

NON-CODE ORDINANCE

Prepared by: Bond Counsel
Requested by: Finance
Introduced: February 10, 2003
Public Hearing: February 24, 2003
Substituted: March 10, 2003
Public Hearing: March 10, 2003
Adopted: March 10, 2003
Vote: Unanimous

**CITY OF WASILLA
ORDINANCE SERIAL NO. 03-09(SUB)**

AN ORDINANCE OF THE CITY OF WASILLA, ALASKA, PROVIDING FOR THE ISSUANCE AND SALE OF SPECIAL ASSESSMENT BONDS IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$117,690 TO PROVIDE FUNDS TO PAY THE COST OF STREET PAVING AND RELATED IMPROVEMENTS IN THE PROSPECTOR HILLS AND WASILLA VILLA CONDOS SUBDIVISIONS AREA PAVING SPECIAL ASSESSMENT DISTRICT NO. 00P1, AND DETERMINING THE TERMS OF THE BONDS.

WHEREAS, the City of Wasilla, Alaska (the "City"), has created the Prospector Hills and Wasilla Villa Condos Subdivisions Area Paving Special Assessment District No. 00P1 ("PAD No. 00P1") in the City in the manner required by law; and

WHEREAS, the street paving and related improvements that were authorized in PAD No. 00P1 (the "Project") have been completed, and

WHEREAS, the assessment roll of PAD No 00P1 has been confirmed by Resolution No. 03-03, enacted on January 27, 2003, and the special assessments, with interest thereon, will be sufficient to pay the principal of and interest on the bonds authorized herein; and

WHEREAS, it is necessary that the City issue its special assessment bonds in the total principal amount of not to exceed \$117,690 to provide the funds to pay the cost of the Project; and

WHEREAS, the City has accepted the offer of Wells Fargo Bank Alaska, N.A. (the "Purchaser") to purchase the bonds, and the City deems it advisable and in the best interest of the City that it issue and sell the bonds to the Purchaser on the terms and conditions provided in such offer and in this ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wasilla:

Section 1. Classification. This is a non-code ordinance.

Section 2. Definitions. The following terms shall have the following meanings in this ordinance:

A. "Bond" or "Bonds" means any of the City of Wasilla, Alaska, Paving Assessment District 00P1 Special Assessment Bonds, 2003, the issuance and sale of which are authorized herein.

B. "Bond Register" means the registration books maintained by the City, which include the names and addresses of the owners or nominees of the owners of the Bonds.

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

D. "Code" means the Internal Revenue Code of 1986, as amended from time to time, together with all regulations applicable thereto.

E. "Cost" or "Costs" means all costs of the Project allowable in special assessments under AS 29.46.110.

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

G. "Debt Service Account," means the 2003 Paving Assessment District 00P1 Debt Service Account created by Section 13 of this Ordinance.

H. "Guarantee Account" means the 2003 Paving Assessment District 00P1 Guarantee Account established within the special assessment guarantee fund of the City pursuant to Section 14 of this Ordinance for the purpose of guaranteeing the payment of the principal of and interest on the Bonds.

I. "Ordinance" means this Ordinance Serial No. 03-09(SUB).

J. "PAD No. 00P1" means the Prospector Hills and Wasilla Villa Condos Subdivisions Area Paving Special Assessment District No. 00P1.

K. "Payment Date" means the day of each year on which the interest on and installment of principal of the Bonds are payable.

L. "Project" means the street paving and related improvements that were authorized in PAD No. 00P1 by Resolution Serial No. 00-25.

M. "Purchaser" means Wells Fargo Bank Alaska, N.A.

N. "Registered Owner" means the person named as the registered owner of a Bond in the Bond Register.

O. "Registrar" means the City Treasurer, or any successor that the City may appoint by resolution.

Section 3. Authorization of Bonds. For the purpose of providing funds necessary to pay the Costs of the Project, the City shall issue and sell the Bonds in the principal amount of not to exceed \$117,690.

