

CITY OF BETHEL, ALASKA

RESOLUTION NO. 198

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A LOAN AGREEMENT WITH THE ALASKA MUNICIPAL BOND BANK AUTHORITY PROVIDING FOR THE ISSUANCE OF SALE OF NOT TO EXCEED \$795,000 OF GENERAL OBLIGATION BONDS TO SAID AUTHORITY.

WHEREAS, at a Special Municipal Election held in the City of Bethel, Alaska on May 17, 1977, pursuant to Ordinance No. 96, passed and approved April 21, 1977, the provisions of the Code of Ordinances of the City of Bethel, and other proceedings of Council duly and regularly had, the qualified electors of the City authorized the issuance of general obligation bonds of the City in the total principal sum of not to exceed \$795,000 for the purpose of paying the cost of planning, designing, constructing and equipping the Bethel Court Building in the City of Bethel, Alaska, and

WHEREAS, the Board of Directors of the Alaska Municipal Bond Bank Authority has authorized said Authority to enter into a Loan Agreement with the City of Bethel and to purchase the City's general obligation bonds in the principal amount of \$795,000 to provide funds for paying the costs of planning, designing, constructing and equipping the Bethel Court Building in the City of Bethel, Alaska, and

WHEREAS, it is deemed necessary and in the best interest of the City and its inhabitants that said \$795,000 of Bethel Court Building bonds be issued and sold by negotiated bid to the said Authority,

THEREFORE BE IT RESOLVED by the City Council of the City of Bethel, Alaska, that:

SECTION 1. The City Manager be, and he hereby is, authorized and directed to enter into a Loan Agreement, with the Alaska Municipal Bond Bank Authority providing for a loan in the sum not to exceed \$795,000 for Bethel Court Building purposes and the issuance of its general obligation bonds authorized by the qualified electors of the City at a Special Municipal Election held in the City of Bethel on May 17, 1977, pursuant to Ordinance No. 96, passed and approved on April 21, 1977.

SECTION 2. Said Loan Agreement shall be substantially in the form of the Loan Agreement attached hereto and marked "Exhibit A" and shall be consistent with the provisions of Ordinance No. 99 and the approval given by the electors at the Special Municipal Election on May 17, 1977.


SECTION 3. After execution of said Loan Agreement by the proper officials of the City of Bethel and the Alaska Municipal Bond Bank Authority, the City will enact an Ordinance providing for the issuance and sale of its Bethel Court Building general obligation bonds in an amount not to exceed \$795,000 to the said authority in accordance with the terms of said Loan Agreement.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE
CITY OF BETHEL, ALASKA, THIS 26th DAY OF MAY, 1977.

CITY OF BETHEL, ALASKA.



MAYOR



ATTEST: City Clerk

EXHIBIT "A"

PROPOSED FORM OF LOAN AGREEMENT

Agreement, dated the ___ day of _____, 1976, between the Alaska Municipal Bond Bank Authority, a body corporate and politic constituted as an instrumentality of the State of Alaska exercising public and essential governmental functions (hereinafter referred to as the "Authority"), created pursuant to the provisions of Chapter 58, Title 44, Alaska Statutes, as amended, (hereinafter referred to as the "Act"), having its principal place of business at Anchorage, Alaska, and _____, a duly constituted political subdivision of the State (hereinafter referred to as the "Municipality"):

WITNESSETH:

Whereas, pursuant to the Act, the Authority is authorized to make loans of money (hereinafter referred to as the "Loan" or "Loans") to governmental units; and

Whereas, the Municipality is a Governmental Unit as defined in the General Bond Resolution of the Authority hereinafter mentioned and pursuant to the Act is authorized to accept a Loan from the Authority to be evidenced by its municipal bonds purchased by the Authority; and

Whereas, the Municipality is desirous of borrowing money from the Authority in the amount of \$ _____ and has submitted an application to the Authority for a Loan in such amount and the Municipality has duly authorized the issuance of serial bonds in the principal amount of \$ _____ of which serial bonds in the amount of \$ _____ (the "Municipal Bonds") are to be purchased by the Authority as evidence of the Loan in accordance with this Agreement; and

Whereas, the application of the Municipality contains the information required by the Authority; and

Whereas, to provide for the issuance of bonds of the Authority in order to obtain from time to time monies with which to make such Loans, the Authority has adopted the General Bond Resolution on May 27, 1976 (herein referred to as the "Bond Resolution") and will adopt a resolution authorizing the making of such Loan to the Municipality and the purchase of the Municipal Bonds,

