



## CITY & BOROUGH OF WRANGELL PUBLIC HEARING AGENDA

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**Tuesday, December 13, 2016**  
**6:30 – 7:00 p.m.**

**Location: Assembly Chambers, City Hall**

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1. Call to Order
2. Roll Call
3. Public Hearing Items:
  - a. **PROPOSED ORDINANCE No. 928:** AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CHAPTER 11.76, JUNK VEHICLES, OF THE WRANGELL MUNICIPAL CODE, RELATING TO THE PROCEDURES FOR THE DISPOSITION AND DISPOSAL OF JUNK VEHICLES (*second reading*)
  - b. **PROPOSED ORDINANCE No. 929:** AN ORDINANCE of the City and Borough of Wrangell, Alaska, authorizing the issuance of a sewer revenue bond in the principal amount of \$91,000 to finance a portion of the cost of acquiring, constructing and installing certain additions and betterments to and extensions of the Borough's sewer system; fixing the date, form, terms, maturities and covenants of the bond; reserving the right of the Borough to issue future revenue bonds with a lien on revenues on a parity with the bond upon compliance with certain conditions; and providing for the sale of the bond to the United States Department of Agriculture, Rural Development (*second reading*)
  - c. Approval to sell the Belt Freezer and land to Trident Seafoods
4. Written Testimony
5. Oral Testimony
6. Adjournment

# **Agenda Item 3a**

## **CITY & BOROUGH OF WRANGELL**

### **BOROUGH ASSEMBLY PUBLIC HEARING AGENDA ITEM December 13, 2016**

#### **INFORMATION:**

**PROPOSED ORDINANCE No. 928:** AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CHAPTER 11.76, JUNK VEHICLES, OF THE WRANGELL MUNICIPAL CODE, RELATING TO THE PROCEDURES FOR THE DISPOSITION AND DISPOSAL OF JUNK VEHICLES (*second reading*)

#### **Attachments:**

1. Memo from Clerk Lane
2. **Proposed Ordinance No. 928**

# MEMORANDUM

**TO:** Honorable Mayor & Borough Assembly

**FROM:** Kim Lane, MMC  
Borough Clerk

**SUBJECT:** Junk or Abandoned Vehicles Ordinance

**DATE:** November 29, 2016

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After the September 26<sup>th</sup> Workshop on scrap metal removal options in Wrangell, I requested some information from our attorney on how our Wrangell Municipal Code is written with regards to Junk Vehicles. This memo shows the two questions that I had asked the attorney and includes the responses. They are quite long. Here is the summary from the attorney with regards to the changes to Ordinance No. 928.

I have tried to make sure that all of the requirements of AS 28.11.100 are met and used the terminology from that section (and sections cross-referenced in that section) where appropriate. I also made other edits and changes throughout to further refine the draft. I decided to go with the 2 weeks of publication both places for when the owner or lienholder cannot be ascertained, as that's the amount of time in both the Sitka and Kodiak codes, and KGB says "at least once" for publication. We could easily add that in that circumstance, the notice will also be posted at the Borough offices – and you can simply do that as well. I don't know what the Wrangell police include on the notice that is affixed to the vehicle – whatever they do on that, I think they can just continue doing. Here it is like a bright neon pink notice attached to the mirror arm.

Below are the two questions with the attorney's answers.

1. If there is an abandoned vehicle on public (City) land, what is the notice period before the City can impound it and finally destroy or auction it off?

**Answer:** I think state law governs on this question. It is unlawful to abandon a vehicle on public property without the consent of the owner. A vehicle left parked on public property for more than 30 days without consent of the owner is presumed by law to be abandoned. At that point the municipality may remove or have the vehicle removed to a place of storage. Then the required notice provisions start: 30 day notice to the owner of record and lienholders of record stating grounds for removal and location of impoundment; if the vehicle is not registered or owner or lienholder cannot be ascertained, notice by publication per rules of court for service of process by publication. The notice must inform the owner/lienholder of their right to a hearing conducted by the municipality. After this, the vehicle may be disposed of by scrap processing or by public auction 20 days after notice of auction is published in the newspaper.

Adding these up, 30 + 30 + 20 if disposal by sale by auction = 80 days total

2. If there is a “junk” vehicle on private property, does our code violate their rights?

**Answer:** Under AS 28.11.020(b), a junk vehicle that has been left on private property in excess of 24 hours and without the consent of the owner or person in charge of the property, may be treated as abandoned and removed, which then starts the notice requirements, etc. I think the main difference between this and the code is that the code makes no reference to consent of the owner. I think this is where it gets difficult for the state and municipalities – people will keep essentially junk vehicles on their own property claim they are not “junk vehicles” as defined in AS 28.11.020, and therefore leave them alone.

I do not think your code violates their rights and certainly would not say – WMC 11.76.020 says that a person may not place or allow a junk vehicle to remain in public view for more than 10 days, and the manager can extend that time to 30 days for repairs. All the person has to do is move the vehicle out of public view or cover it up with a tarp or repair it. However, if WMC 11.76 is going to go through revision anyway, you may want to consider this issue and address any concerns.

Attorney comments regarding our current Wrangell Municipal Code:

WMC 11.76.020 appears to allow more than the minimum in state law for a vehicle to sit before it is deemed unlawful. Also the manager may allow up to an additional 30 days if he reasonable believes repairs can be made and the owner is willing to do so.

WMC 11.76.030A requires written notice before impound, which may help get the problem corrected and avoid need for impound. I think that is fine and more than is required under state law. The language on who notice goes to, how, and timeframes might need some changes to track the state statute on notice, AS 28.11.040.

WMC 11.76.030B says that after the 10 or 30 day period in the notice goes by, the junk vehicle may be impounded and sold at public auction per the notice provisions of WMC 11.76.040 (published in newspaper) or destroyed without further notice. I do not think this post-impound notice provision meets the requirements of the state law for what must be in the ordinance on notice under AS 28.11.100 and .040. Compare WMC with Sitka ordinance at section 9.12.020 on notice, enforcement by removal, and notice of right to a hearing.

It looks like WMC 11.76.040 was, at least in part, modeled after AS 28.11.070, but assumes that the “notice requirements of this chapter [11.76]” comply with AS 28.11.100 and .040. I think the notice requirements in the code need revision to fully do that.

WMC 11.76.060 Opportunity for hearing – this is generally okay as far as it goes but it seems to assume that the person has been given notice of their right to a hearing. I don’t see anywhere in this section or any of the notice sections where there is specific provision that the owner/lienholder is given notice of their right to a hearing as required under AS 28.11.100. Compare Sitka section 9.12.020B.

You should note that AS 28.11.080, Disposal facilities, provides in (b): “A municipality that adopts an ordinance under AS 28.11.100 shall designate appropriate areas within its jurisdiction for the disposal of abandoned vehicles.” Does Wrangell have a place where people can take junk vehicles for disposal?

In summary, I think that the current WMC 11.76 probably does not fully meet the requirements set out in AS 28.11.100 for a junk/abandoned vehicle

abatement ordinance. I think WMC 11.76 would benefit from staff/committee review and revision to ensure that it meets the state requirements for such an ordinance. I think notice provisions could be simplified and clarified by more closely tracking state law as well as perhaps using some of the language from the Sitka code or other AK municipalities.

You may also want to revise the definition of junked vehicle, I think so long as the ordinance is generally consistent with state law in AS 28.11, and specifically contains the provisions required in an abatement ordinance as set out in AS 28.11.100, it will be in compliance with state law.

CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 928

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CHAPTER 11.76, JUNK VEHICLES, OF THE WRANGELL MUNICIPAL CODE, RELATING TO THE PROCEDURES FOR THE DISPOSITION AND DISPOSAL OF JUNK VEHICLES

BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA:

[The changes to the existing code are shown as follows: the words that are underlined are to be added and the words that are **[bolded and in brackets are to be deleted]**.]