Section 4. Obligation of Bonds. The Bonds are special obligations of PAD No. 00P1 and are payable solely from assessments levied against the properties which are specially benefited by the Project within PAD No. 00P1 and funds pledged for the payment of the Bonds under this Ordinance. Said assessments shall constitute a sinking fund for the payment of principal of and interest on the Bonds. Neither the faith and credit nor the taxing power of the City is pledged to the payment of the principal of or the interest on the Bonds.

Section 5. Description of the Bonds. The Bonds shall be designated "City of Wasilla, Alaska, Paving Assessment District 00P1 Special Assessment Bonds, 2003," shall be dated the date of their delivery to the purchaser, and shall mature on March 1, 2013.

The Bonds shall bear interest from their date at a rate, which shall not exceed 5.25% per annum. Installments of principal and interest on the bonds (the "Installment Payments") shall be payable annually on March 1 of each year, commencing March 1, 2004. Each Installment Payment shall consist of an equal amount of principal, plus accrued interest. Interest will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Section 6. Redemption of Bonds. The Bonds are subject to redemption at the option of the City, (i) on any Payment Date in whole or in part in any amount, and (ii) on any date in increments of \$200 multiplied by the number of Installment Payments remaining on the Bonds, from money in the Debt Service Account. In the event of a partial redemption, each of the remaining principal payments shall be reduced by an amount equal to the amount so prepaid divided by the number of Installment Payments remaining. In addition, the City may redeem the principal of one or more Installment Payments in whole or in part, as required to comply with Section 148 of the Internal Revenue Code so that the Bonds will not be "arbitrage bonds." Any redemption of Bonds shall be at a redemption price of the principal amount of the Bonds to be redeemed, plus accrued interest. The City shall give written notice of redemption at least 30 days before the redemption date to the Registered Owners of the Bond or Bonds to be redeemed.

Section 7. Form of Bonds. Each Bond shall be in substantially the following form, with such variations, omissions and insertions as may be required or permitted by this Ordinance:

UNITED STATES OF AMERICA
STATE OF ALASKA
CITY OF WASILLA
Paving Assessment District 00P1
Special Assessment Bond, 2003

No. \$

Interest Rate:

Registered Owner:

Principal Amount: DOLLARS

The City of Wasilla (the "City"), a municipal corporation of the state of Alaska, for value received, acknowledges itself indebted and hereby promises to pay (but only out of the sources hereinafter mentioned) to the registered owner identified above, or registered assigns, the principal amount shown above, and to pay (but only out of the sources hereinafter mentioned) interest on the unpaid principal sum from the date hereof at the interest rate per annum shown above. Installments of principal and interest (the "Installment Payments") shall be payable annually on March 1 of each year (each a "Payment Date") commencing March 1, 2004, until March 1, 2013, when the entire remaining principal balance hereof plus accrued interest shall be paid in full. Each Installment Payment shall consist of an equal amount of principal, plus accrued interest. The principal, interest and redemption price of this bond shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

Payment of principal and interest shall be made by check or draft mailed to the registered owner of record as of the 15th day of the month preceding each Payment Date at the address appearing on the bond register of the City.

This Bond is one of the Paving Assessment District 00P1 Special Assessment Bonds, 2003, of the City, of like tenor and effect except as to serial numbers, aggregating not to exceed \$117,690 in principal amount, and authorized to pay the cost of street paving and related improvements in the Prospector Hills and Wasilla Villa Condos Subdivisions Area Paving Special Assessment District No. 00P1 of the City, and is issued under Ordinance Serial No. 03-09(SUB) of the City entitled:

AN ORDINANCE OF THE CITY OF WASILLA, ALASKA, PROVIDING FOR THE ISSUANCE AND SALE OF SPECIAL ASSESSMENT BONDS IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$117,690 TO

PROVIDE FUNDS TO PAY THE COST OF STREET PAVING AND RELATED IMPROVEMENTS IN THE PROSPECTOR HILLS AND WASILLA VILLA CONDOS SUBDIVISIONS AREA PAVING SPECIAL ASSESSMENT DISTRICT NO. 00P1, AND DETERMINING THE TERMS OF THE BONDS.

