

Introduced by: Acting City Manager
Howell
Date: August 13, 2019
Action: Passed
Vote: 5-0

RESOLUTION NO. 19-10

A RESOLUTION OF THE CITY OF BETHEL, ALASKA, AUTHORIZING THE ISSUANCE OF A UTILITY REVENUE BOND OF THE CITY IN A PRINCIPAL AMOUNT NOT TO EXCEED \$8,250,000 TO FINANCE THE AVENUES WATER AND WASTEWATER UTILITY PROJECT; CREATING A LIEN ON NET REVENUES OF THE CITY'S WATER AND WASTEWATER UTILITY SYSTEM FOR THE PAYMENT OF THE BOND; PROVIDING FOR THE DATE, TERMS AND COVENANTS OF THE BOND; AND AUTHORIZING THE SALE OF THE BOND TO FIRST NATIONAL BANK ALASKA, PURSUANT TO THE TERMS AND CONDITIONS PROVIDED IN THIS RESOLUTION; AND RELATED MATTERS.

WHEREAS, the City of Bethel, Alaska (the "City"), a second class city organized under the Constitution and laws of the State, owns and operates a water and wastewater utility as a revenue producing enterprise (the "Municipal Utility"); and

WHEREAS, monthly facility charges assessed for Municipal Utility services is segregated from all other funds of the City and may be used to finance "The Avenues" water and wastewater project of the City subject to a majority vote of the City Council (the "Council"); and

WHEREAS, the Council wishes to authorize the issuance of a utility revenue bond (the "Bond") in a principal amount not to exceed \$8,250,000 to finance capital improvements to its Municipal Utility; and

WHEREAS, the City, under Section 29.47.420 of the Alaska Statutes, may issue revenue bonds for a public enterprise of the municipality where the only security is the revenue of the public enterprise; and

WHEREAS, Section 29.47.250 of the Alaska Statutes, provides that the issuance and sale of revenue bonds may be issued without an election; and

WHEREAS, it is necessary, and in the best interest of the City and its residents that the City provide for the issuance of the Bond to finance capital improvements to the Municipal Utility.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Bethel, Alaska, as follows:

Section 1. Definitions. As used in this resolution, the following words have the following meanings, unless a different meaning clearly appears from the context:

"Advances" means all advances of the purchase price of the Bond made by the Purchaser pursuant to Section 7 hereof.

"Authorized Denomination(s)" means \$250,000.00 or any greater amount in \$250,000.00 multiples thereof, or if the principal amount is at any time less than \$250,000.00, the principal amount of the outstanding Bond.

"Bond" means the City of Bethel, Alaska, Utility Revenue Bond, 2019, in a principal amount not to exceed \$8,250,000.

"Bondholder" means the Person who owns the Bond.

"Bond Fund" means the City of Bethel Utility Revenue Bond Fund created pursuant to Section 6 of this resolution to pay and secure the payment of the Bond.

"Bond Register" means the registration books for the Bond maintained by the Registrar, for the purpose of complying with the requirements of Section 149 of the Code and listing, inter alia, the names and addresses of the Registered Owner of the Bond.

"City" means the City of Bethel, Alaska, a second class municipal corporation duly organized and existing under the Constitution and laws of the State of Alaska.

"City Manager" means City Manager, or acting City Manager, of the City or the successor to the duties of that office.

"Code" means the Internal Revenue Code of 1986, as amended.

"Costs of Maintenance and Operation" means all necessary operating expenses, current maintenance expenses, expenses of reasonable upkeep and repairs, and insurance and reasonable administrative expense with respect to the Municipal Utility, but excludes depreciation, payments for debt service or into reserve accounts, costs of capital additions to or replacements of the Municipal Utility, municipal taxes, or payments to the City in lieu of taxes.

"Council" means the City Council of the City, the general legislative authority of the City, as duly constituted from time to time, or any successor body.

"Debt Service" means for any particular year and for the Bond, an amount equal to the sum of (i) all interest payable during such year on such bonds outstanding plus (ii) the Principal Installment or Principal Installments during such year on such bonds outstanding, calculated on the assumption that bonds outstanding on the day of calculation cease to be outstanding by reason of, but only by reason of, payment upon maturity, or earlier mandatory redemption, or payments into the Bond Fund, required by the ordinance or resolution authorizing issuance of such bonds.

"Debt Service Account" means the account of that name created within the Bond Fund pursuant to Section 6 of this resolution.

"Finance Director" means the Finance Director, or acting Finance Director, of the City or the successor to the duties of that office.

"Fiscal Year" means the Fiscal Year used by the City at any time. At the time of the passage of this resolution, the Fiscal Year is the twelve-month period beginning on July 1 and ending on June 30 of each year.

"Future Parity Bonds" means any revenue bonds of the City, other than the Parity Bonds, the principal of and interest on which are payable out of money in the Utility Revenue Fund on a parity with the payments required to be made from that Fund for the principal of and interest on the Bond.

