constructed, of power or energy or other goods or service relating to the Electric System. The City may determine that such contract or other obligation is a Contract Resource Obligation and may provide that all payments under that Contract Resource Obligation (including payments prior to the time that power, energy, transmission, or other goods or services are being provided, or during a suspension or after termination of supply or service) shall be Operating Costs if the following requirements are met at the time the Contract Resource Obligation is entered into:

(1) The City is not in default with respect to any of its obligations under this ordinance.

(2) The City has on file a certificate of a Consultant stating that (1) the payments to be made by the City in connection with the Contract Resource Obligation are reasonable for the power, energy, transmission, or other goods or services rendered; (2) the source of any new energy, power, and any facilities to be constructed to provide the power, energy, transmission, or other good or service, is sound, are technically and economically feasible in accordance with prudent utility practice, and are likely to provide supply or transmission or other service no later than a date set forth in the Consultant's certification; and (3) the Net Revenue (further adjusted by the Consultant's estimate of the payments to be made in

accordance with the Contract Resource Obligation) for the five fiscal years following the year in which the Contract Resource Obligation is incurred, as such Net Revenue is estimated by the Consultant (with such estimate based on such factors as he or she considers reasonable), will be at least equal to the Parity Requirement.

Payments required to be made under Contract Resource Obligations must not be subject to acceleration.

Nothing in this Section 8(d) shall be deemed to prevent the City from entering into other agreements for the acquisition of power, energy, transmission or other good or service from existing facilities and from treating those payments as Operating Costs so long as such service is actually being supplied. Nothing in this Section 8(d) shall be deemed to prevent the City from entering into other agreements for the acquisition of power, energy, transmission, or other commodity or service from facilities to be constructed and from agreeing to make payments with respect thereto, such payments constituting a lien and charge on Net Revenue subordinate to that of Parity Bonds.

Section 9. Bond Fund. A special fund of the City known as the "City and Borough of Sitka Electric Revenue Parity Bond Redemption Fund" (the "Bond Fund") is hereby authorized to be created in the office of the Finance Director. The Bond Fund shall be drawn upon for the sole purpose of paying the principal of and interest on the Bonds and any Future Parity Bonds. The Finance Director shall also establish the Parity Bond Reserve Account within the Bond Fund (the "Reserve Account") as a common reserve, securing the repayment of the Bonds and any Future Parity Bonds issued that are designated as Covered Bonds in the ordinance authorizing their issuance (inclusively, "Covered Bonds").

(a) *Payments into Bond Fund.* As long as any Parity Bond remains outstanding, the City hereby irrevocably obligates and binds itself to set aside and pay from the Revenue Fund into the Bond Fund those amounts necessary, together with such other funds as are on hand and available in the Bond Fund, to pay the interest or principal and interest next coming due on outstanding Parity Bonds. Such payments from the Revenue Fund to the Bond Fund shall be made in a fixed amount without regard to any fixed proportion following the closing and delivery of the Parity Bonds on or before each date on which an installment of interest or principal and interest falls due on Parity Bonds equal to the installment of interest or principal and interest.

(b) *Payments into Reserve Account.* The Reserve Account shall be maintained for the purpose of securing the payment of the principal of and interest on all 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 hereinafter, 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. 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 obligations purchased as an investment of money therein shall be

valued at cost. As used herein, the term "cash" shall include 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 such 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 9(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 9(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 into the Bond Fund within such year.

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 Reserve Account from the Revenue Fund are hereby declared to be a prior lien and charge upon the Revenue of the System superior to all other charges of any kind or nature whatsoever except the Operating Costs, and except that the amounts so pledged are of equal lien to the charges upon such Revenue of the System for the payment of the principal of and interest on any Future Parity Bonds.

(d) *Application and Investment of Money in the Bond Fund and Reserve Account.* Money in the Bond Fund and Reserve Account may be kept in cash or invested as permitted by law. Investments in the Bond Fund shall mature prior to the date on which such money is needed for required interest or principal payments (for investments in the Bond Fund) 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 Reserve Account 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 Reserve Account a greater amount of such Revenue than in its judgment will be available over and above the Operating Costs.

Section 10. 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 Bond 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 Bond or portion thereof so provided for, and such Bond 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 Bond or portion thereof shall be deemed not to be outstanding hereunder.

Section 11. 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 any Bonds are outstanding as will maintain the Rate Covenant.