(the "Ordinance") adopted on February 24, 2003.

The Bonds are subject to redemption at the option of the City, (i) on any Payment Date in whole or in part in any amount, and (ii) on any date in increments of \$200 multiplied by the number of Installment Payments remaining on the Bonds, from money in the Debt Service Account. In the event of a partial redemption, each of the remaining principal payments shall be reduced by an amount equal to the amount so prepaid divided by the number of Installment Payments remaining. In addition, the City may redeem the principal of one or more Installment Payments in whole or in part, as required to comply with Section 148 of the Internal Revenue Code so that the Bonds will not be "arbitrage bonds." Any redemption of Bonds shall be at a redemption price of the principal amount of the Bonds to be redeemed, plus accrued interest. The City shall give written notice of redemption at least 30 days before the redemption date to the Registered Owners of the Bond or Bonds to be redeemed.

This Bond is transferable as provided in the Ordinance (i) only upon the Bond Register of the City kept for that purpose at the office of the City, and (ii) upon surrender of this Bond together with a written instrument of transfer duly executed by the registered owner or the attorney of the registered owner duly authorized in writing, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance and upon the payment of charges, if any, as therein prescribed. The City may treat and consider the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price, if any, hereof and interest due hereon and for all other purposes whatsoever.

This Bond is payable solely from assessments levied against properties specially benefited within the City special assessment district known as Prospector Hills and Wasilla Villa Condos Subdivisions Area Paving Special Assessment District No. 00P1 and is a special obligation of said special assessment district. Said assessments constitute a sinking fund for the payment of principal of and interest on the Bonds and the properties specially benefited are pledged to secure the Bonds.

The registered owner of this Bond shall not have any claim thereunder against the City except for payment from assessments made for

the improvements for which the Bond was issued and except for payment from the funds pledged for that purpose under the Ordinance. The remedy of the registered owner of this Bond shall be confined to the enforcement of such assessments and to such funds. The City shall not be liable to the registered owner of this Bond for any loss to such funds occurring in the lawful operation thereof.

THIS BOND IS NOT A GENERAL OBLIGATION OF THE CITY AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY IS PLEDGED TO ITS PAYMENT.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts, or things required by the constitution or statutes of the state of Alaska and the code of ordinances of the City to exist, to have happened or have been performed precedent to or in the issuance of this Bond, exist, have happened and have been performed, and that the series of Bonds of which this is one, together with all other indebtedness of the City, is within every debt and other limit prescribed by said constitution, statutes or code of ordinances.

IN WITNESS WHEREOF, THE CITY OF WASILLA, ALASKA has caused this Bond to be signed in its name and on its behalf by the signature of its mayor and its corporate seal to be hereunto affixed, imprinted or otherwise reproduced, and attested by the signature of its clerk, all as of the _____ day of _____, 2003.

Mayor

ATTEST:

Clerk

Section 8. Execution. The Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor, and its corporate seal (or a facsimile thereof) shall be impressed or otherwise reproduced thereon and attested by the manual or facsimile signature of the City Clerk. The execution of a Bond on behalf of the City by persons who at the time of the execution are duly authorized to hold the proper offices shall be valid and sufficient for all purposes, although any such person shall have ceased to hold office at the time of delivery of the Bond or shall not have held office on the date of the Bond.

Section 9. Payment of Principal and Interest. The Bonds shall be payable in lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Installments of principal and interest on the Bonds shall be paid by check mailed by first class mail to the Registered Owner as of the fifteenth day of the month preceding each Payment Date at the address appearing on the Bond Register; provided that the final installment of principal and interest on a Bond shall be payable upon presentation and surrender of the Bond by the Registered Owner at the office of the Registrar.