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

"Municipal Utility" means the existing water and wastewater system of the City, as the same may be added to, improved and extended for as long as the Bond is outstanding.

"Municipal Utility Revenue Fund" means the fund of the City created by Section 5 of this resolution, into which fund all Revenues of the Municipal Utility must be paid.

"Net Revenues" means all Revenues less the Costs of Maintenance and Operations.

"Parity Bonds" means the City's Utility Revenue Refunding Bond, 2018, the Bond and any Future Parity Bonds.

"Person" means an individual, corporation, firm, association, partnership, limited liability company, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

"Principal Installment" means, as of any date of calculation and with respect to any series of Parity Bonds, the principal amount of such bonds due on a certain future date.

"Project" means the design, construction and equipping of certain delivery systems of the City's Municipal Utility and related costs.

"Project Fund" means the "Project Fund, 2019" created pursuant to Section 7 of this resolution.

"Purchaser" means First National Bank Alaska.

"Registrar" means the Finance Director or acting Finance Director, or her/his designee, for the purposes of registering and authenticating the Bond, maintaining the Bond Register, and paying principal of and interest on the Bond.

"Registered Owner" means the person in whose name the Bond is registered on the Bond Register, initially First National Bank Alaska.

"Revenues" means all gross earnings, revenue and money received from or on account of the operation of the Municipal Utility, including income from the investment of any funds of the Municipal Utility (but excluding income from investments irrevocably pledged to the payment of revenue bonds pursuant to a plan of defeasance or refunding).

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

Section 2. Authorization of the Bond. The City shall now issue and sell the Bond in an amount not to exceed \$8,250,000 principal amount, to finance costs of the Project, including costs of issuance of the Bond. The Bond shall be issued and sold to the Purchaser as a single bond, designated as the "City of Bethel, Alaska, Utility Revenue Bond, 2019." The Bond shall be issued as a "drawdown bond" to be funded over time as necessary to pay costs of the Project. The Bond will be dated as of the date of delivery of the Bond to the Purchaser, will mature on a date no later than forty-eight months from the date of delivery of the Bond, will be fully registered as to both principal and interest, will be identified in such manner as the Registrar shall determine, will bear interest at the rate or rates and be payable on the dates as established in accordance with Sections 14 and 18 hereof. The principal amount due under the terms of the Bond shall be paid on

maturity. Interest on the Bond will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Principal of, and interest on, the Bond, and all other amounts which may be payable in connection with the Bond, are payable solely from the Revenues of the Municipal Utility and neither the full faith and credit or taxing power of the City are pledged for their payment.

Section 3. Registration, Payment and Transfer. The Finance Director, or her/his designee, shall act as authenticating agent, transfer agent, paying agent and registrar for the Bond (collectively, the "Registrar"). Both principal of and interest on the Bond shall be payable in lawful money of the United States of America. Interest on the Bond shall be paid by check or draft of the Registrar mailed (on the date such interest is due) to the Registered Owner or nominee at the addresses appearing on the Bond Register on the fifteenth day of the month preceding each interest payment date. Principal of the Bond shall be payable upon presentation and surrender of the Bond to the Registrar by the Registered Owner or nominee at the office of the Registrar in Bethel, Alaska.

The Bond may be transferred only on the Bond Register maintained by the Registrar for that purpose upon the surrender thereof by the Registered Owner or nominee or its duly authorized agent and only if endorsed in the manner provided thereon, and thereupon a new fully registered Bond of Authorized Denomination, of equal principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor. Upon surrender thereof to the Registrar, the Bond is interchangeable for a bond or bonds of Authorized Denominations, of an equal aggregate principal amount and of the same interest rates and principal payment amounts as the Bond. Such transfer or exchange shall be without cost to the Registered Owner or transferee.

Notwithstanding the foregoing, the Bond may only be transferred in Authorized Denominations and must be in compliance with the securities laws of the United States of America and only to (i) an affiliate of the Purchaser, (ii) a trust or other custodial arrangement established by the Purchaser, the owners of the beneficial interests in which are limited to "qualified institutional buyers" as defined in Rule 144A promulgated under the Securities Act of 1933, as amended, or (iii) a person that is a qualified institutional buyer and a commercial bank having capital and surplus, determined as of the date of any transfer, of \$5,000,000,000 or more that has executed and delivered to the Purchaser and City an investor letter in the form of Exhibit A hereto. The persons and entities identified in clauses (i) and (ii) of the foregoing sentence shall be referred to as the "Eligible Transferee(s)." Notwithstanding the foregoing, if the principal amount of the outstanding Bond is less than \$250,000.00, the Bond may not be transferred to any Eligible Transferee without the prior written consent of City.

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

Section 4. Redemption Provisions.

(a) **Optional Redemption.** The Bond shall be subject to optional redemption by the City, in whole or in part, at any time, without penalty. If the Bond is redeemed in part, the portion of the Bond to be redeemed shall be in an Authorized Denomination or any multiple thereof.