SEC. 1. Action. The purpose of this ordinance is to amend Chapter 11.76, Junk Vehicles, of the Wrangell Municipal Code, relating to the procedures for disposition and disposal of junk vehicles.

SEC. 2. Amendment of Section. Section 11.76.010 of the Wrangell Municipal Code is amended to read:

**11.76.010. Definition.**

“Junk vehicle” means a motor vehicle that **[is:**

**A. Stripped, wrecked or otherwise inoperable due to mechanical failure, and**

**B. Has not been repaired because of mechanical difficulties or because the cost of repairs required to make it operable exceeds the fair market value of the vehicles.]**

A. is not currently registered under AS 28.10, except for a vehicle not currently registered under AS 28.10 and used exclusively for competitive racing;

B. is stripped, wrecked, or otherwise inoperable due to mechanical failure;

C. has not been repaired because of mechanical difficulties or because the cost of repairs required to make it operable exceeds the fair market value of the vehicle; or

D. is in a condition that exhibits more than one of the following elements:

1. broken glass;

2. missing wheels or tires;
3. missing body panels or parts; or
4. missing drive train parts.

SEC. 3. Amendment of Section. Section 11.76.020 of the Wrangell Municipal Code is amended to read:

**11.76.020 Junk vehicles unlawful.**

- A. It is unlawful for the **[registered]** owner of record or other person with legal right to possession of a junk vehicle to place or allow such vehicle to remain in public view on any property, public or private, within the borough for more than 10 days, the same being declared a public nuisance. It is also unlawful for the owner, tenant or other person in possession or control of any property to cause or allow a junk vehicle to be placed or remain in public view on such property for more than 10 days.
- B. Notwithstanding the provisions of subsection (A) of this section, if the borough manager has reasonable grounds to believe that repairs can be made to render a junk vehicle operable, that the **[registered]** owner of record or other person entitled to possession of the vehicle is willing to undertake or have performed such repairs, that the vehicle does not pose any health or safety hazard, and that there is no reasonable means for removing the vehicle from public view while repairs are being performed, the borough manager may authorize a period of no more than 30 days for the performance of such repairs. In no case, however, may this section be construed as authorizing the operation of a junkyard or other salvage or repair business where other requirements of the law have not been met.
- C. Any person violating any provision of this chapter is guilty of an infraction and shall be punished by the fine established in the WMC 1.20.050 fine schedule if the offense is listed in that fine schedule or by a fine of up to \$500.00 if the offense is not listed in the WMC 1.20.050 fine schedule.

SEC. 4. Repeal and Reenactment of Section. Section 11.76.030 of the Wrangell Municipal Code is repealed and reenacted to read:

**[11.76.030 Disposition of junk vehicles.**

- A. **Upon observation of what appears to be a junk vehicle, the Wrangell police department shall give written notice by personal service or certified mail to:**



- 1. Any or all offenders described in WMC 11.76.020(A); and**
- 2. Any or all lienholders of record, as well as notice affixed to the vehicle. Notice affixed to the vehicle shall suffice for subsequent action if none of the offenders described in WMC 11.76.020(A) can be located and served within the 10-day period. This notice shall contain:**
  - a. The street address and other information sufficient to identify the location of the vehicle;**
  - b. A statement that the vehicle constitutes a public nuisance and a copy or summary of the relevant code sections;**
  - c. A statement that if the vehicle is not removed from public view within 10 days from issuance of the notice, the borough may impound and sell or destroy the vehicle at the offender's expense; and**
  - d. A statement that if the offender can show ability and willingness to make the repairs necessary to convert the junk vehicle into an operable vehicle, application may be made at any time before the 10 days have expired for a 30-day waiver to make the necessary repairs.**
- B. Upon expiration of the 10-day, or 30-day period where relevant, the borough manager may impound a junk vehicle and sell it at public auction pursuant to the notice provisions of WMC 11.76.040 or may have the vehicle privately sold, crushed or otherwise destroyed without further notice. If a vehicle is destroyed, the borough manager will notify the Alaska Department of Public Safety.]**

**11.76.30      Disposition of junk vehicles.**

- A. Upon observation of what appears to be a junk vehicle, the Wrangell police department shall give written notice by personal delivery or by registered or certified mail, return receipt requested, to the owner of record and any and all offenders described in WMC 11.76.020(A) and any and all lienholders of record. In addition, the police department shall affix a notice to the vehicle.**
- B. The written notice required to be personally delivered or mailed shall contain the following:**

1. The street address and other information sufficient to identify the location of the vehicle;
2. A statement as to the condition of the vehicle identifying defects which render it a junked vehicle;
3. A statement that the vehicle constitutes a public nuisance, and a copy or summary of relevant code sections;
4. A statement that if the vehicle is not removed from public view within 10 days from receipt of the written notice, the borough may impound and sell or destroy the vehicle at the offender's expense;
5. A statement that if the offender can show ability and willingness to make the repairs necessary to convert the junk vehicle to an operable vehicle, application may be made to the borough manager at any time before the 10 days from receipt of the notice have expired for a 30-day waiver to make the necessary repairs; and
6. A statement that the owner of record or lienholder of record and persons known to be lawfully entitled to possession of the vehicle have a right to request an administrative hearing to contest the validity of the borough's action to be held in accordance with WMC 11.76.060 provided a request for a hearing is made in writing, signed by the requestor, and received by the borough manager before the expiration of 10 days after receipt of the notice.

C. If the name and address of the owner of record or a lienholder of record cannot be ascertained, the written notice shall be given by publication in the local newspaper, to be published once a week for two consecutive weeks.

D. Written notice by mail is complete upon the return of the receipt or upon return of the notice as undeliverable, refused, or unclaimed. Proof of giving the notice by personal delivery or by mail may be made by the affidavit of the person giving notice naming the person to whom notice was given and specifying the time, place, and manner of giving the notice.

SEC. 5.        Repeal and Reenactment of Section. Section 11.76.040 of the Wrangell Municipal Code is repealed and reenacted to read:

#### **[11.76.040 Disposal of junk vehicles.**

**Upon satisfaction of the notice requirements of this chapter, a vehicle may be disposed of by public auction 20 days after notice of the auction is published in a newspaper of general circulation in the borough. A notice shall describe the vehicle and specify the place, date and time at which it will be sold. A copy of the notice of auction will be sent to the State of Alaska, Department of Public Safety.]**

#### **11.76.040 Disposal of junk vehicles.**

- A. Upon expiration of 10 days after receipt of the written notice by mail or personal delivery, or upon completion of notice by publication, or upon expiration of the 30-day period for repairs if granted, the borough manager may impound a junk vehicle and take steps as provided in this section to sell it at public auction, or have the vehicle destroyed.
- B. Upon impoundment of a junk vehicle, the borough manager shall, within 30 days, give written notice to the owner of record and to lienholders of record, stating the grounds for removal and the location of the place of impoundment of the vehicle. The notice shall include a statement that the owner of record or lienholder of record and persons known to be lawfully entitled to possession of the vehicle have a right to request an administrative hearing to contest the validity of the borough's action to be held in accordance with WMC 11.76.060 provided a request for a hearing is made in writing, signed by the requestor, and received by the borough manager before the expiration of 10 days after receipt of the notice.
- C. The written notice shall be given by personal delivery to the person to be notified or by registered or certified mail, return receipt requested, addressed to the person to be notified. If the name and address of the owner of record or a lienholder of record cannot be ascertained, notice shall be given by publication in the local newspaper, to be published once a week for two consecutive weeks.
- D. Written notice by mail is complete upon the return of the receipt or upon return of the notice as undeliverable, refused, or unclaimed. Proof of giving the notice by personal delivery or by mail may be made by the affidavit of the person giving notice naming the person to whom notice was given and specifying the time, place, and manner of giving the notice.
- E. Upon satisfaction of the notice requirements of this section, an impounded junk vehicle may be disposed of as follows:

1. By removal to a scrap processing center, by crushing, or by being otherwise destroyed, without further notice; or
2. By public auction to be held at least 20 days after notice of the auction is published in the local newspaper. The notice of auction must describe the vehicle and specify the place, date, and time at which it will be sold. A copy of the notice of auction will be sent to the Alaska Department of Public Safety.

