

1 Requested by: Chairman of the Assembly  
2 at the request of the Mayor

3  
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6  
7 For Reading: July 20, 2004

8 **CLERK'S OFFICE**

9 **APPROVED**

10 **Date:**.....8-3-04

11  
12 MUNICIPALITY OF ANCHORAGE, ALASKA

13  
14 ORDINANCE NO. AO 2004-110

15  
16  
17 AN ORDINANCE OF MUNICIPALITY OF ANCHORAGE, ALASKA,  
18 AUTHORIZING THE COMPLETION OF ROOF REPAIRS AT THE  
19 ANCHORAGE PERFORMING ARTS CENTER; AUTHORIZING  
20 THE SALE AND ISSUANCE OF REVENUE BONDS OF THE  
21 MUNICIPALITY IN THE PRINCIPAL AMOUNT OF NOT TO  
22 EXCEED \$6,000,000, FOR THE PURPOSE OF PROVIDING  
23 PERMANENT FINANCING FOR SAID REPAIRS; AND  
24 PROVIDING FOR THE REPAYMENT OF SUCH BONDS OVER A  
25 TERM OF YEARS; FIXING THE FORM, TERMS AND  
26 COVENANTS OF THE BONDS; PROVIDING A METHOD OF  
27 PAYMENT THEREFOR; AND PROVIDING FOR THE SALE OF  
28 THE BONDS TO THE ALASKA MUNICIPAL BOND BANK  
29 AUTHORITY.

30  
31 WHEREAS, the Municipality of Anchorage, Alaska (the "Municipality") owns the  
32 Anchorage Performing Arts Center (the "PAC"); and

33 WHEREAS, the roof of the PAC needs replacement (hereinafter defined as the  
34 "Project"); and

35 WHEREAS, the Municipality is authorized by its Home Rule Charter to issue revenue  
36 bonds for capital project purposes without a vote of the electors; and

37 WHEREAS, it appears to be in the best interests of the Municipality and its residents that  
38 revenue bonds be issued to pay for a portion of the costs of the Project in the amount of not to

1 exceed \$6,000,000, payable from a surcharge imposed by Ordinance No. AO 2004-93 of the  
2 Assembly and other available revenues of the PAC;

3 NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE  
4 MUNICIPALITY OF ANCHORAGE, ALASKA:

5 Section 1. Purpose. The purpose of this ordinance is to authorize the issuance and  
6 sale of not to exceed \$6,000,000 of revenue bonds, to fix the form, covenants and method of sale  
7 of said bonds and to provide for establishing the amount, date, payment dates, redemption rights  
8 and maturities of said bonds. The purpose for the issuance of the revenue bonds authorized  
9 herein is to pay part of the cost of replacing the roof of the PAC and to pay costs of issuance.

10 Section 2. Definitions. As used in this ordinance, unless a different meaning clearly  
11 appears from the context:

12 ***Annual Deposit Date*** means the date specified in the Loan Agreement on which the  
13 Municipality will deposit the upcoming year's debt service in the Bond Account.

14 ***Arbitrage and Tax Certification*** means the certificate executed on behalf of the  
15 Municipality upon the issuance of the Bonds and including certain representations regarding the  
16 use and application of the Bond proceeds and the payment of rebatable arbitrage, if any, with  
17 respect to the Bonds.

18 ***Assembly*** means the Assembly of the Municipality of Anchorage as the same shall be  
19 duly and regularly constituted from time to time.

20 ***Authority*** means the Alaska Municipal Bond Bank Authority, a public corporation and  
21 instrumentality of the State of Alaska, created pursuant to the provisions of Chapter 85, Title 44,  
22 Alaska Statutes, as amended.

1            **Authority's Bonds** means the bonds issued by the Authority, with such terms and  
2 conditions and in such amount as the Authority may hereafter determine, for the purpose of  
3 financing the Authority's purchase of the Bonds.

4            **Bond Account** means the "Municipality of Anchorage Surcharge Revenue Bond  
5 Account" authorized to be created in the office of the Chief Fiscal Officer pursuant to this  
6 ordinance.

7            **Bond Register** means the books or records maintained by the Bond Registrar containing  
8 the name and mailing address of the owner of each Bond or nominee of such owner and the  
9 principal amount and number of Bonds held by each owner or nominee.

10           **Bond Registrar** means the Chief Fiscal Officer, for the purposes of registering and  
11 authenticating the Bonds, maintaining the Bond Register, and paying the principal of and interest  
12 on the Bonds.

13           **Bonds** means the not to exceed \$6,000,000 par value Municipality of Anchorage, Alaska,  
14 Performing Arts Center Revenue Bonds, 2004 authorized to be issued pursuant to this ordinance.

15           **Bond Year** means each one-year period that ends on the date selected by the Chief Fiscal  
16 Officer. The first and last Bond Years may be short periods. If no day is selected by the Chief  
17 Fiscal Officer before the earlier of the final maturity date of the Bonds or the date that is five  
18 years after the date of the issuance of the Bonds, Bond Years end on each anniversary of the date  
19 of issue and on the final maturity date of the Bonds.

20           **Charter** means the Anchorage Municipal Charter as the same may be amended from time  
21 to time.

22           **Chief Fiscal Officer** means the chief fiscal officer of the Municipality appointed and  
23 confirmed pursuant to Section 5.05 of the Charter.

1           **Code** means the United States Internal Revenue Code of 1986, as amended, together with  
2 all applicable rulings and regulations heretofore or hereafter promulgated thereunder.

3           **Continuing Disclosure Certificate** means the undertaking for ongoing disclosure  
4 authorized to be entered into by the Chief Fiscal Officer pursuant to Section 10 of this ordinance.

5           **Costs of Maintenance and Operation** means the aggregate of all expenses incurred in the  
6 maintenance and operation of the PAC, as calculated in accordance with GAAP, but shall not  
7 include any payments for debt service or into reserve funds, depreciation or taxes levied or  
8 imposed by the Municipality or payments to the Municipality in lieu of taxes, or capital additions  
9 or capital replacements to the PAC.

10           **Fiscal Year** means the fiscal year of the Municipality, currently January 1 through  
11 December 31.

12           **GAAP** means generally accepted accounting principles as from time to time in effect.

13           **Government Obligations** means direct obligations of, or obligations the principal of and  
14 interest on which are unconditionally guaranteed by the United States of America and bank  
15 certificates of deposit secured by such obligations.

16           **PAC** means Anchorage Performing Arts Center owned and operated by the Municipality.

17           **Loan Agreement** means the agreement between the Municipality and the Authority  
18 providing for the Authority's purchase of the Bonds authorized to be entered into by the Chief  
19 Fiscal Officer pursuant to Section 10 of this ordinance.

20           **Municipality** means Anchorage, Alaska, a home rule municipality organized and existing  
21 under the Constitution and laws of the State of Alaska.

22           **Municipality Representative** means the Chief Fiscal Officer or such other official or  
23 employee of the Municipality designated in writing by the Chief Fiscal Officer.

1           **Net Proceeds**, when used with reference to the Bonds, means the principal amount of the  
2 Bonds, plus accrued interest and original issue premium, if any, and less original issue discount.

3           **Private Person** means any natural person engaged in a trade or business or any trust,  
4 estate, partnership, association, company or corporation.

5           **Private Person Use** means the use of property in a trade or business by a Private Person if  
6 such use is other than as a member of the general public. Private Person Use includes ownership  
7 of the property by the Private Person as well as other arrangements that transfer to the Private  
8 Person the actual or beneficial use of the property (such as a lease, management or incentive  
9 payment contract or other special arrangement) in such a manner as to set the Private Person  
10 apart from the general public. Use of property as a member of the general public includes  
11 attendance by the Private Person at municipal meetings or business rental of property to the  
12 Private Person on a day-to-day basis if the rental paid by such Private Person is the same as the  
13 rental paid by any Private Person who desires to rent the property. Use of property by nonprofit  
14 community groups or community recreational groups is not treated as Private Person Use if such  
15 use is incidental to the governmental uses of property, the property is made available for such use  
16 by all such community groups on an equal basis and such community groups are charged only a  
17 *de minimis* fee to cover custodial expenses.

18           **Project** means replacement of the roof of the PAC.

19           **Project Account** means the PAC Project Account, into which certain net proceeds of the  
20 Bonds shall be deposited.