(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 greater 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 proportion of customers of the City allocable to the assets being sold, leased, encumbered or disposed of bears 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 any of 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 original purchaser

or purchasers of the Bonds or any subsequent owner or owners thereof, at the written request of such owner or owners, 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 any owner or owners of at least 25% of the outstanding 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 any owner of any of the Bonds, it will also furnish to such 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) *Property Insurance.* The City will at all times carry fire and extended coverage and such other forms of insurance on the buildings, equipment, facilities and properties of the Electric System, if such insurance is obtainable at reasonable rates and upon reasonable conditions, against such risks, in such amounts, and with such deductibles as the Council shall deem necessary for the protection of the Electric System and the owners of all outstanding Parity Bonds.

(g) *Liability Insurance.* The City will at all times keep and arrange to keep in full force and effect policies of public liability and property damage insurance that will protect the City against anyone claiming damages of any kind or nature arising out of the operation of the Electric System, if such insurance is obtainable at reasonable rates and upon reasonable conditions, in such amounts and with such deductibles as the Council shall deem necessary for the protection of the City and the owners of the outstanding Parity Bonds.

## Section 12. Issuing Future Parity Bonds.

(a) *Conditions for Issuing Future Parity Bonds.* As long as any of the Bonds remain outstanding, the City covenants and agrees that it will not issue any electric revenue bonds with a lien on Revenue of the System superior to the lien thereon of the Bonds. Except as provided in subsection (b) below, the City shall not issue any series of 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 Parity Bonds at the time outstanding) unless:

(1) the City will not then have been in default of its Rate Covenant for the immediately preceding fiscal year;

(2) The ordinance authorizing the issuance of such Future Parity Bonds will include the covenants provided in Section 11 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 (prepared as described in subsection (c) or (d) below) demonstrating fulfillment of the Parity Requirement, commencing with the first full fiscal year following the date on which any portion of interest on the Future Parity Bonds then being issued will not be paid from the proceeds of such series of Future Parity Bonds.

(b) *No Certificate Required.* The certificate described in the foregoing subsection (a)(3) shall 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 Future 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 Future 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.

(c) *Certificate of the City Without A Consultant.* If required pursuant to the foregoing subsection (a)(3), a certificate may be delivered by the City (executed by the Finance Director) without a Consultant if Net Revenue for the Base Period (confirmed by an audit) conclusively demonstrate that the Parity Requirement will be fulfilled commencing with the first full fiscal year following the date on which any portion of interest on the series of Future Parity Bonds then being issued will not be paid from the proceeds of such series of Future Parity Bonds.

(d) *Certificate of a Consultant.* Unless compliance with the requirements of subsection (a)(3) have been otherwise satisfied (as provided in (b) or (c) above), compliance with the Parity Requirement shall be demonstrated conclusively by a certificate of a Consultant.

In making the computations of Net Revenue for the purpose of certifying compliance with the Parity Requirement, the Consultant shall use as a basis the Net Revenue (which may be based upon unaudited financial statements of the City if the audit has not yet been completed) for the Base Period. Such Net Revenue shall be determined by adding the following:

(1) The historical net revenue of the City for the Base Period being issued as determined by a Consultant.

(2) The net revenue derived from those customers of the City that have become customers during such 12-month period or thereafter and prior to the date of such certificate, adjusted to reflect a full year's net revenue from each such customer to the extent such net revenue was not included in (1) above.

(3) The estimated annual net revenue to be derived from any person, firm, association, private or municipal corporation under any executed contract for service, which net revenue was not included in any of the sources of net revenue described in this subsection (d).

(4) The estimated annual net revenue to be derived from the operation of any additions or improvements to or extensions of the City under construction but not completed at the time of such certificate and not being paid for out of the proceeds of sale of such Future Parity Bonds being issued, and which net revenue is not otherwise included in any of the sources of net revenue described in this subsection (d).

(5) The estimated annual net revenue to be derived from the operation of any additions and improvements to or extensions of the City being paid for out of the proceeds of sale of such Bonds being issued.

If the City will not derive any revenue as a result of the construction of the additions, improvements or extensions being made or to be made to the Electric System within the provisions of subparagraphs (4) and (5) immediately above, the estimated normal Operating Costs (excluding any transfer of money to other funds of the City and license fees, taxes and payments in lieu of taxes payable to the City) of such additions, improvements and extensions shall be deducted from estimated annual net revenue.

The words "historical net revenue" or "net revenue" as used in this subsection (d) shall mean Revenue of the System or any part or parts thereof less the normal expenses of maintenance and operation of the System or any part or parts thereof, but before depreciation.