SEC. 6.        Amendment of Section.    Section 11.76.050 of the Wrangell Municipal Code is amended to read:

**11.76.050        Recovery of costs.**

The costs of impounding, storing, notice, selling, and destroying of a junk vehicle may be charged or assessed by the borough against the vehicle, the **[registered]** owner of record of the vehicle, any person who has acquired legal title to the vehicle from or through the **[registered]** owner of record, and any person who has violated WMC 11.76.020(A).

SEC. 7.        Repeal and Reenactment of Section.    Section 11.76.060 of the Wrangell Municipal Code is repealed and reenacted to read:

**[11.76.060        Opportunity for hearing.**

**A person subject to liability under this chapter including any person described in WMC 11.76.020(A) and an owner or any lienholder of a junk vehicle or vehicle appearing to be a junk vehicle, before or after impoundment, shall be entitled to an administrative hearing prior to sale or destruction provided such is demanded in a signed writing delivered to the borough manager in a timely fashion at least 48 hours before the sale or destruction. Hearings shall be informal and technical rules of evidence do not apply. A person who requests a hearing may retain an attorney if he desires. The borough manager may appoint a hearing officer. Proceedings of the hearing shall be recorded. The borough manager/hearing officer shall state on the record the reasons for the decision and indicate the evidence relied on.]**

**11.76.060        Opportunity for hearing.**

The owner of record or lienholder of record of the vehicle and persons known to be lawfully entitled to possession of the vehicle have a right to request an administrative hearing to

contest the validity of the borough's action with regard to the vehicle under WMC Chapter 11.76, before or after impoundment, provided the request for a hearing is made by such person in writing received by the borough manager within the time period for making such request as set out in the written notice of the action at issue. Hearings shall be informal and technical rules of evidence do not apply. The borough manager may appoint a hearing officer. Proceedings of the hearing shall be recorded. The borough manager or hearing officer, as applicable, shall state on the record the reasons for the decision and indicate the evidence relied on.

SEC. 8.        Classification. This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

SEC. 9.        Severability. If any portion of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

SEC. 10.      Effective Date. This ordinance shall be effective upon adoption.

PASSED IN FIRST READING: November 29, 2016

PASSED IN SECOND READING: \_\_\_\_\_, 2016

\_\_\_\_\_  
David L. Jack, Mayor

ATTEST:

\_\_\_\_\_  
Kim Lane, Borough Clerk

# Agenda Item 3b

## CITY & BOROUGH OF WRANGELL

### BOROUGH ASSEMBLY PUBLIC HEARING AGENDA ITEM December 13, 2016

#### INFORMATION:

**PROPOSED ORDINANCE No. 929:** AN ORDINANCE of the City and Borough of Wrangell, Alaska, authorizing the issuance of a sewer revenue bond in the principal amount of \$91,000 to finance a portion of the cost of acquiring, constructing and installing certain additions and betterments to and extensions of the Borough's sewer system; fixing the date, form, terms, maturities and covenants of the bond; reserving the right of the Borough to issue future revenue bonds with a lien on revenues on a parity with the bond upon compliance with certain conditions; and providing for the sale of the bond to the United States Department of Agriculture, Rural Development (*second reading*)

#### Attachments:

1. Memo from Manager Jabusch
2. **Proposed Ordinance No. 929**

# **MEMORANDUM**

**TO: HONORABLE MAYOR AND MEMBERS OF THE ASSEMBLY  
CITY AND BOROUGH OF WRANGELL**

**FROM: JEFF JABUSCH BOROUGH MANAGER**

**SUBJECT: USDA Loan Ordinance No. 929**

**DATE: December 2, 2016**

This Ordinance will repeal the Ordinance that was previously adopted on September 27, 2016 to comply with some minor changes the USDA requires. Upon submittal of the close out documents, USDA notified us that there were some minor changes required within the Ordinance. Below is the information on why the Ordinance is necessary.

The ordinance attached is required to accept the loan offered by USDA for the final steps needed for the recently completed sewer pump station upgrades. Back almost a year ago the assembly passed a resolution to authorize the loan and move forward with the application with USDA for the loan to help us pay for the unfunded portion of the project. USDA required a portion of the funding to come from this loan (\$91,000) with the balance from them in the form of a grant. An ordinance is required by USDA to complete this portion of the process.

Once this portion is completed, the borough manager can sign the final paperwork and bond and we can then get our money.

CITY AND BOROUGH OF WRANGELL, ALASKA

SEWER REVENUE BOND, 2016

\$91,000

ORDINANCE NO. 929

AN ORDINANCE of the City and Borough of Wrangell, Alaska, authorizing the issuance of a sewer revenue bond in the principal amount of \$91,000 to finance a portion of the cost of acquiring, constructing and installing certain additions and betterments to and extensions of the Borough's sewer system; fixing the date, form, terms, maturities and covenants of the bond; reserving the right of the Borough to issue future revenue bonds with a lien on revenues on a parity with the bond upon compliance with certain conditions; and providing for the sale of the bond to the United States Department of Agriculture, Rural Development.

Passed \_\_\_\_\_, 2016

Prepared by:

STRADLING YOCCA CARLSON & RAUTH, P.C.  
Seattle, Washington



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CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 929

AN ORDINANCE of the City and Borough of Wrangell, Alaska, authorizing the issuance of a sewer revenue bond in the principal amount of \$91,000 to finance a portion of the cost of acquiring, constructing and installing certain additions and betterments to and extensions of the Borough's sewer system; fixing the date, form, terms, maturities and covenants of the bond; reserving the right of the Borough to issue future revenue bonds with a lien on revenues on a parity with the bond upon compliance with certain conditions; and providing for the sale of the bond to the United States Department of Agriculture, Rural Development.

WHEREAS, the City and Borough of Wrangell, Alaska (the "Borough"), a municipal corporation and home rule borough of the State of Alaska, owns, operates and maintains a sewage collection and treatment system (the "System"), as authorized by Section 8-1 of the Borough Charter; and

WHEREAS, the Borough has determined that it is in the best interest of the Borough and its residents to construct and equip upgrades to some of the pumping stations in the System (as described more fully herein, the "Project"); and

WHEREAS, the Borough has received state and federal grants for most of the cost of the Project; and

WHEREAS, by a letter of conditions dated August 31, 2015 (the "Letter of Conditions"), the United States of America, acting through the United States Department of Agriculture, Rural Development ("USDA"), has offered to lend the Borough \$91,000 for a portion of the cost of the Project; and

WHEREAS, by resolution of the Borough Assembly, adopted on October 13, 2015 (the "Loan Resolution"), the Borough accepted the terms of the USDA loan; and

WHEREAS, in accordance with the Letter of Conditions and the Loan Resolution, the Borough now wishes to authorize the issuance of a sewer revenue bond of the Borough in the principal amount of \$91,000 (the "Bond") to evidence and secure payment of the USDA loan; and

WHEREAS, the former City of Wrangell (the "City"), by Ordinance No. 636, passed by the City Council on July 8, 1997, issued to USDA the City's Sewer Revenue Bond, 1997, in the initial principal amount of \$250,000 (the "1997 Bond"), approximately \$188,120.68 of which remains outstanding; and

WHEREAS, the incorporation of the Borough as a unified home rule borough was approved by the Local Boundary Commission and by the Borough's voters and became effective on May 30, 2008; and

WHEREAS, as a result of the incorporation of the Borough, the City was dissolved and the Borough succeeded to all rights, powers, duties, assets and liabilities of the City, including the System and the 1997 Bond; and

WHEREAS, as required by the Letter of Conditions, the Bond will be issued with a first lien position on revenue of the System, so USDA as holder of the 1997 Bond is deemed to have waived the parity conditions set forth in Ordinance No. 636 and consented to the issuance of the Bond on a parity of lien with the 1997 Bond, as provided herein;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, as follows:

Section 1.      Definitions. As used in this ordinance the following terms have the following meanings:

“Assembly” means the Borough Assembly as the general legislative authority of the Borough as the same shall be duly and regularly constituted from time to time.

