



CITY OF WASILLA

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Non-Code Ordinance

Requested by: City Clerk
Prepared by: Bond Counsel

ORDINANCE SERIAL NO. 93-53 (Substitute)

AN ORDINANCE OF THE CITY OF WASILLA, ALASKA, PROVIDING FOR THE ISSUANCE AND SALE OF A SPECIAL ASSESSMENT BOND FOR THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$150,000 FOR THE PURPOSE OF PROVIDING FUNDS NECESSARY TO PAY THE COSTS OF PAVING IMPROVEMENTS IN THE NAOMI AVENUE PAVING ASSESSMENT DISTRICT NO. 92P1, THE GLENWOOD AVENUE PAVING ASSESSMENT DISTRICT NO. 92P2 AND THE SHADOWOOD VALLEY PAVING ASSESSMENT DISTRICT NO. 93P1; PROVIDING FOR THE DATE, FORM, TERMS AND MATURITY OF SAID SPECIAL ASSESSMENT BOND; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Wasilla, Alaska (hereinafter called the "City"), has created Paving Assessment District Nos. 92P1 (hereinafter called "PAD No. 92P1"), 92P2 (hereinafter called "PAD No. 92P2") and 93P1 (hereinafter called "PAD No. 93P1") within the City in the manner required by law; and

WHEREAS, the paving improvements within PAD No. 92P1, PAD No. 92P2 and PAD No. 93P1 have been completed, and

WHEREAS, the assessment roll of PAD No. 92P1 in the total principal amount of \$58,135.00 has been confirmed by Resolution No. WR93-44 of the City, passed on November 8, 1993 in the manner required by law; and

WHEREAS, prepayments in the amount of \$1,661.00 were made on the assessments in PAD No. 92P1; and

WHEREAS, the assessment roll of PAD No. 92P2 in the total principal amount of \$12,658.10 has been confirmed by Resolution No. WR93-45 of the City, passed on November 8, 1993 in the manner required by law; and

WHEREAS, no prepayments were made on the assessments in PAD No. 92P2; and

WHEREAS, the assessment roll of PAD No. 93P1 in the total principal amount of \$78,234.00 has been confirmed by Resolution No. WR93-46 of the City, passed on November 8, 1993 in the manner required by law; and

WHEREAS, no prepayments were made on the assessments in PAD No. 93P1; and

WHEREAS, it is necessary that the City issue its special assessment bond in the total principal sum of \$147,370.00 in order to provide the funds necessary to pay the costs of the paving improvements; and

WHEREAS, the City has heretofore received offers from First National Bank of Anchorage, Key Bank of Alaska, and National Bank of Alaska to purchase the City's special assessment bonds, and

WHEREAS, First National Bank of Anchorage provided the best offer to purchase said bonds and the City deems it advisable and in the best interest of the City that its special assessment bond be issued and sold to First National Bank of Anchorage in fully registered form.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the City of Wasilla as follows:

SECTION I. Classification. This is a Non-Code Ordinance.

SECTION II. Definitions. As used in this Ordinance the following words shall have the following meanings:

"Assessments" means the amounts levied as special assessments against the properties in PAD Nos. 92P1, 92P2 and 93P1 specially benefitted by the Project. Assessments shall include installments thereof and interest and penalties thereon.

"Bank" means First National Bank of Anchorage.

"Bond" means the special assessment bond of the City in the principal amount of \$147,370.00, the issuance and sale of which is authorized herein.

"City" means the City of Wasilla, Alaska, a municipal corporation duly organized and existing in the State of Alaska.

"City Code" means the published codification of ordinances of the City.

"City Council" means the legislative body of the City as the same shall be duly constituted from time to time.

"Guarantee Fund" means the special assessment district guarantee fund of the City established by Section X of this Ordinance for the purpose of guaranteeing the payment of the principal of and interest on the Bond.

"PAD No. 92P1" means the Paving Assessment District No. 92P1 located within the City and duly created by Resolution No. WR92-32.

"PAD No. 92P2" means the Paving Assessment District No. 92P2 located within the City and duly created by Resolution No. WR92-33.