21           **Rate Covenant** means Surcharge Revenue in each fiscal year at least equal to 100% of the  
22 amounts required in such fiscal year to be paid as scheduled debt service (principal and interest)  
23 on all Bonds, excluding therefrom interest funded from Bond proceeds.

1           **Registered Owner** means the person named as the registered owner of a Bond in the Bond  
2 Register.

3           **Surcharge** means the charge imposed on ticket sales for the PAC by Ordinance No. AO  
4 2004-93.

5           **Surcharge Revenues** means all money received by the Municipality from the imposition  
6 of the Surcharge.

7           **State** means the State of Alaska.

8           **Interpretation.** In this ordinance, unless the context otherwise requires:

9                   (a)     The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any  
10 similar terms, as used in this ordinance, refer to this ordinance as a whole and not to any  
11 particular article, section, subdivision or clause hereof, and the term “hereafter” shall mean after,  
12 and the term “heretofore” shall mean before, the date of this ordinance;

13                   (b)     Words of the masculine gender shall mean and include correlative words  
14 of the feminine and neuter genders and words importing the singular number shall mean and  
15 include the plural number and vice versa;

16                   (c)     Words importing persons shall include firms, associations, partnerships  
17 (including limited partnerships), trusts, corporations and other legal entities, including public  
18 bodies, as well as natural persons;

19                   (d)     Any headings preceding the text of the several sections of this ordinance,  
20 and any table of contents or marginal notes appended to copies hereof, shall be solely for  
21 convenience of reference and shall not constitute a part of this ordinance, nor shall they affect its  
22 meaning, construction or effect;

23                   (e)     All references herein to “articles,” “sections” and other subdivisions or  
24 clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

1 (f) Words importing the singular number include the plural number and vice  
2 versa.

3 Section 3. The Project. This Assembly hereby ratifies and approves the Project. The  
4 Project has and will be undertaken in accordance with specifications and contracts for acquisition  
5 and construction approved by the Assembly from time to time.

6 It is hereby provided that said Project shall be subject to such changes as to details of  
7 design or any other details of said Project as may be authorized by the Assembly either prior to or  
8 during the actual course of construction.

9 The Municipality may proceed with the construction and installation of the Project as  
10 herein authorized, either alone or in conjunction with the construction of other facilities of the  
11 PAC, and in whole, or in successive parts or units from time to time as may be found advisable.

12 Section 4. Costs of the Project. Of the total costs of the Project not more than  
13 \$6,000,000 will be paid for from the proceeds of the Bonds. The balance of the costs of the  
14 Project are anticipated to be paid from interest earnings and revenues of the PAC. The  
15 Municipality will use its best efforts to complete the Project to the extent of available funds.

16 Section 5. Authorization of Bonds.

17 (a) *Authorization.* The Municipality shall issue and sell not to exceed \$6,000,000  
18 of its Performing Arts Center revenue bonds (the "Bonds") for the purpose of providing  
19 permanent financing for a portion of the costs of the Project and paying the costs of issuance of  
20 the Bonds.

21 (b) *Bond Details.* The Bonds shall be designated as the "Municipality of  
22 Anchorage, Alaska Performing Arts Center Revenue Bonds, 2004," shall be dated as of the date  
23 established pursuant to Section 10 of this ordinance, shall be fully registered as to both principal  
24 and interest, shall be in the denomination of \$5,000 or integral multiples thereof within a

1 maturity, provided that no Bond shall represent more than one maturity, shall be numbered  
2 separately in such manner and with any additional designation as the Bond Registrar deems  
3 necessary for purposes of identification, and shall bear interest from their date payable on the  
4 dates set forth in the Loan Agreement, and shall mature on the dates provided in the Loan  
5 Agreement.

6 Section 6. Registration, Exchange and Payments. The Chief Fiscal Officer shall act  
7 as authenticating agent, paying agent and registrar for the Bonds (collectively, the “Bond  
8 Registrar”). The principal of and interest on the Bonds shall be payable in lawful money of the  
9 United States of America. Interest on the Bonds shall be calculated on the basis of a 360-day  
10 year and twelve 30-day months. Interest on the Bonds shall be paid by check or draft of the Bond  
11 Registrar mailed (on the date such interest is due) to the Registered Owners or nominees at the  
12 addresses appearing on the Bond Register on the fifteenth day of the month preceding each  
13 interest payment date. Principal of the Bonds shall be payable upon presentation and surrender  
14 of the Bonds to the Bond Registrar by the registered owners or nominees at the office of the  
15 Bond Registrar. Notwithstanding the foregoing, if the Bonds are sold to the Authority pursuant  
16 to the provisions of Section 10 of this ordinance, payments of principal of and interest on the  
17 Bonds shall be made to the Authority in accordance with terms set forth in the Loan Agreement.

18 The Bonds may be transferred only on the Bond Register maintained by the Bond  
19 Registrar for that purpose upon the surrender thereof by the registered owner or nominee or  
20 his/her duly authorized agent and only if endorsed in the manner provided thereon, and thereupon  
21 a new fully registered Bond of like principal amount, maturity and interest rate shall be issued to  
22 the transferee in exchange therefor. Upon surrender thereof to the Bond Registrar, the Bonds are  
23 interchangeable for Bonds in any authorized denomination of an equal aggregate principal



1 amount and of the same interest rates and maturities. Such transfer or exchange shall be without  
2 cost to the Registered Owner or transferee.

3 The Municipality may deem the person in whose name each Bond is registered to be the  
4 absolute owner thereof for the purpose of receiving payment of the principal of and interest on  
5 such Bonds and for any and all other purposes whatsoever.

6 Section 7. Redemption.

7 (a) *Optional Redemption.* The Bonds may be subject redemption in advance  
8 of their scheduled maturity at the option of the Municipality on and after the dates provided in  
9 the Loan Agreement.

10 (b) *Extraordinary Optional Redemption.* In the event that all or any substantial  
11 portion of the facilities of the PAC shall have been damaged or destroyed (i) to the extent that they  
12 cannot, in the Municipality's judgment, be reasonably restored within a period of six months to the  
13 condition thereof immediately preceding such damage or destruction, or (ii) to such extent that the  
14 Municipality is thereby prevented, in its judgment, from carrying on its normal operations at the  
15 PAC for a period of six months or more, then the Municipality may at any time thereafter, at its  
16 option, redeem the Bonds in whole or in part, and if in part with maturities to be selected by the  
17 Municipality, at a redemption price equal to 100% of the principal amount thereof, plus accrued  
18 interest to the date of redemption.

1                   (c)     *Selection of Bonds For Redemption.* For as long as all Bonds are held by  
2 the Authority, the selection of the Bonds to be redeemed within a maturity shall be made by the  
3 Authority in accordance with its established procedures. If the Bonds are no longer held in whole  
4 by the Authority, then the selection of Bonds to be redeemed within a maturity shall be made in a  
5 random manner determined by the Bond Registrar, and the following procedures of this  
6 subsection (c) shall also be applicable.

7                   Portions of the principal amount of any Bond, in installments of \$5,000 or any integral  
8 multiple of \$5,000, may be redeemed. If less than all of the principal amount of any Bond is  
9 redeemed, upon surrender of such Bond at the office of the Bond Registrar, there shall be issued  
10 to the registered owner, without charge therefor, for the then unredeemed balance of the principal  
11 amount thereof, a new Bond or Bonds, at the option of the registered owner, of like maturity and  
12 interest rate in any denomination authorized by this ordinance.

13                   (d)     *Notice of Redemption; Payment of Redeemed Bonds.* So long as the  
14 Authority is the registered owner of all of the Bonds, notice of redemption, shall be given  
15 according to the terms of the Loan Agreement. If the Authority is not the owner of all of the  
16 Bonds, notice of redemption shall be given as follows.

17                   Written notice of any redemption of Bonds shall be given by the Bond Registrar on behalf  
18 of the Municipality by first class mail, postage prepaid, not less than 30 days nor more than  
19 60 days before the redemption date to the registered owners of Bonds that are to be redeemed at  
20 their last addresses shown on the Bond Register.

21                   The requirements of this section shall be deemed complied with when notice is mailed,  
22 whether or not it is actually received by the owner.

