

CITY AND BOROUGH OF SITKA, ALASKA  
HARBOR FACILITIES REVENUE BONDS, 2013

ORDINANCE NO. 2013-01

AN ORDINANCE of the City and Borough of Sitka authorizing the issuance of harbor facilities revenue bonds in the principal amount of not to exceed \$4,600,000 to finance a portion of the cost of certain capital improvements to Sitka's harbor facilities; authorizing the sale of the bonds to the Alaska Municipal Bond Bank on the terms and conditions provided in this ordinance and in a loan agreement authorized to be entered into with the Bond Bank; and providing the terms and conditions for issuing additional harbor facilities revenue bonds on a parity with the bonds authorized by this ordinance.

PASSED: \_\_\_\_\_, 2013

Prepared by:

K&L GATES LLP  
Seattle, Washington

CITY AND BOROUGH OF SITKA, ALASKA

ORDINANCE NO. 2013-01

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

Sponsor: Administrator

CITY AND BOROUGH OF SITKA

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AN ORDINANCE of the City and Borough of Sitka authorizing the issuance of harbor facilities revenue bonds in the principal amount of not to exceed \$4,600,000 to finance a portion of the cost of certain capital improvements to Sitka's harbor facilities; authorizing the sale of the bonds to the Alaska Municipal Bond Bank on the terms and conditions provided in this ordinance and in a loan agreement authorized to be entered into with the Bond Bank; and providing the terms and conditions for issuing additional harbor facilities revenue bonds on a parity with the bonds authorized by this ordinance.

WHEREAS, the City and Borough of Sitka, Alaska (the "City"), owns and operates certain facilities of a port and maritime nature used primarily to serve vessels within the City's harbor (as further described herein, the "Harbor Facilities"); and

WHEREAS, the City has established the Harbor Enterprise Fund into which are deposited revenues derived from owning and operating the Harbor Facilities; and

WHEREAS, the City wishes to make certain improvements to the Alaska Native Brotherhood Harbor (as further described herein, the "Project"), which is part of the Harbor Facilities; and

WHEREAS, to pay a portion of the cost of the Project, the City has received a municipal harbor facility grant from the State of Alaska in the amount of \$4,250,000 that requires matching funds from the City; and

WHEREAS, the Assembly finds that it is in the best interest of the City and users of the Harbor Facilities to issue bonds payable from revenues derived from the Harbor Facilities to finance the required \$4,250,000 in matching funds, fund a reserve account, and pay costs of issuing the bonds and to issue those bonds through the Alaska Municipal Bond Bank (the "Bond Bank") on the terms and conditions set forth in this ordinance and in a loan agreement authorized by this ordinance to be entered into with the Bond Bank by the Municipal Administrator; and

WHEREAS, there currently are no bonds outstanding payable from or secured by a pledge of revenues derived from the Harbor Facilities;

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

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

41           Section 2. Definitions. As used in this ordinance, the following words have the  
42 following meanings, unless a different meaning clearly appears from the context:

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

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

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

50           “Base Period” means any consecutive 12-month period selected by the City out of the  
51 36-month period next preceding the date of issuance of an additional series of Future Parity  
52 Bonds.

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

56           “Bond” means the City and Borough of Sitka, Alaska, Harbor Facilities Revenue Bond,  
57 2013, authorized to be issued in a principal amount not to exceed \$4,600,000 pursuant to this  
58 ordinance.

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

61           “Bond Fund” means the “City and Borough of Sitka 2013 Harbor Facilities Revenue  
62 Bond Redemption Fund,” authorized to be created by Section 8 of this ordinance.

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

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

69           “Code” means the federal Internal Revenue Code of 1986, as amended, together with  
70 corresponding and applicable final, temporary or proposed regulations and revenue rulings issued  
71 or amended with respect thereto by the United States Treasury Department or the Internal  
72 Revenue Service, to the extent applicable to the Bond or any Future Parity Bonds.

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

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

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

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

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

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

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

87                     plus

88           (b)     for outstanding Parity Bonds other than Fixed Rate Bonds, including but not  
89 limited to Balloon Maturity Bonds and Parity Bonds bearing variable rates of interest, an amount  
90 for the period equal to the amount that would have been payable for principal and interest on  
91 these Parity Bonds during that period computed on the assumption that the amount of Parity  
92 Bonds as of the date of such computation would be amortized (i) in accordance with the  
93 mandatory redemption provisions, if any, set forth in the ordinance authorizing the issuance of  
94 such Parity Bonds, or if mandatory redemption provisions are not provided, during a period  
95 commencing on the date of computation and ending on the date 30 years after the date of  
96 issuance (ii) at an interest rate equal to the yield to maturity set forth in the 40-Bond Index  
97 published in the edition of *The Bond Buyer* (or comparable publication or such other similar  
98 index selected by the City) and published within ten days prior to the date of calculation or, if  
99 such calculation is being made in connection with the certificate required by Section 12 hereof,  
100 then within ten days of such certificate, (iii) to provide for approximately level annual debt  
101 service of principal and interest over such period.