"PAD No. 93P1" means the Paving Assessment District No. 93P1 located within the City and duly created by Resolution No. WR92-54.

"Payment Date" means the day of each year on which the interest on and installment of principal of the Bond are payable. The Payment Date shall be the anniversary date of the day of delivery of the Bond to the initial purchaser thereof.

"Project" means the plan of paving improvements of the City authorized by Resolution Nos. WR92-32, WR92-33 and WR92-54 to be constructed, acquired and installed in PAD Nos. 92P1, 92P2 and 93P1.

"Debt Service Fund" means the 1993 Paving Assessment District Debt Service Fund created by Section X of this Ordinance.

SECTION III. Authorization of Bond. For the purpose of providing funds necessary to pay the costs of the Project, the City shall issue and sell its special assessment bond in the principal amount of \$147,370.00.

SECTION IV. Description of the Bond. The Bond shall be designated "City of Wasilla, Alaska, Paving Assessment District Bond, 1993," shall be issued as of the date of delivery to the Bank, shall be issued in the form of a single bond numbered R-1 in the principal amount of \$147,370.00, shall be fully registered, shall

bear interest (commencing on the first such day following delivery of the Bond) on unpaid installments payable annually on the Payment Date in each year at the rate per annum of 5.10% per annum and shall mature in approximately equal principal installments on the Payment Date in each year as follows:

| <u>Years</u> | <u>Amounts</u> |
|--------------|----------------|
| 1994 | \$14,737.00 |
| 1995 | 14,737.00 |
| 1996 | 14,737.00 |
| 1997 | 14,737.00 |
| 1998 | 14,737.00 |
| 1999 | 14,737.00 |
| 2000 | 14,737.00 |
| 2001 | 14,737.00 |
| 2002 | 14,737.00 |
| 2003 | 14,737.00 |

The City Clerk shall act as authenticating trustee, transfer agent and registrar for the Bond (collectively, the "Bond Registrar").

Both principal of and interest on the Bond shall be payable in lawful money of the United States of America. Payments of principal and interest shall be paid by check or draft mailed to the registered owner by the City Clerk of the City as Bond Registrar. Upon final payment, the Bond shall be surrendered for cancellation.

SECTION V. Execution of Bond. The Bond shall be signed on behalf of the City by the Mayor of the City and shall be attested by the City Clerk. The Bond shall have the seal of the City impressed thereon.

SECTION VI. Prepayment Privileges. The City hereby reserves the right to prepay on any Payment Date, without penalty or premium, all or any portion of the unpaid principal installment of the Bond as provided in this section. Prepayment of scheduled payments in increments of \$200 multiplied by the number of principal payments remaining on the Bond may be made at any time at the option of the City from monies in the Debt Service Fund. In the event of an optional prepayment of principal, the outstanding principal amount of the Bond shall be reduced by the amount so prepaid, and the amount of reduction of each of the remaining principal payments is equal to the amount so prepaid divided by the number of principal payments remaining. In addition, the City may make prepayments of all or portions of an installment of a Bond payment when such

prepayment is required to comply with Section 148 of the Internal Revenue Code in order that the Bond not be an "arbitrage bond."

SECTION VII. Prepayment Notice. Written notice of any such intended prepayment shall be given to the registered owner at least thirty (30) days prior to said prepayment.

SECTION VIII. Form of Bond. The Bond and the certificate of registration to be endorsed thereon shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. R-1

\$147,370.00

STATE OF ALASKA
CITY OF WASILLA

PAVING ASSESSMENT DISTRICT BOND,
1993

The City of Wasilla, Alaska (hereinafter called the "City"), a municipal corporation of the State of Alaska, acknowledges itself indebted and for value received promises to pay to First National Bank of Anchorage, or its registered assigns, the principal sum of \$147,370.00 in the following installments at the following times:

| <u>Years</u> | <u>Amounts</u> |
|--------------|----------------|
| 1994 | \$14,737.00 |
| 1995 | 14,737.00 |
| 1996 | 14,737.00 |
| 1997 | 14,737.00 |
| 1998 | 14,737.00 |
| 1999 | 14,737.00 |
| 2000 | 14,737.00 |
| 2001 | 14,737.00 |
| 2002 | 14,737.00 |
| 2003 | 14,737.00 |

in lawful money of the United States of America, with interest on the balance of said principal from time to time remaining unpaid from the date hereof at the rate of 5.10% per annum payable annually on the anniversary date of the day of delivery of this bond to the registered owner, commencing on the first such day following delivery hereof until all of such principal installments have been paid or such payment has been duly provided for.

