

EXECUTION COPY

THIRD AMENDED AND RESTATED
JOINT ACTION AGENCY AGREEMENT

RELATING TO

THE SOUTHEAST ALASKA
POWER AGENCY

(FORMERLY THE FOUR DAM POOL POWER AGENCY)

City of Ketchikan d/b/a Ketchikan Public Utilities
City of Petersburg d/b/a Petersburg Municipal Power and Light
City of Wrangell d/b/a City of Wrangell Light Department

Dated as of February 24, 2009

ATER WYNNE LLP

**THIRD AMENDED AND RESTATED
JOINT ACTION AGENCY AGREEMENT
RELATING TO THE
SOUTHEAST ALASKA POWER AGENCY**

THIS THIRD AMENDED AND RESTATED JOINT ACTION AGENCY AGREEMENT (this "Agreement"), dated as of February 24, 2009 by and among, the CITY OF KETCHIKAN d/b/a Ketchikan Public Utilities, the CITY OF PETERSBURG d/b/a Petersburg Municipal Power and Light, and the CITY OF WRANGELL d/b/a City of Wrangell Light Department (the "Member Utilities"):

WITNESSETH:

WHEREAS, pursuant to Title 42, Chapter 45, Article 5 of the Alaska Statutes (the "JAA Act"), two or more public utilities that purchase power from a power project acquired or constructed as part of the former energy program for Alaska and owned by the Alaska Energy Authority (the "AEA") may form a joint action agency to purchase the power project from the AEA and own, operate and manage the project and related generating and transmission facilities; and

WHEREAS, the CITY OF KETCHIKAN d/b/a Ketchikan Public Utilities, the CITY OF PETERSBURG d/b/a Petersburg Municipal Power and Light, and the CITY OF WRANGELL d/b/a City of Wrangell Light Department, Kodiak Electric Authority and Copper Valley Electric Authority were comprised the "Initial Member Utilities" under all of the prior Joint Action Agency Agreements entered into pursuant to the Alaska Statutes; and

WHEREAS, the Member Utilities, together with Copper Valley Electric Association, Inc. ("CVEA") and Kodiak Electric Association, Inc. ("KEA"), as Initial Member Utilities entered into a Joint Action Agency Agreement relating to The Four Dam Pool Power Agency dated as of December 1, 2000, amended and restated the First Amended and Restated Joint Action Agency Agreement, dated as of January 1, 2002, and as further amended and restated the Second Amended and Restated Joint Action Agency Agreement dated October 1, 2004; and

WHEREAS, each of the Member Utilities is a "public utility" as that term is defined in the JAA Act; and

WHEREAS, each of the Member Utilities is authorized to own, operate and manage power projects and related generating and transmission facilities; and

WHEREAS, the Member Utilities desire to amend and restate the Second Amended and Restated JAA Agreement to reflect the withdrawal of Copper Valley Electric Association, Inc. and Kodiak Electric Association, Inc. pursuant to Section 16 thereof, and the transfer of the Solomon Gulch Hydroelectric Project and the Terror Lake Hydroelectric Project pursuant to Section 17 thereof, contemporaneously with the closing of the transaction contemplated by that certain Asset Transfer Agreement dated November 11, 2008; and

WHEREAS, consistent with this Agreement, and pursuant to that certain Asset Transfer Agreement dated November 11, 2008, the Agency has transferred two Initial Projects to the Withdrawing Member Utilities, the Terror Lake Hydroelectric Project and its related facilities to KEA, and the Solomon Gulch Hydroelectric Project and its related facilities to CVEA, respectively; and

WHEREAS, through the refinancing of the existing bonds, the Agency has refinanced, paid off, and defeased the long-term Bonds, indebtedness, obligations, and amounts payable to any third party including any credit enhancement or liquidity support for such Bonds that were outstanding at the time of the approval by the Agency, and the Initial Member Utilities, of the Second Amended and Restated Joint Action Agency Agreement; and

WHEREAS, each Member Utility has taken all necessary and appropriate action to approve, and to authorize and direct the execution and delivery of this Third Amended and Restated Joint Action Agency Agreement; and

NOW, THEREFORE, the Member Utilities, for and in consideration of the mutual promises and agreements herein contained, do hereby agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) "Agency" or "Power Agency" means the joint action agency created by the Member Utilities under Section 2 hereof pursuant to the JAA Act.