(b) **Notice of Redemption.** Notice of redemption shall be given by the City not less than thirty (30) nor more than sixty (60) days prior to the date fixed for redemption by first class mail, postage prepaid, to the Registered Owner of the Bond at the address appearing on the Bond Register. The requirements of this section shall be deemed complied with when notice is mailed as herein provided, regardless of whether it is actually received by the owner of the Bond. Each official notice of redemption shall be dated and shall state: (i) the redemption date, (ii) the redemption price payable upon such optional redemption; (iii) if less than all of the principal amount outstanding is to be redeemed, the principal amount to be redeemed; (iv) that the interest on the Bond, or on the principal amount thereof to be redeemed, designated for redemption in such notice, shall cease to accrue from and after such redemption date; and (v) that on such date there will become due and payable on the Bond the principal amount thereof to be redeemed and the interest accrued on such principal amount to the redemption date. In the event of a partial redemption of the Bond, the Bondholder shall reflect the principal amount of the Bond being redeemed in the Table of Partial Redemptions attached to the Bond without further action.

Section 5. Municipal Utility Revenue Fund. There is hereby created and established a special fund of the City known as the "Municipal Utility Revenue Fund," which fund is hereby authorized to be continued so long as the Bond remains outstanding, into which fund is deposited as collected all Revenues of the Municipal Utility, except the interest earned and income derived from investments of money in a bond redemption fund and the accounts therein. The Municipal Utility Revenue Fund shall be held separate and apart from all other funds and accounts of the City, and the Revenues deposited in the Municipal Utility Revenue Fund shall be used only for the following purposes and in the following order of priority; provided, however, that any payments in lieu of taxes shall be subordinate to the payments required to be made into the Bond Fund out of the Municipal Utility Revenue Fund:

First, to pay the Costs of Maintenance and Operation;

Second, to make all payments required to be made into the Debt Service Account to pay interest on any Parity Bonds;

Third, to make all payments required to be made into the Debt Service Account to pay the principal of any Parity Bonds;

Fourth, to make all payments required to be made into a reserve account, if established;

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

Sixth, to retire by redemption or purchase in the open market any outstanding revenue bonds or revenue warrants of the City, to make necessary additions, betterments, improvements and repairs to or extensions and replacements of the Municipal Utility, or for any other lawful City purposes.

Section 6. Bond Fund.

(a) *Bond Fund and Accounts Therein.* A special fund of the City known as the "City of Bethel Municipal Utility Revenue Bond Fund" (the "Bond Fund"), was authorized to be created in the office of the Finance Director and is hereby authorized to be continued so long as Parity Bonds and Future Parity Bonds remain outstanding. The Bond Fund shall be drawn upon for the sole purpose of paying the principal of, premium, if any, and interest on Parity Bonds as the same shall become due and payable. The Debt Service Account has been established within the Bond Fund.

(b) *Payments into Debt Service Account.* The City hereby obligates and binds itself to set aside and pay into the Debt Service Account Net Revenues, on or before the date due, the amounts necessary to pay the principal of, premium, if any, and interest on the Parity Bonds as the same become due and payable.

Whenever and so long as the assets of the Debt Service Account are sufficient to provide money to pay when due the principal of, and interest on Parity Bonds in full, no payments need be made into the Debt Service Account pursuant to this resolution during any period in which such excess continues.

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

(c) *Lien of Bond.* The amounts pledged by this resolution to be paid out of the Municipal Utility Revenue Fund into the Bond Fund and the Debt Service Account are hereby declared to be a prior lien and charge upon all the money in the Municipal Utility

Revenue Fund superior to all other charges of any kind or nature, except the charges required to pay the Costs of Maintenance and Operation.

(d) *Due Regard.* The City, in fixing the amounts to be paid into the Bond Fund, has exercised due regard to the Costs of Maintenance and Operation of the Municipal Utility and the amounts necessary to pay the principal of and interest on the Parity Bonds.

Section 7. Application of Bond Proceeds. The City acknowledges and agrees that proceeds of the Bond will be disbursed in installments through the making of Advances by the Purchaser in accordance with the terms hereof. The date and amount of each Advance shall be noted on the Table of Advances attached to the Bond; provided, that the failure to record any such Advance on the Table of Advances shall not affect the Principal Amount due. In no event may the total amount of all Advances exceed \$8,250,000. Notwithstanding anything else herein contained, interest payable on the Bond shall be determined based on the outstanding principal amount of the Bond. Each Advance shall be made only upon the receipt by the Purchaser of a requisition and certificate, substantially in the form of Exhibit B hereto (each, a "Requisition") signed by the Finance Director or her/his designee and approved by the Purchaser and otherwise meeting the requirements and conditions of this resolution. The City acknowledges and agrees that the Purchaser shall not be obligated to make Advances except in accordance with the terms of this resolution.

A special fund of the City known as the "Utility Revenue Fund 2019" (the "Project Fund") is hereby authorized to be created in the office of the Finance Director. Proceeds of the Bond shall be deposited into the Project Fund and used to pay costs of the Project. Any amounts remaining in the Project Fund after all costs of the Project have been paid or reimbursed shall be deposited into the Bond Fund.