Payments of principal and interest shall be paid by check or draft mailed to the registered owner by the City Clerk of the City of Wasilla, Alaska, as Bond Registrar.

Upon final payment of the principal and interest, this bond shall be surrendered to the City for cancellation.

Both principal of and interest on this bond are payable solely out of the special account of the City known as the "1993 Paving Assessment District Debt Service Fund" (herein called the "Debt Service Fund") created by Ordinance Serial No. 93-53 (Substitute) of the City (herein called the "Bond Ordinance") and the special assessment district guarantee fund of the City (the "Guarantee Fund" created by the Bond Ordinance).

The City hereby reserves the right on any interest payment date to prepay any or all of the unpaid principal amount of this bond in accordance with the provisions of this paragraph. Prepayment of scheduled payments in increments of \$200 multiplied by the number of principal payments remaining on the bond may be made at any time at the option of the City from monies in the Debt Service Fund. In the event of an optional prepayment of principal, the outstanding principal amount of this bond shall be reduced by the amount so prepaid, and the amount of reduction of each of the remaining principal payments is equal to the amount so prepaid divided by the number of principal payments remaining. In addition, the City may make prepayments of all or a portion of an installment of a bond payment when such prepayment is required to comply with Section 148 of the Internal Revenue Code in order that this bond not be an "arbitrage bond." Notice of any such prepayment shall be given at least thirty days prior to the prepayment date by mailing to the registered owner of this bond a notice fixing such prepayment date, and the amount of the principal to be prepaid.

This bond is secured by special assessments levied in Paving Assessment District Nos. 92P1, 92P2 and 93P1 as created by Resolutions WR92-32, WR92-33 and WR92-54, respectively of the City against properties specially benefitted by the paving and related improvements constructed within said Districts.

This bond is not a general obligation of the City and neither the holder nor the owner of this special assessment district bond, which is issued against the Debt Service Fund, shall have any claim therefor against the City, except for payment from the special assessments made for the improvements for which this special assessment district bond was issued and except for payment from the special assessment district guarantee fund (the "Guarantee Fund") of the City. The remedy of the holder or owner of this special assessment district bond shall be confined to the enforcement of such assessments and to said Guarantee Fund. The City shall not be liable to the holder or owner of this bond for any loss to the said guarantee fund occurring in the lawful operation thereof.

The sources of funds which secure this bond are set forth with particularity in the Bond Ordinance. Reference is made to the Bond Ordinance for a complete statement of the covenants and obligations of the City with regard to this bond and security therefor.

The City hereby covenants and agrees with the owner of this bond that it will keep and perform all of the covenants of this bond and of the Bond Ordinance to be by it kept and performed.

This bond is issued in fully registered form. Upon surrender to the Bond Registrar, this bond is interchangeable for bonds in any authorized denomination of an equal maturity. This bond is transferable only on the records maintained by the Bond Registrar for that purpose upon the surrender of this bond by the registered owner hereof or nominee or his/her duly authorized agent and only if endorsed in a manner provided hereon, and thereupon a new fully registered bond of like principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor. Such exchange or transfer shall be without cost to the registered owner or transferee. The City may deem the person in whose name this bond is registered to be the absolute owner hereof for the purpose of receiving payment of the principal of and interest on this bond and for any and all other purposes whatsoever.

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

It is hereby certified and declared that this bond is issued pursuant to and in strict compliance with the Constitution and the laws of the State of Alaska and the resolutions and ordinances of the City, and 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.