“Assessments” means the assessments (including interest and penalties) levied in any utility local improvement district of the Borough created for the acquisition or construction of additions and betterments to, or extensions of the System, if the assessments are pledged to the Bond Fund.

“Average Annual Debt Service” on any of the Parity Bonds means the amount determined by dividing (a) the sum of all interest and principal to be paid on such bonds from the date of determination to the last maturity date of the bonds, by (b) the number of calendar years from and including the calendar year in which the determination is made to the last calendar year in which the bonds will be outstanding.

“Bond” means the \$91,000 par value sewer revenue bond of the Borough authorized to be issued by this ordinance.

“Bond Fund” means the “City and Borough of Wrangell Sewer Revenue Bond Redemption Fund” renamed and continued by Section 5 of this ordinance to pay and secure the payment of all Parity Bonds.

“Borough” means the City and Borough of Wrangell, a municipal corporation and home rule borough duly organized and existing under and by virtue of the laws of the State of Alaska and the Borough’s Charter.

“Borough Clerk” means the Borough Clerk, or the successor to the duties of that office.

“Costs of Maintenance and Operation” means all necessary operating expenses, current maintenance expenses, expenses of reasonable upkeep and repairs, and insurance and administrative expenses, but excludes depreciation, payments for debt service or into reserve accounts and costs of capital additions to or replacements of the System, taxes levied by the Borough or payments in lieu of such taxes.

“Finance Director” means the Finance Director of the Borough or the successor to the duties of that office.

“Future Parity Bonds” means any and all sewer revenue bonds of the Borough issued after the date of the issuance of the Bond and having a lien on the money in the Sewer Fund for the payment of the principal thereof and interest thereon equal to the lien upon the money in such fund for the payment of the principal of and interest on the Bond.

“Gross Revenue” means all of the earnings, revenue and money, except Assessments, received by the Borough from or on account of the operation of the System including proceeds from the sale, lease or other disposition of any of the properties or facilities of the System, and the income from investments of money in the Revenue Fund and any bond fund or from any other investment thereof except the income from investments irrevocably pledged to the payment of revenue bonds pursuant to a plan of retirement or refunding. Gross Revenue shall not include grants or bond proceeds, but shall include federal or state reimbursements of operating expenses to the extent that such expenses are included as Costs of Maintenance and Operation.

“Letter of Conditions” means the letter from USDA to the Borough dated August 31, 2015, establishing conditions for the USDA loan, together with any amendments or supplements to that letter.

“Loan Resolution” means the resolution adopted by the Assembly on October 13, 2015, in the form set forth in RUS Bulletin 1780-27, accepting the USDA loan and prescribing certain terms to be included in this ordinance.

“Net Revenue” means Gross Revenue less the Costs of Maintenance and Operation.

“Parity Bonds” means the 1997 Bond, the Bond, and any Future Parity Bonds.

“Principal and Interest Account” means the special account of that name heretofore created in the Bond Fund and continued pursuant to Section 5 for the purpose of paying the principal of and interest on all Parity Bonds.

“Professional Utility Consultant” means the independent person(s) or firm(s) selected by the Borough having a favorable reputation for skill and experience with sewer systems of comparable size and character to the System in such areas as are relevant to the purposes for which they are retained.

“Project” means constructing and equipping upgrades to pumping stations in the System.

“Reserve Account” means the special account of that name heretofore created in the Bond Fund and continued pursuant to Section 5B for the purpose of securing the payment of all Parity Bonds.

“Sewer Fund” means the heretofore established Sewer Fund of the Borough.

“Short-Lived Asset Reserve Fund” means the fund of that name established pursuant to Section 6 of this ordinance.

“System” means the existing sewage collection and treatment system of the Borough and such improvements or additions as may be made to such system for as long as any Parity Bonds are outstanding and may include the water supply and distribution system of the Borough and the storm drainage system of the Borough if either is or both are ever combined with the sewer system.

“Term Bonds” means any Future Parity Bonds identified as Term Bonds in the ordinance authorizing the issuance thereof, the payment of the principal of which is provided for by a mandatory schedule of deposits of money equal (in the aggregate) to the full principal amount of such Term Bonds, into the Bond Fund, and by a mandatory redemption schedule corresponding (as to time and amounts) to such mandatory schedule of deposits.

“USDA” means the United States, acting by and through the Department of Agriculture, Rural Development.

“1997 Bond” means the City of Wrangell, Alaska, Sewer Revenue Bond, 1997, issued pursuant to Ordinance No. 636 passed by the Wrangell City Council on July 8, 1997, and now an obligation of the Borough.

Section 2. Authorization of Bond. To provide financing for a portion of the cost of the Project, the Borough shall issue and sell its sewer revenue bond in the aggregate principal amount of \$91,000 (the “Bond”). The Bond shall be designated “City and Borough of Wrangell, Alaska, Sewer Revenue Bond, 2016,” shall be dated as of the date of its delivery to USDA as the initial purchaser, shall be numbered R-1, shall be in the denomination of \$91,000, shall be fully registered, shall bear interest from the date of its issuance on the unpaid principal balance thereof at a per annum interest rate to be established by USDA, as provided in Section 16 of this ordinance (so long as that rate does not exceed 4.0% per annum), shall be amortized over a 40-year period with approximately equal semiannual installments of principal and interest payable on the dates acceptable to USDA and set forth in the Bond, until all principal installments of the Bond have been paid or such payment has been duly provided for; provided, however, that the final payment of all principal of and interest on the Bond shall nevertheless be due at final maturity of the Bond approximately 40 years after the date of the Bond, and provided, further, however, that so long as the Bond is held by USDA, the Borough may not defease all or any portion of the Bond.

Payments will be applied first to interest and then to principal, and interest shall accrue on the basis of a 365-day year.

Both principal of and interest on the Bond are payable in lawful money of the United States of America to the owner or owners thereof at the address appearing on the registration books of the Borough maintained by the Finance Director; provided, however, that as long as USDA is the owner and holder of the Bond, the Borough will make payments by any electronic pre-authorized debit system or other transfer system that may be required by USDA from time to time.

The Bond is payable solely from the Gross Revenue and is not a general obligation of the Borough.

The Bond shall be registered as to both principal and interest as long as any of the installments of the Bond remain unpaid, and the Borough will maintain in the office of the Finance Director books for the registration and transfer of the Bond. No transfer of the Bond so registered will be valid unless made on those registration books upon the written request of the registered owner or its duly authorized agent.

Section 3. Prepayment. The Borough hereby reserves the right to prepay some or all of the Bond at any time, with any such prepayment applied first to interest accrued to the date of receipt

of the prepayment and second to principal. No advance notice of intended prepayment or redemption is required.

