

## RESOLUTION NO. 20-60

A RESOLUTION OF THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH, ALASKA, AUTHORIZING THE ISSUANCE OF A GENERAL OBLIGATION REFUNDING BOND OF THE BOROUGH TO REFUND ALL OR A PORTION OF THE PRINCIPAL INSTALLMENTS OF AN OUTSTANDING GENERAL OBLIGATION BOND OF THE BOROUGH; AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN ACCORDANCE THEREWITH; AND PLEDGING THE FULL FAITH AND CREDIT OF THE BOROUGH TO THE PAYMENT THEREOF.

WHEREAS, pursuant to Resolution No. 11-02 of the Borough, passed and approved on August 24, 2010 (the "2010 Bond Resolution"), the Borough issued its Transportation Improvement General Obligation Bond, 2010 Series B (Taxable Recovery Zone Economic Development Bond – Direct Payment) (the "2010 Bond"), in the original principal amount of \$3,070,000, all of which is now outstanding; and

WHEREAS, under AS 29.47.300, if the Borough has outstanding general obligation bonds and the Assembly determines it would be financially advantageous to refund those bonds, the Borough may provide by resolution for the issuance of general obligation refunding bonds, and under AS 29.47.320, no election is required to authorize the issuance and sale of refunding bonds; and

WHEREAS, under AS 29.47.340, refunding bonds may be exchanged for the bonds being refunded; and

WHEREAS, the Borough sold the 2010 Bond to the Alaska Municipal Bond Bank Authority (the "Bond Bank"), as authorized by the 2010 Bond Resolution, on the terms and conditions set forth in, among others, the 2010 Bond Resolution and the loan agreement between the Borough and the Bond Bank dated as of September 1, 2010 (the "2010 Loan Agreement");

WHEREAS, the Bond Bank issued its General Obligation Bonds, 2010B Series Three (Taxable) (the "2010 Bond Bank Bonds"), among other purposes, to provide funds to purchase the 2010 Bond, as provided in the 2010 Loan Agreement; and

WHEREAS, the Bond Bank has expressed its intent to issue refunding bonds (the "Bond Bank Refunding Bonds") for the purpose of refunding all or a portion of the 2010 Bond Bank Bonds and achieving a debt service savings; and



WHEREAS, Section 6 of the 2010 Loan Agreement provides that payments of principal of and interest on the 2010 Bond may be adjusted to reduce debt service on the 2010 Bond if the Bond Bank is able to achieve debt service savings by refunding the 2010 Bond Bank Bonds; and

WHEREAS, the Bond Bank has offered to enter into an Amendatory Loan Agreement (the "Amendatory Loan Agreement") to effect a reduction in debt service on all or a portion of the principal installments of the 2010 Bond (the "Refundable Principal Installments"); and

WHEREAS, the Assembly wishes to effect a reduction in debt service on all or a portion of the Refundable Principal Installments by entering into the Amendatory Loan Agreement, issuing its general obligation refunding bond (and, if necessary, a replacement 2010 Bond) in exchange for the 2010 Bond and participating in the refunding of a portion of the 2010 Bond Bank Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH, ALASKA, that:

Section 1. Definitions. In addition to the definitions specified elsewhere in this resolution, the following terms shall have the following meanings in this resolution:

(a) "Bond" means the general obligation refunding bond of the Borough, the issuance of which is authorized herein.

(b) "Bond Register" means the registration books maintained by the Registrar, which include the name and address of the owner of the Bond or the nominee of such owner.

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

(d) "Continuing Disclosure Certificate" means a certificate relating to the Bond executed and delivered by the Borough with respect to compliance with paragraph (b)(5) of Rule 15c2-12 of the Securities and Exchange Commission, as such certificate may be amended or supplemented from time to time in accordance with its terms.

(e) "Government Obligations" means direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

(f) "Registered Owner" means the person named as the registered owner of the Bond in the Bond Register.

(g) "Registrar" means the Borough Administrator of the Borough, or any successor that the Borough may appoint by resolution.