23                   Each notice of redemption shall contain the following information: (1) the redemption  
24 date, (2) the redemption price, (3) if less than all outstanding Bonds are to be redeemed, the

1 identification (and, in the case of partial redemption, the principal amounts) of the Bonds to be  
2 redeemed, (4) that on the redemption date the redemption price will become due and payable  
3 upon each Bond or portion called for redemption, and that interest shall cease to accrue from the  
4 redemption date, (5) that the Bonds are to be surrendered for payment at the principal office of  
5 the Bond Registrar, (6) the CUSIP numbers of all Bonds being redeemed, if applicable, (7) the  
6 dated date of the Bonds, (8) the rate of interest for each Bond being redeemed, (9) the date of the  
7 notice, and (10) any other information needed to identify the Bonds being redeemed.

8 Section 8. Priority of Use of Surcharge Revenue . All collected Surcharge Revenues  
9 shall be deposited in the general funds of the Municipality; provided, however, that the  
10 Municipality shall maintain sufficient records to account for allocation and use of all Surcharge  
11 Revenues (and earnings thereon). Surcharge Revenues shall be used only for the following  
12 purposes and in the following order of priority:

13 First, to pay the interest on the Bonds;

14 Second, to pay the principal of the Bonds;

15 Third, to pay debt service on other loans incurred for the benefit of the PAC;

16 Fourth, Costs of Maintenance and Operation of the PAC;

17 Fifth, to make all payments required to be made into any revenue bond  
18 redemption fund or revenue warrant redemption fund and debt service fund or reserve  
19 fund created to pay and secure the payment of the principal of and interest on any other  
20 revenue bonds or revenue warrants of the Municipality having a lien upon the Surcharge  
21 Revenues junior and inferior to the lien thereon for the payment of the principal of and  
22 interest on the Bonds; and

23 Sixth, to retire by redemption or purchase any outstanding revenue bonds or  
24 revenue warrants of the Municipality, remaining Surcharge Revenues may also be used to

1 make necessary additions, betterments, improvements and repairs to or extensions and  
2 replacements of the PAC, or for any other lawful Municipality purposes.

3 Section 9. Bond Account. A special account of the Municipality designated as the  
4 “Municipality of Anchorage Surcharge Revenue Bond Account” (the “Bond Account”) is hereby  
5 authorized to be created in the office of the Chief Fiscal Officer for the purpose of paying and  
6 securing the payment of the Bonds. The Bond Account shall be held separate and apart from all  
7 other funds and accounts of the Municipality and shall be a trust account for the owners of  
8 Bonds. Immediately after the delivery of the Bonds there shall be paid into the Bond Account all  
9 accrued interest received with respect to the Bonds, if any. In addition, the Chief Fiscal Officer  
10 may direct all or a portion of any original issue premium to be deposited in the Bond Account.  
11 As long as any Bonds remain outstanding, the Municipality hereby irrevocably obligates and  
12 binds itself to set aside and pay from Surcharge Revenues into the Bond Account those amounts  
13 necessary, together with such other funds as are on hand from PAC revenues and available in the  
14 Bond Account, to pay the interest or principal and interest next coming due on outstanding  
15 Bonds. Such payments shall be made

16 (i) on the date of closing an delivery of the Bond in an amount  
17 sufficient to pay the principal and/or interest on the Bonds coming due on the first interest  
18 payment date for the Bonds; and

19 (ii) on each Annual Payment Date in an amount sufficient to pay the  
20 principal of and/or interest on the Bonds coming due during the current fiscal year of the  
21 Municipality .

22 (b) *Priority of Lien of Payments into Bond Account.* Said amounts so pledged  
23 to be paid into the Bond Account are hereby declared to be a prior lien and charge upon the  
24 Surcharge Revenues superior to all other charges of any kind or nature whatsoever.

1                   (c)     *Application and Investment of Moneys in the Bond Account.* Money in the  
2 Bond Account not needed to pay the interest or principal installment and interest next coming  
3 due on Bonds may be used to prepay Bonds. Money in the Bond Account therein may be  
4 invested in any legal investment for the funds of the Municipality. All interest earned and  
5 income derived by virtue of such investments shall remain in the Bond Account (or respective  
6 account therein) and be used to meet the required deposits into any account therein.

7                   Section 10.    Sale of Bonds. The Chief Fiscal Officer is authorized to negotiate the sale  
8 of the Bonds to the Authority on terms and conditions consistent with this ordinance to be set  
9 forth in a Loan Agreement by and between the Municipality and the Authority substantially in the  
10 form attached as Exhibit A to this ordinance and incorporated by reference herein, including,  
11 without limitation, the date, principal payment schedules, interest rates, redemption provisions of  
12 the Bonds, and the Continuing Disclosure Certificate, all subject to the approval of the Chief  
13 Fiscal Officer, which approval shall be evidenced by the Chief Fiscal Officer's execution of the  
14 Loan Agreement. The Chief Fiscal Officer is hereby further authorized to execute a Continuing  
15 Disclosure Certificate on behalf of the Municipality with respect to the Bonds and the  
16 Authority's Bonds. Any default under the Continuing Disclosure Certificate shall not constitute  
17 a default under this ordinance.

18                   Section 11.    Insurance. The Authority may, with the consent of the Municipality and  
19 on terms and conditions acceptable to the Municipality, obtain a policy of municipal bond  
20 insurance guaranteeing the payment when due of the principal of and interest on the Authority's  
21 Bonds, issued to provide funds for the loan to the Municipality pursuant to the Loan Agreement.  
22 By the Loan Agreement, the Chief Fiscal Officer may approve any such policy of municipal bond  
23 insurance and authorize all other officers, agents, attorneys, and employees of the Municipality to  
24 cooperate with the bond insurer in preparing such additional agreements, certificates, and other

1 documentation on behalf of the Municipality, consistent with this ordinance, as shall be  
2 necessary or advisable in providing for such policy of municipal bond insurance.

3 In connection with the initial issuance and sale of the Bonds to the Authority, and  
4 notwithstanding the provisions of Section 18 of this ordinance to the contrary, the Assembly may  
5 by resolution modify any of the covenants or other provisions of this ordinance as may be  
6 required by a provider of bond insurance for the Authority's Bonds.

7 Section 12. Disposition of Proceeds of the Bonds. The accrued interest received with  
8 respect to the Bonds, if any, shall be deposited into the Bond Account and used to pay interest on  
9 the Bonds coming due on the first date on which interest is due. In addition, the Chief Fiscal  
10 Officer may direct that all or a portion of the original issue premium, if any, also be deposited in  
11 the Bond Account.

12 The Chief Fiscal Officer has heretofore established a special fund of the Municipality  
13 designated as the "PAC Project Account" (the "Project Account"). The balance of the proceeds  
14 of sale of the Bonds shall be deposited in the Project Account and shall be expended solely to pay  
15 the cost of issuing and selling the Bonds and, together with other available moneys of the  
16 Municipality, shall be used to reimburse the Municipality for funds already distributed for the  
17 costs of the Project and to pay the costs of completing the Project. Any money in the Project  
18 Account, shall be invested by the Chief Fiscal Officer, pending disbursement, in any legal  
19 investment for Municipality funds.

20 Section 13. Defeasance. In the event that money and/or noncallable Government  
21 Obligations maturing or having guaranteed redemption prices at the option of the holder at such  
22 time or times and bearing interest to be earned thereon in amounts (together with such money, if  
23 any) sufficient to redeem and retire part or all of the Bonds in accordance with the its terms, are  
24 hereafter irrevocably set aside in a special account and pledged to effect such redemption and

1 retirement, then no further payments need be made into the Bond Account or any account therein  
2 for the payment of the principal of and interest on the Bonds or portion thereof so provided for  
3 and the Bonds or portion thereof shall then cease to be entitled to any lien, benefit or security of  
4 this ordinance, except the right to receive the accounts so set aside and pledged, and the Bonds or  
5 portion thereof shall no longer be deemed to be outstanding hereunder.

6 Section 14. Specific Covenants. The Municipality hereby covenants and agrees with  
7 the owners of the Bonds that for as long as the Bonds remains outstanding as follows:

8 (a) *Rate Covenant.* The Municipality will establish, maintain and collect the  
9 Surcharge for so long as any Bonds are outstanding in an amount sufficient to satisfy the Rate  
10 Covenant. The Municipality shall not amend or repeal Ordinance No. AO 2004-93 so as to reduce  
11 the amount of the Surcharge.

