

**Community Name**  
**Ordinance/ Resolution Number**

1 **AN ORDINANCE OF THE MUNICIPALITY OF (COMMUNITY), ALASKA,**  
2 **AUTHORIZING THE BORROWING AND ACCEPTING, FROM THE STATE OF**  
3 **ALASKA DRINKING WATER FUND, \$5,000,000 FOR THE PURPOSE OF**  
4 **FINANCING A PORTION OF THE SHIP CREEK WATER TREATMENT FACILITY**  
5 **UPGRADE PROJECT AND PROVIDING FOR RELATED MATTERS.**  
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8 **WHEREAS**, the State of Alaska (State), pursuant to Alaska Statutes 46.03.036 and  
9 18 AAC 76.200 et. seq., established the Alaska Drinking Water Fund (Fund), a fund  
10 using U.S. Government grants as authorized by the Safe Drinking Water Act,  
11 Amendments of 1996, P. L. 104-182; and  
12

13 **WHEREAS**, the Municipality of (COMMUNITY) is eligible to borrow from the Fund  
14 to assist in the planning, designing, constructing, equipping, modifying,  
15 improving and expanding of public water treatment, transmission and distribution  
16 facilities; and  
17

18 **WHEREAS**, the interest rate to be paid by the Municipality on money borrowed from  
19 the Fund is a favorable rate considering other sources of funds available to the  
20 Municipality; and  
21

22 **WHEREAS**, the Municipality and (COMMUNITY) Water & Wastewater Utility  
23 determined it is necessary to proceed to plan, design, develop, construct, equip,  
24 acquire property for, or otherwise obtain items of capital improvements in  
25 connection with the Ship Creek Treatment Facility Upgrade project (Project). This  
26 Project, listed in the Alaska Drinking Water Fund SFY16 Amended Intended Use  
27 Plan, is included in an Assembly approved (UTILITY) Capital Improvement Budget;  
28 and  
29

30 **WHEREAS**, it is necessary, advisable, and in the best interests of the Municipality  
31 and its inhabitants for an application to be submitted and such other actions as may  
32 be necessary be taken to borrow, and accept when approved, \$5,000,000 from the  
33 Fund for the purpose of financing a portion of the costs associated with said Project;  
34 now, therefore,  
35

36 **THE (COMMUNITY) ASSEMBLY ORDAINS:**  
37

1 **Section 1.** Purpose. The purpose of this Ordinance is to authorize the borrowing  
2 of, and accepting when approved, \$5,000,000 from the Fund in the form of a loan to  
3 provide funds to finance a portion of the capital costs of the Project; and  
4

5 **Section 2.** Authority for Ordinance. It is hereby ascertained and determined that  
6 each and every matter and thing as to which provision is made in this Ordinance is  
7 necessary in order to carry out and effectuate the purposes of the Municipality in  
8 accordance with the Alaska Constitution, Alaska State Statutes, and the  
9 Municipality's Charter and Code, and to incur the indebtedness authorized by this  
10 Ordinance.  
11

12 **Section 3.** Obligation of Loan. The obligation to repay the loan authorized by this  
13 Ordinance shall not be a direct and general obligation of the Municipality and  
14 neither the faith and credit nor the taxing power of the Municipality is pledged to the  
15 payment of the principal of and interest on the loan. The Gross Revenues less the  
16 Operating Expenses of the System are hereby pledged to repayment of the loan  
17 authorized by this Ordinance. Such pledge shall be subordinate to the lien on net  
18 revenues of lien revenue bonds of the Municipality heretofore and hereafter issued.  
19

20 As used in this Ordinance, unless a different meaning clearly appears from the  
21 context, the following words are defined as follows:  
22

23 **"Gross Revenues"** means all rates and charges and other income, in each case  
24 derived by or for the account of the Municipality, from the ownership, leasing or  
25 operation of the System except proceeds from the sale of bonds or notes, any  
26 grants received for the (COMMUNITY) Water Utility, and interest received and  
profits

27 derived from the investment of moneys obtained from such sources or from moneys  
28 held in any fund to pay or secure the payment of any bonds or notes issued in  
29 connection with the System. For the purposes of this Ordinance, **Gross Revenues**  
30 shall not include allowance for funds used during construction.  
31

32 **"Lien Revenue Bonds"** means all publicly marketed revenue bonds or other  
33 obligations issued by the Municipality having a lien on net revenue (Gross  
34 Revenues less Operating Expenses).  
35

36 **"Operating Expenses"** means the current expenses incurred for operation,  
37 maintenance or repair of the System of a non-capital nature, and shall include,  
38 without limiting the generality of the foregoing, water purchase agreements, source  
39 of supply expenses, water treatment, transmission and distribution expenses, fuel  
40 and electricity expenses, chemical expenses, customer accounts expenses,  
41 administrative and general expenses, insurance premiums, lease rentals, legal,  
42 regulatory, and engineering expenses, payments to pension, retirement, group life  
43 insurance, health and hospitalization funds or other employee benefit funds which  
44 are properly chargeable to current operations, interest on customers' deposits,  
45 payroll tax expenses, Municipal Utility Service Assessments or any assessment  
46 levied in lieu of municipal taxes and any other expenses required to be paid under

1 the provisions of this Ordinance or by law or permitted by standard practices for  
2 public utility systems similar to the properties and business of the System (adjusted  
3 to reflect public ownership) and applicable in the circumstances. **Operating**  
4 **Expenses** shall not include any allowances for depreciation or amortization or any  
5 principal, redemption price or purchase price of, or interest on, any obligations of  
6 the Municipality incurred in connection with and payable from Gross Revenues.