Section 8. Municipality Utility Covenants. The City hereby covenants with the registered owner of the Bond as follows:

(a) *Maintain in Good Order.* That it will at all times maintain and keep the Municipal Utility and all additions and improvements thereto and extensions thereof in good repair, working order and condition, and will from time to time make or cause to be made all necessary and proper repairs, renewals and replacements thereto so that the business carried on in connection therewith may be properly conducted. In addition, that it will at all times operate the Municipal Utility and the business in connection therewith in an efficient manner and at a reasonable cost.

(b) *Sale or Disposition.* That, so long as the Bond remains outstanding, it will not sell or otherwise dispose of all of the properties of the Municipal Utility unless provision is made for payment into the Bond Fund of a sum sufficient to pay the principal and interest of the outstanding Bond in accordance with the terms thereof.

(c) *Insurance.* That the City will at all times carry fire and extended coverage, commercial general liability and property damage and such other forms of insurance with responsible insurers and with policies payable to the City on such of the buildings, equipment, works, plants, facilities and properties of the Municipal Utility as are ordinarily carried by municipal or privately owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately owned utilities engaged in the operation of like systems, or it will self-insure or will participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the City, to protect the Municipal Utility and the owners of the Parity Bonds against loss.

(d) *No Free Service.* That it will not furnish Municipal Utility service to any customer whatsoever free of charge.

(e) *Use of funds held in the Utility Revenue Fund.* That the City will not expend amounts held in the Utility Revenue Fund for an extensions or betterments which are not economically sound and which will not contribute to the operation of the Municipal Utility in an efficient and economical manner unless such extensions or betterments are required by law or regulatory body having valid jurisdiction.

(f) *Books and Accounts.* That the City will keep and maintain proper books and accounts with respect to the operation of the Municipal Utility and that it will cause its books and accounts to be audited annually by a certified public accounts.

(g) *Litigation.* The City shall give notice to the Bondholder of any default under the terms of this resolution and material litigation or governmental proceedings relating to the Municipal Utility within thirty (30) days following notification of the City.

Section 9. Future Parity Bonds. The City hereby covenants and agrees with the owner of the Bond for as long as it remains outstanding that the City will not create any special fund or funds for the payment of any other utility revenue bonds that will rank on a parity with or have any priority over the payments out of the Municipal Utility Revenue Fund into the Bond Fund; except that it hereby reserves the right, for the purpose of refunding any outstanding bonds that have a lien upon the Revenues of the Municipal Utility and/or the money in the Municipal Utility Revenue Fund, or for the purpose of acquiring, constructing and installing additions and improvements to and extensions of and making necessary replacements or other capital improvements to the Municipal Utility or any of them, to issue Future Parity Bonds and to pay into the Bond Fund amounts from the Municipal Utility Revenue Fund sufficient to pay the principal of, premium, if any, and interest on such bonds, and to maintain an adequate reserve therefor, which payments may rank equally with the payments out of the Municipal Utility Revenue Fund into the Bond Fund, upon compliance with the following conditions:

(1) That at the time of the issuance of such Future Parity Bonds there is no deficiency in the Bond Fund or any accounts therein.

(2) The City may issue Future Parity Bonds if, at or prior to the delivery of such Future Parity Bonds, the Finance Director shall have certified that the Net Revenues for a period of any 12 consecutive months out of the 24 months immediately preceding the date of delivery of such proposed Future Parity Bonds equals at least 1.1 times maximum annual Debt Service on all Parity Bonds then outstanding, including the Future Parity Bonds proposed to be issued.

(3) Notwithstanding the foregoing requirements, if Future Parity Bonds are to be issued for the purpose of refunding at or prior to their maturity any part or all of the then outstanding Parity Bonds and the issuance of such refunding bonds results in a debt service savings, the certificate or certificates required by subsection (2) of this section need not be obtained.

Section 10. Junior Lien Bond. Other than as set forth in Section 11 below, nothing contained in this resolution shall prevent the City from issuing utility revenue bonds or warrants that are a charge upon the Revenues of the Municipal Utility or the money in the Municipal Utility Revenue Fund junior, subordinate or inferior to the payments to be made into the Bond Fund, or from issuing such bonds or warrants to refund maturing bonds or warrants for the payment of which money is not otherwise available.

Section 11. Additional Debt. Notwithstanding anything contrary set forth in this resolution, for so long as the Bond is outstanding, the City shall not incur any additional debt or debt or obligation (other than in the ordinary course of business and consistent with past practice) or issue bonds or warrants that are secured by a pledge of or a charge upon Net Revenues, the Municipal Utility or the Municipal Utility Revenue Fund without the prior written consent of the Bondholder. Notwithstanding the foregoing, refunding bonds may be issued without the prior written consent of the Bondholder so long as proceeds of such refunding bond are applied to redeem the Bond is full.