Section 2. Authorization of Bond and Purpose of Issuance. The Assembly hereby determines it would be financially advantageous to refund all or a portion of the Refundable Principal Installments by issuing the Bond (and, if necessary, a replacement 2010 Bond) on the terms and conditions provided in this resolution. For the purpose of providing the funds required



to refund all or a portion of the Refundable Principal Installments and to pay all costs incidental thereto and to the issuance of the Bond, the Borough hereby authorizes and determines to issue and to sell the Bond. The Bond shall be designated "Aleutians East Borough General Obligation Refunding Bond," with such additional series and year designation as the Borough Administrator may fix and determine. The Borough Administrator is authorized to fix and determine which of the Refundable Principal Installments are to be refunded by issuing the Bond (and, if necessary, a replacement 2010 Bond) in exchange therefor.

The Borough has ascertained and hereby determines that each and every matter and thing as to which provision is made in this resolution is necessary in order to carry out and effectuate the purpose of the Borough in accordance with the constitution and the statutes of the State of Alaska and to incur the indebtedness and issue the Bond.

Section 3. Obligation of Bond. The Bond shall be a direct and general obligation of the Borough, and the full faith and credit of the Borough are hereby pledged to the payment of the principal of and interest on the Bond. The Borough hereby irrevocably pledges and covenants that it will levy and collect taxes upon all taxable property within the Borough without limitation as to rate or amount, in amounts sufficient, together with other funds legally available therefor, to pay the principal of and interest on the Bond as the same become due and payable.

Section 4. Description of Bond. The Bond shall be dated the date of its initial delivery, and each principal installment of the Bond shall be in the denomination of \$5,000 or any integral multiple thereof, or such other date and denominations as may be determined by the Borough Administrator, and shall be numbered in such manner and with any additional designation as the Registrar deems necessary for purposes of identification.

The Bond shall bear interest payable semi-annually on the dates and shall mature on the date and each principal installment shall be payable annually in the amount and on the dates, all as shall be set forth in the Amendatory Loan Agreement.

Interest on the Bond shall be computed on the basis of a 360-day year composed of twelve 30-day months. The Borough Administrator is authorized to fix and determine the principal amount, maturity date, principal installments and payment dates and the rate or rates of interest to be borne by such principal installments, provided that (i) no rate of interest on any principal installment shall exceed the rate of interest on the corresponding maturity of the Bond Bank Refunding Bonds; (ii) the net present value of the savings to the Borough effected by issuing the Bond (and, if necessary, a replacement 2010 Bond) and refunding the Refundable Principal Installments that are refunded shall be at least three percent (3%) of the aggregate principal amount of the Refundable Principal Installments that are refunded; and (iii) the Bond shall mature on or before six months after the date on which the last Refundable Principal Installment that is refunded is payable.

Section 5. Place and Medium of Payment. Both principal of and interest on the Bond shall be payable in lawful money of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts. For so long as the Bond Bank is the Registered Owner, payments of principal thereof and interest thereon shall be made as provided in the 2010 Loan Agreement, as amended by the Amendatory Loan



Agreement (the "Amended Loan Agreement"). In the event that the Bond Bank is no longer the Registered Owner, payments of principal thereof and interest thereon will be made by check or draft mailed by first class mail to the Registered Owner at the address for the Registered Owner appearing on the Bond Register on the 15th day of the month preceding the payment date, provided that the final installment of principal of and interest on the Bond will be payable at the office of the Registrar upon surrender of the Bond to the Registrar. If any principal installment of the Bond is not paid when due, the Borough shall pay interest on such principal installment at the same rate provided in the Bond from and after its due date until such principal installment is paid in full or provision for payment thereof has been duly made.