Such "historical net revenue" or "net revenue" shall be adjusted to reflect the rates and charges effective on the date of such certificate if there has been any change in such rates and charges during or after such 12-consecutive-month period.

(e) *Subordinate Lien Obligations.* 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.

(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 13. Tax Covenants.

(a) *General.* The City may elect to issue the Bonds in one or more of the following categories:

(1) A series, including the Refunding Bonds, the interest on which would be excludable from gross income for federal income tax purposes pursuant to sections 103 and 141 through 150 of the Code ("Tax-Exempt Bonds").

(2) A series of taxable "Build America Bonds," as defined in Section 54AA of the Code.

(3) A series of taxable "Recovery Zone Economic Development Bonds," as defined in Section 1400U-2(b)(1) of the Code.

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 any series of Tax-Exempt Bonds to be includable in gross income, as defined in section 61 of the Code, for federal income tax purposes. The City further covenants not to take any action, or knowingly to omit to take any action within its control, that if taken or omitted would cause any series of Build America Bonds to lose their status as Build America Bonds or any series of Recovery Zone Economic Development Bonds to lose their status as Recovery Zone Economic Development Bonds.

(b) *Tax Certificate.* Upon the issuance of the Bonds, the Finance Director is authorized to execute a federal tax certificate (the "Tax Certificate"), which will certify to various facts and representations concerning each series of Bonds, based on the facts and estimates known or reasonably expected on the date of their issuance, and make certain covenants with respect to such Bonds as may be necessary or desirable to obtain or maintain the benefits conferred under the Code relating to Tax-Exempt Bonds, Build America Bonds or Recovery Zone Economic Development Bonds, as applicable.

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 the Tax-Exempt Bonds, Build America Bonds or Recovery Zone Economic Development Bonds, as applicable.

(c) *Special Designation.* Depending on the final structure of the Bonds and the principal amount of any Tax-Exempt Bonds, the City by the Tax Certificate may designate the Tax-Exempt Bond, plus the portion of the proceeds of the Bond Bank Bonds designated as the reserve fund obligations allocated to the Tax-Exempt Bonds, as "qualified tax-exempt obligations" for purchase by financial institutions pursuant to Section 265(b)(3) of the Code.

(d) *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 such term as used 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.

(e) *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 the Bonds to be used for any Private Person Use; and

(2) More than 10% of the principal or interest payments on the Bonds 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 the Bonds are to be used for any Private Person Use; and

(4) More than 5% of the principal or interest payments on the Bonds 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 Bonds 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 relating to Tax-Exempt Bonds or Build America Bonds, as applicable. 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 the Bonds will be spent within three years of the date the Bonds are 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, with such series designations as appropriate:

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

\$ \_\_\_\_\_

UNITED STATES OF AMERICA

STATE OF ALASKA

CITY AND BOROUGH OF SITKA  
ELECTRIC REVENUE [AND REFUNDING] BOND, 2010  
[TAXABLE RECOVERY ZONE ECONOMIC DEVELOPMENT BOND]

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
2011		
2012		
2013		
2014		
2015		
2016		
2017		
2018		
2019		
2020		
2021		
2022		
2023		
2024		
2025		
2026		
2027		

Principal Installment Payment Year ( ) 1)	Principal Installment Amount	Interest Rate
2028		
2029		
2030		

Both principal of and interest on this bond are payable solely from the special fund of the City known as the Electric System Parity 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. 2010-\_\_\_\_, passed November 9, 2010 (the "Bond Ordinance"), to provide funds to [refund certain outstanding revenue bonds of the City][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 such 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 equal in rank to the lien and charge on the money in the Bond Fund to pay and secure the payment of 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 9th day of November, 2010.

CITY AND BOROUGH OF SITKA,  
ALASKA

By *Cheryl Westover*  
Cheryl Westover, Mayor

[SEAL]

ATTEST:

*Colleen Ingman*  
Colleen Ingman, MMC  
Municipal Clerk

CERTIFICATE OF AUTHENTICATION

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

This is the City and Borough of Sitka, Alaska, Electric Revenue [and Refunding] Bond, 2010 [Series Designation], dated \_\_\_\_\_, 2010, as described in the Bond Ordinance.