Section 4. Priority of Payments from Sewer Fund. There has heretofore been established in the office of the Finance Director a special fund of the Borough designated as the “City and Borough of Wrangell Sewer Fund” (the “Sewer Fund”). All of the Gross Revenue must be deposited in the Sewer Fund as collected. The Sewer Fund must be held separate and apart from all other funds and accounts of the Borough, and the Gross Revenue deposited in the Sewer Fund will be used only for the following purposes and in the following order of priority:

First, to pay the Costs of Maintenance and Operation;

Second, to pay the interest on any Parity Bonds;

Third, to pay the principal of any Parity Bonds;

Fourth, to make all payments required to be made into the Reserve Account created to secure the payment of Parity Bonds;

Fifth, to make all payments required to be made into any revenue bond redemption fund or revenue warrant redemption fund and debt service account or reserve account created to pay and secure the payment of the principal of and interest on any revenue bonds or revenue warrants of the Borough having a lien upon the Gross Revenue junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds; and

Sixth, to make all payments required to be made into the Short-Lived Asset Reserve Fund; and

Seventh, to retire by redemption or purchase in the open market any outstanding revenue bonds or revenue warrants of the Borough, to make necessary additions, betterments, improvements and repairs to or extensions and replacements of the System of the Borough, or for any other lawful Borough purposes.

Section 5. Bond Fund. To pay and secure payment of all Parity Bonds, Ordinance No. 636 authorized the creation of a special fund designated as the “City of Wrangell 1997 Sewer Revenue Bond Redemption Fund.” That fund is hereby renamed and continued as the “City and Borough of Wrangell Sewer Revenue Bond Redemption Fund” (the “Bond Fund”), which fund contains the Principal and Interest Account and the Reserve Account established by Ordinance No. 636 and is to be drawn upon for the sole purpose of paying the principal of and interest on all Parity Bonds.

A. Principal and Interest Account. As long as the Bond remains outstanding, the Borough hereby irrevocably obligates and binds itself to set aside and pay from the Sewer Fund into the Principal and Interest Account, in addition to amounts required to be paid therein on account of any other issue of Parity Bonds, those amounts necessary, after taking into consideration such other funds as are on hand in the Principal and Interest Account and available for the payment of principal and interest on the Bond, to pay the interest or principal and interest next coming due on the Bond. These payments from the Sewer Fund shall be made on or before the day on which the regular

semiannual payment of principal of and interest on the Bond is due and payable in an amount equal to such regular payment.

The Borough covenants and agrees that if it issues any Future Parity Bonds that are Term Bonds, it will provide in each ordinance authorizing the issuance of the same for annual payments to be made from the Sewer Fund into the Principal and Interest Account sufficient, together with Gross Revenue collected and deposited and such other money as is on hand and available therefor in such account, to amortize the principal of Future Parity Bonds that are Term Bonds on or before the maturity date thereof.

B. Reserve Account. The Borough covenants and agrees that it will pay into the Reserve Account out of the Gross Revenue (or, at the option of the Borough, out of any other funds on hand legally available for such purposes) annual payments sufficient with other money in the Reserve Account to have on deposit therein by ten years from the date of delivery of the Bond, a total amount of not less than the Average Annual Debt Service on the Bond, to be paid at the rate of not less than 1/10 of such amount per year.

The Borough further covenants and agrees that if it issues any Future Parity Bonds it will provide in each ordinance authorizing the issuance of such Future Parity Bonds that, within ten years of the date of issuance of such Future Parity Bonds, the Borough will have set aside and paid into the Reserve Account an amount that will at least equal the Average Annual Debt Service on such Future Parity Bonds. This amount shall be accumulated by one or more deposits commencing not later than six months after the date of issuance of such Future Parity Bonds and continuing no less often than semiannually until such amount has been accumulated.

The Borough further covenants and agrees that when the required deposits have been made into the Reserve Account, it will at all times maintain therein an amount at least equal to the Average Annual Debt Service on all outstanding Parity Bonds. Whenever there is a sufficient amount in the Bond Fund, including the Reserve Account and the Principal and Interest Account, to pay the principal of premium if any, and interest on all outstanding Parity Bonds, the money in the Reserve Account may be used to pay such principal, premium, if any, and interest. Money in the Reserve Account may also be withdrawn to redeem and retire, and to pay the premium, if any, and interest due to such date of redemption, on any outstanding Parity Bonds, as long as the money left remaining on deposit in the Reserve Account are equal to the average annual debt service on the remaining outstanding Parity Bonds.

If there is a deficiency in the Principal and Interest Account to meet maturing installments of either interest on or principal of and interest on Parity Bonds, the deficiency shall be made up from the Reserve Account by the withdrawal of money therefrom. Any deficiency created in the Reserve Account by reason of any such withdrawal shall then be made up out of Gross Revenue after making necessary provision for the payments required to be made under paragraph "First" through "Third" of Section 4 of this ordinance.

All money in the Reserve Account may be kept in cash or invested as permitted under Alaska law. Interest earned on or any profits made from the sale of any such investments shall be deposited in and become a part of the Principal and Interest Account.

Section 6. Short-Lived Asset Reserve Fund. A special fund designated the "Wrangell Sewer System Short-Lived Asset Reserve Fund" (the "Short-Lived Asset Reserve Fund") is hereby

authorized to be established in the office of the Finance Director. Money in the Short-Lived Asset Reserve Fund may be used from time to time to replace short-lived assets of the System. So long as the Bond remains outstanding, subject to the priorities established in Section 5 of this ordinance, the Borough must deposit \$45,963 annually (or such other amounts as may be required by USDA) into the Short-Lived Asset Reserve Fund.

Section 7. Pledge of Sewer Revenue. The amounts pledged to be paid into the Bond Fund and the accounts therein out of the Sewer Fund are hereby declared to be a lien and charge upon Gross Revenue and the money in the Sewer Fund junior, subordinate and inferior to the Costs of Maintenance and Operation, equal in rank to the lien and charge that may later be made thereon to pay and secure the payment of the 1997 Bond and any Future Parity Bonds, and superior to all other charges of any kind or nature.

Section 8. Sufficiency of Revenues. The corporate authorities of the Borough hereby declare that in fixing the amounts to be paid into the Bond Fund as aforesaid they have exercised due regard to the reasonable and necessary costs of maintenance and operation of the System and the charges necessary to pay and secure the payment of the principal of and interest on the Bond and have not obligated the Borough to set aside and pay into the Bond Fund a greater amount of the Gross Revenue than in their judgment will be available over and above such reasonable and necessary costs of maintenance and operation and the amounts necessary to pay the principal of and interest on the Bond.

Section 9. General Covenants. So long as the Bond remains unpaid, the Borough hereby covenants and agrees with the owner of the Bond from time to time, as follows:

A. Maintenance and Operations. The Borough will at all times maintain and keep the System in good repair, working order and condition, will at all times operate the System and the business in connection therewith in an efficient manner and at a reasonable cost, and will comply with all applicable laws of the State of Alaska.

B. Rates. The Borough will impose and collect such rates and charges for service rendered by the System (i) that Gross Revenue paid into the Sewer Fund will be sufficient at all times to provide for the payment of the Costs of Maintenance and Operation and payments of principal of and interest on the Bond and any Parity Bonds; (ii) that all service rendered by the System shall be subject to the full rates prescribed by the rules and regulations of the Borough; and (iii) that no free service from the System will be permitted.

C. Books and Records. The Borough will maintain complete books and records relating to the operation of the System and its financial affairs, and will cause such books and records to be audited annually at the end of each fiscal year and an audit prepared in accordance with State law. At all reasonable times USDA shall have the right to inspect the System and the records, accounts and data of the Borough relating thereto.

D. Insurance. The Borough will carry fire and extended coverage insurance in an amount at least equal to the depreciated replacement value for all above-ground structures of the System, including equipment and machinery. The Borough will also carry adequate public liability insurance, workers' compensation insurance and other kinds of insurance as under good practice are ordinarily carried on such properties by utilities engaged in the operation of a sewer utility. The



premiums paid for all such insurance may be regarded and paid as a Cost of Maintenance and Operation.