12 (b) *PAC Maintenance.* The Municipality will at all times maintain and keep  
13 the PAC in good repair, working order and condition, and also will at all times operate such  
14 facilities and the business in connection therewith in an efficient manner and at a reasonable cost.

15 (c) *Disposal of Properties.* The Municipality will not mortgage, sell, lease, or  
16 in any manner encumber or dispose of all or substantially all the property of the PAC (voluntarily  
17 or involuntarily), unless provision is made for payment into the Bond Account of a sum  
18 sufficient to pay the principal of, premium, if any, and interest on all outstanding Bonds, nor will  
19 it mortgage, sell, lease, or in any manner encumber or dispose of (including but not limited to a  
20 disposition by transfer to another public or private organization) voluntarily or involuntarily any  
21 part of the PAC that is used, useful and material to the operation of the PAC unless

22 (1) the Municipality certifies, based upon reasonable expectations, that  
23 the remaining assets of the PAC shall be sufficient to continue regular operations of the  
24 Municipality on a financially sound basis for a period of at least five years and

1 (2) provision is made for replacement thereof or for payment into the  
2 Bond Account of the total amount of revenue received which shall not be less than an amount  
3 which shall bear the same ratio to the amount of outstanding Bonds as the greater of

4 (i) the Surcharge Revenue available for debt service on the  
5 Bonds for the 12 months preceding such sale, lease, encumbrance or disposal from the portion of  
6 the PAC sold, leased, encumbered or disposed of bears to the Surcharge Revenue available for  
7 debt service for such Bonds from the entire PAC for the same period;

8 (ii) the Surcharge Revenues for the 12 months preceding such  
9 sale, lease, encumbrance or disposal from the portion of the PAC sold, leased, encumbered or  
10 disposed of bears to the Surcharge Revenues for the same period; or

11 (iii) the proportion of assets (on a depreciated basis) allocable to  
12 the assets being sold, leased, encumbered or disposed of bears to the total assets of the PAC; or  
13 *provided, however*, that the Municipality may dispose of any portion of the facilities of the PAC  
14 up to an aggregate of five percent annually of the book value of the total assets of the PAC the  
15 requirement for any deposit to the Bond Account as hereinabove provided.

16 Any such moneys so paid into the Bond Account shall be used to retire such outstanding  
17 Bonds at the earliest possible date. Any money received by the Municipality as condemnation  
18 awards, insurance proceeds or the proceeds of sale, if not deposited to the Bond Account, shall be  
19 used for the replacement of facilities of the PAC.

20 (d) *Books and Records.* The Municipality will, while any of the Bonds  
21 remains outstanding, keep proper and separate accounts and records in which complete and  
22 separate entries shall be made of all transactions relating to the PAC, and it will furnish the  
23 original purchaser or purchasers of the Bonds or any subsequent owner or owners thereof, at the  
24 written request of such owner or owners, complete operating and income statements of the PAC



1 in reasonable detail covering any fiscal year, showing the financial  
2 compliance with the terms and conditions of this ordinance, not m  
3 close of such fiscal year, and it will grant any owner or owners of at  
4 Bonds the right at all reasonable times to inspect the entire PAC an  
5 data of the Municipality relating thereto. Upon request of any owner  
6 also furnish to such owner a copy of the most recently completed  
7 accounts.

8 (e) *Property Insurance.* The Municipality will car  
9 and extended coverage insurance covering the PAC in such amounts  
10 the Municipality may determine from time to time. Such insur  
11 financially responsible insurance companies authorized to do busine  
12 carried under a policy or policies covering other property ow  
13 Municipality or may be accomplished through a program of self-ins  
14 of self insurance (reviewed at least annually by an actuary) is then  
15 the Municipality. The Municipality agrees that such policies shall  
16 same may not be canceled or given notice of non-renewal nor sh  
17 thereof be altered, amended or modified without at least 45 days' pric  
18 by the insurer to the Municipality.

19 (f) *Liability Insurance.* The Municipality shall  
20 maintained, in full force and effect, comprehensive general liability  
21 in such amounts as may be established by the Municipality from time  
22 less than \$500,000 per occurrence. The Municipality may provi  
23 insurance by self insurance. Such insurance may be carried under a t  
24 coverage. It is understood that this insurance covers any and all liab

1 its officials, officers, employees and volunteers, and the procurement thereof does not constitute  
2 a waiver of the defense of governmental immunity. Such insurance (1) shall include coverage for  
3 any accident resulting in personal injury to or death of any person and consequential damages  
4 arising therefrom; (2) shall include comprehensive property damage insurance; (3) shall be issued  
5 by a financially responsible insurance company authorized to do business in the State; and  
6 (4) shall provide that the same may not be canceled or given notice of non-renewal nor shall the  
7 terms of conditions thereof be altered, amended or modified without at least 45 days prior written  
8 notice being given by the insurer to the Municipality.

9 (g) *Ordinance a Contract.* This ordinance shall constitute a contract with the  
10 registered owners of the Bonds, and upon any default hereunder, said owner shall have the right  
11 to institute a mandamus action in any court of competent jurisdiction to compel performance by  
12 the Municipality in accordance with the terms of this ordinance.

13 (h) *Tax Covenants.* The Municipality covenants to undertake all actions  
14 required to maintain the tax-exempt status of interest on the Bonds under Section 103 of the  
15 Code as set forth in the Arbitrage and Tax Certification that will be executed at the closing for  
16 the Bonds.

17 (i) *Covenants Regarding Arbitrage and Private Activity Bonds.* The  
18 Municipality hereby covenants that it will not make any use of the proceeds of sale of the Bonds  
19 or any other funds of the Municipality which may be deemed to be proceeds of such Bonds  
20 pursuant to Section 148 of the Code which will cause the Bonds to be "arbitrage bonds" within  
21 the meaning of said section and the applicable regulations thereunder. The Municipality will  
22 comply with the requirements of Section 148 of the Code (or any successor provision thereof  
23 applicable to the Bonds) and the applicable regulations thereunder throughout the term of the  
24 Bonds.

1 The Municipality will take any action determined by the Municipality, after consultation  
2 with its bond counsel, to be legal and practicable and required to be taken by the Municipality  
3 under future federal laws or regulations in order to maintain the exemption of the interest on the  
4 Bonds from federal income taxation.

5 (j) *Arbitrage Rebate.* The Municipality shall compute and pay arbitrage  
6 rebate, if necessary, as provided in the Arbitrage and Tax Certification.

7 (k) *No Qualification Under Section 265(b) of the Code.* The Municipality has  
8 not designated the Bonds as “qualifying tax-exempt obligations” pursuant to Section 265(b) of  
9 the Code for investment by financial institutions. The Municipality anticipates that it will issue  
10 more than \$10,000,000 in tax exempt obligations during 2004.

11 (l) *Private Person Use Limitation for Bonds.* The Municipality covenants  
12 that for as long as the Bonds are outstanding, it will not permit:

13 (1) More than 10% of the Net Proceeds of the Bonds to be used for  
14 any Private Person Use; and

15 (2) More than 10% of the principal or interest payments on the Bonds  
16 in a Bond Year to be directly or indirectly: (A) secured by any interest in property used or to be  
17 used for any Private Person Use or secured by payments in respect of property used or to be used  
18 for any Private Person Use, or (B) derived from payments (whether or not made to the  
19 Municipality) in respect of property, or borrowed money, used or to be used for any Private  
20 Person Use.

21 The Municipality further covenants that, if:

22 (3) More than five percent of the Net Proceeds of the Bonds are to be  
23 used for any Private Person Use; and

1 (4) More than five percent of the principal or interest payments on the  
2 Bonds in a Bond Year are (under the terms of this ordinance or any underlying arrangement)  
3 directly or indirectly:

4 (A) secured by any interest in property used or to be used for  
5 any Private Person Use or secured by payments in respect of property used or to be used for any  
6 Private Person Use, or

7 (B) derived from payments (whether or not made to the  
8 Municipality) in respect of property, or borrowed money, used or to be used for any Private  
9 Person Use, then, (i) any Private Person Use of the Projects described in subsection (3) hereof or  
10 Private Person Use payments described in subsection (4) hereof that is in excess of the five  
11 percent limitations described in such subsections (3) or (4) will be for a Private Person Use that  
12 is related to the state or local governmental use of the PAC, and (ii) any Private Person Use will  
13 not exceed the amount of Net Proceeds of the Bonds used for the state or local governmental use  
14 portion of the PAC to which the Private Person Use of such portion of the PAC relates. The  
15 Municipality further covenants that it will comply with any limitations on the use of the PAC by  
16 other than state and local governmental users that are necessary, in the opinion of its bond  
17 counsel, to preserve the tax exemption of the interest on the Bonds. The covenants of this  
18 section are specified solely to assure the continued exemption from regular income taxation of  
19 the interest on the Bonds.