NOW, THEREFORE, the parties agree:

1. The Authority hereby makes the Loan and the Municipality accepts the Loan in the amount of \$ _____. As evidence of the Loan made to the Municipality and such money borrowed from the Authority by the Municipality, the Municipality hereby sells to the Authority the Municipal Bonds in the amount of \$ _____. The Municipal Bonds shall bear interest from the date of their delivery to the Authority at such rate or rates per annum as will result in an interest cost rate to the Municipality of _____ per centum (____%) [as calculated by the "IBA" or "Interest Cost per Annum" method] or at such rate or rates per annum as will result in a lesser interest cost rate to the Municipality (or, if stated thereon, the rates per annum stated on Exhibit A appended hereto). The interest cost rate for purposes of this Loan Agreement will be computed without regard to Section 3 and 4 hereof which require that the Municipality make funds available to the Trustee acting under the Bond Resolution for the payment of principal and interest at least _____ business days prior to each respective principal and interest payment date. Subject to any applicable legal limitations, the rate or rates of interest borne by the Municipal Bonds shall be the same rate or rates of interest borne by the bonds sold by the Authority (for corresponding maturities) in order to obtain the monies with which to make the Loan and to purchase the Municipal Bonds.
2. The Municipality has duly adopted or will adopt all necessary ordinances and resolutions and has taken or will take all proceedings required by law to enable it to enter into this Loan Agreement and issue its binding obligations to the Authority.

3. The amount to be paid by the Municipality pursuant to this Loan Agreement representing interest due on its Municipal Bonds (hereinafter referred to as the "Municipal Bonds Interest Payments") shall be not less than the interest the Authority is required to pay on the bonds issued by the Authority to obtain the funds from which this Loan is made and shall be scheduled by the Authority in such manner and at such times (notwithstanding the dates of payment as stated in the Municipal Bonds) as to provide funds sufficient to pay interest as the same becomes due or the proportionate amount of bonds issued by the Authority for the purpose of obtaining funds to make the loan to the Municipality (hereinafter referred to as the "Municipality's Loan Obligation") and the Municipality shall make such funds available to the Trustee acting under the Bond Resolution at least ____ business days prior to each interest payment date.

4. The amount to be paid by the Municipality pursuant to this Loan Agreement representing principal due on its Municipal Bonds (hereinafter referred to as the "Municipal Bonds Principal Payments") shall be scheduled by the Authority in such manner and at such times (notwithstanding the dates of payment as stated in the Municipal Bonds) as to provide funds sufficient to pay the principal of the Municipality's Loan Obligation as the same matures (based upon the maturity schedule provided by and for the Municipality and appended hereto as Exhibit A) and the Municipality shall make such funds available to the Trustee acting under the Bond Resolution at least ____ business days prior to each principal payment date. In the event the amounts referred to in paragraphs (3) and (4) to be paid by the Municipality pursuant to this Loan Agreement are not made available at any time specified therein, the Municipality agrees that any money payable to it by any department or agency of the State be withheld from it and paid over directly to the Trustee acting under the Bond Resolution and this Agreement shall be full warrant, authority and direction to make such payment to any official of the State responsible for such payment upon notice to such official by the Authority as provided in the Act.

5. The Municipality is obligated to pay Fees and Charges to the Authority. Such Fees and Charges actually collected from the Municipality shall be in an amount sufficient, together with the Municipality's Allocable Proportion of other monies available therefor under the provisions of the Bond Resolution, and other monies 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 paragraph (3) of Section 603:

(a) to pay, as the same become due, the Municipality's Allocable Proportion of the Administrative Expenses (as defined in the Bond Resolution) of the Authority; and

(b) to pay, as the same become due, the Municipality's Allocable Proportion of the fees and expenses of the trustee and paying agents for the bonds of the Authority.

Municipality's Allocable Proportion as used herein shall mean the proportionate amount of the total requirement in respect of which the term is used determined by the ratio that the total of the Municipality's Loan Obligation outstanding bears to the total of that portion of the bonds issued by the Authority to obtain funds with which to make loans which are outstanding as certified by the Authority.

6. The Municipality is obligated to make the Municipal Bonds Principal Payments scheduled by the Authority on an annual basis and is obligated to make the Municipal Bonds Interest Payments scheduled by the Authority and to pay the Fees and Charges imposed by the Authority on a semi-annual basis.