*[Signature]*  
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 thereunder 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. The Bonds 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 such Bonds as bear 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 of the officers of the City who have signed, attested, authenticated, registered or sealed a Bond cease to be such officers before the Bond so signed, attested, authenticated, registered or sealed has been actually issued and delivered, such Bond shall be valid nevertheless and may be issued by the City with the same effect as though the persons who had signed, attested, authenticated, registered or sealed that Bond had not ceased to be such officers. Any Bond may also be signed, attested, authenticated, registered or sealed on behalf of the City by such persons as at the actual date of execution of such Bond shall be the proper officers of the City although at the original date of such Bond any such person shall not have been such officer.

Section 16. Lost or Destroyed Bonds. If any 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 Proceeds of Project Bonds. A special fund of the City known as the "Blue Lake Project Fund, 2010" (the "Project Fund") is hereby authorized to be created in the office of the Finance Director. At the time of delivery of the Project Bonds, proceeds of the Project Bonds 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 Project Bonds on the first interest payment date; and

(b) The remaining proceeds of the Project Bonds shall be deposited in the Project Fund and used to pay costs of the Project and costs of issuance of the Project Bonds.

Money remaining in the Project Fund after all such costs have been paid or reimbursed shall be applied to other capital improvements of the Electric System. Money in the 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 Project Fund.

Section 18. Application of Proceeds of Refunding Bonds; Plan of Refunding.

(a) *Refunding Account.* There is hereby authorized to be created a special account of the City known as the "2010 Electric Revenue Bond Refunding Account" (the "Refunding Account"), which Account is to be held by the Escrow Agent and drawn upon for the sole purpose of paying the principal of and interest on the Refunded Bonds until their maturity or earlier date of redemption and of paying costs related to issuance of the Refunding Bonds and refunding the Refunded Bonds.

The proceeds of sale of the Refunding Bonds will be credited to the Refunding Account and, together with other funds of the City, if necessary, will be used immediately upon receipt thereof to defease the Refunded Bonds as authorized by the ordinances authorizing their issuance and to pay costs of issuance and refunding. The City will defease the Refunded Bonds and discharge such obligations by the use of money in the Refunding Account to purchase certain Government Obligations (which obligations so purchased are herein called the "Escrowed Securities"), bearing such interest and maturing as to principal and interest in such amounts and at such times that, together with any necessary beginning cash balance, will provide for the payment of interest on the Refunded Bonds on and prior to their date of redemption and the redemption price for the Refunded Bonds on their date of redemption.

The Escrowed Securities will be purchased at a yield not greater than the yield permitted by the Code and regulations relating to Escrowed Securities in connection with refunding bond issues.

(b) *Escrow Agent.* To carry out the plan of refunding, the Finance Director is hereby authorized to appoint as escrow agent a bank or trust company qualified by law to perform the duties described herein (the "Escrow Agent"), in accordance with the ordinances authorizing the issuance of the Refunded Bonds. A beginning cash balance, if any, and the Escrowed Securities will be deposited irrevocably with the Escrow Agent in an amount sufficient to defease the Refunded Bonds. The proceeds of the Refunding Bonds remaining in the Refunding Account after acquisition of the Escrowed Securities and provision for the necessary beginning cash balance will be utilized to pay expenses of the acquisition and safekeeping of the Escrowed Securities and expenses of issuing the Refunding Bonds. The City may, from time to time, transfer, or cause to be transferred, from the Refunding Account any money not thereafter required for the purposes set forth in subsection (a), subject to verification in writing by an independent certified public accountant that such transfer will not result in inadequate funds being available to make the required payments therefrom. The City reserves the right to substitute other securities for the Escrowed Securities in the event it may do so pursuant to Section 148 of the Code, upon compliance with the conditions set forth in the escrow agreement.

The City will take such actions as are found necessary to see that all necessary and proper fees and expenses of the Escrow Agent are paid when due. The proper officers and agents of the City are directed to obtain from the Escrow Agent an agreement setting forth the duties, obligations and responsibilities of the Escrow Agent in connection with the redemption and retirement of the Refunded Bonds as provided herein and setting forth such provisions for the payment of the Escrow Agent as are satisfactory to it. The escrow agreement shall also set forth findings of savings and defeasance with respect to the Refunded Bonds. The Finance Director is authorized and directed to execute and deliver to the Escrow Agent the escrow agreement in form satisfactory to the Escrow Agent and approved by counsel to the City.