20 Section 15. Lost, Stolen or Destroyed Bonds. In case any Bond or Bonds shall be lost,  
21 stolen or destroyed, the Bond Registrar may authenticate and deliver a new Bond or Bonds of  
22 like amount, date and tenor to the owner thereof upon the owner's paying the expenses and  
23 charges of the Municipality in connection therewith and upon his filing with the Municipality

1 evidence satisfactory to both that such Bond or Bonds were actually lost, stolen or destroyed and  
2 of his ownership thereof, and upon furnishing the Municipality with indemnity satisfactory to it.

3 Section 16. Form of Bonds and Registration Certificate. The Bonds shall be in  
4 substantially the following form:

5 UNITED STATES OF AMERICA

6 NO. \_\_\_\_\_ \$ \_\_\_\_\_

7 STATE OF ALASKA

8 MUNICIPALITY OF ANCHORAGE  
9 PERFORMING ARTS CENTER REVENUE BOND, 2004

10 INTEREST RATE: MATURITY DATE: CUSIP NO.:

11 REGISTERED OWNER:

12 PRINCIPAL AMOUNT:

13  
14 THE MUNICIPALITY OF ANCHORAGE, ALASKA (the "Municipality"), hereby  
15 acknowledges itself to owe and for value received promises to pay to the Registered Owner  
16 identified above, or registered assigns, on the Maturity Date identified above, the Principal  
17 Amount indicated above and to pay interest thereon from \_\_\_\_\_, 20\_\_, or the most recent  
18 date to which interest has been paid or duly provided for until payment of this bond at the Interest  
19 Rate set forth above, payable on \_\_\_\_\_ 1, 20\_\_ and semiannually thereafter on the first day of  
20 each \_\_\_\_\_ and \_\_\_\_\_. Both principal of and interest on this bond are payable in lawful  
21 money of the United States of America. This bond shall be paid by check or draft mailed to the  
22 Registered Owner at the address appearing on the Bond Register on the 15<sup>th</sup> day of the month  
23 preceding the interest payment date, and principal of this bond shall be payable upon presentation  
24 and surrender of this bond by the Registered Owner at the principal office of the Chief Fiscal  
25 Officer of the Municipality (the "Bond Registrar").

26  
27 This bond is one of an authorized issue of bonds of like date and tenor, except as to  
28 number, amount, rate of interest and date of maturity in the aggregate principal amount of  
29 \$ \_\_\_\_\_, and is issued pursuant to the Bond Ordinance (as hereinafter defined) for the  
30 purpose of replacing the roof of the PAC.

31  
32 This bond shall not be valid or become obligatory for any purpose or be entitled to any  
33 security or benefit under Ordinance No. AO 2004-110 of the Municipality (the  
34 "Bond Ordinance") until the Certificate of Authentication hereon shall have been manually  
35 signed by or on behalf of the Bond Registrar.

36  
37 The bonds of this issue are subject to redemption as described in the Bond Ordinance.

1  
2 The Municipality hereby covenants and agrees with the owner and holder of this bond  
3 that it will keep and perform all the covenants of this bond and the Bond Ordinance.  
4

5 The Municipality does hereby pledge and bind itself to set aside from such Surcharge  
6 Revenues, and to pay into said Bond Account the various amounts required by the Bond  
7 Ordinance to be paid into and maintained in said Account, all within the times provided by said  
8 Bond Ordinance.  
9

10 To the extent more particularly provided by the Bond Ordinance, the amounts so pledged  
11 to be paid from the Surcharge Revenue Account out of the Surcharge Revenues into the Bond  
12 Account and the account therein shall be a lien and charge thereon superior to all other liens and  
13 charges of any kind or nature.  
14

15 The Municipality has further bound itself to maintain the PAC in good repair, working  
16 order and condition, to operate the same in an efficient manner and at a reasonable cost, and to  
17 establish, maintain and collect the Surcharge for as long as any of the bonds of this issue are  
18 outstanding that will make available, for the payment of the principal thereof and interest thereon  
19 as the same shall become due, net revenue in an amount which will be at least equal to the Rate  
20 Covenant.  
21

22 This bond shall not be valid or become obligatory for any purpose or be entitled to any  
23 security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall  
24 have been manually signed by the Bond Registrar.  
25

26 This bond is not a "qualified tax-exempt obligation" under Section 265(b) of the Code for  
27 banks, thrift institutions and other financial institutions.  
28

29 It is hereby certified and declared that this bond is issued pursuant to and in strict  
30 compliance with the Constitution and laws of the State of Alaska and ordinances of the  
31 Municipality, including the Bond Ordinance, and that all acts, conditions and things required to  
32 be done precedent to and in the issuance of this bond have happened, been done and performed.  
33

34 IN WITNESS WHEREOF, the Municipality of Anchorage, Alaska has caused this bond  
35 to be executed by the manual or facsimile signature of its Mayor and authenticated by the manual  
36 or facsimile signature of Clerk of the Municipality as of this \_\_\_\_ day of \_\_\_\_\_, 2004.  
37

38 MUNICIPALITY OF  
39 ANCHORAGE, ALASKA

40  
41 By \_\_\_\_\_ /s/ manual or facsimile  
42 Mayor

43 ATTEST:

44  
45 \_\_\_\_\_ /s/ manual or facsimile  
46 Clerk  
47

1 The Certificate of Authentication for the Bonds shall be in substantially the following  
2 form:

3 CERTIFICATE OF AUTHENTICATION

4 Date of Authentication:

5 This bond is one of the Performing Arts Center Revenue Bonds, 2004 of the Municipality  
6 of Anchorage, Alaska, dated \_\_\_\_\_, 2004, and described in the within-mentioned Bond  
7 Ordinance.

8  
9 MUNICIPALITY OF ANCHORAGE, ALASKA  
10 CHIEF FISCAL OFFICER, as Bond Registrar

11  
12  
13 By \_\_\_\_\_  
14 Chief Fiscal Officer

15  
16 Section 17. Execution of Bonds. The Bonds shall be executed on behalf of the  
17 Municipality with the manual or facsimile signature of the Mayor, shall be attested by the manual  
18 or facsimile signature of the Municipality Clerk, and the seal of the Municipality shall be  
19 impressed or a facsimile thereof imprinted or otherwise reproduced thereon.

20 Only such Bonds as shall bear thereon a Certificate of Authentication in the form  
21 hereinbefore recited, manually executed by the Bond Registrar, shall be valid or obligatory for  
22 any purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication shall  
23 be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated  
24 and delivered hereunder and are entitled to the benefits of this ordinance.

25 In case either of the officers who shall have executed the Bonds shall cease to be officer  
26 or officers of the Municipality before the Bonds so signed shall have been authenticated or  
27 delivered by the Bond Registrar, or issued by the Municipality, such Bonds may nevertheless be  
28 authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be  
29 as binding upon the Municipality as though those who signed the same had continued to be such

1 officers of the Municipality. Any Bond may also be signed and attested on behalf of the  
2 Municipality by such persons who are at the actual date of delivery of such Bond the proper  
3 officers of the Municipality although at the original date of such Bond any such person shall not  
4 have been such officer of the Municipality.

5 Section 18. Supplements and Amendments.

6 (a) *Without Consent of Owner.* The Municipality from time to time and at any  
7 time may adopt an ordinance or ordinances supplemental hereof, which ordinance or ordinances  
8 thereafter shall become a part of this ordinance, for one or more or all of the following purposes:

9 (1) To add to the covenants and agreements of the Municipality in this  
10 ordinance contained and other covenants and agreements thereafter to be observed, which shall  
11 not adversely affect the interests of the owners of the Bonds, or to surrender any rights or power  
12 herein reserved to or conferred upon the Municipality.