Section 10. Registration. The Bonds shall be issued only in registered form as to both principal and interest. The City designates the City Treasurer as Registrar for the Bonds. The Registrar shall keep, or cause to be kept, the Bond Register at the principal office of the City. The City covenants that, until all Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of each Bond that complies with the provisions of Section 149 of the Code. The City and the Registrar may treat the person in whose name any Bond shall be registered as the absolute owner of such Bond for all purposes, whether or not the Bond shall be overdue, and all payments of principal of and interest on a Bond made to the Registered Owner thereof or upon its order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City nor the Registrar shall be affected by any notice to the contrary.

Section 11. Transfer and Exchange. Bonds shall be transferred only upon the books for the registration and transfer of Bonds kept at the office of the Registrar. Upon surrender for transfer or exchange of any Bond at such office, with a written instrument of transfer or authorization for exchange in form and with guaranty of signature satisfactory to the Registrar, duly executed by the Registered Owner or the duly authorized attorney of the Registered Owner, the City shall execute and deliver an equal aggregate principal amount of Bonds of the same maturity of any authorized denominations, subject to such reasonable regulations as the City may prescribe and upon payment sufficient to reimburse it for any tax, fee or other governmental charge required to be paid in connection with such transfer or exchange. The Registrar shall cancel all Bonds surrendered for transfer or exchange.

Section 12. Bonds Mutilated, Destroyed, Stolen or Lost. Upon surrender to the Registrar of a mutilated Bond, the City shall execute and deliver a new Bond of like maturity and principal amount. Upon filing with the Registrar of evidence satisfactory to the City that a Bond has been destroyed, stolen or lost and of the ownership thereof, and upon furnishing the City with indemnity satisfactory to it, the City shall execute and deliver a new Bond of like maturity and principal amount. The person requesting the execution and delivery of a new Bond under this section shall comply with such other reasonable regulations as the City may prescribe and pay such expenses as the City may incur in connection therewith.

Section 13. Debt Service Account. There is hereby created a special account of the City within its Debt Service Fund to be known as the 2003 Paving Assessment District 00P1 Debt Service Account (the "Debt Service Account"), which is an account that shall be used for the redemption and retirement of the Bonds and to pay the cost of carrying out the improvements within PAD No. 00P1. The City shall deposit into the Debt Service Account all payments of principal and interest on assessments levied in PAD No. 00P1 and the proceeds received on the sale of the Bonds. Amounts in the Debt Service Account shall be expended and used only for the following purposes and in the following order of priority:

A. Reimbursement of expenditures of the City for the Costs of the Project authorized for reimbursement under the Code;

B. Payment of the Costs of the Project;

C. Payment of the principal of and interest on the Bonds; and

D. Required payments to the Guarantee Account, but only after all reimbursement allocations have been made, all Costs of the Project have been paid, and the principal of and interest then due on the Bonds have been paid.

Section 14. Guarantee Account. There is hereby created a special account of the City within its Special Assessment Guarantee Fund to be known as the 2003 Paving Assessment District 00P1 Guarantee Account (the "Guarantee Account") for the purpose of guaranteeing the payment of the principal of and interest on the Bonds. The City hereby covenants that the Guarantee Account shall be kept separate from all other money and funds of the City and shall be held in trust for the uses and purposes provided herein.

A. Deposits in the Guarantee Account. The City hereby further covenants that on the date of delivery of the Bonds it will make a deposit in the Guarantee Account equal to 5% of the principal amount of the Bonds and will thereafter maintain the balance of the fund at 5% of the outstanding principal of the Bonds; provided the total amount in the Guarantee Account may not exceed the amount that is permitted in a reasonably required reserve and replacement fund under the Code. Said deposits may consist in whole or in part of the proceeds of an interfund loan of the City. Money received from actions taken against property for nonpayment of assessments levied in PAD No. 00P1 shall be credited to the Guarantee Account. The City shall replace as soon as possible out of any legally available sources any money paid out of the Guarantee Account to redeem Bonds or to pay delinquent Installment Payments.