E. Assessments. The Borough shall promptly collect all Assessments levied in any utility local improvement district now or hereafter created to secure the payment of the principal of and interest on any Parity Bonds and shall pay the same into the Bond Fund without allocation of such Assessments to any particular series of Parity Bonds. It is hereby provided further, however, that nothing in this ordinance or in this subsection shall be construed to prohibit the Borough from issuing revenue bonds having a lien on Gross Revenue junior to the lien on such revenue for the payment of the principal of and interest on Parity Bonds and pledging as security for the payments of such junior lien bonds assessments levied in any utility local improvement district that may have been created to pay part or all the cost of improvements to the System for which such junior lien revenue bonds were specifically issued.

F. Disposition of Facilities. The Borough will not mortgage, sell, lease, or in any manner encumber or dispose of all the property of the System, unless provision is made for payment into the Bond Fund of a sum sufficient to pay the principal of and interest on all outstanding Parity Bonds, and that it will not mortgage, sell, lease, or in any manner encumber or dispose of any part of the System that is used, useful and material to the operation of the System unless provision is made for replacement thereof or for payment into the Bond Fund of an amount that bears the same ratio to the amount of the outstanding Parity Bonds as the revenue available for debt service for those Parity Bonds for the 12 months preceding such sale, lease, encumbrance or disposed of, bears to the revenue available for debt service for those Parity Bonds from the entire System for the same period. Any such money so paid into the Bond Fund shall be used to retire outstanding Parity Bonds at the earliest possible date.

Notwithstanding any other provision of this Subsection F, the Borough may sell or otherwise dispose of any of the works, plant, properties and facilities of the System or any real or personal property comprising a part of the same with a value less than 4% of the net utility plant of the System or which shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the System, or no longer necessary, material to or useful in such operation, without making any deposit into the Bond Fund.

G. Fidelity Bond. The Borough will maintain an officer's fidelity bond for its Finance Director for as long as USDA is the registered owner of the Bond. A certified copy of such bond will be delivered to USDA.

#### Section 10. Tax Covenants; Special Designation.

A. General. The Borough hereby covenants that it will not make any use of the proceeds of sale of the Bond or any other funds of the Borough that may be deemed to be proceeds of the Bond pursuant to Section 148 of the Code that will cause the Bond to be an "arbitrage bond" within the meaning of said section and said regulations.

The Borough further covenants that it will not take any action or permit any action to be taken that would cause the Bond to constitute a "private activity bond" under Section 141 of the Code.

B. Special Designation. The Borough hereby designates the Bond as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3) of the Code. The Borough does not anticipate issuing more than \$10,000,000 of qualified tax-exempt obligations during 2016.

Section 11. Future Parity Bonds. The Borough hereby further covenants and agrees with the owner from time to time of the Bond for as long as any portion of the same remains outstanding, as follows:

A. That it will not hereafter issue any sewer revenue bonds or other obligations of the Borough that will have a lien and charge upon Gross Revenue superior to the lien and charge thereon of the Bond. The Borough may issue Future Parity Bonds for:

First, the purpose of acquiring, constructing and installing additions, betterments and improvements to and extensions of, acquiring necessary equipment for, or making necessary replacements of or repairs to the System, or

Second, the purpose of refunding by payment, redemption, exchange or purchase at or prior to their maturity any outstanding Parity Bond,

upon compliance with the following conditions:

1. So long as USDA holds the 1997 Bond and the Bond, USDA consents to the issuance of such Future Parity Bonds. With such consent, the certificate described in paragraph 6 below is not required, and the Borough will comply with the rest of the conditions set forth in this Section 11.A to the extent required by USDA.

2. At the time of the issuance of such Future Parity Bonds there is no deficiency in the Principal and Interest Account or the Reserve Account.

3. Each ordinance authorizing the issuance of such Future Parity Bonds must require that principal and interest on the Future Parity Bonds be payable out of the Bond Fund and further provide (i) for payments into the Bond Fund to satisfy the sinking fund requirement set forth in Section 5.A hereof with respect to any such Future Parity Bonds that are Term Bonds and (ii) for payments into the Reserve Account to satisfy the requirements of Section 5.B hereof.

4. Each ordinance authorizing the issuance of such Future Parity Bonds must require that any and all Assessments will be paid directly into the Bond Fund.

5. Each ordinance authorizing the issuance of refunding Future Parity Bonds must require that all uncollected Assessments that may have been levied to secure the payment of the principal of and interest on the bonds being refunded be paid directly into the Bond Fund.

6. At the time of the issuance of such Future Parity Bonds, the Borough shall have on file in the office of the Borough Clerk a certificate of a Professional Utility Consultant showing: that the Net Revenue determined and adjusted as hereafter provided for each calendar year after the issuance of such Future Parity Bonds (the “Adjusted Net Revenue”) will equal at least 1.10 times the Annual Debt Service (after deducting Assessments, allocated to the years in which they would be received if the unpaid balance of each assessment roll were paid in the remaining number of installments with interest on the declining balance at the times and at the rate provided in the

ordinance confirming the assessment roll) for each such calendar for all Parity Bonds plus the Future Parity Bonds proposed to be issued.

The Adjusted Net Revenue shall be the Net Revenue for a period of any 12 consecutive months out of the 24 months immediately preceding the date of delivery of such proposed Future Parity Bonds as adjusted by such Professional Utility Consultant to take into consideration changes in Net Revenue estimated to occur under the following conditions for each year after such delivery for so long as any Parity Bonds, including the Future Parity Bonds proposed to be issued, shall be outstanding:

(i) the additional Net Revenue that would have been received if any change in rates and charges adopted by ordinance of the Borough prior to the date of such certificate and subsequent to the beginning of such 12-month period, had been in force during the full 12-month period;

(ii) the additional Net Revenue that would have been received if any facility of the System that became fully operational after the beginning of such 12-month period had been so operating for the entire period;

(iii) the additional Net Revenue estimated by such Professional Utility Consultant to be received from potential customers of the System with existing homes or other buildings that will be required to connect to any additions, betterments and improvements to and extensions of any facilities of the System that are (a) under construction at the time of such certificate or (b) will be constructed from the proceeds of the Future Parity Bonds to be issued;

(iv) the additional Net Revenue that would have been received if those customers added to the System subsequent to the beginning of such 12-month period had been customers for the entire period;

(v) the additional Net Revenue estimated to be received from any potential customers of the System who paid any required connection charge subsequent to the beginning of such 12-month period;

(vi) the additional Net Revenue estimated to be received from any potential customers of the System who received building permits subsequent to the beginning of such 12-month period and are anticipated to connect to the System;

(vii) The additional Net Revenue estimated to be received from any person, firm, association, private or municipal corporation under any executed service contract, which net revenue is not included in any of the sources of Net Revenue heretofore described in this subsection A(5); and,

(viii) The estimated change in Net Revenue as a result of any actual or reasonably anticipated changes in the Costs of Maintenance and Operation after such 12-month period.

Such Professional Utility Consultant may rely upon, and his or her certificate shall have attached thereto, financial statements of the System certified by the Finance Director showing income and expenses for the period upon which the same is based.

The certificate of such Professional Utility Consultant shall be conclusive and the only evidence required to show compliance with the provisions and requirements of this subsection A(5).

B. Notwithstanding the foregoing requirement, if Future Parity Bonds are to be issued for the purpose of refunding at or prior to their maturity any part or all of the then outstanding Parity Bonds and the issuance of such refunding Future Parity Bonds will result in a debt service savings and does not require an increase of more than \$5,000 in any fiscal or calendar year for principal of and interest on such refunding Future Parity Bonds over and above the amount required in such year for the principal of and interest on the bonds being refunded thereby, the certificate described in subsection A.6 of this section is not required.