IN WITNESS WHEREOF, the City of Wasilla, Alaska, has caused this bond to be signed by its Mayor, to be attested by its Clerk and the corporate seal of the City to be impressed hereon, this ____ day of _____, 1993.

CITY OF WASILLA, ALASKA

By _____
Mayor

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

This bond is the bond described in the within referenced Ordinance No. 93-53 (Substitute) of the City of Wasilla, Alaska, and is the City of Wasilla, Alaska, Paving Assessment District Bond, 1993, dated _____, 1993, of such City.

CITY CLERK OF THE CITY OF WASILLA
As Bond Registrar

By _____
Authorized Officer

ASSIGNMENT

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

(please insert social security or taxpayer identification number of transferee)

(please print or typewrite name and address, including zip code of transferee)
the within bond and does hereby irrevocably constitute and appoint _____

of _____, or its successor, as Trustee to transfer said bond on the books kept for registration thereof with full power of substitution in the premises.

DATED: _____, 1993.

SIGNATURE GUARANTEED:

NOTE: THE SIGNATURE ON THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME OF THE REGISTERED OWNER AS IT APPEARS UPON THE FACE OF THE WITHIN BOND IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.

SECTION IX. Registration and Transfer of the Bond. The Bond Registrar shall keep, or cause to be kept, at its office sufficient records for the registration and transfer of the Bond. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of such Bonds and this Ordinance and to carry out all of the Bond Registrar's powers and duties under this Ordinance. The Bond may be transferred by the registered owner thereof, provided that such transfer relates to the entire unpaid principal amount of the Bond, and any such transfer shall be noted on the bond registration book of the City in the office of the Bond Registrar.

SECTION X. Source of Funds for Repayment of Bond. The principal of and interest on the Bond shall be payable solely from the Assessments and from the Guarantee Fund. The Debt Service Fund shall constitute a fund for the payment of the principal of and interest on the Bond. The Assessments shall be collected by the City Clerk of the City, shall be deposited in the following special funds of the City and shall be used solely for the purposes specified herein.

A. Debt Service Fund. There is hereby created a special fund of the City to be known as the 1993 Paving Assessment District Debt Service Fund (herein referred to as "Debt Service Fund"), which account shall be used for the redemption and retirement of the Bond issued by the City and to pay the cost of carrying out the improvements within Nos. PAD 92P1, 92P2 and 93P1. The City Clerk shall deposit into the Debt Service Fund the Assessments collected and the proceeds received on the sale of the Bond. Amounts in the Debt Service Fund

shall be expended and used only for the following purposes and in the following order of priority:

(1) Reimbursement of expenditures of the City for the costs of the Project authorized for reimbursement under 26 CFR 1.150-2;

(2) Payment of the costs of the Project;

(3) Payments of the principal of and interest on the Bond;
and

(4) Required payments to the Guarantee Fund, but only after all reimbursement allocations have been made, all costs of the Project have been paid, and the principal of and interest on the Bond have been paid.

B. Guarantee Fund. There is hereby created a Guarantee Fund for the purpose of guaranteeing the payment of the principal of the Bonds and the interest thereon. The City hereby covenants that the Guarantee Fund shall be kept separate from all other money and funds of the City and shall be held in trust for the uses and purposes herein provided.

(1) Deposits in the Guarantee Fund. The City hereby further covenants that within 60 days of the date of delivery of the Bond it will deposit in the Guarantee Fund an amount equal to ten (10) percent of the proceeds of the Bond; provided the total amount in the Guarantee Fund may not exceed the amount that is permitted in a reasonably required reserve and replacement fund under applicable regulations of the Internal Revenue Service. Said deposits may consist in whole or in part of the proceeds of an interfund loan of the City. Any moneys paid out of the Guarantee Fund to redeem special assessment district bonds, interest thereon, notes, or warrants, or to pay delinquent periodic payments shall be replaced by the City as soon as possible out of any legally available sources.