(b) "Asset Transfer Agreement" means the agreement dated November 11, 2008, between the Initial Member Utilities to transfer the Terror Lake Hydroelectric Project and its related facilities to KEA, and the Solomon Gulch Hydroelectric Project and its related facilities to CVEA, respectively

(c) "Board" or "Board of Directors" means the Board of Directors of the Agency established under Section 6 hereof.

(d) "Bond" or "Bonds" means any evidence of indebtedness issued or entered into by the Agency, including any interest-bearing obligation of the Agency that obligates the Agency to pay the holder thereof a specified sum of money at specific intervals and to repay the principal amount of the obligation at maturity, together with any bond, note, bond or revenue anticipation note, obligation, loan agreement, financing lease, certificate of participation, bank loan, financing agreement or similar instrument or agreement issued or entered into by the Agency.

(e) "Bylaws" shall include the Bylaws approved in the manner required herein by the Board of Directors, and any amendments thereto at any time.

(f) "Director" means the representative of a Member Utility duly appointed as a member of the Board of Directors, or an alternate duly designated by the Member Utility to act in the absence of any such representative pursuant to Section 6 hereof.

(g) "Fiscal Year" means July 1 to June 30, or such other fiscal period as may be established by the Board of Directors.

(h) "Initial Member Utilities" means Copper Valley Electric Association, Inc., the City of Ketchikan d/b/a Ketchikan Public Utilities, Kodiak Electric Association, Inc., the City of Petersburg d/b/a Petersburg Municipal Power and Light, and the City of Wrangell d/b/a City of Wrangell Light Department, as the initial Public Utilities that are parties to this Agreement and including other Public Utilities that may become parties to this Agreement and excluding those that may withdraw..

(i) "Member Utilities" means the City of Ketchikan d/b/a Ketchikan Public Utilities, .. the City of Petersburg d/b/a Petersburg Municipal Power and Light, the City of Wrangell d/b/a City of Wrangell Light Department and such other Public Utilities that may become parties to this Agreement in accordance with Section 16 hereof, but excluding those Public Utilities (including any Initial Member Utility) that may withdraw from this Agreement in accordance with Section 16 hereof.

(j) "Power Purchasers" means the Member Utilities and such additional or alternate electric utilities that may, from time to time, purchase power from the Agency pursuant to a long-term power sales agreement.

(k) "Projects" means the Swan Lake Hydroelectric Project, the Tyee Lake Hydroelectric Project, and the Swan-Tyee Intertie, including associated transmission lines and other facilities.

(l) "Public Utilities" means public utilities as defined in AS 42.05.990, as amended, replaced or superseded from time to time, that are eligible to become Member Utilities under the JAA Act.

(m) "Swan-Tyee Intertie" means the proposed electric transmission lines and system connecting the Swan Lake and Tyee Lake Hydroelectric Projects.

(n) "Transfer" means the process described in Section 17 of this Agreement.

(o) "Withdrawing Member Utilities" means Kodiak Electric Association, Inc. ("KEA") and Copper Valley Electric Association, Inc. ("CVEA").

Section 2. Creation; Name. Pursuant to the JAA Act and this Agreement, the joint action agency formerly known as "The Four Dam Pool Power Agency" is to be known as " THE SOUTHEAST ALASKA POWER AGENCY,".(also known as the "Agency").

Section 3. Status of Agency. The Agency shall be an Alaska public corporation and an instrumentality of the Member Utilities, having a legal existence independent of and separate from the Member Utilities. No debt, liability or obligation of the Agency shall at any time constitute a debt, liability or obligation of any Member Utility, unless a Member Utility has expressly agreed in writing to assume or become obligated with respect to such debt, liability or obligation of the Agency. The Agency shall have no power to bind, obligate or impose any debt, liability or obligation of the Agency on any Member Utility. The Agency shall be a governmental unit, shall be a political subdivision for purposes of AS 38.05.810 concerning the sale of State lands and resources, and functions as a political subdivision in the acquisition and ownership of the Project under the agreement authorized in AS 42.45.310. Except as provided in AS 42.45.310(h), the Agency is not a political subdivision of the State of Alaska for other State law purposes. The exercise by the Agency of the powers conferred by this Agreement shall be considered an essential governmental function and the exercise of governmental powers. The Agency shall continue in existence until dissolved or terminated pursuant to Section 18 hereof.