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

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

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

109           “Fish Tax Receipts” means money received by the City from the State of Alaska from  
110 proceeds of fisheries business taxes levied pursuant to Chap. 43.75 Alaska Statutes, as amended,  
111 the fisheries resource landing taxes levied pursuant to Chap. 43.77 Alaska Statutes, as amended,  
112 or any similar or successor state taxes.

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

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

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

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

129           “Gross Revenue” means all income and revenue derived by the City from time to time  
130 from its ownership or operation of the Harbor Facilities, together with the proceeds received by  
131 the City directly or indirectly from the sale, lease or other disposition of any of the properties or  
132 rights of the Harbor Facilities, any federal interest subsidy payments received in connection with  
133 Parity Bonds (to the extent such payments are not designated as Debt Service Offsets), and any  
134 investment income earned on money held in any fund or account of the City, including any bond  
135 redemption funds and the accounts therein, in connection with the ownership and operation of  
136 the Harbor Facilities (but excluding income derived from investments irrevocably pledged to the  
137 payment of any specific revenue bonds of the City, such as bonds heretofore or hereafter  
138 refunded or defeased, investment income earned on money in any arbitrage rebate account, grants  
139 for capital purposes, and non-cash marked-to-market gains with respect to any real or personal  
140 property, investment or agreement that may be required to be recognized under generally  
141 accepted accounting principles) and excluding any Special Revenue.

142  
143           “Harbor Enterprise Fund” means the fund of that name previously established in the  
144 office of the Finance Director into which all Gross Revenue is deposited.

145           “Harbor Facilities” means all publicly owned facilities of a port or maritime nature that  
146 are used by or for the service of vessels, as further described in Section 13.04.070 of the Sitka  
147 Code, as it may be amended from time to time, but shall not include port or maritime facilities  
148 that may hereafter be acquired or constructed by the City as an enterprise designated by the

149 Assembly at the time of financing thereof to be separate from the Harbor Facilities, the revenues  
150 of which may be designated as Special Revenue pledged to the payment of bonds issued to  
151 purchase, construct or otherwise acquire or expand that separate enterprise.

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

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

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

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

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

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

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

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

- 187 A. Farmers Home Administration: certificates of beneficial  
188 ownership;  
189 B. Federal Financing Bank;  
190 C. General Services Administration: participation certificates;  
191 D. Government National Mortgage Association (GNMA): GNMA-  
192 guaranteed mortgage-backed bonds and GNMA-guaranteed pass-  
193 through obligations;  
194 E. U.S. Maritime Administration: guaranteed Title XI financing; and  
195 F. U.S. Department of Housing and Urban Development: project  
196 notes; local authority bonds; U.S. government-guaranteed new  
197 communities debentures; U.S. government-guaranteed public  
198 housing notes and bonds.

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

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

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

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

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

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



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

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

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

238 A. Repos must be between the City or its agent or trustee and a dealer  
239 bank or securities firm.

240 a. Primary dealers on the Federal Reserve reporting dealer list  
241 that fall under the jurisdiction of the SIPC and that are rated  
242 A or better by S&P and Moody's, or

243 b. Banks rated A or above by S&P and Moody's.

244 B. The written repo contract must include the following:

245 a. Securities that are acceptable for transfer are:

246 (1) Direct U.S. governments, or

247 (2) Federal agencies backed by the full faith and credit  
248 of the U.S. government (and FNMA & FHLMC).

249 b. The term of the repo may be up to 30 days.

250 c. The collateral must be delivered to the City (if the City is  
251 not supplying the collateral) or to a third party acting as  
252 agent for the City (if the City is supplying the collateral)  
253 before or simultaneously with payment (perfection by  
254 possession of certificated securities).

255 d. The securities must be valued weekly, marked-to-market at  
256 current market price plus accrued interest. The value of  
257 collateral must be equal to 104% of the amount of cash  
258 transferred by the City or its agent or trustee to the dealer  
259 bank or securities firm under the repo plus accrued interest.  
260 If the value of securities held as collateral slips below 104%  
261 of the value of the cash transferred, then additional cash

262 and/or acceptable securities must be transferred. If,  
263 however, the securities used as collateral are FNMA or  
264 FHLMC, then the value of collateral must equal 105%.

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

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

280 “Project” means the improvements to the ANB Harbor described in Section 3 of this  
281 ordinance.

282 “Project Fund” means the ANB Harbor Replacement Project Fund, 2013, authorized to be  
283 created pursuant to Section 17 of this ordinance.

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

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

295 “Rate Stabilization Account” means the account of that name within the Harbor  
296 Enterprise Fund.

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

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

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

302           “Reserve Account” means the Reserve Account authorized to be created within the Bond  
303 Fund pursuant to Section 8 of this ordinance.

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

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

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

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

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

319           “SEC” means the Securities and Exchange Commission.