Section 6. Optional Prepayment. The principal installments of the Bond shall be subject to prepayment, at the Borough's option, on the dates and at the prices to be set forth in the Amended Loan Agreement. If fewer than all of the principal installments of the Bond are to be prepaid, the principal installments to be prepaid shall be determined by the Borough. Notice of any such prepayment shall be sent by the Borough not less than 50 days prior to the date fixed for prepayment by first class mail to the Registered Owner at the Registered Owner's address as it then appears on the Bond Register. Notice of prepayment having been duly given and the prepayment having been duly effected, interest on the principal installments to be prepaid shall cease to accrue on the date fixed for prepayment.

Section 7. Form of Bond. The Bond shall be in substantially the following form, subject to the provisions of the Amended Loan Agreement, and with such changes as the Borough Administrator approves:

No. \_\_\_\_\_

\$ \_\_\_\_\_

UNITED STATES OF AMERICA

STATE OF ALASKA

ALEUTIANS EAST BOROUGH

GENERAL OBLIGATION REFUNDING BOND

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The Aleutians East Borough, Alaska (the "Borough"), a municipal corporation of the State of Alaska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner set forth above (the "Registered Owner"), or its registered assigns, the principal amount set forth above in the following installments on \_\_\_\_\_ 1 of each of the following years, and to pay interest on each such principal installment from the date hereof until paid or provision for payment thereof has been made, payable on \_\_\_\_\_ 1, 20\_\_ and semiannually thereafter on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, at the following rates per annum:

Principal

Interest



<u>Year</u>	<u>Installment</u>	<u>Rate</u>
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For so long as the Alaska Municipal Bond Bank Authority (the "Bond Bank") is the Registered Owner, payments of principal hereof and interest hereon shall be made as provided in the loan agreement between the Bond Bank and the Borough relating to this bond, as amended. In the event that the Bond Bank is no longer the Registered Owner, payments of principal hereof and interest hereon will be made by check or draft mailed by first class mail to the Registered Owner at the address for the Registered Owner appearing on the Bond Register on the 15th day of the month preceding the payment date, provided that the final installment of principal of and interest on this bond will be payable at the office of the Borough Administrator (the "Registrar") upon surrender of this bond to the Registrar. Interest on this bond shall be computed on the basis of a 360-day year composed of twelve 30-day months.

This bond is issued for the purpose of refunding certain principal installments of an outstanding general obligation bond of the Borough under Resolution \_\_\_\_\_ of the Borough titled:

A RESOLUTION OF THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH, ALASKA, AUTHORIZING THE ISSUANCE OF A GENERAL OBLIGATION REFUNDING BOND OF THE BOROUGH TO REFUND ALL OR A PORTION OF THE PRINCIPAL INSTALLMENTS OF AN OUTSTANDING GENERAL OBLIGATION BOND OF THE BOROUGH; AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN ACCORDANCE THEREWITH; AND PLEDGING THE FULL FAITH AND CREDIT OF THE BOROUGH TO THE PAYMENT THEREOF

(the "Resolution").

The principal installments of this bond due on or after \_\_\_\_\_ 1, 20\_\_\_\_, shall be subject to prepayment, at the Borough's option, on and after \_\_\_\_\_ 1, 20\_\_\_\_ in whole or in part, at a prepayment price of 100% of the principal amount to be prepaid, plus accrued interest to the date fixed for prepayment. If fewer than all of the principal installments of this bond are to be prepaid, the principal installments to be prepaid shall be determined by the Borough. Notice of any such prepayment shall be sent by the Borough not less than 50 days prior to the date fixed for prepayment by first class mail to the Registered Owner at the Registered Owner's address as it then appears on the Bond Register. Notice of prepayment having been duly given and the prepayment having been duly effected, interest on the principal installments to be prepaid shall cease to accrue on the date fixed for prepayment.

This bond is transferable as provided in the Resolution, (i) only upon the Bond Register, and (ii) upon surrender of this bond together with a written instrument of transfer duly executed by the Registered Owner or the duly authorized attorney of the Registered Owner, and thereupon a new fully registered Bond in the same unpaid principal amount shall be issued to the transferee in exchange therefor as provided in the Resolution upon the payment of charges, if any, as therein prescribed. The Borough 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 prepayment price, if any, hereof and interest due hereon and for all other purposes whatsoever.