Section 4. Term; Filing. This Agreement shall become effective upon execution by each of the Member Utilities and shall continue in full force and effect until such time as it is terminated in writing by all Member Utilities; provided however, that this Agreement shall not be terminated until such time as all Bonds and all other indebtedness issued or obligations incurred or caused to be issued or incurred by the Agency, including, without limitation, the obligations payable to any credit enhancer of any Bonds or any indebtedness or obligations of the Agency, shall have been paid in full, or full provision shall have been made for payment, including interest until their payment date. Upon execution and delivery of this Agreement by each of the Member Utilities, a copy of this Agreement shall be filed in the office of the Commissioner of the Alaska Department of Commerce and Economic Development.

Section 5. Powers of the Agency. The Agency has the power, subject to the limitations and requirements of this Agreement and applicable law, rules and regulations, to:

- (a) sue and be sued in its own name;
- (b) establish, prescribe, adopt, amend and repeal the terms of this Agreement and Bylaws of the Agency;
- (c) appoint officers, agents, and employees and vest them with powers and duties and to fix, change, and pay compensation for their services;
- (d) purchase, acquire, own, operate, manage, maintain, improve and expand the Projects and other generating or transmission facilities and complete the transactions contemplated by this Agreement and Alaska Statutes;
- (e) design, develop, construct, own, manage, maintain, improve, expand and operate the additional generating and transmission facilities, including without limitation the Swan-Tyee Intertie;

(f) borrow money and issue Bonds of the Agency for any of its public purposes, including the financing of the acquisition of the Projects, the repair and maintenance of the Projects and the development and construction of additional generating and transmission facilities, including the Swan-Tyee Intertie, to enter into agreements with third parties, including banks and insurance companies, to provide credit enhancement or liquidity support for such Bonds, and to secure payment of its Bonds and its obligations to any such third party by a pledge of or mortgage or lien on all or any of its assets, contracts, revenue, and income, and issue Bonds for the purpose of funding, refunding, purchasing, paying, or discharging any of the outstanding Bonds or obligations issued or assumed by it, or Bonds or obligations the principal or interest of which is payable in whole or in part from its revenue;

(g) make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of its powers and functions, including contracts, with any person, firm, corporation, government agency, or other entity;

(h) receive, administer, and comply with the conditions and requirements of an appropriation, gift, grant, or donation of property or money;

(i) invest revenue and receipts, to the extent they are not needed to pay Bonds or other obligations of the Agency, as directed by the Board and any agents or employees of the Agency so authorized by the Board;

(j) acquire, produce, develop, manufacture, use, transmit, distribute, supply, exchange, sell, establish rates for or otherwise dispose of electric energy to or for any person or entity, and other supplies and services as the Agency determines necessary, proper, incidental or convenient in connection with its public purposes;

(k) determine, fix, alter, charge, and collect rates, fees, rentals, and other charges for the use of the Projects and any related facilities of the Agency or for the service, electric energy or other commodities sold, rendered, or furnished by it;

(l) plan, design, construct, reconstruct, extend, or improve any generation, transmission or other facility necessary or convenient in connection with its activities;

(m) enter on any land, water, or premises related to any portion of the Projects, the Swan-Tyee Intertie or other additional generating and transmission facilities for the purpose of making surveys, soundings, tests or other examinations;

(n) exercise the powers of eminent domain in accordance with (i) AS 09.55.240 to 09.55.460 to the extent authorized by AS 42.45.310(c)(5), and (ii) AS 42.05.631, to the extent required to acquire land necessary to the management and operation of the Projects or the development, construction, maintenance or improvement of the Projects, the Swan-Tyee Intertie or other additional generating and transmission facilities and any related facilities;

(o) adopt, amend, and repeal rules and procedures necessary for the exercise and performance of its powers and duties or to govern the rendering of service, sale or exchange of electrical energy or other services and accommodations;

(p) construct, buy, lease, or otherwise acquire, and equip, maintain, operate, and sell, assign, convey, lease, mortgage, pledge, or otherwise dispose of or encumber lands, buildings, structures, electric, communications or other equipment or systems, dams, plants and equipment, and any other real or personal property, tangible or intangible, which is necessary, convenient or appropriate to accomplish the public purposes for which the Agency is formed;

(q) buy, lease, or otherwise acquire and use, and exercise and sell, assign, convey, mortgage, pledge or otherwise dispose of or encumber franchises, rights, privileges, licenses, and easements;

(r) construct, generate, manufacture, maintain, purchase, acquire, accumulate, transmit and operate electric energy and electric transmission and distribution lines along, upon, under, over and across publicly owned lands and public thoroughfares, including, without limitation, all roads, highways, streets, alleys, bridges, and causeways;

(s) make donations for the public welfare or for charitable, scientific, or educational purposes;

(t) secure and maintain policies of insurance, establish reserves, enter into risk sharing and other agreements and take all other necessary and/or appropriate actions to manage liabilities and risks associated with the ownership, management and/or operation of the Projects;

(u) contract with other parties to make itself subject to the requirements of the Uniform Commercial Code; and

(v) do and perform any other act or thing, and have and exercise any other power which may be necessary, convenient, or appropriate to accomplish the public purposes for which the Agency is established.