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

324           “Sinking Fund Requirement” means, for any fiscal year, the principal amount and  
325 premium, if any, of Term Bonds required to be purchased, redeemed or paid at maturity in that  
326 fiscal year as established by the ordinance or other proceedings of the City authorizing the  
327 issuance of those Term Bonds.

328           “Special Revenue” means the rentals, fees, charges and other revenue derived from  
329 maritime facilities of the City the acquisition or construction of which has been financed by the  
330 issuance of revenue bonds payable from and secured by a pledge of those rentals, fees, charges  
331 and other revenues and not payable from and secured by a pledge of Gross Revenue.

332  
333           “Tax Certificate” means the certificate with respect to federal tax matters relating to the  
334 Bond authorized to be executed by the Finance Director pursuant to the provisions of Section 7  
335 of this ordinance.

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

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

342  
343           *Rules of Interpretation.* Words of the masculine gender shall be deemed and construed to  
344 include correlative words of the feminine and neuter genders. Words imparting the singular  
345 number shall include the plural numbers and vice versa unless the context shall otherwise  
346 indicate. Reference to sections and other subdivisions of this ordinance are to the sections and  
347 other subdivisions of this ordinance as originally adopted unless expressly stated to the contrary.  
348 The headings or titles of the sections hereof, and the table of contents appended hereto, are for  
349 convenience of reference only and shall not define or limit the provisions hereof.

350           Section 3. The Project. The Assembly hereby ratifies and confirms its findings, in  
351 Resolution No. 2012-22, adopted on September 25, 2012, there is a critical need to replace the  
352 Alaska Native Brotherhood (ANB) Harbor (the “Project”). The Assembly further finds that it is  
353 in the best interest of the City, users of the ANB Harbor, and ratepayers of the Harbor Facilities  
354 that a portion of the cost of the Project be financed from proceeds of the Bond.

355           The cost of all necessary planning, legal, architectural, engineering, design and other  
356 consulting services, inspection and testing, administrative and relocation expenses, on- and off-  
357 site utilities, purchases of equipment, and other costs incurred in connection with the Project  
358 shall be deemed a part of the cost of the Project. The City will determine the extent and  
359 specifications for the Project.

360           The City will determine the application of available funds among the various components  
361 of the Project to accomplish, as nearly as may be, the entire Project. If proceeds of sale of the  
362 Bond, plus the expected municipal harbor facility grant and any other money of the City legally  
363 available for such purpose, are insufficient to accomplish all of the Project, the City will use the  
364 available funds to accomplish those components of the Project that the Assembly deems most  
365 necessary and in the best interest of the City.

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

370           If the entire Project has been constructed or duly provided for, or found to be  
371 impracticable, and Project Bond proceeds remain available, the Assembly may apply Bond  
372 proceeds to other capital repairs or improvements to the Harbor Facilities or to retiring the Bond.

373           Section 4. Authorization of Bond. The City shall now issue and sell not to exceed  
374 \$4,600,000 principal amount of Harbor Facilities revenue bonds to provide funds to pay a portion

375 of the cost of the Project. The bonds shall be issued to the Bond Bank as a single bond to be  
376 designated as the "City and Borough of Sitka Harbor Facilities Revenue Bond," with such year  
377 and series designation as may be appropriate. The Bond shall be dated the date of its sale and  
378 delivery to the Bond Bank, in accordance with Section 18 hereof, shall be fully registered as to  
379 both principal and interest, shall be numbered in such manner and with any additional  
380 designation as the Registrar deems necessary for purposes of identification and control, shall bear  
381 interest at the rate or rates, shall mature on the date or dates and shall be paid in installments in  
382 the principal amounts and on the dates to be determined in accordance with Section 18 hereof.  
383 Interest on the Bond shall be calculated based on a 360-day year of twelve 30-day months.

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

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

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

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

411 Section 6. Prepayment. Provisions for the optional prepayment of some or all  
412 principal installments of the Bond may be established pursuant to Section 18 and shall be set  
413 forth in the Loan Agreement. Portions of the principal amount of the Bond, in increments of  
414 \$5,000 or any integral multiple of \$5,000, may be prepaid.

415 So long as the Bond Bank is the owner of the Bond, notice of prepayment shall be given  
416 according to the terms of the Loan Agreement. If the Bond Bank is not the owner of the Bond,  
417 notice of prepayment shall be given not less than 30 nor more than 60 days prior to the date fixed  
418 for prepayment by first class mail, postage prepaid, to the Registered Owner of the Bond at the  
419 address appearing on the Bond Register. The requirements of this section shall be deemed  
420 complied with when notice is mailed as herein provided, regardless of whether it is actually  
421 received by the owner of the Bond. Each official notice of prepayment shall be dated and shall  
422 state: (i) the prepayment date, (ii) the prepayment price or prepayment premium, if any, payable  
423 upon such prepayment; (iii) if less than all of an installment of principal is to be prepaid, the  
424 principal amount to be prepaid (which must be an integral multiple of \$5,000); (iv) that the  
425 interest on the Bond, or on the principal amount thereof to be prepaid, designated for prepayment  
426 in such notice, shall cease to accrue from and after such prepayment date; and (v) that on such  
427 date there will become due and payable on the Bond the principal amount thereof to be prepaid  
428 and the interest accrued on such principal amount to the prepayment date.