B. Uses of the Guarantee Account. Amounts in the Guarantee Account shall be used to purchase or pay, in the order presented, defaulted Bonds and delinquent Installment Payments. Upon a payment of any sum from the Guarantee Account, the City, as trustee of said Account, shall be subrogated to all the rights of the Registered Owner the Bond so paid to the extent of such payment.

Section 15. Pledge; Covenants of the City.

A. All assessments levied in PAD No. 00P1, interest thereon and foreclosure proceeds thereof, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds.

B. The assessments levied in PAD No. 00P1 constitute a first lien prior and paramount to all liens, except real property tax liens and liens for previously levied special assessments, upon the properties in PAD No. 00P1, and the lien is of the same character, effect and duration as a lien for real property taxes

C. The City hereby covenants that it will collect and foreclose all liens for assessments in PAD No. 00P1 in accordance with the procedures provided in Title 29 of the Alaska Statutes for the collection, foreclosure and enforcement of real property tax liens. Such lien is hereby additionally pledged to secure payment of the principal of and interest on the Bonds, and upon default of said payment shall be enforceable by the Registered Owners of the Bonds against all property assessed in PAD No. 00P1 on which assessments are in default. Enforcement of the lien by the Registered Owners of the Bonds shall be in a civil action in the same manner and with the same effect as an action for the foreclosure of a mortgage on real property.

D. The pledges and covenants in this section remain in effect until all of the Bonds have been discharged.

Section 16. Tax Covenants. The City covenants to comply with any and all applicable requirements set forth in the Code in effect from time to time to the extent that such compliance shall be necessary for the exclusion of the interest on the Bonds from gross income for federal income tax purposes. The City covenants that it will make no use of the proceeds of the Bonds, which will cause the Bonds to be "arbitrage bonds" subject to federal income taxation by reason of Section 148 of the Code. The City covenants that it will not take or permit any action that would cause the Bonds to be "private activity bonds" as defined in Section 141 of the Code.

Section 17. Designation as Qualified Tax Exempt Obligations. The Bonds are hereby designated as "qualified tax exempt obligations" in accordance with Section 265(b)(3) of the Code, and the City hereby covenants that it shall not issue during the calendar year 2003 more than \$10,000,000 in aggregate principal amount of tax exempt obligations other than tax exempt obligations described in Section 265(b)(3)(C)(ii) of the Code.

Section 18. Sale of the Bonds. The Bonds shall be sold to the Purchaser on the terms and conditions specified herein and in the Purchaser's offer to purchase special assessment bonds of the City.

Section 19. Delivery of the Bonds. The proper officials of the City are authorized and directed to execute all documents and to do everything necessary for the preparation and delivery of a transcript of proceedings pertaining to the Bonds and the printing, authentication and delivery of the Bonds in definitive form to the Purchaser.

Section 20. Authority of Officers. The Mayor, the Finance Director and the Clerk are, and each of them hereby is, authorized and directed to do and perform all things and determine all matters not determined by this Ordinance, to the end that the City may carry out its obligations under the Bonds and this Ordinance.

Section 21. Miscellaneous. No recourse shall be had for the payment of the principal of or the interest on the Bonds or for any claim based thereon or on this Ordinance against any member of the Council or officer of the City or any person executing the Bonds. The Bonds are not and shall not be in any way a debt or liability of the State of Alaska or of any political subdivision thereof and shall not create or constitute an indebtedness or obligation, either legal, moral or otherwise, of said state or of any political subdivision thereof.

Section 22. Severability. If any one or more of the covenants and agreements provided in this Ordinance 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 in this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Bonds.

Section 23. Effective Date. This ordinance becomes effective upon passage by the Wasilla City Council.

ADOPTED by the Wasilla City Council on March 10, 2003.



DIANNE M. KELLER, Mayor

ATTEST:



KRISTIE L. SMITHERS, CMC
City Clerk

[SEAL]