Section 12. Defeasance. If money and/or Government Obligations, maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to redeem and retire the Bond or a portion thereof (in Authorized Denominations) in accordance with its terms, are set aside in a special account to effect such prepayment and retirement, and such money and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund for the payment of the principal of and interest on the Bond or portion thereof so provided for, and the Bond or portion thereof shall cease to be entitled to any lien, benefit or security of this resolution except the right to receive the money so set aside and pledged, and the Bond or portion thereof shall be deemed not to be outstanding hereunder.

Section 13. Lost or Destroyed Bond. If the Bond is lost, stolen or destroyed, the Registrar may authenticate and deliver a new Bond of like amount, date, and tenor to the Registered Owner upon such owner's paying the expenses and charges of the City in connection with preparation and authentication of the replacement Bond and upon his or

her filing with the Registrar evidence satisfactory to the Registrar that the Bond was actually lost, stolen or destroyed and of his or her ownership, and upon furnishing the City with indemnity satisfactory to the Registrar.

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

No. R-1

Not to Exceed \$8,250,000

UNITED STATES OF AMERICA
STATE OF ALASKA

CITY OF BETHEL
UTILITY REVENUE BOND, 2019
("Drawdown Bond")

INTEREST RATE: _____

FINAL MATURITY DATE: _____

SEE BELOW

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: Eight Million Two Hundred Fifty Thousand and 00/100 Dollars
(\$8,250,000.00)

The City of Bethel, Alaska (the "City"), a municipal corporation organized and existing under and by the laws and Constitution of the State of Alaska, hereby acknowledges itself to owe and for value received promises to pay (but only out of the Revenues, as defined in the Bond Resolution hereinafter mentioned) to the Registered Owner identified above, or registered assigns, the principal amount specified above (subject to terms and conditions herein described), together with accrued interest thereon. Principal amounts outstanding under the terms this Bond shall bear interest at a fixed rate of interest equal to _____ percent per annum (the "Applicable Rate").

Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest on this Bond shall be payable monthly following initial disbursement of Bond proceeds to the City. Interest shall only accrue on the outstanding principal amount of the Bond during each month, determined as the sum of all Advances as reflected on the Table of Advances attached to this Bond, less any redemptions of Bond as reflected on the Table of Partial Redemptions attached to this Bond. Interest shall be payable monthly on the 5th business day following the end of the prior month, until _____ 1, 2023, when the outstanding principal balance of this Bond, plus accrued but unpaid interest, shall be due and payable.

This bond is a drawdown bond; draws are permitted up to the face amount of this bond beginning on the date hereof through _____, 2023, for payment of Municipal Utility capital improvements.

Principal of, interest, and premium, if any, on this Bond are payable solely out of the special fund of the City known as the "City of Bethel Utility Revenue Bond Fund" (the "Bond Fund") created and established by Resolution No. 19-__ of the City. Both principal of and interest on this Bond are payable in lawful money of the United States of America by check or draft of the Finance Director of the City as registrar and paying agent for this Bond (the "Registrar"). Upon final payment of all principal of and interest on this Bond, this Bond shall be submitted to the Registrar for cancellation and surrender.

THIS BOND IS A SPECIAL AND LIMITED OBLIGATION OF THE CITY PAYABLE SOLELY FROM AND SECURED BY A LIEN ON REVENUES DERIVED FROM THE CITY'S MUNICIPAL UTILITY. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THIS BOND.

This Bond is issued pursuant to Resolution No. 19-__, passed by the City Council on _____, 2019 (the "Bond Resolution"), to finance capital costs of the City's Municipal Utility delivery system and related costs. Capitalized terms used in this Bond and not otherwise defined herein shall have the meanings assigned those terms in the Bond Resolution.

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

The amounts so pledged to be paid out of the Municipal Utility Revenue Fund into the Bond Fund and Accounts are hereby declared to be a prior lien and charge upon the money in the Municipal Utility Revenue Fund superior to all other charges of any kind or nature except the Costs of Maintenance and Operation of the Municipal Utility and equal in rank to the charges on the money in the Bond Fund to pay and secure the payment of the Bond and Parity Bonds outstanding and payable equally and ratably and without preference or distinction as between different series, installments or maturities.

This Bond is subject to optional redemption as set forth in the Bond Resolution.

The obligations of the City under the Bond Resolution may be discharged upon the defeasance of this bond on the terms and conditions set forth in the Bond Resolution.