This bond is a direct and general obligation of the Borough, and the full faith and credit of the Borough are pledged to the payment of the principal hereof and interest hereon. The Borough has irrevocably pledged and covenanted that it will levy and collect taxes upon all taxable property within the Borough without limitation as to rate or amount, in amounts sufficient, together with other funds legally available therefor, to pay the principal of and interest on this bond as the same become due and payable.

Reference is hereby made to the Resolution and any resolution supplemental thereto for a description of the rights of the Registered Owner of this bond and of the rights and obligations of the Borough thereunder, to all of the provisions of which Resolution the Registered Owner of this bond, by acceptance hereof, assents and agrees.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts or things required by the constitution or statutes of the State of Alaska or the ordinances or resolutions of the Borough to exist, to have happened or to have been performed precedent to or in the issuance of this bond, exist, have happened and have been performed, and that this bond, together with all other indebtedness of the Borough, is within every debt and other limit prescribed by said constitution, statutes, ordinances or resolutions.

IN WITNESS WHEREOF, THE ALEUTIANS EAST BOROUGH, ALASKA, has caused this bond to be signed in its name and on its behalf by its Mayor and its corporate seal to be hereunto impressed or otherwise reproduced and attested by its Clerk, all as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

ALEUTIANS EAST BOROUGH, ALASKA

\_\_\_\_\_/specimen/  
Mayor

ATTEST:

\_\_\_\_\_/specimen/  
Borough Clerk

Section 8. Execution. The Bond shall be executed in the name of the Borough by the Mayor, and its corporate seal shall be impressed or otherwise reproduced thereon and attested by the Borough Clerk. The execution of the Bond on behalf of the Borough by persons that 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. Registration.

(a) The Bond shall be issued only in registered form as to both principal and interest. The Borough designates the Borough Administrator as Registrar for the Bond. The Registrar shall keep, or cause to be kept, the Bond Register at the office of the Borough.

(b) The Borough, in its discretion, may deem and treat the Registered Owner of the Bond as the absolute owner thereof for all purposes, and neither the Borough nor the Registrar shall be affected by any notice to the contrary. Each payment made as described in Section 5 shall be valid and shall satisfy and discharge the liability of the Borough on the Bond to the extent of the amount or amounts so paid.

(c) The Bond may be transferred only upon the Bond Register. Upon surrender for transfer or exchange of the Bond at the office of the Registrar, 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 its duly authorized attorney, the Borough shall execute and the Registrar shall deliver a Bond of equal principal amount, subject to such reasonable regulations as the Registrar 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. If the Bond is surrendered for transfer or exchange it shall be canceled by the Registrar.

(d) The Borough covenants that, until the Bond has been surrendered and canceled, it will maintain a system for recording the ownership of the Bond that complies with the provisions of Section 149 of the Code.

Section 10. Bond Destroyed, Stolen or Lost. Upon filing with the Registrar of evidence satisfactory to the Borough that the Bond has been destroyed, stolen or lost and of the ownership thereof, and upon furnishing the Borough with indemnity satisfactory to it, the Borough shall execute and deliver a new Bond identical in all respects to the Bond destroyed, stolen or lost. The person requesting the execution and delivery of the new Bond under this section shall comply with such other reasonable regulations as the Borough may prescribe and pay such expenses as the Borough may incur in connection therewith.

Section 11. Tax Covenants. The Borough 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 Bond from gross income for federal income tax purposes. The Borough covenants that it will make no use of the proceeds of the Bond which will cause the Bond to be an "arbitrage bond" subject to federal income taxation by reason of Section 148 of the Code. The Borough covenants that it will not take or permit any action that would cause the Bond to be a "private activity bond" as defined in Section 141 of the Code. The Borough hereby determines and certifies that the Bond is not a "private activity bond" within the meaning of Section 141 of the Code.