Section 6. Board of Directors; Appointment; Membership; Removal of Directors; Principal Office.

(a) The Agency shall be governed by a Board of Directors. The Board of Directors shall at all times consist of a total of five Directors. Each Project shall be represented by two Directors. The Tyee Lake Project shall be represented by one Director and an alternate from Petersburg and one Director and an alternate from Wrangell. The Swan Lake Project will be represented by two Directors and two alternates from Ketchikan. Each alternate may attend all meetings and be granted all of the same rights and privileges as a Director, including without limitation the right to reimbursement of expenses, except the right to vote where the appointed Director is present and able to vote on any matter before the Board. Each Member Utility shall notify all other Member Utilities in writing of its designated Directors and alternates to the Board. The fifth Director and one alternate shall be selected and approved, on an alternating annual basis, between the two projects. When the Swan Lake Project is to select the fifth Director the Member Utility from Ketchikan shall make the selection. In the year that the Tyee Lake Project is to select the fifth Director, the selection shall alternate between the Member Utilities of Petersburg and Wrangell, as provided in the Bylaws of the Agency, as may be amended from time to time. The selection of the initial fifth Director shall be determined randomly in a manner agreed upon by the Member Utilities. In the event the Member Utility from Ketchikan, on behalf of the Swan Lake Project, is randomly determined to select the initial fifth Director, there shall be a second random selection between Wrangell and Petersburg to determine which Member Utility will select the initial fifth Director to represent the Tyee Lake Project. The fifth Director may serve one or more additional terms, with the consent of all Directors from each Project. Such a selection shall not alter the alternation of the selection of the fifth Director. Each Director and alternate shall serve for a one-year term commencing on January 1 and ending on December 31 of each calendar year, provided that a Director or an alternate to the Board shall continue to serve until his or her successor is appointed. Directors and alternates shall have a fiduciary duty to the Agency and may not be removed except as provided by paragraph (c) below.

(b) The right of a Member Utility to appoint a Director or an alternate to the Board is not transferable to any other entity or person without the prior unanimous consent of all members of the Board of Directors.

(c) A Director or an alternate to the Board may only be removed for cause. Removal of a Director or an alternate to the Board shall require a finding of cause and a vote in favor of removal by a unanimous vote of those remaining Directors who are appointed by Member Utilities that are state or local governmental units within the meaning of Treas. Reg. § 1.103-1(b). No Director or alternate to the Board shall be entitled to vote on the removal of a Director or an alternate to the Board if such Director or alternate is either the subject of a vote for removal or has been appointed by the same Member Utility as the Director or alternate who is the subject of the vote for removal. "Cause" for purposes of this paragraph (c) is defined as:

(i) The continued failure by the Director or alternate to substantially perform any of his or her material duties hereunder or to follow the reasonable and lawful orders of the Board;

- (ii) The Director or alternate's misappropriation of material assets of the Agency;
- (iii) Use of alcohol or illegal drugs, materially interfering with the performance of the Director or alternate's obligations;
- (iv) Indictment, arraignment or conviction of a felony or of any crime involving moral turpitude, dishonesty or theft;
- (v) The Director or alternate has acted outside the scope of his or her authority as a Director or an alternate to the Board, as the case may be, in a manner that results or may result in a material detriment to the Agency or any Member Utility, and the Director or alternate did not reasonably believe the conduct to be in, or not opposed to, the best interests of the Agency.

(d) The principal office of the Agency shall be located in the State of Alaska as designated by majority vote of the Board of Directors. The location of the principal office of the Agency in the State of Alaska may be changed from time to time by majority vote of the Board of Directors.

Section 7. Bylaws; Rulemaking Authority.

(a) Each Director is entitled to one vote on each matter submitted to a vote of the Board of Directors, including voting on the Bylaws and any amendments thereto or to this Agreement. A Director may not vote by proxy but may vote, if so provided by the Bylaws, by mail or facsimile or by participation in a meeting of the Board via telephone conference.