C. Nothing herein contained shall prevent the Borough from issuing any revenue bonds, warrants or other obligations that create a lien and charge upon Gross Revenue and money in the Sewer Fund junior or inferior to the payments required by this ordinance to be made into the Bond Fund and the Reserve Account; provided, however, that in accordance with the Loan Resolution, so long as the Bond is held by USDA, the prior written consent of USDA must be obtained before the Borough issues any such junior lien revenue bond, warrant, or other obligation of the Sewer Fund.

Section 12. Transfer. 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 books of the Borough.

Section 13. Lost or Destroyed Bond. If the Bond is lost, stolen or destroyed, the Borough may execute and deliver a new bond of like date, number and tenor to the registered owner thereof in the manner provided by law and upon the owner's paying the expenses and charges of the Borough in connection therewith.

Section 14. Form of Bond. The Bond shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. R-1

\$91,000

STATE OF ALASKA

CITY AND BOROUGH OF WRANGELL  
SEWER REVENUE BOND, 2016

The City and Borough of Wrangell, Alaska, a municipal corporation and home rule borough of the State of Alaska (the "Borough"), acknowledges itself indebted and for value received promises to pay, but solely from the Bond Fund (hereinafter identified), to the United States of America, acting by and through the Department of Agriculture, Record Development (the "Payee"), the principal sum of

NINETY-ONE THOUSAND AND NO/100 DOLLARS (\$91,000)

and to pay interest, from the date hereof, on the balance of said principal from time to time remaining unpaid at the rate of \_\_\_\_% per annum payable in semiannual amortized installments of principal and interest, equal to \_\_\_\_\_ and No/100 Dollars (\$\_\_\_\_\_), payable on \_\_\_\_\_, and semiannually thereafter, until all of such installments have been paid or such payment has been duly

provided for, provided that the final payment of principal of and interest on this bond shall nevertheless be due on \_\_\_\_\_, 2056.

As long as the Payee is the registered owner of this bond, the Borough will make payments of principal and interest by any electronic pre-authorized debit system or other transfer system that may be required by the Payee from time to time. Upon final payment of the principal of and interest on this bond, it shall be submitted to the Borough for cancellation and surrender.

Both principal of and interest on this bond are payable solely out of the special fund of the Borough known as the "City and Borough of Wrangell Sewer Revenue Bond Redemption Fund" (the "Bond Fund"). As described below, the Net Revenue of the System is pledged to payment of this bond.

In addition to the installments of principal required to be paid by the Borough as hereinabove set forth, the Borough, at its option, shall have the right to prepay this bond as provided in the Bond Ordinance. No advance notice need be given of any prepayment hereunder.

This bond is issued pursuant to Ordinance No. \_\_\_\_\_ (the "Bond Ordinance") for the purpose of financing the completion of certain additions and improvements to the Borough's sewer system (the "System"). Capitalized terms used in this bond and not otherwise defined herein have the meanings given those terms in the Bond Ordinance.

The Borough does hereby pledge and bind itself to set aside from the Gross Revenue and to pay into the Bond Fund the various amounts required by the Bond Ordinance to be paid into and maintained in said Fund, on the dates and at the times provided by the Bond Ordinance. Said amounts so pledged to be paid into the Bond Fund are hereby declared to be a lien and charge upon such Gross Revenue junior, subordinate and inferior to the Costs of Maintenance and Operation of the System, equal in rank to the lien thereon of the 1997 Bond and any Future Parity Bonds, and superior to all other charges of any kind or nature. In the Bond Ordinance, the Borough has reserved the right to issue Future Parity Bonds on terms and conditions as set forth therein, which conditions include Payee's consent, as set forth therein.

Reference is made to the Bond Ordinance for a more complete description of the covenants with and the rights of the owner of this bond. The Borough hereby covenants and agrees with the owner of this bond that it will keep and perform all the covenants of this bond and of the Bond Ordinance to be by it kept and performed.

This bond may be assigned, and upon such assignment the assignor shall promptly notify the Borough Finance Director by registered mail.

It is hereby certified and declared that this bond is issued pursuant to and in strict compliance with the Constitution and laws of the State of Alaska and the Charter and ordinances of the Borough, 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 and Borough of Wrangell, Alaska, has caused this bond to be signed on behalf of the Borough with the manual or facsimile signature of the Mayor, to be attested by the manual signature of the Borough Clerk, and the seal of the Borough to be impressed hereon, as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY AND BOROUGH OF WRANGELL,  
ALASKA

\_\_\_\_\_  
/s/  
Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
/s/  
Borough Clerk

REGISTRATION CERTIFICATE

This bond is registered in the name of the owner on the books of the Borough in the office of the Borough Finance Director as to both principal and interest as noted in the registration blank below. No transfer hereof shall be valid unless made by the registered owner or his/her duly authorized agent in writing, and similarly noted hereon and on the bond registration books of the Borough.

Date of Registration	Name and Address of Registered Owner	Signature of Registrar
_____, 20__	United States Department of Agriculture, Rural Development Palmer, AK	_____
_____	_____	_____
_____	_____	_____

The Bond shall have endorsed thereon the following form of assignment:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned registered owner thereof hereby sells, assigns and transfers the within bond unto \_\_\_\_\_.

DATED \_\_\_\_\_

\_\_\_\_\_  
In the presence of

\_\_\_\_\_  
NOTICE: Signature(s) must be  
guaranteed pursuant to law.

(Repeat this form of assignment)

Section 15. Execution of the Bond. The Bond will be executed on behalf of the Borough with the manual or facsimile signatures of the Mayor and the Borough Clerk, and will have the seal of the Borough impressed or imprinted thereon.

If any officer of the Borough who has signed, attested, authenticated, registered or sealed the Bond ceases to hold that office before the Bond so signed, attested, authenticated, registered or sealed has been actually issued and delivered, the Bond will be valid nevertheless and may be issued by the Borough with the same effect as though the person who had signed, attested, authenticated, registered or sealed that Bond had not ceased to hold that office. The Bond may also be signed, attested, authenticated, registered or sealed on behalf of the Borough by a person who, at the actual date of execution of the Bond is a proper officer of the Borough although at the original date of the Bond that person did not hold that office.

Only a Bond that bears a Registration Certificate in the form set forth in Section 14, manually executed by the Bond Registrar, will be valid or obligatory for any purpose or entitled to the benefits of this ordinance. The executed Registration Certificate will be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered hereunder and is entitled to the benefits of this ordinance.

Section 16. Sale of Bond. The Bond shall be sold to USDA at a price of par on the terms and conditions set forth in the Letter of Conditions and in this ordinance. The Borough Manager is authorized to accept the applicable interest rate provided by USDA, so long as that interest rate does not exceed 4.0%, and that interest rate and the applicable principal and interest payment dates acceptable to USDA shall be set forth in the Bond.

Section 17. Application of Bond Proceeds. The proceeds of the sale of the Bond shall be accounted for in the Sewer Fund and used to pay costs of the Project and costs of issuance of the Bond.

Section 18. Repealer. Ordinance No. 924, passed by the Assembly on September 27, 2016, is repealed in its entirety.

Section 19. Severability. If any covenant or agreement provided in this ordinance to be performed on the part of the Borough is declared by any court of competent jurisdiction to be contrary to law, then that covenant or agreement will be null and void and 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 Bond.

Section 20. General Authorization. The Mayor, Borough Manager, Borough Clerk, Finance Director and all other appropriate officers of the Borough are each hereby authorized and directed to take such steps, to do such other acts and things, and to execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable in order to carry out the terms and provisions of and complete the transactions contemplated by, this ordinance.