429 Section 7. Harbor Enterprise Fund.

430 (a) *Harbor Enterprise Fund.* There has heretofore been established in the office of  
431 the Finance Director a separate enterprise fund of the City designated as the "Harbor Enterprise  
432 Fund" (the "Harbor Enterprise Fund"). All Gross Revenue shall be deposited in the Harbor  
433 Enterprise Fund. Notwithstanding the foregoing, the Finance Director may maintain separate  
434 funds and accounts in such names and under such additional designations as may be required to  
435 comply with City practices and State law.

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

440 First, to pay the Operating Costs;

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

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

451 Fourth, to make all payments required to be made into any revenue bond  
452 redemption fund or revenue warrant redemption fund and debt service fund or reserve account  
453 created to pay and secure the payment of the principal of and interest on any other revenue bonds

454 or revenue warrants of the City having a lien on Gross Revenue junior and inferior to the lien  
455 thereon to pay or secure the payment of Parity Bonds; and

456 Fifth, to retire by redemption or purchase any outstanding revenue bonds or  
457 revenue warrants of the City, to make necessary additions, betterments, improvements and  
458 repairs to or extensions and replacements of the Harbor Facilities, to make deposits into the Rate  
459 Stabilization Account, or for any other lawful City purposes.

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

463 (c) *Rate Stabilization Account.* The Finance Director is hereby authorized to  
464 establish a Rate Stabilization Account within the Harbor Enterprise Fund. The City may make  
465 payments into the Rate Stabilization Account from the Harbor Enterprise Fund at any time.  
466 Money in the Rate Stabilization Account may be withdrawn at any time for deposit into the  
467 Harbor Enterprise Fund and used for the purposes for which Gross Revenue may be used.  
468 Amounts withdrawn from the Rate Stabilization Account and deposited into the Harbor  
469 Enterprise Fund shall increase Gross Revenue for the period in which they are withdrawn, and  
470 amounts deposited in the Rate Stabilization Account shall reduce Gross Revenue for the period  
471 during which they are deposited. Credits to or from the Rate Stabilization Account that occur  
472 within 90 days after the end of a fiscal year may be treated as occurring within that fiscal year.  
473 Earnings on the Rate Stabilization Account shall be credited to the Harbor Enterprise Fund.

474 Section 8. Bond Fund. A special fund of the City known as the “City and Borough of  
475 Sitka 2013 Harbor Facilities Revenue Bond Redemption Fund” (the “Bond Fund”) is hereby  
476 authorized to be created in the office of the Finance Director. Within the Bond Fund, the Finance  
477 Director will establish the Debt Service Account and the Reserve Account. The Bond Fund shall  
478 be drawn upon for the sole purpose of paying the principal of and interest on the Bond and any  
479 Future Parity Bonds.

480 (a) *Payments into Debt Service Account.* As long as any Parity Bond remains  
481 outstanding, the City hereby irrevocably obligates and binds itself to set aside and pay into the  
482 Debt Service Account out of money in the Harbor Enterprise Fund or any other funds of the City  
483 legally available for this purpose, on or before the date due is provided in the Loan Agreement,  
484 the amounts necessary, together with money already in the Debt Service Account, to pay the  
485 principal of, premium, if any, and interest on the Bond as the same become due and payable.

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

490 Whenever and so long as the assets of the Debt Service Account are sufficient to provide  
491 money to pay when due a principal installment on the Bond in full, including such interest as

492 may be due thereon, no payments need be made into the Debt Service Account pursuant to this  
493 ordinance.

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

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

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

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



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

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

545 Any Qualified Letter of Credit or Qualified Insurance shall not be cancelable on less than  
546 30 days' notice to the City. In the event of any cancellation, the Reserve Account shall be funded  
547 as if the Covered Bonds that remain outstanding had been issued on the date of such notice of  
548 cancellation.

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

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

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

574 a business day) and on each June 30 (or on the preceding business day if June 30 does not fall on  
575 a business day).

576 (e) *Sufficiency of Revenues.* The Assembly hereby finds that in fixing the amounts to  
577 be paid into the Bond Fund and the accounts therein out of Gross Revenue, it has exercised due  
578 regard for the Operating Costs and has not obligated the City to set aside and pay into the Bond  
579 Fund and the accounts therein a greater amount of such Revenue than in its judgment will be  
580 available over and above the Operating Costs.

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

590 Section 10. Specific Covenants.

591 (a) *Rate Covenant.* The City will establish, maintain and collect moorage fees and  
592 other rates and charges for the use of the Harbor Facilities for so long as the Bond is outstanding  
593 that will provide in any fiscal year hereafter Net Revenue, taking into account (A) transfers from  
594 the Rate Stabilization Account in accordance with Section 8(c) and (B) any Fish Tax Receipts or  
595 other City funds deposited in the Harbor Enterprise Fund and available to pay debt service on  
596 Parity Bonds, in an amount equal to at least 125% of the Debt Service required to be paid in that  
597 fiscal year on the outstanding Parity Bonds.