(b) The Bylaws and any amendments thereto must provide for notice to Directors of all Board meetings, including official meetings or informal meetings or executive sessions, via written or facsimile notice at least 24 hours in advance. Board meetings shall generally be held in the State of Alaska. In addition, the Board's meetings must, unless provided otherwise by the Bylaws, comply with the open meetings requirements contained in AS 44.62.310, et seq.

(c) The Board shall adopt rules to carry out its functions and purposes, including rules to safeguard property owned and managed by the Agency, and to protect employees and persons using or located nearby the Agency's property or services. The Board may establish in the Bylaws a procedure for adopting rules on an emergency and a permanent basis.

Section 8. Directors and Officers.

(a) Directors and alternates to the Board and officers of the Agency may not receive salaries for services as members of the Board of Directors, as alternates to the Board or as officers of the Agency and, except in emergencies, may not receive salaries for services provided to the Agency in any other capacity without the approval of a majority of the Board, excluding the vote of the Director or alternate to the Board to be compensated. The Bylaws may, however, prescribe a reasonable fee for each day of attendance at a meeting of the Board or other meeting while officially representing the Agency, and for each day of necessary travel to and from a meeting of the Board or other meeting while officially representing the Agency, and may provide for insurance and reimbursement of actual expenses incurred while performing duties as a Director or alternate to the Board or as an officer of the Agency.

(b) The Bylaws shall provide for the Board of Directors to annually appoint a Chairperson, Vice Chairperson, Treasurer and Secretary from among the Directors and alternates to the Board. The Chairperson shall preside over all meetings of the Agency. The Vice Chairperson shall preside over all meetings of the Agency in the absence of the Chairperson. The Treasurer shall keep accurate records of all accounts and finances of the Agency, and shall report at least four times per year to the Board with a summary of all accounts and finances. The Secretary shall make all notices of meetings, or arrange to have such notices made, shall keep or arrange to have kept accurate records of all proceedings and meetings of the Agency, and shall promptly provide and obtain approval of all minutes of official meetings of the Agency.

(c) Each officer shall serve for a one-year term commencing on January 1 and ending on December 31 of each calendar year, provided that an officer shall continue to serve until his or her successor is appointed.

Section 9. Employees and Agents.

(a) The Board may appoint those other agents and employees that it considers necessary or advisable and shall prescribe their powers and duties. In no event, however, shall any Director or alternate to the Board be either an employee of the Agency or a party to a personal services contract with the Agency at any time that he or she is serving as a Director or alternate to the Board.

(b) The Board shall appoint an agent(s) or employee(s) for the purpose of maintaining and carrying out all duties required by the Federal Energy Regulatory Commission, and any license(s) issued therefrom, including but not limited to an engineer and an auditor. Each Member Utility appointing a Board member may, with Board approval, designate an agent(s) or employee(s) as the party to carry out such duties required by the Federal Energy Regulatory Commission, and any license(s) issued therefrom, for the hydroelectric facility and related transmission facilities serving such Member Utility's system.

Section 10. Financing.

(a) The Agency, by a resolution of its Board of Directors, may issue Bonds in order to provide funds to carry out and effectuate its purposes. A resolution of the Board of Directors

authorizing the issuance of Bonds shall be adopted by (i) a majority of all members of the Board of the Directors of the Agency if such Bonds are being issued (A) in an aggregate principal amount that, when added to the aggregate principal amount of all other Bonds issued by the Agency in that same Fiscal Year, is less than \$1,000,000 or (B) for the primary purpose of providing funds to repair or maintain the Projects and (ii) the consent of 80% of the members of the Board of Directors of the Agency if such Bonds are being issued for any other purpose.

(1) The principal and interest on Bonds issued by the Agency shall be payable from Agency revenues. Bond anticipation notes may be payable from the proceeds of the sale of Bonds or from the proceeds of sale of other Bond anticipation notes or, if Bond or Bond anticipation note proceeds are not available, the notes may be paid from other funds or assets of the Agency. Bonds may be additionally secured by a pledge of a grant or contribution from the federal or state government, a corporation, association, institution, or person, or a pledge of money, income, or revenues of the Agency from any source, including payments received or to be received by the Agency from the Member Utilities.

(2) Bonds and Bond anticipation notes may be sold in the manner, on the terms, and at the price the Agency determines.

(3) If an officer whose actual or facsimile signature appears on any Bonds ceases to be an officer before the delivery of the Bond, the signature is valid as if the officer had remained in office until delivery.