(c) *Redemption of Refunded Bonds.* The City will irrevocably set aside sufficient funds out of the purchase of Escrowed Securities from proceeds of the Refunding Bonds to make the payments described in subsection (a) above. The Finance Director will call the Refunded Bonds for redemption, in accordance with the plan of refunding determined pursuant to this Section 18. The defeasance and call for redemption of the Refunded Bonds will be irrevocable after the final establishment of the Refunding Account and delivery of the Escrowed Securities and the requisite cash deposit, if any, to the Escrow Agent, except as provided herein relating to the substitution of securities.

The Escrow Agent is hereby authorized and directed to provide for the giving of notices of the redemption of the Refunded Bonds in accordance with the applicable provisions of the ordinances authorizing issuance of the Refunded Bonds. The City is authorized and requested to provide whatever assistance is necessary to accomplish such redemption and the giving of notices therefor. The costs of publication of such notices shall be an expense of the City.

The Escrow Agent is hereby authorized and directed to pay to the trustee or paying agent for the Refunded Bonds sums sufficient to pay, when due, the interest on and redemption prices of the Refunded Bonds, as provided in subsection (a) above. All such sums shall be paid from the money and Escrowed Securities deposited with the Escrow Agent pursuant to this Section 7 and the income therefrom and proceeds thereof.

Section 19. Sale of the Bonds. The Finance Director is authorized to negotiate the sale of the Bonds to the Bond Bank on terms and conditions consistent with this ordinance to be set forth in a Loan Agreement by and between the City and the Bond Bank substantially in the form set forth on Exhibit A attached hereto and including the principal amounts, date, principal installment payment schedules, interest rates, and prepayment provisions, 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. As part of the sale of the Bonds to the Bond Bank, the Municipal Administrator and the Finance Director shall designate the status of each series of the Bonds under federal tax law, as provided in Section 13 of this ordinance. After the sale of the Bonds to the Bond Bank, the Municipal Administrator and Finance Director shall file with the Clerk a certificate regarding such series designations in substantially the form set forth on Exhibit B attached hereto.

Section 20. 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. 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 21. General Authorization; Prior Acts. The Mayor, Municipal Administrator, Finance Director 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 22. Severability. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be 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 23. Effective Date. This ordinance shall be in full force and effect immediately upon its final passage by the Assembly.

READ FOR THE FIRST TIME at a regular meeting of the Assembly held on October 26, 2010.

PASSED AND APPROVED by the Assembly of the City and Borough of Sitka, Alaska, on November 9, 2010.

CITY AND BOROUGH OF SITKA,  
ALASKA

By Cheryl Westover  
Cheryl Westover, Mayor

ATTEST:

Colleen Ingman  
Colleen Ingman, MMC  
Municipal Clerk

EXHIBIT A

[Attach here the form of Bond Bank Loan Agreement]

EXHIBIT B

Form of Certificate regarding Series Designations

**CITY AND BOROUGH OF SITKA  
ELECTRIC REVENUE AND REFUNDING BONDS, 2010  
(ALASKA MUNICIPAL BOND BANK LOAN)**

With respect to the above-captioned bonds (the "Bonds"), the undersigned certify as follows:

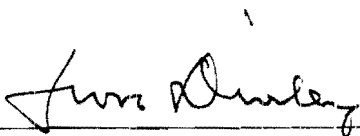
The undersigned are the Municipal Administrator and Finance Director of the City and Borough of Sitka (the "City"), and make this certification for and on behalf of the City and the Assembly pursuant to the authorization and direction contained in Ordinance No. 2010-29 of the City and Borough of Sitka passed by the Assembly on November 9, 2010 (the "Bond Ordinance").

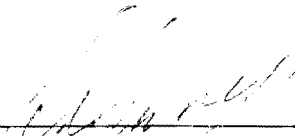
In accordance with the Bond Ordinance, the Bonds have been sold to the Alaska Municipal Bond Bank in the following amounts and the following series:

Tax Status	Principal Amount	Principal Installment Payment Years
Tax-Exempt Bonds		
Build America Bonds		
Economic Recovery Zone Bonds		
Total		

Dated: December 9, 2010

CITY AND BOROUGH OF SITKA

  
\_\_\_\_\_  
Jim Dinley, Municipal Administrator

  
\_\_\_\_\_  
David Wolff, Finance Director

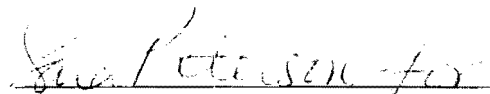
CERTIFICATE

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. 2010-29 of the City (the "Ordinance"), as finally passed at a regular meeting of the Assembly held on November 9, 2010, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a 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 9th day of November, 2010.

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