598 The City shall cause the rate coverage calculation described in this Section 10(a) to be  
599 made no later than 90 days following the end of each fiscal year. Failure to collect Gross  
600 Revenue in any fiscal year sufficient to comply with the rate covenant set forth in this  
601 Section 11(a) will not constitute an Event of Default under this ordinance if, before the 180th day  
602 of the following fiscal year, the City:

603 (1) employs a Consultant to recommend changes in moorage fees and other  
604 rates and charges for the use of Harbor Facilities that are estimated to produce Gross Revenue  
605 sufficient to satisfy the rate covenant set forth in this Section 11(a); and

606 (2) imposes moorage fees and other rates and charges for the use of Harbor  
607 Facilities at least as high as those recommended by the Consultant that will become effective at  
608 the time or times so recommended.

609 (b) *Harbor Facilities Maintenance.* The City will at all times maintain and keep the  
610 Harbor Facilities in good repair, working order and condition, and also will at all times operate

611 the Harbor Facilities and the business in connection therewith in an efficient manner and at a  
612 reasonable cost.

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

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

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

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

632 (B) the Gross Revenue for the 12 months preceding such sale, lease,  
633 encumbrance or disposal from the portion of the Harbor Facilities sold, leased, encumbered or  
634 disposed of bears to the Gross Revenue for the same period; or

635 (C) the proportion of assets (on a depreciated basis) allocable to the  
636 assets being sold, leased, encumbered or disposed of bears to the total assets of the Harbor  
637 Facilities,

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

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

645 (d) *Books and Records.* The City will, while the Bond remains outstanding, keep  
646 proper and separate accounts and records in which complete and separate entries shall be made of  
647 all transactions relating to the Harbor Facilities, and it will furnish the registered owner of the  
648 Bond, at the written request of the owner, complete operating and income statements of the

649 Harbor Facilities in reasonable detail covering any fiscal year, showing compliance with the  
650 terms and conditions of this ordinance, not more than 150 days after the close of such fiscal year,  
651 and it will grant the owner of the Bond the right at all reasonable times to inspect the entire  
652 Harbor Facilities and all records, accounts and data of the City relating thereto. Upon request of  
653 the owner of the Bond, it will also furnish to the owner a copy of the most recently completed  
654 audit of the City's accounts by an independent certified public accountant.

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

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

669 Section 11. Issuing Future Parity Bonds.

670 (a) *No Senior Lien Bonds.* The City hereby covenants and agrees with the owner of  
671 the Bond that the City will hereafter issue no bonds with a lien on Gross Revenue superior to the  
672 lien thereon of the Bond.

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

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

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

683 (3) the City will have on file a certificate (dated no earlier than the date that is  
684 90 days prior to the date of issuance of the Future Parity Bonds) relating to Net Revenue, as  
685 described in subsection (c) or (d) below, except as otherwise permitted under subsection (e)  
686 below.

687 (c) *Certificate of the City Without A Consultant.* If required pursuant to  
688 subsection (b)(3) above, a certificate may be delivered by the City, executed by the Finance  
689 Director without a Consultant, showing that Net Revenue (which may be based on unaudited  
690 financial statements of the City if the audit has not yet been completed) for the Base Period plus  
691 any Fish Tax Receipts deposited in the Harbor Enterprise Fund during the Base Period that are  
692 available to pay Debt Service on Parity Bonds equals at least 125% of the maximum Annual  
693 Debt Service for all Parity Bonds then outstanding plus the proposed Future Parity Bonds.

694 (d) *Certificate of a Consultant.* If required pursuant to subsection (b)(3) above, a  
695 certificate of a Consultant may be delivered by the City showing that Net Revenue for the Base  
696 Period plus any Fish Tax Receipts deposited in the Harbor Enterprise Fund during the Base  
697 Period that are available to pay Debt Service on Parity Bonds, equals at least 125% of the  
698 maximum Annual Debt Service for all Parity Bonds then outstanding plus the proposed Future  
699 Parity Bonds. In computing Net Revenue for the purpose of this certificate, the Consultant shall  
700 use as a basis the Net Revenue (which may be based on unaudited financial statements of the  
701 City if the audit has not yet been completed) for the Base Period. Such Net Revenue may be  
702 adjusted to take into consideration changes in Net Revenue estimated to occur under one or more  
703 of the following conditions after delivery of the proposed Future Parity Bonds:

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

708 (2) any increase or decrease in Net Revenue estimated by such engineer or  
709 accountant to result from any additions, betterments and improvements to and extensions of any  
710 facilities of the Harbor Facilities that (a) became fully operational after the beginning of the Base  
711 Period, (b) were under construction at the time of such certificate, or (c) will be constructed from  
712 the proceeds of the Future Parity Bonds to be issued;

713 (3) the additional Net Revenue that would have been received if any  
714 customers added to the Harbor Facilities after the beginning of the Base Period had been  
715 customers for the entire period.