(4) In an Indenture or a resolution of the Board of Directors of the Agency authorizing or relating to the issuance of Bonds, the Agency may, with holders of the Bonds and each third party providing credit enhancement or liquidity support for such Bonds:

(i) pledge to any payment or purpose all or any part of revenue to which it is or will be entitled to and similarly pledge the money derived from the revenue, and the proceeds of any Bonds;

(ii) covenant against pledging all or any part of its revenue, or against permitting or suffering a lien on the revenue or its property;

(iii) covenant as to the use and disposition of any and all payments of principal or interest received by the Agency on mortgage loans, construction loans, or other investments held by the Agency;

(iv) covenant as to establishment of reserves or sinking funds and the making of provision for and the regulation and disposition of the reserves or sinking funds;

(v) covenant with respect to or against limitations on a right to sell or otherwise dispose of property of any kind;

(vi) covenant as to Bonds to be issued, and their limitations, terms and conditions, and as to the custody, application, and disposition of the proceeds of the Bonds;

(vii) covenant as to the issuance of additional Bonds, or as to limitations on the issuance of additional Bonds and the incurring of the other debts;

(viii) covenant as to the payment of the principal of or interest on the Bonds, as to the sources and methods of the payment, as to the rank or priority of the Bonds with respect to a lien or security, or as to the acceleration of the maturity of the Bonds;

(ix) provide for the replacement of lost, stolen, destroyed, or mutilated Bonds;

(x) covenant against extending the time for the payment of Bonds or interest on the Bonds;

(xi) covenant as to tenders and/or redemptions of Bonds and privileges of their exchange for other Bonds of the Agency;

(xii) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operation expenses, payment or redemption of Bonds, reserves, or other purposes, and as to use and disposition of the money held in the funds;

(xiii) establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of Bonds may be amended or abrogated, the amount of Bonds the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(xiv) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(xv) covenant as to the time or manner of enforcement or restraint from enforcement of any rights of the Agency arising by reason of or with respect to nonpayment of principal or interest of any mortgage loans or construction loans;

(xvi) provide for the rights and liabilities, powers, and duties arising upon the breach of a covenant, condition, or obligation, and to prescribe the events of default and the terms and conditions upon which any or all of the Bonds, become or may be declared due and payable before maturity and the terms and conditions upon which such a declaration and its consequences may be waived;

(xvii) vest in a trustee or trustees inside or outside the State property, rights, powers, and duties in trust as the Agency may determine, which may include any or all of the rights, powers, and duties of a trustee appointed by the holders of Bonds, and to limit or abrogate the right of the holders of Bonds of the Agency to appoint a trustee or limit the rights, powers, and duties of the trustee;

(xviii) pay the costs or expenses incident to the enforcement of the Bonds or of the provisions of the resolution or of a covenant or agreement of the Agency with the holders of its Bonds;

(xix) agree with a corporate trustee which may be a trust company or bank having the powers of a trust company inside or outside the State as to the pledging or assigning of revenue or funds to which or in which the Agency has any rights or interest; and further provide for other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any Bonds of the Agency and not otherwise in violation of law and may provide for the restriction of the rights of an individual holder of Bonds of the Agency;

(xx) appoint and provide for the duties and obligations of a paying agent or other fiduciary, inside or outside the State;

(xxi) limit the rights of the holders of Bonds to enforce a pledge or covenant securing Bonds;

(xxii) mortgage or otherwise encumber the facilities as authorized by law;
and

(xxiii) make covenants other than expressly authorized in this Section, of like or different character, and to make covenants as may be necessary or desirable, to better secure Bonds or that, in the discretion of the Agency, will tend to make Bonds more marketable, notwithstanding the fact that the covenants are not enumerated in this Section.

(b) (1) The Agency may by resolution of its Board of Directors provide for the issuance of refunding Bonds for the purpose of refunding Bonds then outstanding, including the payment of redemption premium and interest accrued or to accrue on such Bonds to the date of redemption. The issuance of the refunding Bonds, the maturities and other terms of such Bonds, the rights of bondholders, and the rights, duties, and obligations of the Agency with respect to such Bonds shall be governed by the provisions of this Agreement related to the issuance of Bonds. A resolution providing for the issuance of refunding Bonds shall require the same level of Board of Director approval as the resolution which authorized the Bonds being refunded by the refunding Bonds.

(2) Refunding Bonds may be sold or exchanged for outstanding Bonds. If sold, the proceeds may be applied, in addition to other authorized purposes, to the purchase, redemption, or payment of the outstanding Bonds. Pending the application of the proceeds of the refunding Bonds, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the Bonds being refunded, the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States that mature or that will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them, will be required for the purposes intended.