(2) Uses of the Guarantee Fund. Amounts in the Guarantee Fund shall be used to purchase or pay, in the order presented, defaulted special assessment bonds of the City, delinquent assessment bond periodic payments, interest thereon and defaulted special assessment bond anticipation notes or warrants of the City.

Upon a payment of any sum from the Guarantee Fund, the City, as trustee of said Fund, shall be subrogated to all the rights of the owner or holder of such bond, interest, note or warrant so paid; except, if the payment is on a defaulted periodic payment on a single bond, the City, as trustee of said Fund, shall be

subrogated in an amount equal to its payment from the Fund, and the proceeds thereof or underlying assessments shall become a part of said Guarantee Fund.

SECTION XI. Nonliability of the City. Neither the holder nor the owner of the Bond shall have any claim therefor against the City, except for payment from the special assessments made for the improvements for which the Bond was issued and except for payment from the Guarantee Fund. The remedy of the holder or owner of such special assessment district bond shall be confined to the enforcement of such assessments and to said Guarantee Fund. The City shall not be liable to the holder or owner of the Bond for any loss to the said Guarantee Fund occurring in the lawful operation thereof.

SECTION XII. Security of the Bondowner. The Assessments on the respective properties in PAD Nos. 92P1, 92P2, and 93P1 constitute a first lien prior and paramount to all liens, except City and borough real property tax liens, upon said properties from the time of passage of Resolution Nos. WR93-44, WR93-45 and WR93-46, confirming the respective assessment rolls on said properties, and the lien is of the same character, effect and duration as a lien for City real property taxes.

The City hereby covenants that it will collect and foreclose such liens for Assessments in PAD Nos. 92P1, 92P2, and 93P1 in accordance with the procedures provided in Title 29 of Alaska Statutes for the collection, foreclosure and enforcement of municipal tax liens on real property. Such lien is hereby additionally pledged to secure payment of the principal of and interest on the Bond, and upon default of said payment shall be enforceable by the registered owner of the Bond against all property assessed within PAD Nos. 92P1, 92P2 and 93P1 on which assessments are in default. Enforcement of the lien by the registered owner of the Bond shall be in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property.

The City hereby further covenants with respect to City owned Lot included in PAD No. 92P2 that it shall pay the assessments against the City owned lot when or before due and that such assessments will be paid into the Debt Service Fund.

SECTION XIII. Sale of the Bond. The Bond shall be sold to the Bank on the terms and conditions specified herein.

SECTION XIV. Ordinance As Contract. The provisions of this Ordinance shall constitute a contract between the City and the Bank so long as any portion of the Bond remains unpaid.

SECTION XV. Arbitrage Covenant. The City covenants and agrees with the owner of the Bond that it will not use or invest the proceeds of the Bond or any other funds or obligations of the City which may be deemed to be proceeds of such Bond pursuant to Section 148 of the Internal Revenue Code of 1986 and the applicable regulations thereunder which, if such use had been reasonably expected on the date of delivery of the Bond to the original purchaser thereof, would cause the Bond to be an "arbitrage bond" as defined in said section and said regulations. The City will comply with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended (or any successor provision thereof applicable to the Bond), and the applicable regulations promulgated thereunder throughout the term of the Bond.

SECTION XVI. Interest Rate on Unpaid Assessments. The assessments levied in PAD Nos. 92P1, 92P2 and 93P1 shall bear interest at a rate of 5.10% per annum, being the interest rate on the Bond.

SECTION XVII. Bond Sale Execution. The proper City officials are authorized and directed to do everything necessary for the prompt execution, issuance and delivery of the Bond and for the proper use and application of the proceeds of such sale.

SECTION XVIII. Special Designation. The Bond is hereby designated as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986. The City does not anticipate that it will issue more than \$10,000,000 of qualified tax-exempt obligations during 1993.

SECTION XIX. Effective Date. This Ordinance becomes effective upon passage by the Wasilla City Council.

Introduction: 11/08/93

Public Hearing: 11/22/93

ADOPTED by the Council of the City of Wasilla this 13th day of December, 1993.



JOHN C. STEIN, Mayor

ATTEST:



City Clerk

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