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

THIS BOND MAY ONLY BE TRANSFERRED IN AUTHORIZED DENOMINATIONS TO (I) AN AFFILIATE OF PURCHASER, (II) A TRUST OR OTHER CUSTODIAL ARRANGEMENT ESTABLISHED BY PURCHASER OR ONE OF ITS AFFILIATES, THE OWNERS OF THE BENEFICIAL INTERESTS IN WHICH ARE LIMITED TO "QUALIFIED INSTITUTIONAL BUYERS" AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (III) A PERSON THAT IS A QUALIFIED INSTITUTIONAL BUYER AND A COMMERCIAL BANK HAVING CAPITAL AND SURPLUS, DETERMINED AS OF THE DATE OF ANY TRANSFER, OF \$50,000,000 OR MORE THAT HAS EXECUTED AND DELIVERED TO PURCHASER AND CITY INVESTOR LETTERS IN THE FORM OF EXHIBIT A TO THE BOND RESOLUTION. THE PERSONS AND ENTITIES IDENTIFIED IN CLAUSES (I) AND (II) OF THE FOREGOING SENTENCE SHALL BE REFERRED TO AS THE "ELIGIBLE TRANSFEREE(S)." NOTWITHSTANDING THE FOREGOING, IF THE PRINCIPAL AMOUNT OF THE OUTSTANDING BOND IS LESS THAN \$250,000, THE BOND MAY NOT BE TRANSFERRED TO ANY ELIGIBLE TRANSFEREE WITHOUT THE PRIOR WRITTEN CONSENT OF THE CITY.

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

IN WITNESS WHEREOF, the City of Bethel, Alaska, has caused this Bond to be signed on behalf of the City with the manual or facsimile signature of the City Manager, to be attested by the manual or facsimile signature of the Clerk, and the seal of the City to be imprinted or impressed hereon, as of this ___ day of _____, 2019.

CITY OF BETHEL, ALASKA

By _____ /s/ _____
City Manager

[SEAL]

ATTEST:

_____/s/_____
Clerk

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

This is the City of Bethel, Alaska, Utility Revenue Bond, 2019 dated _____, 2019, as described in the Bond Resolution.

City of Bethel, Alaska, as Registrar

ASSIGNMENT

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

PLEASE INSERT SOCIAL SECURITY OR TAXPAYER IDENTIFICATION NUMBER OF TRANSFEREE

[Empty rectangular box for Social Security or Taxpayer Identification Number]

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

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

DATED: _____, _____.

SIGNATURE GUARANTEED:

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

Only a Bond that bears a Certificate of Authentication in the form set forth in Section 12 hereof, manually executed by the Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this resolution. The executed Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated, registered, and delivered hereunder and is entitled to the benefits of this resolution.

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

Section 16. Covenants and Agreements of the City.

(a) In addition to any other covenants and agreements of the City contained in this resolution, the City further covenants and agrees that no placement agent shall be involved in the sale of the Bond and that the Bond shall not be (i) assigned a rating by any credit rating agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) offered for sell pursuant to any type of offering document or official statement, or (iv) assigned a CUSIP number by Standard & Poor's CUSIP Service.

(b) The City shall furnish the Purchaser with a copy of each of the following: (i) as soon as available, and in any event within 210 days after the close of each Fiscal Year of the City, the audited financial statements of the City which shall be certified to the City by a certified public accountant as (A) having been prepared in accordance with GAAP (applied on a basis consistent with that of the preceding Fiscal Year) and (B) fairly presenting the financial condition of the City as of the end of such Fiscal Year and reflecting its operations during such Fiscal Year and (C) showing all material liabilities, direct or contingent, and disclosing the existence of any off-balance sheet liability, and shall include, without limitation, balance sheets, profit and loss statements and statements of cash flows, together with notes and supporting schedules, all on a consolidated and consolidating basis and in reasonable detail and including a copy of any management letter or audit report provided to the City by such certified public accountant; (ii) as soon as available and in any event within 45 days of the beginning of each Fiscal Year, the annual operating budget of the City for such upcoming Fiscal Year. The operating budget shall include all amounts expected to be payable to the Bondholder in connection with the Bond in such Fiscal Year. Additionally, promptly after the adoption thereof, any amendments to the annual operating budget which may have an impact on any amount expected to be payable to the Bondholder; and (iii) as soon as available, a

copy of each interim wastewater utility project inspection report, minutes of each project meeting, if any, and USDA disbursement approvals during the course of construction of the City's wastewater utility project.

(c) The City agrees that it shall use proceeds of the United States Department of Agriculture long term funding of Utility improvements to refund the Bond.

(d) The City agrees that, for the term of the Bond, the Bondholder shall receive the benefit of all existing and subsequent covenants, defaults and remedies made by the City with respect to Parity Bonds.

Section 17. Sale of the Bond. The City Manager and Finance Director are each authorized to complete the sale of the Bond to the Purchaser on terms and conditions consistent with this resolution.

The City Manager and Finance Director are each hereby authorized to approve the final maturity date and interest rate on the Bond; provided, however, the true interest cost on the Bond shall not exceed five percent (5.0%).

Section 18. General Authorization; Prior Acts. The Mayor, City Manager, Finance Director, City Attorney, City Clerk, and other appropriate officers of the City are each hereby authorized and directed to take such steps, to do such other acts and things, and to execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this resolution. The City Manager is hereby authorized to execute the Bond on behalf of the City. All acts taken pursuant to the authority of this resolution but prior to its effective date are hereby ratified and confirmed.

Section 19. Event of Default.