(3) The provisions of Section 10 (a)(1) to (5) shall apply to refunding Bonds issued pursuant to this section (b).

(c) (1) Any Bond, debt, obligation or other liability incurred by the Agency shall be satisfied solely and exclusively from the revenues generated from power sales from the Projects and other assets and revenues of the Agency. No creditor of the Agency nor any other person has or shall have any right of action against any Member Utility, the State, any instrumentality, political subdivision or department of any Member Utility (other than the Agency) or the State, including without limitation the AEA, because of a Bond, debt, obligation or other liability of the Agency. Bonds issued by the Agency pursuant to this Agreement do not and shall not constitute a debt, liability, or obligation of any Member Utility, the State or of any instrumentality, political subdivision of any Member Utility (other than the Agency) or a pledge of the faith and credit of any Member Utility, the State or any instrumentality, political subdivision or department of any Member Utility (other than the Agency) or the State, but are payable solely and exclusively from the revenues and other assets of the Agency pledged to the payment of such Bonds, debt, obligations or other liabilities.

(2) A Bond issued by the Agency pursuant to this Agreement shall contain on its face a statement that:

(i) the Agency is not obligated to pay it or the interest on it, except from the revenue or assets mortgaged or pledged for it; and

(ii) that neither the faith and credit or the taxing power of any Member Utility, the State or of any instrumentality or political subdivision of either (other than the Agency) is pledged to the payment of it.

(d) The pledge of assets or revenue of the Agency to the payment of the principal or interest on bonds of the Agency is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of the pledge is valid and binding against all persons having claims of any kind against the Agency, irrespective of whether those persons have notice of the lien of the pledge. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Alaska Uniform Commercial Code to be perfected, valid, binding or effective against the persons.

Section 11. Tax Exemption.

(a) All property of the Agency is public property used for essential public and governmental purposes and the real and personal property at any time comprising the Projects, the Swan-Tyee Intertie, additional generating and transmission facilities or any related facility or facilities, and all other assets, income, and receipts of the Agency are exempt from all taxes and special assessments of a municipality, the State, or a political subdivision of the State, except as specifically provided otherwise by law.

(b) All Bonds issued under the authority of this Agreement and the JAA Act are issued by a public corporation of the State that is a governmental unit for essential public and governmental purposes, and the Bonds, and the interest and income on and from such Bonds, and

all fees, charges, funds, revenues, income, and other money pledged or available to pay or secure the payment of such Bonds or interest are exempt from taxation.

Section 12. [Intentionally Left Blank].

Section 13. Accounts and Reports. All funds of the Agency shall be strictly accounted for pursuant to Generally Accepted Accounting Principles (GAAP). The Agency shall establish and maintain such funds and accounts as may be required by good accounting practice and by any provision of any Indenture (to the extent such duties are not assigned to a trustee of Bonds). The books and records of the Agency shall, unless provided otherwise by the Bylaws, be open to inspection at all reasonable times and shall be treated as public records under AS 40.25.110 through AS 40.25.125.

The Treasurer of the Agency shall cause an independent audit to be made of the books of accounts and financial records of the Agency by a certified public accountant or public accountant in each Fiscal Year. In each case, the audit shall conform to generally accepted auditing standards. When such an audit of accounts and records is made, a report thereof shall be filed as a public record with each Member Utility. Such report shall be filed within twelve (12) months of the end of the Fiscal Year or Years under examination.

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section, shall be borne by the Agency and shall be a charge against any unencumbered funds of the Agency available for that purpose.

The Treasurer of the Agency, within 120 days after the close of each Fiscal Year, shall give a complete written report of all financial activities for such Fiscal Year to each of the Member Utilities to the extent such activities are not covered by the reports of the trustees for the Bonds. The trustee appointed under each Indenture shall establish suitable funds, furnish financial reports and provide suitable accounting procedures to carry out the provisions of said Indenture. Said trustee may be given such duties in said Indenture as may be desirable to carry out the requirements of this Agreement. As used herein "Indenture" means any Indenture of Trust, Trust Agreement, Bond Resolution or Ordinance, Depository Agreement or Escrow Agreement or similar agreement or instrument providing for the appointment of a trustee or other fiduciary in connection with the administration of Bonds issued by the Agency.