716 The Consultant shall base the certification upon, and the certificate shall have attached  
717 thereto, financial statements of the Harbor Facilities, certified by the Finance Director, showing  
718 income and expenses for the Base Period.

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

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

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

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

735 Section 12. Junior Lien Bonds. Nothing herein contained shall prevent the City from  
736 issuing revenue bonds or other obligations that are a charge upon the Gross Revenue junior or  
737 inferior to the payments required by this ordinance to be made out of such Revenue to pay and  
738 secure the payment of any outstanding Parity Bonds. Except for the Subordinated Note, such  
739 junior or subordinate obligations may not be subject to acceleration. This prohibition against  
740 acceleration does not prohibit mandatory tender or other tender provisions with respect to  
741 variable rate obligations.

742 Section 13. Tax Covenants.

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

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

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

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

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

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

771 The City further covenants that, if:

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

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

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

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

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

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

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

\$4,600,000

796

797

UNITED STATES OF AMERICA

798

799

STATE OF ALASKA

800

801

CITY AND BOROUGH OF SITKA

802

HARBOR FACILITIES REVENUE BOND, 2013

803

804 INTEREST RATE:

FINAL MATURITY DATE:

805 SEE BELOW

806 REGISTERED OWNER: ALASKA MUNICIPAL BOND BANK

807 PRINCIPAL AMOUNT: FOUR MILLION SIX HUNDRED THOUSAND AND NO/100  
808 DOLLARS

809 The City and Borough of Sitka, Alaska (the "City"), a municipal corporation organized  
810 and existing under and by virtue of its charter and the laws and Constitution of the State of  
811 Alaska, hereby acknowledges itself to owe and for value received promises to pay to the  
812 Registered Owner identified above, or registered assigns, the principal amount specified above,  
813 in installments payable as set forth below, together with interest on such installments from the  
814 date hereof or the most recent date to which interest has been paid or duly provided for, at the  
815 interest rates set forth below, on \_\_\_\_\_ 1, 20\_\_, and on each \_\_\_\_\_ 1 and \_\_\_\_\_ 1  
816 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		
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		

817

818 Both principal of and interest on this bond are payable solely from the special fund of the  
819 City known as the City and Borough of Sitka 2013 Harbor Facilities Parity Bond Redemption  
820 Fund (the "Bond Fund"). Payments of principal of and interest on this bond shall be made in  
821 lawful money of the United States of America. Installments of principal of and interest on this  
822 bond are payable by check or draft of the Finance Director of the City (the "Registrar") mailed on  
823 the date such interest is due to the Registered Owner at the address appearing on the Bond  
824 Register as of the fifteenth day of the month preceding the interest payment date. The final  
825 installment of principal of and interest on this bond shall be paid to the Registered Owner upon  
826 presentation and surrender of this bond at the office of the Registrar. Notwithstanding the  
827 foregoing, so long as the Bond Bank is the Registered Owner of this bond, payments of principal  
828 of and interest on this bond shall be made to the Bond Bank in accordance with the Loan  
829 Agreement.

830 This bond is issued pursuant to Ordinance No. 2013-\_\_\_\_\_, passed \_\_\_\_\_, 2013  
831 (the "Bond Ordinance"), to provide funds to finance the cost of capital improvements to Harbor

832 Facilities. Capitalized terms used in this bond and not otherwise defined herein shall have the  
833 meanings given such terms in the Bond Ordinance.

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

836 The City does hereby pledge and bind itself to set aside from the Harbor Facilities Harbor  
837 Enterprise Fund of the City created by the Bond Ordinance, and to pay into the Bond Fund and  
838 the Accounts therein, the various amounts required by the Bond Ordinance to be paid into and  
839 maintained in said Fund and Accounts, all within the times provided by the Bond Ordinance.  
840 The City has further pledged and bound itself to pay into the Harbor Enterprise Fund as collected,  
841 all Gross Revenue.

842 The amounts so pledged to be paid out of the Harbor Enterprise Fund into the Bond Fund  
843 and Accounts therein are hereby declared to be a prior lien and charge upon money in the Harbor  
844 Enterprise Fund superior to all other charges of any kind or nature except Operating Costs and  
845 equal in rank to the lien and charge on the money in the Bond Fund to pay and secure the  
846 payment of any Future Parity Bonds.

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

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

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

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

862 CITY AND BOROUGH OF SITKA,  
863 ALASKA

864  
865  
866 By \_\_\_\_\_ /s/  
867 Mayor

868 [SEAL]  
869

870 ATTEST:  
871  
872  
873 /s/ \_\_\_\_\_  
874 Clerk

875  
876 CERTIFICATE OF AUTHENTICATION

877  
878 Date of Authentication: \_\_\_\_\_

879 This is the City and Borough of Sitka, Alaska, Harbor Facilities Revenue Bond, 2013,  
880 dated \_\_\_\_\_, 2013, as described in the Bond Ordinance.