7. The Authority shall not sell and the Municipality shall not redeem prior to maturity any of the Municipal Bonds with respect to which the Loan is made in an amount greater than the bonds sold by the Authority to obtain the funds from which the Loan is made 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 Municipality's Loan Obligation so to be redeemed, (ii) the interest to accrue on the Municipality's Loan Obligation so to be redeemed to the next redemption date thereof not previously paid, (iii) the applicable premium, if any, payable on the Municipality's Loan Obligation so to be redeemed, and (iv) the costs and expenses of the Authority in effecting the redemption of the Municipality's Loan Obligation so to be redeemed; provided, however, that, in the event the bonds of the Authority issued to provide the funds with which the Authority made the Loan under this Loan Agreement with respect to which the sale or redemption prior to maturity of such Municipal Bonds is being made (herein called the "Authority Loan Obligation") have been refunded and the refunding bonds of the Authority issued for the purpose of refunding such Authority Loan Obligations were issued in a principal amount in excess of or less than the Municipality's Loan Obligation remaining unpaid at the date of issuance of such refunding bonds, the amount which the Municipality shall be obligated to pay or the Authority shall receive under item (i) above shall be the principal amount of such refunding bonds outstanding.

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

The Municipality shall give the Authority at least fifty (50) days notice of intention to redeem its Municipal Bonds.

8. Simultaneously with the delivery of the Municipality's Bond or Bonds to the Authority, the Municipality shall furnish to the Authority evidence satisfactory to the Authority which shall set forth among other things, that said Bond or Bonds will constitute valid general obligations of the Municipality.

9. The Municipality shall be obligated to inform in writing the Authority and the corporate trust office of the trustee for the Authority's bonds at least 30 days prior to each interest payment date on the Municipal Bonds of the name of the official to whom invoices for the payment of interest and principal should be addressed.

10. Notwithstanding Paragraph 14 hereof, prior to payment of the amount of the Loan, or any portion thereof, and the delivery of the Municipality's Bond or Bonds to the Authority or its designee, the Authority 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 Municipality to the Authority in connection with its application to the Authority for a Loan shall be incorrect or incomplete in any material respect.

(b) The Municipality has violated commitments made by it in its application and supporting documents or has violated any of the terms of this Loan Agreement.

(c) The financial position of the Municipality has, in the opinion of the Authority suffered a materially adverse change between the date of this Loan Agreement and the scheduled time of delivery of the Municipal Bonds to the Authority.

11. The obligation of the Authority under this Loan Agreement is contingent upon delivery of its _____ Series _____ Bonds and receipt of the proceeds thereof.

12. 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.

13. 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 is necessary to give effect to the terms of this Loan Agreement.

14. No waiver by either party of any term or condition of the Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach 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.

15. 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
AUTHORITY

(Seal)

By _____
Chairman

ATTEST:

MUNICIPALITY

(Seal)

By _____

ATTEST:

Addendum to Loan Agreement

AMBBA - Bethel Financing

New paragraphs 10 and 11:

10. (a) As long as the Loan is outstanding the Municipality shall maintain and keep in full force and effect the provisions of that certain Lease Agreement between the Municipality and the State of Alaska, dated September 28, 1976 (Lease No. 1090) (the "Lease") insofar as the same affect the obligation of the State to pay the agreed rental thereunder; shall not release or modify the obligations of the State to pay said rental and shall take all reasonable measures to enforce prompt payment of said rental.
- (b) Municipality further agrees to extend the Lease for a period at least equal to the period the Loan is outstanding.
- (c) The right of the Municipality to receive and collect from the State the portion of the rental equal to the pro rata monthly portion of the Municipal Bonds Interest Payments as determined by the Authority, is hereby assigned to the Authority.
- (d) Pursuant to such assignment, Municipality further agrees to direct the State irrevocably to make payment of said portion of the rental directly to the Authority or to the Trustee.

11. (a) In the event of a deficiency of available funds of the City to meet Municipal Bonds Interest Payments and Municipal Bonds Principal Payments as the same become due hereunder, such deficiency shall be made up from revenues derived from the sales tax of the City.
- (b) As long as the Loan is outstanding, Municipality hereby irrevocably obligates and binds itself to set aside and pay over to the Trustee such amounts from sales tax revenues as are necessary to make up such deficiency at the times provided hereunder for payment principal and interest to the Trustee acting under the Bond Resolution.