Section 12. Exchange of the Bond; Amendatory Loan Agreement; Continuing Disclosure Certificate. The exchange of the Bond for all the Refundable Principal Installments that are refunded (and, if necessary, the issuance of a replacement 2010 Bond), as provided in the



Amended Loan Agreement and this resolution, is hereby authorized and approved. The Amendatory Loan Agreement and the Continuing Disclosure Certificate in substantially the form filed with this resolution are hereby approved. The Mayor and the Borough Administrator are each hereby authorized to execute and deliver the Amendatory Loan Agreement and the Continuing Disclosure Certificate in such forms, together with such changes not inconsistent herewith as may be approved by the Mayor or the Borough Administrator (such approval to be conclusively evidenced by such official's execution and delivery of such document).

Section 13. Authority of Officers. The Mayor, the Borough Administrator and the Borough Clerk are each hereby authorized and directed execute such documents, agreements and certificates and to do and perform such things and determine such matters necessary and desirable for the Borough to carry out its obligations under the Bond, the Amended Loan Agreement, the Continuing Disclosure Certificate and this resolution.

Section 14. Amendatory and Supplemental Resolutions.

(a) The Assembly from time to time and at any time may adopt a resolution or resolutions supplemental hereto, which supplement thereafter shall become a part of this resolution, for any one or more of the following purposes:

(i) to add to the covenants and agreements of the Borough in this resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved to or conferred upon the Borough; or

(ii) to make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this resolution or in regard to matters or questions arising under this resolution as the Assembly may deem necessary or desirable and not inconsistent with this resolution and which shall not materially adversely affect the interest of the Registered Owner.

Any such supplement may be adopted without the consent of the Registered Owner, notwithstanding any of the provisions of subsection (b) of this section.

(b) With the consent of the Registered Owner, the Assembly may adopt a resolution or resolutions supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this resolution or of any such supplement. It shall not be necessary for the consent of the Registered Owners under this subsection to approve the particular form of any proposed supplement, but it shall be sufficient if such consent approves the substance thereof.

(c) Upon the adoption of any supplement under this section, this resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this resolution of the Borough and the Registered Owner shall thereafter be subject in all respects to such modification and amendment, and all the terms and conditions of such supplement shall be deemed to be part of the terms and conditions of this resolution for any and all purposes.



Section 15. Defeasance. Payment of any or all of the principal installments of the Bond may be provided for by the irrevocable deposit in trust of cash, noncallable Governmental Obligations or any combination thereof. The cash and the maturing principal and interest income on such Government Obligations, if any, must be sufficient and available without reinvestment to pay when due such principal, whether at maturity or upon fixed prepayment dates, together with interest thereon. The cash and Government Obligations shall be held irrevocably in trust for the Registered Owner of the Bond solely for the purpose of paying such principal and interest as the same shall mature or become payable upon prepayment, and, if applicable, upon the giving of notice of prepayment and notification to the Registered Owner that the deposit required by this section has been made and that such principal is deemed to be paid in accordance with this resolution. Such principal shall no longer be deemed outstanding hereunder. The obligation of the Borough in respect of such principal and interest shall nevertheless continue but the Registered Owner shall thereafter be entitled to payment only from the cash and Government Obligations deposited in trust to provide for the payment of such principal and interest.


Section 16. Limitations on Recourse. No recourse shall be had for the payment of the principal of or the interest on the Bond or for any claim based thereon or on this resolution against any member of the Assembly or officer of the Borough or any person executing the Bond. The Bond is not and shall not be in any way a debt or liability of the State of Alaska or of any political subdivision thereof, except the Borough, and does not and shall not create or constitute an indebtedness or obligation, either legal, moral or otherwise, of the State of Alaska or of any political subdivision thereof, except the Borough.

Section 17. 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 Bond.


Section 18. Effective Date. This resolution shall take effect immediately upon its passage and adoption.

ADOPTED BY THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH, on this 14<sup>th</sup> day of May, 2020.

ALEUTIANS EAST BOROUGH, ALASKA

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Borough Clerk