881  
882  
883 \_\_\_\_\_  
884 Finance Director, City and Borough of Sitka,  
885 Alaska, as Registrar

886  
887  
888 ASSIGNMENT

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

890  
891 \_\_\_\_\_  
892 \_\_\_\_\_  
893 PLEASE INSERT SOCIAL SECURITY OR TAXPAYER IDENTIFICATION NUMBER OF  
894 TRANSFEREE

895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911

(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

912 face of the within bond in every particular,  
913 without alteration or enlargement or any  
914 change whatever.  
915

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

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

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

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

939 Section 17. Application of Bond Proceeds. A special fund of the City known as the  
940 "ANB Harbor Replacement Project Fund, 2013" (the "Project Fund") is hereby authorized to be  
941 created in the office of the Finance Director. At the time of delivery of the Bond, proceeds of the  
942 Bond shall be deposited as follows:

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

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

947 (c) The remaining proceeds of the Bond shall be deposited in the Project Fund and  
948 used to pay costs of the Project and costs of issuance of the Bond.

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

953 Section 18. Sale of the Bond. The Finance Director is authorized to negotiate the sale  
954 of the Bond to the Bond Bank on terms and conditions consistent with this ordinance and the  
955 Bond Bank's loan approval to be set forth in a Loan Agreement by and between the City and the  
956 Bond Bank (a sample of which is set forth on Exhibit A attached hereto) and including the  
957 principal amounts, date, principal installment payment schedules, interest rates, and prepayment  
958 provisions, all as provided for in this ordinance, subject to the approval of the Municipal  
959 Administrator, which approval shall be evidenced by the Municipal Administrator's execution of  
960 the Loan Agreement. The proper officials of the City and their agents and representatives are  
961 hereby authorized and directed to do everything necessary for the prompt execution and delivery  
962 of the Bond to the Bond Bank in accordance with the provisions of this ordinance and the Loan  
963 Agreement.

964 Section 19. Events of Default.

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

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

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

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

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

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

985 (6) If an order, judgment or decree is entered by any court of competent  
986 jurisdiction: (a) appointing a receiver, trustee or liquidator for the City or the whole or any

987 substantial part of the Harbor Facilities; (b) approving a petition filed against the City seeking the  
988 bankruptcy, arrangement or reorganization of the City under any applicable law of the United  
989 States or the State of Alaska; or (c) assuming custody or control of the City or of the whole or  
990 any substantial part of the Harbor Facilities under the provisions of any other law for the relief or  
991 aid of debtors and such order, judgment or decree is not vacated or set aside or stayed (or, in case  
992 custody or control is assumed by said order, such custody or control is not otherwise terminated)  
993 within 90 days from the date of the entry of such order, judgment or decree; or

994 (7) If the City: (a) admits in writing its inability to pay its debts generally as  
995 they become due; (b) files a petition in bankruptcy or seeking a composition of indebtedness  
996 under any state or federal bankruptcy or insolvency law; (c) makes an assignment for the benefit  
997 of its creditors; (d) consents to the appointment of a receiver of the whole or any substantial part  
998 of the Harbor Facilities; or (e) consents to the assumption by any court of competent jurisdiction  
999 under the provisions of any other law for the relief or aid of debtors of custody or control of the  
1000 City or of the whole or any substantial part of the Harbor Facilities.

1001 Section 20. Remedies Available for an Event of Default.

1002 (a) *Waivers of Default.* No delay or omission of the owners of the Parity Bonds to  
1003 exercise any right or power arising upon the happening of an Event of Default shall impair any  
1004 right or power or shall be construed to be a waiver of any such Event of Default or to be an  
1005 acquiescence therein; and every power and remedy given by this Section to the owners of Parity  
1006 Bonds may be exercised from time to time and as often as may be deemed expedient by such  
1007 owners.

1008 The owners of not less than 66% in principal amount of the Parity Bonds at the time  
1009 outstanding (the "Majority Bondowners"), or their attorneys-in-fact duly authorized, may on  
1010 behalf of the owners of all of the Parity Bonds waive any past default under this ordinance and its  
1011 consequences, except a default in the payment of the principal of, premium, if any, or interest on  
1012 any of the Parity Bonds. No such waiver shall extend to any subsequent or other default or  
1013 impair any right consequent thereon.

1014 (b) *Suits at Law or in Equity.* The Majority Bondowners may, upon the happening of  
1015 an Event of Default, and during the continuance thereof, take such steps and institute such suits,  
1016 actions or other proceedings all as may be deemed appropriate for the protection and enforcement  
1017 of the rights of owners of the Parity Bonds to collect any amounts due and owing the City, or to  
1018 obtain other appropriate relief, and may enforce the specific performance of any covenant,  
1019 agreement or condition contained in this ordinance, or in any of the Parity Bonds.