13 (2) To make such provisions for the purpose of curing any ambiguities  
14 or of curing, correcting or supplementing any defective provision contained in this ordinance in  
15 regard to matters or questions arising under the ordinance as the Assembly may deem necessary  
16 or desirable and not inconsistent with the ordinance and which shall not adversely affect the  
17 interest of the owner of Bonds.

18 Any such supplemental ordinance of the Assembly may be adopted without the consent of  
19 any owner of the Bonds at any time outstanding, notwithstanding any of the provisions of this  
20 section.

21 (b) *With Owners' Consent.* With the consent of the majority of the owners of  
22 Bonds, the Assembly of the Municipality may adopt an ordinance or ordinances supplemental  
23 hereto for the purpose of adding any provisions to or changing in any manner or eliminating any  
24 of the provisions of this ordinance or of any supplemental ordinance; provided, however, that no



1 such supplemental ordinance shall extend the fixed maturity of the Bonds, or reduce the rate of  
2 interest thereon, or extend the time of payments of interest from their due date, or reduce the  
3 amount of the principal thereof, or reduce any premium payable on the redemption thereof  
4 without the consent of the owner of each Bond so affected.

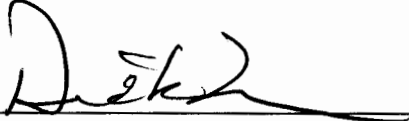
5 It shall not be necessary for the consent of the owners under this subsection to approve  
6 the particular form of any proposed supplemental ordinance, but it shall be sufficient if such  
7 consent shall approve the substance thereof.

8 (c) *Effective Date of Modification.* Upon the adoption of any supplemental  
9 ordinance pursuant to the provisions of this section, this ordinance shall be deemed to be  
10 modified and amended in accordance therewith, and the respective rights, duties and obligations  
11 of the Municipality under this ordinance shall thereafter be determined, exercised and enforced  
12 thereunder, subject in all respect to such modification and amendments, and all the terms and  
13 conditions of any such supplemental ordinance shall be deemed to be part of the terms and  
14 conditions of this ordinance for any and all purposes. A copy of each supplemental ordinance  
15 shall be provided to the owners of the Bonds.

16 Section 19. Severability. If any one or more of the covenants or agreements provided  
17 in this ordinance to be performed on the part of the Municipality shall be declared by any court of  
18 competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or  
19 agreements, shall be null and void and shall be deemed separable from the remaining covenants  
20 and agreements in this ordinance and shall in no way affect the validity of the other provisions of  
21 this ordinance.

1 PASSED AND APPROVED by the Assembly of the Municipality of Anchorage this 3rd  
2 day of August, 2004.

3  
4 MUNICIPALITY OF ANCHORAGE, ALASKA

5  
6 By   
7  
8 Chair

9  
10 ATTEST:

11   
12  
13 Municipal Clerk

Requested by: Chairman of the Assembly  
at the request of the Mayor

For Reading: July 6, 2004

Prepared by: Cynthia M. Weed,  
Preston Gates & Ellis LLP

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MUNICIPALITY OF ANCHORAGE, ALASKA

ORDINANCE NO. AO 2004-110

AN ORDINANCE OF MUNICIPALITY OF ANCHORAGE, ALASKA, AUTHORIZING THE COMPLETION OF ROOF REPAIRS AT THE ANCHORAGE PERFORMING ARTS CENTER; AUTHORIZING THE SALE AND ISSUANCE OF REVENUE BONDS OF THE MUNICIPALITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$6,000,000, FOR THE PURPOSE OF PROVIDING PERMANENT FINANCING FOR SAID REPAIRS; AND PROVIDING FOR THE REPAYMENT OF SUCH BONDS OVER A TERM OF YEARS; FIXING THE FORM, TERMS AND COVENANTS OF THE BONDS; PROVIDING A METHOD OF PAYMENT THEREFOR; AND PROVIDING FOR THE SALE OF THE BONDS TO THE ALASKA MUNICIPAL BOND BANK AUTHORITY.

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## EXHIBIT A

### LOAN AGREEMENT

AGREEMENT, dated as of the 1st day of \_\_\_\_\_ 2004, between the Alaska Municipal Bond Bank Authority (the "Authority"), a body corporate and politic constituted as an instrumentality of the State of Alaska (the "State") exercising public and essential governmental functions, created pursuant to the provisions of Chapter 85, Title 44, Alaska Statutes, as amended (the "Act"), having its principal place of business at Juneau, Alaska, and the Municipality of Anchorage, Alaska, a duly constituted unified home-rule Municipality of the State (the "Municipality"):

#### WITNESSETH:

WHEREAS, pursuant to the Act, the Authority is authorized to make loans of money (the "Loan" or "Loans") to governmental units; and

WHEREAS, the Municipality is a Governmental Unit as defined in the Revenue Bond Resolution of the Authority hereinafter mentioned and pursuant to the Act is authorized to accept a Loan from the Authority to be evidenced by its municipal bonds purchased by the Authority; and

WHEREAS, the Municipality is desirous of borrowing money from the Authority in the amount of \$ \_\_\_\_\_ and has submitted an application to the Authority for a Loan in the amount of not to exceed \$ \_\_\_\_\_, and the Municipality has duly authorized the issuance of its fully registered bond in the aggregate principal amount of \$ \_\_\_\_\_ (the "Municipal Bond"), which bond is to be purchased by the Authority as evidence of the Loan in accordance with this Agreement; and

WHEREAS, the application of the Municipality contains the information requested by the Authority; and

WHEREAS, to provide for the issuance of bonds of the Authority in order to obtain from time to time money with which to make Loans, the Authority has adopted the Revenue Bond Resolution on \_\_\_\_\_, 2004 (the "Revenue Bond Resolution"), authorizing the making of such Loan to the Municipality and the purchase of the Municipal Bond.

NOW, THEREFORE, the parties agree:

1. The Authority hereby makes the Loan and the Municipality accepts the Loan in the principal amount of \$ \_\_\_\_\_. As evidence of the Loan made to the Municipality and such money borrowed from the Authority by the Municipality, the Municipality hereby sells to the Authority the Municipal Bond in the principal amount, with the principal installment payments, and bearing interest from its date at the rate or rates per annum, stated in Exhibit "A" appended hereto. For purposes of this Loan Agreement, the interest on the Municipal Bond will be computed without regard to the provision in Section 7 hereof for the Municipality to make funds available to the Trustee acting under the Revenue Bond Resolution for the payment of principal and interest at least seven business days prior to each respective principal and interest payment date.

2. The Municipality represents that it has duly adopted or will adopt all necessary ordinances or resolutions, including Ordinance No. AO 2004-\_\_ approved by the Municipal Assembly on \_\_\_\_\_, 2004 (the "Municipality's Ordinance"), and has taken or will take all proceedings required by law to enable it to enter into this Loan Agreement and issue its Municipal Bond to the Authority and that the Municipal Bond will constitute a special obligation of the Municipality payable solely from revenues of the Municipality's \_\_\_\_\_ as described in the Municipality's Ordinance.

3. Subject to any applicable legal limitations, the amounts to be paid by the Municipality pursuant to this Loan Agreement representing interest due on its Municipal Bond (the "Municipal Bond Interest Payments") shall be computed at the same rate or rates of interest borne by the corresponding maturities of the bonds sold by the Authority in order to obtain the money with which to make the Loan and to purchase the Municipal Bond (the "Loan Obligations") and, unless required under Section 7 hereof, to be paid at least seven business days before the interest payment date, shall be paid by the Municipality in such manner and at such times as to provide funds sufficient to pay interest as the same becomes due on the Loan Obligation.

4. The amounts to be paid by the Municipality pursuant to this Loan Agreement representing principal due on its Municipal Bond (the "Municipal Bond Principal Payments"), unless required under Section 7 hereof, shall be paid at least seven business days before the maturity date, and shall be scheduled by the Authority in such manner and at such times (notwithstanding the dates of payment as stated in the Municipal Bond) as to provide funds sufficient to pay the principal of the Loan Obligations as the same matures based upon the maturity schedule stated in Exhibit "A" appended hereto.