Section 21. Prior Acts. All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified and confirmed.

Section 22. Effective Date. This ordinance is effective upon passage, in accordance with Section 2-10 of the Borough Charter.

PASSED by the Borough Assembly of the City and Borough of Wrangell, Alaska, at a regular meeting thereof held this \_\_\_\_ day of \_\_\_\_\_, 2016.

CITY AND BOROUGH OF WRANGELL,  
ALASKA

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Mayor

ATTEST:

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Borough Clerk



## CERTIFICATE

I, the undersigned, Borough Clerk of the City and Borough of Wrangell, Alaska (the "Borough"), and keeper of the records of the Borough Assembly (the "Assembly"), DO HEREBY CERTIFY:

1. That the attached Ordinance No. \_\_\_\_\_ (the "Ordinance") is a true and correct copy of an ordinance of the Borough as passed at a regular meeting of the Assembly held on \_\_\_\_\_, 2016, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Borough this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Kim Lane, Borough Clerk

[Borough Seal]

# **Agenda Item 3c**

## **CITY & BOROUGH OF WRANGELL**

### **BOROUGH ASSEMBLY PUBLIC HEARING AGENDA ITEM December 13, 2016**

#### **INFORMATION:**

#### **Approval to sell the Belt Freezer and Land to Trident Seafoods**

#### **Attachments:**

1. Memo from Manager Jabusch
2. Memo (approval) from the Port Commission
3. Memo (approval) from the Planning & Zoning commission

## **MEMORANDUM**

**TO: HONORABLE MAYOR AND MEMBERS OF THE ASSEMBLY  
CITY AND BOROUGH OF WRANGELL**

**FROM: JEFF JABUSCH, BOROUGH MANAGER**

**SUBJECT: SALE OF THE BOROUGH'S BELT FREEZER AND RELATED LAND  
TO TRIDENT SEAFOODS**

### **History and Background:**

The Belt Freezer building was built in the mid-2000's with the assistance of a state grant and with some city funds. The purpose of the grant and the building was to help enhance the seafood industry. Once it was built, the facility was leased first to Wrangell Fisheries and now to Trident Seafoods. Over the last few years the facility has been used less and less for its original purpose because Trident has more efficient ways to freeze product within their own plant.

In June of 2016, Trident Seafoods presented an offer to the borough to purchase the facility at the appraisal price of \$950,000. We had a review of the independent appraisal by our own assessor and we also had the opportunity to ask the appraiser questions about the appraisal. Staff feels satisfied that we have done our due diligence and that the appraisal price is the fair market price. The Assembly authorized the borough manager to proceed with the process to sell the property to Trident Seafoods.

The Borough receives about \$15,000 per year on the current lease. The continued purpose of the facility if sold would be to enhance the Seafood industry as per the original grant. The granting agency does not have any objections about this proposed sale. The funds, if sold, would likely go to other economic development projects, although that would be for a later discussion by the assembly. In order to sell the property to Trident Seafoods without a public bid process, we are required to adhere to Wrangell Municipal Code 16.12.012. This is titled "Disposition of real property for economic purposes". Per this section, the sale directly to Trident is allowed if the value of the land is less than \$1,000,000.

Section D of this section requires that the request be sent to the Planning and Zoning Commission, the Port Commission and the Economic Development Committee for their comments and recommendations that will then be forwarded on to the Borough Assembly for the final determination. The Borough Assembly is required to have a public hearing where all comments and public testimony is heard. Following the hearing, the assembly will decide if the sale of this property to Trident Seafoods is in the best interest of the borough. The Borough Assembly will consider the items in 1612.012 (B) below and the various comments from the boards and the public to make this decision.

***16.12.012 Disposition of real property for economic development purposes.***

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*A. In the exercise of the borough's economic development powers, the assembly may determine, in its sole discretion, that it is in the best interest of the borough to dispose of borough-owned real property, including tidelands, or any interest therein, which interest has a value of \$1,000,000 or less (as determined by the borough assessor or a qualified appraiser), without requests for proposals or sealed bid procedures and at less than fair market value.*

*B. In determining the best interests of the borough under this section, the assembly may consider any relevant factors, which may include:*

- 1. The desirability of the economic development project;*
- 2. The actual or potential economic benefits to the borough, its economy and other businesses within the borough;*
- 3. The contribution of the proponent to the economic development project in terms of money, labor, innovation, expertise, experience and otherwise;*
- 4. The business needs of the proponent of the project in terms of integration into existing facilities and operations, stability in business planning, business commitments, and marketing;*
- 5. Actual or potential local employment due to the economic development project;*
- 6. Actual and potential enhancement of tax and other revenues to the borough related to the project; and*
- 7. Existing and reasonably foreseeable land use patterns and ownership.*

*C. Prior to disposal under subsection (A) of this section, the assembly shall hold a public hearing. The borough clerk shall publish notice of the public hearing in a newspaper of general circulation in the borough at least 14 days prior to the hearing. The notice shall include the date, time and place of the hearing, and general or legal description of the real property or interest, and the proposed disposition and its purpose.*

*D. Following the hearing, and with comments/recommendations from the port commission, the planning and zoning commission, and the economic development committee, the assembly may authorize disposition of the real property or interest therein by resolution.*

*E. Where the acquisition of the real property or any interest therein or the construction of a permanent improvement has been approved by the voters at an election, the disposition of such property, interest or improvement under this section by sale, trade or lease for a term exceeding five years shall be made only by authority of an ordinance ratified by a majority of the qualified voters of the borough who vote upon the question. For purposes of this subsection, the term of any such lease shall include the terms of all options to extend or renew the lease. The requirements of this subsection do not apply where the voter approval involved was in the form of authorizing the issuance of bonds to finance the acquisition of the real property or any interest therein or the construction of a permanent improvement.*

Per the Wrangell Municipal Code 16.12.012, the following boards have considered the question of whether or not the borough should sell the belt freezer to Trident Seafoods for the appraised value of \$950,000 without public bid for economic purposes:

**Port Commission:**

The Port Commission had no objects to selling the belt freezer building and land with it to Trident Seafoods. A copy of their action is attached.

**Planning and Zoning Commission:** Planning & Zoning had no objections to selling the belt freezer and land to Trident Seafoods. A copy of their action is attached.

**Economic Development Committee:**

Due to lack of a quorum, the EDC has not met, but the Ecomonic Director, Carol Rushmore, has provide a write up representing the EDC which is attached.

**Recommended Action:**

Move to approve the sale of the Belt Freezer, including the lot that it is on to Trident Seafoods for the appraised price of \$950,000 for economic development purposes as allowed in 16.12.012.

## **Wrangell Port Commission**

# **Memo**

To: City and Borough of Wrangell Assembly

From: Sherri Cowan, Recording Secretary

Date: 11-09-16

Re: Sale of the Borough's Belt Freezer Building to Trident Seafoods

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**The Port Meeting held November 09, 2016, made this Motion.**

**Martin makes the motion to recommend the sale of the Borough's Belt Freezer Building to Trident Seafoods.**

**Motion 2nd-Morrison**

**Amended Motion- Martin makes the motion to recommend the sale of the Borough's Belt Freezer Building and real properties to Trident Seafoods.**

**Motion 2nd-Morrison**

**Amended Motion-Poll Vote-Unanimous Approved and Passed**

**Main Motion-Poll Vote-Unanimous Approved and Passed**

# *City and Borough of Wrangell, Alaska*

Date: December 8, 2016

To: Borough Assembly

From: Carol Rushmore, Economic Development Director

Cc: Planning and Zoning Commission

Re: Request from Trident Corporation to purchase the belt freezer property and building

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The Planning and Zoning Commission, at their regular meeting of December 8, 2016 unanimously recommended to sell the belt freezer facility and land to Trident Seafoods Corporation.