1020 Any action, suit or other proceedings instituted by the Majority Bondowners hereunder  
1021 shall be brought in its name on behalf of all owners of the Parity Bonds, and all such rights of  
1022 action upon or under any of the Parity Bonds or the provisions of this ordinance may be enforced  
1023 by the Majority Bondowners without the possession of any of said Parity Bonds and without the  
1024 production of the same at any trial or proceedings relative thereto except where otherwise  
1025 required by law, and the respective owners of said Parity Bonds, by taking and holding the same,  
1026 shall be conclusively deemed irrevocably to appoint the Majority Bondowners the true and lawful

1027 trustee of the respective owners of the Parity Bonds, with authority to institute any such action,  
1028 suit or proceeding; to receive as trustee and deposit in trust any sums becoming distributable on  
1029 account of the Parity Bonds; to execute any paper or documents for the receipt of such money,  
1030 and to do all acts with respect thereto that the owner of a Parity Bond might have done in person.  
1031 Nothing herein contained shall be deemed to authorize or empower the Majority Bondowners to  
1032 consent to accept or adopt, on behalf of any owner of any Parity Bond, any plan or reorganization  
1033 or adjustment affecting the Parity Bonds or any right of any owner thereof, or to authorize or  
1034 empower the Majority Bondowners to vote the claims of the owners thereof in any receivership,  
1035 insolvency, liquidation, bankruptcy, reorganization or other proceeding to which the City shall be  
1036 a party.

1037 Nothing contained in this ordinance shall, in any event or under any circumstance, be  
1038 deemed to authorize the acceleration of maturity of principal on Parity Bonds outstanding, and  
1039 the remedy of acceleration is expressly denied to the owners of Parity Bonds outstanding under  
1040 any circumstances including, without limitation, upon the occurrence and continuance of an  
1041 Event of Default.

1042 (c) *Books of City Open to Inspection.* The City covenants that if an Event of Default  
1043 occurs and is not remedied, the books of record and account of the City will at all reasonable  
1044 times be subject to the inspection and use of the owners of any Parity Bonds.

1045 The City covenants that if an Event of Default happens and is not remedied, the City will  
1046 continue to account, as trustee of an express trust, for all Revenues of the System and other  
1047 money, securities and funds pledged under this ordinance.

1048 Section 21. Ongoing Disclosure. The City acknowledges that, under Rule 15c2-12 of  
1049 the Securities and Exchange Commission (the "Rule"), the City may now or in the future be an  
1050 "obligated person" with respect to the Bond Bank Bonds. In accordance with the Rule and as the  
1051 Bond Bank may require, the City shall undertake to provide certain annual financial information  
1052 and operating as shall be set forth in the Loan Agreement.

1053 Section 22. General Authorization; Prior Acts. The Mayor, Municipal Administrator,  
1054 Finance Director and Clerk of the City and any other appropriate officers of the City are each  
1055 hereby authorized and directed to take such steps, to do such other acts and things, and to execute  
1056 such letters, certificates, agreements, papers, financing statements, assignments or instruments as  
1057 in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions  
1058 of, and complete the transactions contemplated by, this ordinance. All acts taken pursuant to the  
1059 authority of this ordinance but prior to its effective date are hereby ratified and confirmed.

1060 Section 23. Severability. If any one or more of the covenants or agreements provided  
1061 in this ordinance to be performed on the part of the City shall be declared by any court of  
1062 competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or  
1063 agreements, shall be null and void and shall be deemed separable from the remaining covenants  
1064 and agreements of this ordinance and shall in no way affect the validity of the other provisions of  
1065 this ordinance or of the Bond.

1066

1067            Section 24.    Effective Date. This ordinance shall be in full force and effect 30 days  
1068 after its adoption by the Assembly.

1069            READ FOR THE FIRST TIME at a regular meeting of the Assembly held on  
1070 \_\_\_\_\_, 2013.

1071            PASSED AND APPROVED by the Assembly of the City and Borough of Sitka, Alaska,  
1072 on \_\_\_\_\_, 2013.

CITY AND BOROUGH OF SITKA,  
ALASKA

By \_\_\_\_\_  
Mayor

1078 ATTEST:  
1079  
1080 \_\_\_\_\_  
1081 Clerk  
1082



EXHIBIT A

[Attach here a sample of Bond Bank Loan Agreement]

CERTIFICATE

I, the undersigned, duly chosen, qualified and acting 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-\_\_\_\_\_ of the City (the "Ordinance"), as finally passed at a regular meeting of the Assembly held on \_\_\_\_\_, 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 \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Clerk, City and Borough of Sitka

**FORM OF  
LOAN AGREEMENT**

THIS AGREEMENT, dated as of the \_\_\_ day of \_\_\_\_\_ 20\_\_, 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 ("[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 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. 20\_\_-\_\_, approved on \_\_\_\_\_, 2011 (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.

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], duly authorized by [City's] [Borough's] [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 Obligation.

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 and that such fund shall be held in the name of the [City] [Borough] with the Loan Trustee.

13. 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.

14. 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.

15. 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.

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

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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 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> _____ 1	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
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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**