5. In the event the amounts referred to in Sections 3 and 4 hereof to be paid by the Municipality pursuant to this Loan Agreement are not made available at any time specified herein, the Municipality agrees that any money payable to it by any department or agency of the State may be withheld from it and paid over directly to the Trustee acting under the Revenue Bond Resolution, and this Loan Agreement shall be full warrant, authority and direction to make such payment upon notice to such

department or agency by the Authority, with a copy provided to the Municipality, as provided in the Act.

6. In the event Loan Obligations have been refunded and the interest rates the Authority is required to pay on its refunding bonds in any year are less than the interest rates payable by the Municipality on the Municipal Bond for the corresponding year pursuant to Section 1 hereof, then both the Municipal Bond Interest Payments and the Municipal Bond Principal Payments will be adjusted in such a manner that (i) the interest rate paid by the Municipality on any principal installment of the Municipal Bond is equal to the interest rate paid by the Authority on the corresponding principal installment of Authority's refunding bonds and (ii) on a present value basis the sum of the adjusted Municipal Bond Interest Payments and Municipal Bond Principal Payments is equal to or less than the sum of the Municipal Bond Interest Payments and Municipal Bond Principal Payments due over the remaining term of the Municipal Bond as previously established under this Loan Agreement. In the event of such a refunding of Loan Obligations, the Authority shall present to the Municipality for the Municipality's approval, a revised schedule of principal installment amounts and interest rates for the Municipal Bond. If approved by the Municipality the revised schedule shall be attached hereto as Exhibit "A" and incorporated herein in replacement of the previous Exhibit "A" detailing said principal installment amounts and interest rates.

7. The Municipality is obligated to pay to the Authority Fees and Charges. Such Fees and Charges actually collected from the Municipality shall be in an amount sufficient, together with the Municipality's Allocable Proportion of other money available therefor under the provisions of the Revenue Bond Resolution, and other money available therefor, including any specific grants made by the United States of America or any agency or instrumentality thereof or by the State or any agency or instrumentality thereof and amounts applied therefor from amounts transferred to the Operating Fund pursuant to paragraph (3) of Section 603 of the Revenue Bond Resolution:

(a) to pay, as the same become due, the Municipality's Allocable Proportion of the Administrative Expenses of the Authority; and

(b) to pay, as the same become due, the Municipality's Allocable Proportion of the fees and expenses of the Trustee and paying agent for the Loan Obligations.

The Municipality's Allocable Proportion as used herein shall mean the proportionate amount of the total requirement in respect to which the term is used determined by the ratio that the principal amount of the Municipal Bond outstanding bears to the total of all Loans then outstanding to all Governmental Units under the Revenue Bond Resolution, as certified by the Authority. The waiver by the Authority of any fees payable pursuant to this Section 7 shall not constitute a subsequent waiver thereof.

During any period where the Municipality's Allocable Proportion of the fees and expenses of the Trustee and paying agent for the Loan Obligations is reduced in consideration of the Municipality so making funds available, the Municipality shall make funds available to the Trustee for each Municipal Bond Interest Payment and Municipal Bond Principal Payment at least seven business days before the respective principal or interest payment date.

8. The Municipality is obligated to make the Municipal Bond Principal Payments scheduled by the Authority. The first such Municipal Bond Principal Payment is due on the dates indicated on Exhibit "A" appended hereto, and thereafter on the anniversary thereof each year. The Municipality is obligated to make the Municipal Bond Interest Payments scheduled by the Authority on a semi-annual basis commencing on the date indicated on Exhibit "A" appended hereto, and to pay any Fees and Charges imposed by the Authority within 30 days of receiving the invoice of the Authority therefor.

9. The Authority shall not sell and the Municipality shall not redeem prior to maturity any portion of the Municipal Bond in an amount greater than the Loan Obligations which are then outstanding and which are then redeemable, and in the event of any such sale or redemption, the same shall be in an amount not less than the aggregate of (i) the principal amount of the Municipal Bond (or portion thereof) to be redeemed, (ii) the interest to accrue on the Municipal Bond (or portion thereof) to be redeemed to the next redemption date thereof not previously paid, (iii) the applicable premium, if any, payable on the Municipal Bond (or portion thereof) to be redeemed, and (iv) the cost and expenses of the Authority in effecting the redemption of the Municipal Bond (or portion thereof) to be redeemed. The Municipality shall give the Authority at least 50 days' notice of intention to redeem its Municipal Bond.

In the event the Loan Obligation with respect to which the sale or redemption prior to maturity of such Municipal Bond is being made have been refunded and the refunding bonds of the Authority issued for the purpose of refunding such Loan Obligation were issued in a principal amount in excess of or less than the principal amount of the Municipal Bond remaining unpaid at the date of issuance of such refunding bonds, the amount which the Municipality shall be obligated to pay or the Authority shall receive under item (i) above shall be the principal amount of such refunding bonds outstanding.

In the event the Loan Obligation has been refunded and the interest the Authority is required to pay on the refunding bonds is less than the interest the Authority was required to pay on the Loan Obligation, the amount which the Municipality shall be obligated to pay or the Authority shall receive under item (ii) above shall be the amount of interest to accrue on such refunding bonds outstanding.

In the event the Loan Obligation has been refunded, the amount which the Municipality shall be obligated to pay or the Authority shall receive under item (iii)



above, when the refunded Loan Obligation is to be redeemed, shall be the applicable premium, if any, on the Loan Obligation to be redeemed.

Nothing in this Section shall be construed as preventing the Municipality from refunding the Municipal Bond in exchange for a new Municipal Bond in conjunction with a refunding of the Loan Obligation.

10. Simultaneously with the delivery of the Municipal Bond to the Authority, the Municipality shall furnish to the Authority evidence satisfactory to the Authority which shall set forth, among other things, that the Municipal Bond will constitute a valid special obligation of the Municipality.

11. Invoices for payments under this Loan Agreement shall be addressed to the Municipality of Anchorage, 632 W. 6th Avenue, 8th Floor, Anchorage, Alaska 99501, Attention: Chief Fiscal Officer. The Municipality shall give the Authority and the corporate trust office of the Trustee under the Revenue Bond Resolution at least 30 days' written notice of any change in such address.

12. Prior to payment of the amount of the Loan or any portion thereof, and the delivery of the Municipal Bond to the Authority or its designee, the Authority shall have the right to cancel all or any part of its obligations hereunder if:

(a) Any representation, warranty or other statement made by the Municipality to the Authority in connection with its application to the Authority for the Loan shall be incorrect or incomplete in any material respect.

(b) The Municipality has violated commitments made by it in the terms of this Loan Agreement.

(c) The financial position of the Anchorage Performing Arts Center, owned and operated by the Municipality, has, in the opinion of the Authority, suffered a materially adverse change between the date of this Loan Agreement and the scheduled time of delivery of the Municipal Bond to the Authority.

13. The obligation of the Authority under this Loan Agreement is contingent upon delivery of its 2004 Series A Revenue Bonds (the "2004 Series A Bonds") and receipt of the proceeds thereof.

14. The Municipality agrees that it will provide the Authority with written notice of any default in covenants under the Municipality's Ordinance within 30 days from the date thereof.

15. The Municipality shall not take, or omit to take, any action lawful and within its power to take, which action or omission would cause interest on the Municipal Bond to

become subject to federal income taxes in addition to federal income taxes to which interest on such Municipal Bond is subject on the date of original issuance thereof.

The Municipality shall not permit any of the proceeds of the Municipal Bond, or any facilities financed with such proceeds, to be used in any manner that would cause the Municipal Bond to constitute a "private activity bond" within the meaning of Section 141 of the Code.

The Municipality shall make no use or investment of the proceeds of the Municipal Bond which will cause the Municipal Bond to be an "arbitrage bond" subject to taxation by reason of Section 148 of the Code. So long as the Municipal Bond is outstanding, the Municipality, with respect to the proceeds of the Municipal Bond, shall comply with all requirements of said Section 148 and all regulations of the United States Department of Treasury issued thereunder, to the extent that such requirements are, at the time, applicable and in effect. The Municipality shall indemnify and hold harmless the Authority from any obligation of the Municipality to make rebate payments to the United States under said Section 148 arising from the Municipality's use or investment of the proceeds of the Municipal Bond.