(a) The term "Event of Default" shall mean any one or more of the following events:

- i. Failure by the City to make any payment required to be paid hereunder;
- ii. Any representation or warranty made by or on behalf of the City contained in this resolution or in any instrument furnished in compliance with this resolution proves false or misleading in any material respect as of the date of the making or furnishing thereof;
- iii. Failure by the City to observe or perform any of its other covenants, conditions, payments or agreements under this resolution or the Bond for a period of thirty (30) days after receipt of written notice,

specifying such failure and requesting that it be remedied, is given to the City by the Bondholder;

- iv. The City shall (A) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, assignee, sequestrator, trustee, liquidator or similar official of the Borrower of all or a substantial part of its property, (B) admit in writing its inability, or be generally unable, to pay its debts as such debts become due, (C) make a general assignment for the benefit of its creditors, (D) commence a voluntary case under the Bankruptcy Code (as now or hereafter in effect), (E) file a petition seeking to take advantage of any other federal or state law relating to bankruptcy, insolvency, reorganization, arrangement, winding up or composition or adjustment of debts, (F) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against the Borrower in an involuntary case under the Bankruptcy Code, or (G) take any corporate action for the purpose of effecting any of the foregoing; or
- v. A proceeding or case shall be commenced, without the application or consent of the City, in any court of competent jurisdiction, seeking (A) the liquidation, reorganization, arrangement, dissolution, winding up, composition or adjustment of the City's utility debts, (B) the appointment of a trustee, receiver, custodian, assignee, sequestrator, liquidator or similar official of the Borrower or of all or any substantial part of its assets, or (C) similar relief in respect of the Borrower under any law relating to bankruptcy, insolvency, reorganization, arrangement, winding up, composition or adjustment of debts or an order for relief against the City shall be entered in an involuntary case under the Bankruptcy Code.

(b) Rights and Remedies.

Upon the occurrence of an Event of Default, the Bondholder (A) may cure any default, event of default or event of nonperformance under this resolution or the Bond (in which event the City shall reimburse the Bondholder therefor); and (B) may proceed to protect its rights by suit in equity, action at law or other appropriate proceedings, whether for specific performance of any covenant or agreement of the City herein contained or in and of the exercise of any power or remedy granted to the Bondholder hereunder. The rights and remedies of the Bondholder specified herein are for the sole and exclusive benefit, use and protection of the Bondholder, and the Bondholder is entitled, but shall have no duty or obligation to the City or otherwise, (I) to exercise or to refrain from exercising any right or remedy reserved to the Bondholder, or (II) to cause

any other party to exercise or to refrain from exercising any right or remedy available to it under this resolution.

(c) Application of Moneys.

All of the moneys realized through the exercise of the remedies provided in Subsection (b)(i) shall be used to pay principal of and interest on the Bond then due or overdue and costs incurred in the collection thereof (including reasonable attorneys' fees). If the available moneys are not sufficient on any payment date to pay principal of and interest on the Bond then due or overdue and costs incurred in the collection thereof (including reasonable attorneys' fees), they shall be applied first to the payment of costs incurred in the collection thereof (including reasonable attorneys' fees), second to interest then due on the Bond, in the order of maturity of the installments of such interest, and third to the payment of the unpaid principal of the Bond which shall have become due, by reason of maturity, redemption, acceleration or otherwise.

(d) No Waiver; Remedies.

No failure on the part of the Bondholder to exercise, and no delay in exercising, any right, power or privilege under this resolution shall operate as a waiver of such right, power or privilege; nor shall any single or partial exercise of any right, power or privilege under this resolution preclude any other further exercise of such right, power or privilege or the exercise of any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law or which the Bondholder would otherwise have.

Section 20. General Authorization, Prior Acts. The Mayor, City Manager, Finance Director, City Attorney, City Clerk, and other appropriate officers of the City are each hereby authorized and directed to take such steps, to do such other acts and things, and to execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this resolution. All acts taken pursuant to the authority of this resolution but prior to its effective date are hereby ratified and confirmed.

Section 21. Severability. If any one or more of the covenants or agreements provided in this resolution to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this resolution and shall in no way affect the validity of the other provisions of this resolution or of the Bond.

Section 22. Tax Covenants. If the Bond is issued on a tax-exempt basis, the City covenants to comply with any and all applicable requirements set forth in the Internal Revenue Code of 1986, as amended, and all applicable Treasury Regulations, in effect

from time to time to the extent that such compliance shall be necessary for the exclusion of the interest on the Bond from gross income for federal income tax purposes. If the Bond is issued on a tax-exempt basis, the City covenants that it will make no use of the proceeds of the Bond that will cause the Bond to be an "arbitrage bonds" subject to federal income taxation by reason of Section 148 of the Code and that it will not take or permit any action that would cause the Bond to be "private activity bonds" as defined in Section 141 of the Code.