7  
8 **"System"** means the existing water utility system of the Municipality as the same  
9 will be added to, improved and extended as authorized and provided in this  
10 Ordinance, and as the same may be added to, improved and extended for as long  
11 as the loan authorized by this Ordinance is outstanding, but shall not include such  
12 water supply, treatment, transmission and distribution facilities that may be  
13 hereafter purchased, constructed or otherwise acquired by the Municipality as a  
14 separate water utility system, the revenues of which may be pledged to the payment  
15 of bonds or notes issued to purchase, construct or otherwise acquire and improve  
16 such separate system. **System** shall also include the wastewater system of the  
17 Municipality, if hereafter combined with the water utility.

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19 **Section 4. Loan Terms.** The following primary terms shall be incorporated into the  
20 Loan Agreement:

21  
22 Principal Amount: \$5,000,000 (subject to individual draws)  
23 Interest Rate: 1.5 percent per annum  
24 Interest Accrual: Accrual begins one year after the date of first  
25 disbursement to the Municipality  
26 Term: Twenty years from the date of initiation of operation of the  
27 Project  
28 Date of First Payment: One year following substantial completion and initiation of  
29 operation of the Project  
30 Payment Interval: Annual  
31 Amortization Schedule: Level, fully amortizing  
32 Security: A subordinate lien pledge of Gross Revenues less  
33 Operating Expenses of the System, as those terms are  
34 defined herein, provided that if such monies are not  
35 sufficient, repayment of the loan shall be from any legally  
36 available funds accruing to or in the possession of the  
37 Municipality; and provided further that repayment of the  
38 loan is not a direct obligation of the Municipality and  
39 neither the faith and credit nor the taxing power of the  
40 Municipality are pledged therefore.

41  
42 **Section 5. Authorization of Loan; Purpose of Issuance.** For the purpose of  
43 providing a portion of the funds required to pay the cost of the Project described  
44 herein, and to pay all costs incidental thereto, the borrowing of money from the  
45 Fund in the form of a loan in the amount of \$5,000,000 is hereby authorized.

1 **Section 6. Loan Application and Loan Agreement.** The (UTILITY) General  
Manager

2 is hereby authorized and directed to complete and submit to the State applications  
3 to borrow money from the Fund for the purpose of financing a portion of the costs of  
4 the Project authorized by this Ordinance. Further, the (UTILITY) General

Manager

5 and MOA Chief Fiscal Officer are hereby authorized, empowered and directed to  
6 execute and deliver the Loan Agreement, for and on behalf of the Municipality,  
7 including necessary counterparts, as authorized by this Ordinance.

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9 **Section 7. Acceptance of Loan Funds.** The (UTILITY) General Manager is  
hereby

10 authorized to accept, when approved and available, loan funds from the State,  
11 pursuant to the loan application approved in this ordinance, for the purpose of  
12 reimbursement of the costs of the Project. Upon notification from the State and  
13 acceptance of the funds, (UTILITY) shall file with the Assembly, on a quarterly  
basis,

14 an Assembly Informational Memorandum, listing the amount of funds approved and  
15 accepted by (UTILITY), the authorizing ordinance for the funds, and identifying  
the

16 specific Project approved under the loan program.

17

18 **Section 8. Authority of Officers.** The Mayor (or the Acting Mayor), the  
Municipal

19 Manager, the Chief Fiscal Officer, the (UTILITY) General Manager, the  
Municipal

20 Clerk (or the Acting Municipal Clerk), are, and each of them hereby is, authorized  
21 and directed to do and perform all things and determine all matters not determined  
22 by this Ordinance, or to be determined by a subsequent ordinance or resolution of  
23 the Municipality, to this end that the Municipality may carry out its obligations under  
24 the loan and this Ordinance.

25

26 **Section 9. Severability.** If any one or more of the covenants and agreements  
27 provided in this Ordinance to be performed on the part of the Municipality shall be  
28 declared by any court of competent jurisdiction to be contrary to law, then such  
29 covenant and agreements shall be null and void and shall be deemed separable  
30 from the remaining covenant and agreement in this Ordinance and shall in no way  
31 affect the facility of the other provisions of this Ordinance or of the loan entered into  
32 pursuant to this Ordinance.

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34 **Section 10. Effective Date.** This Ordinance shall take effect immediately upon  
35 passage and approval by the Assembly.

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