16. The Authority shall cause to be prepared an Official Statement (the "Official Statement") for the 2004 Series A Bonds. The Municipality shall provide promptly to the Authority the information concerning the Municipality and the Municipal Bond (the "Municipal Information") (i) that the Authority requests for inclusion in the Official Statement, and (ii) that the Municipality considers to be material to the purposes for which the Official Statement is to be used.

As a condition to the payment of the amount of the Loan or any portion thereof, the Municipality shall provide to the Authority a certificate, dated the date of issue of the 2003 Series B Bonds, of an authorized officer of the Municipality that (i) the Municipal Information consists of fair and accurate statements or summaries of the matters therein set forth and such information does not contain any untrue statement of material fact or omit to state a material fact that should be stated therein for the purposes for which it is to be used or that is necessary to make the statements therein, in light of the circumstances under which they were made, not misleading in any material respect; and (ii) to the best knowledge of such officer, no event affecting the Municipality has occurred since the date of the Official Statement that should be disclosed in the Official Statement for the purposes for which it is to be used or that it is necessary to disclose therein in order to make the statements and information therein not misleading in any material respect.

The Municipality will undertake in the Disclosure Certificate for the benefit of the Beneficial Owners of the 2004 Series A Bonds to provide or cause to be provided to each nationally recognized municipal securities information repository ("NRMSIR") and to a state information depository ("SID"), if one is established in the State, annual financial information and operating data which shall be substantially similar to the

financial information found in Appendix D to the Official Statement as required by Rule 15c2-12(b)(5) of the Securities and Exchange Act of 1934, as the same may be amended from time to time (the "Rule"). The Municipality will provide to each NRMSIR or to the Municipal Securities Rulemaking Board, and to the SID, timely notice of a failure by the Municipality to provide required annual financial information on or before the date specified below. The annual financial information that the Municipality will provide will consist of annual financial statements for the Municipality, prepared in accordance with generally accepted accounting principles, as such principles may be changed from time to time; and will be provided not later than nine months after the end of each fiscal year of the Municipality, as such fiscal year may be changed from time to time, commencing with the Municipality's fiscal year ending \_\_\_\_\_, 20\_\_.

17. If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

18. This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments, and take such other actions as are necessary, to give effect to the terms of this Loan Agreement.

19. No waiver by either party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other term or condition hereof, nor shall a waiver of any breach of this Loan Agreement be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

20. In this Loan Agreement, unless otherwise defined herein, all capitalized terms which are defined in Article I of the Revenue Bond Resolution shall have the same meanings, respectively, as such terms are given in Article I of the Revenue Bond Resolution.

21. This Loan Agreement merges and supersedes all prior negotiations, representations and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire agreement between the parties hereto in respect thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ALASKA MUNICIPAL BOND BANK  
AUTHORITY

[SEAL]

By \_\_\_\_\_  
DEVEN J. MITCHELL  
Executive Director

MUNICIPALITY OF ANCHORAGE, ALASKA

[SEAL]

By \_\_\_\_\_  
\_\_\_\_\_  
Title

**EXHIBIT "A" TO LOAN AGREEMENT BETWEEN THE  
MUNICIPALITY OF ANCHORAGE, ALASKA, AND  
THE ALASKA MUNICIPAL BOND BANK AUTHORITY**

Municipality of Anchorage, Alaska  
\_\_\_\_\_ Revenue Bonds, 2004 Series

Principal Date ( _____ 1)	Principal Amount	Interest Rate
	\$	%

The Bonds shall mature on \_\_\_\_\_ 1 in each of the years, and in the principal amounts set forth above. Interest on the Bonds shall be payable on \_\_\_\_\_ 1, 2004, and thereafter on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year.

**Redemption Terms:**

(1) *Optional Redemption.* The Bonds maturing on and after \_\_\_\_\_ 1, 20\_\_ are subject to redemption, in whole or in part, on and after \_\_\_\_\_ 1, 20\_\_, at the option of the Municipality, on any date, at a price of 100% of the principal amount thereof to be redeemed, plus accrued interest to the date of redemption.

(2) *Extraordinary Optional Redemption.* In the event that all or any substantial portion of the facilities of the PAC shall have been damaged or destroyed (i) to the extent that they cannot, in the Municipality's judgment, be reasonably restored within a period of six months to the condition thereof immediately preceding such damage or destruction, or (ii) to such extent that the Municipality is thereby prevented, in its judgment, from carrying on its normal operations at the PAC for a period of six months or more, then the Municipality may at any time thereafter, at its option, redeem the Bonds in whole or in part, and if in part with maturities to be selected by the Municipality, at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the date of redemption.



# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

AM No. 522-2004

Meeting Date: July 20, 2004

1 **From:** Mayor

2  
3 **Subject:** **AN ORDINANCE OF MUNICIPALITY OF ANCHORAGE, ALASKA,**  
4 **AUTHORIZING THE COMPLETION OF ROOF REPAIRS AT THE**  
5 **ANCHORAGE PERFORMING ARTS CENTER; AUTHORIZING THE**  
6 **SALE AND ISSUANCE OF REVENUE BONDS OF THE MUNICIPALITY**  
7 **IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$6,000,000, FOR**  
8 **THE PURPOSE OF PROVIDING PERMANENT FINANCING FOR SAID**  
9 **REPAIRS; AND PROVIDING FOR THE REPAYMENT OF SUCH BONDS**  
10 **OVER A TERM OF YEARS; FIXING THE FORM, TERMS AND**  
11 **COVENANTS OF THE BONDS; PROVIDING A METHOD OF PAYMENT**  
12 **THEREFOR; AND PROVIDING FOR THE SALE OF THE BONDS TO**  
13 **THE ALASKA MUNICIPAL BOND BANK AUTHORITY**  
14

15 Attached Ordinance No. AO 2004-110 provides for an issuance of not to exceed \$6,000,000  
16 of Municipality of Anchorage, Alaska Performing Arts Center Revenue Bonds, 2004 which  
17 purpose shall be to repair and refurbish the roof on the Alaska Center for the Performing Arts.  
18 Revenues for the payment of interest and principal on the Bonds shall be from surcharges paid  
19 by Performing Arts Center patrons as ordained in AO 2004-93 and described in AM 425-2004.  
20 The Bonds shall be sold to the Alaska Municipal Bond Bank Authority.

21  
22 Section 10 of the Ordinance authorizes the Chief Fiscal Officer and/or Acting Chief Fiscal  
23 Officer to negotiate terms and to execute a contract for purchase of the Bonds.

24  
25 THE ADMINISTRATION RECOMMENDS APPROVAL OF AO NO. 2004-110.

26  
27  
28 Recommended by: Jeffrey E. Sinz, Chief Fiscal Officer  
29 Concurrence: Denis C. LeBlanc, Municipal Manager  
30 Respectfully submitted: Mark Begich, Mayor

**Content Information****Content ID :** 001944**Type:** Ordinance - AO**Title:** Completion of Roof Repairs at ACPA; Authorizing the Sale & Issuance of Revenue Bonds, NTE \$6,000,000, Finance**Author:** pruittns**Initiating Dept:** Finance**Keywords:** Roof Repairs, PAC, ACPA, Alaska Center for the Performing Arts, Revenue Bonds, surcharge, Bond Bank**Date Prepared:** 6/25/04 4:46 PM**Director Name:** Jeffrey Sinz**Assembly Meeting  
Date MM/DD/YY:** 07/20/04**Public Hearing Date  
MM/DD/YY:** 08/03/04**Workflow History**

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
AllOrdinanceWorkflow	6/25/04 5:01 PM	Checkin	pruittns	Public	001944
AllOrdinanceWorkflow	7/7/04 4:54 PM	Reject	sinzje	Public	001944
AllOrdinanceWorkflow	7/7/04 5:24 PM	Checkin	pruittns	Public	001944
OMB_SubWorkflow	7/8/04 8:24 AM	Approve	pearcydl	Public	001944
Legal_SubWorkflow	7/8/04 9:22 AM	Approve	fehlenrl	Public	001944
MuniManager_SubWorkflow	7/8/04 11:13 AM	Approve	katkusja	Public	001944
MuniMgrCoord_SubWorkflow	7/9/04 9:25 AM	Approve	katkusja	Public	001944

**CONSENT AGENDA - INTRODUCTION**

2004 JUL -9 AM 11:31  
 CLERK OF COURSE  
 20