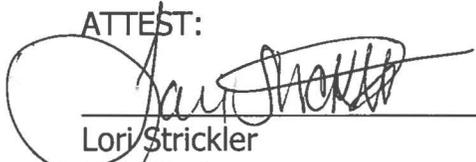
In addition, if the Bond is issued on a tax-exempt basis, the City will include in a federal tax certificate written procedures to facilitate post-issuance compliance with federal tax covenants therein stated.

Section 23. Effective Date. This resolution shall be in full force and effect immediately upon passage by the Council and publication.

PASSED AND APPROVED by the City Council of the City of Bethel, Alaska, at a regular meeting of the Council held on August 13, 2019.



Thor Williams, Vice-Mayor

ATTEST:


Lori Strickler
City Clerk

EXHIBIT A
FORM OF INVESTOR LETTER

The undersigned, an authorized representative of the Purchaser, hereby represents to the City of Bethel, Alaska ("Issuer"):

1. The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Issuer's Utility Revenue Bond, 2019 ("Bond").

2. The Purchaser has authority to purchase the Bond and to execute this letter and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Bond.

3. The undersigned is a duly appointed, qualified and acting representative of the Purchaser and is authorized to cause the Purchaser to make the certifications, representations and warranties contained herein by execution of this letter on behalf of the Purchaser.

4. The Purchaser understands that no official statement, prospectus, offering circular, or other comprehensive offering statement is being provided with respect to the Bond. The Purchaser has made its own inquiry and analysis with respect to the Issuer, the Bond and the security therefor, and other material factors affecting the security for and payment of the Bond.

5. The Purchaser acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, regarding the Issuer, to which a reasonable investor would attach significance in making investment decisions, and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Issuer, the Bond and the security therefor, so that as a reasonable investor, it has been able to make its decision to purchase the Bond.

6. The Purchaser understands that the Bond (i) is not registered under the 1933 Act and is not registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (ii) is not listed on any stock or other securities exchange, and (iii) carries no rating from any credit rating agency.

7. The Bond is being acquired by the Purchaser for investment for its own account and not with a present view toward resale or distribution; provided, however, that the Purchaser reserves the right to sell, transfer or redistribute the Bond, but agrees that any such sale, transfer or distribution by the Purchaser shall be to a Person:

(a) that is an affiliate of First National Bank Alaska;

(b) that is a trust or other custodial arrangement established by First National Bank Alaska or one of its affiliates, the owners of any beneficial interest in which are limited to qualified institutional buyers or accredited investors; or

(c) that is a qualified institutional buyer and a commercial bank having capital and surplus of \$5,000,000,000 or more.

8. Notwithstanding the foregoing, the Bond may not be transferred to any eligible transferee if the outstanding principal is less than \$250,000 without the prior written consent of the Issuer.

By _____

Name _____

Title _____

EXHIBIT B
FORM OF REQUISITION

\$ _____

Requisition No. _____

REQUISITION AND CERTIFICATE

[DATE]

[ADDRESS]

Ladies and Gentlemen:

On behalf of the City of Bethel, Alaska (the "City"), I hereby requisition from the funds representing the proceeds of the sale of the City's Utility Revenue Bond, 2019 (the "Bond"), and dated [DATE], which funds have been or are to be deposited in the City's Project Fund as described in Section 7 of the Bond Resolution, approved by the City's Council on [DATE] (the "Resolution") of the City, the sum of \$ _____ to be paid to the person or persons indicated below:

(1) \$ _____ for _____

_____ payable to _____, and

(2) \$ _____ for _____

_____ payable to _____.

I hereby certify that (a) the obligation to make such payment was incurred by the City in connection with the water and wastewater utility project, is a proper charge against the costs of such project, and has not been the basis for any prior requisition which has been paid; (b) to the City's knowledge, it has not received written notice of any lien, right to lien or attachment upon, or claim affecting the right of such payee to receive payment of, any of the money payable under this requisition to any of the persons, firms or corporations named herein, or if any notice of any such lien, attachment or claim has been received such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of this requisition; (c) this requisition contains no items representing payment on account of any retained percentages which the City is entitled to retain at this date; and (d) no "Event of Default," or event which after notice or lapse of time or both would constitute such an "Event of Default" has occurred and not been waived.

Capitalized terms used in this requisition and certificate and not defined herein shall have the meanings assigned thereto in the Resolution.

City Representative

APPROVED this ____ day of _____, _____.

_____, as Purchaser

By: _____

Name: _____

Title: _____

CERTIFICATE

I, the undersigned, duly chosen, qualified and acting City Clerk of the City of Bethel, Alaska (the "City") and keeper of the records of the City Council of the City (the "Council"), DO HEREBY CERTIFY:

1. That the attached is a true and correct copy of Resolution No. 19-__ of the Council (the "Resolution"), as adopted at a regular meeting of the Council held on _____, 2019, 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 Council was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of the Resolution; that all other requirements and proceedings incident to the proper passage of said Resolution 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 _____, 2019.

City Clerk, City of Bethel

CITY OF BETHEL, ALASKA

RESOLUTION NO. 19-__

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