SAMPLE LOAN RESOLUTION

NOTE: This sample loan resolution is an example of an authorizing resolution for a loan from either the Alaska Clean Water Fund or the Alaska Drinking Water Fund.

RESOLUTION NUMBER ______

A RESOLUTION OF THE [Applicant entity’s legal name] AUTHORIZING THE BORROWING FROM THE ALASKA [CLEAN WATER OR DRINKING WATER] FUND OF AN AGGREGATE AMOUNT NOT TO EXCEED ___________________DOLLARS ($__________) TO PAY THE COST OF THE [Applicant entity’s legal name] [insert project name].

WHEREAS, pursuant to [AS 46.03.032 (for Clean Water projects) or AS 46.03.036 (for Drinking Water projects)] the Alaska Department of Environmental Conservation (“DEC”) may make loans to municipalities from the [Alaska Clean Water Fund (“Clean Water Fund”) or Alaska Drinking Water Fund (“Drinking Water Fund”)] to pay the cost of [planning, designing, building, constructing, and rehabilitating public wastewater collection, treatment and discharge systems or public water collection, storage, treatment and distribution systems]; and

WHEREAS, the [Applicant entity’s legal name] is eligible to borrow from the [Clean Water or Drinking Water] Fund for the purpose described above, and the interest rates to be paid by the City on loans from the [Clean Water or Drinking Water] Fund are favorable compared to the rates charged by other sources of funds that are available to the City; and

WHEREAS, Article VI, Section 3 of the [Applicant entity’s legal name] Charter authorizes the City to borrow money and issue evidences of indebtedness therefor, the principal and interest of which are payable solely out of and the only security for which is the revenue of a revenue-producing utility or enterprise when authorized by the Council for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement, and/or equipment of the utility or enterprise; and

WHEREAS, Article VI, Section 3 of the [Applicant entity’s legal name] Charter requires that utility revenue obligations of the City be ratified by a majority of the qualified voters of the City only so long as voter approval is required by state law, and under the constitution and statutes of the State of Alaska the City may issue utility revenue obligations without voter approval; and

WHEREAS, the Loan is necessary and in the best interest of the [Applicant entity’s legal name] and its residents to pay part of the cost of the Project.

NOW THEREFORE, BE IT RESOLVED by the [Applicant entity’s legal name], that:
Section 1. Definitions. In addition to the terms defined in the recitals above, the following terms shall have the following meanings in this Resolution:

"Gross Revenues" means all rates and charges and other income, in each case derived by or for the account of the City from the ownership, leasing, or operation of the [Water or Wastewater] Utility, except proceeds from the sale of bonds or notes, any grants received for the [Water or Wastewater] Utility, and interest received and profits derived from the investment of moneys obtained from such sources or from moneys held in any fund solely to pay or secure the payment of any bonds or notes issued in connection with the [Water or Wastewater] Utility.

"Operating Expenses" means the current expenses incurred for operation, maintenance, or repair of the [Water or Wastewater] Utility of a non-capital nature, and shall include without limitation payments required by any source of supply expenses; fuel expenses; treatment, transmission and distribution expenses; customer accounts expenses, administrative and general expenses, insurance premiums, lease rentals, legal, regulatory and engineering expenses; payments to pension, retirement, group life insurance, health and hospitalization funds; or other employee benefit funds which are properly chargeable to current operations; interest on customers’ deposits, payroll tax expenses, and any other expenses required to be paid by law or permitted by standard practices for public utility systems similar to the properties and business of the [Water or Wastewater] Utility (adjusted to reflect public ownership) and applicable in the circumstances. Operating Expenses shall not include any allowances for depreciation or amortization or any principal, redemption price or purchase price of, or interest on, any obligations of the City incurred in connection with the [Water or Wastewater] Utility and payable from Gross Revenues or any fee or charge in lieu of City taxes.

“[Water or Wastewater] Utility” means the [Water or Wastewater] utility of the City as the same may be added to, improved and extended for as long as the Loan is outstanding.

Section 2. Obligation of Loan. The obligation to repay the Loan shall be a special obligation of the City, payable and secured only as provided herein. Neither the faith and credit nor the taxing power of the City is pledged to the payment of the principal of or interest on the Loan. The Gross Revenues less the Operating Expenses of the [Water or Wastewater] Utility are hereby pledged to repayment of the Loan.

Section 3. Authorization and Purposes of Loan. For the purpose of providing part of the funds required to pay the cost of the Project, the City is hereby authorized to borrow money from the Clean Water Fund in the form of the Loan in an aggregate principal amount not to exceed $600,000.

Section 4. Loan Agreement. The City hereby is authorized to submit an application for and to enter into a loan agreement with DEC for the Loan ("Loan Agreement"). Subject to the limitations provided in Sections 2 and 3, the City Manager is hereby authorized to determine the principal amount, interest rate, maturity, and other details of the Loan; provided that the final maturity of the Loan shall not be more than ____ years from the date of the Loan Agreement and the interest on the Loan shall not exceed the rate calculated pursuant to [18 AAC 76.080 (for

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Section 5. **Authority of Officers.** The City Manager, the acting City Manager, the Finance Director, the acting Finance Director, the Clerk and the acting 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 resolution, to the end that the City may carry out its obligations under the Loan Agreement and this resolution.

Section 6. **Severability.** If any one or more of the provisions of this resolution shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this resolution and shall in no way affect the validity of the other provisions of this resolution or of the Loan.

Section 7. **Effective Date.** This resolution shall become effective upon adoption by the Council.

CITY OF_____________

____________________________
MAYOR

ATTEST:

____________________________
CITY CLERK

Adopted: ________________
Amended: ________________