Section 14. Custody and Disbursement of Funds; Prohibition on Distributions to Member Utilities. (a) Subject to the applicable provisions of each Indenture providing for a trustee or other fiduciary to receive, have custody of and disburse Agency funds, the Treasurer of the Agency under the direction of the Board of Directors shall receive, have the custody of and disburse Agency funds for authorized expenditures pursuant to the accounting procedures established by the Agency's Board of Directors, and shall make the disbursements required by this Agreement or otherwise necessary to carry out any of the provisions or purposes of this Agreement and the business operations of the Agency.

(b) Except in connection with (1) a transfer pursuant to Section 17 hereof or a distribution pursuant to Section 18 hereof, or (2) a transfer or exchange for which the Agency receives fair market value on commercially reasonable terms, the Agency shall not distribute or transfer any Agency funds or any other Agency assets to any Member Utility.

Section 15. Notices. Notices and other communications hereunder to the Member Utilities shall be sufficient if delivered to the Director or alternate appointed by the Member Utility and also to the governing body of each Member Utility.

Section 16. Withdrawal and Addition of Parties. A Member Utility may withdraw from this Agreement upon (i) written notice to the Board, (ii) the unanimous written consent of all members of the Board of Directors and (iii) all such terms and conditions that may be established for such withdrawal by the Board of Directors; provided, however, that a Member Utility may not withdraw (A) if such withdrawal would result in the dissolution of the Agency, or (B) so long as any long-term Bonds, indebtedness or other obligations remain outstanding, or any obligations payable to any third party providing credit enhancement or liquidity support for such Bonds remain outstanding, unless such withdrawal is consented to by such third party.

Qualifying Public Utilities may be added as parties to this Agreement and become Member Utilities upon (i) the filing by such public utility of an executed counterpart of this Agreement, together with a certified copy of the resolution of the governing body of such public utility approving this Agreement and the execution and delivery hereof, and (ii) adoption of a resolution of the Board by the unanimous consent of all members of the Board of Directors approving the addition of such public utility as a Member Utility. Upon satisfaction of such conditions, the Board shall file in the office of the Commissioner of the Alaska Department of Commerce and Economic Development such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

Section 17. Transfer of Project to Member Utility. The Agency, by unanimous written consent of all members of the Board of Directors, may agree to transfer ownership of a hydroelectric facility that is one of the Projects and related transmission and substation facilities to a Member Utility, provided, however, that the Agency may not transfer ownership of a hydroelectric facility that is one of the Projects and related transmission and substation facilities to a Member Utility if any long-term Bonds, indebtedness or obligations remain outstanding or any obligations payable to any third party providing credit enhancement or liquidity support for such Bonds remain outstanding, unless such withdrawal is consented to by such third party, and further subject to the following conditions:

(a) the acquiring Member Utility shall pay a purchase price to the Agency or other valuable consideration shall be exchanged as established by a resolution of the Board duly adopted by the unanimous consent of all members of the Board of Directors;

(b) the acquiring Member Utility must purchase power generated from the facility or facilities being acquired by the Member Utility at the time of the proposed transfer;

(c) the Agency and the acquiring Member Utility shall comply with the requirements of any State or federal law applicable to the transfer and all covenants, restrictions or other requirements imposed by any financing or other agreement related to such facility or facilities and by which the Agency or the acquiring Member Utility is bound; and

(d) the Director appointed by the Member Utility shall resign from his or her position as a member of the Board of Directors and such position shall be eliminated from the Board;

Section 18. Dissolution of Agency.

(a) The Agency may, subject to the limitations set forth in paragraphs (b) and (c) of this Section, dissolve pursuant to a dissolution plan approved by the unanimous vote of all members of the Board of Directors, after consultation between the Board and the Member Utilities.

(b) The Agency may not dissolve:

(1) if the Agency has any Bonds or other indebtedness or obligations, including, without limitation, any obligations payable to a third party providing credit enhancement or liquidity support for such Bonds, outstanding and the dissolution plan does not provide for the immediate redemption or defeasance of such Bonds, indebtedness or obligations or payment in full of any obligations payable to a third party providing credit enhancement or liquidity support for such Bonds; or

(2) if payment of all Agency debts, liabilities and other obligations, including, without limitation, any obligations payable to a third party providing credit enhancement or liquidity support for such Bonds, is not properly provided for and completed prior to dissolution or through the dissolution plan, including written notice of dissolution to all known Agency creditors and claimants against the Agency, and publication once a week for two successive weeks of a notice of dissolution in all newspapers of general circulation in each municipality, borough or cooperative region where the Agency operates; or

(3) if the Projects and other assets of the Agency are not either (i) completely transferred and conveyed to a successor entity to the Agency or (ii) completely and equitably distributed to Member Utilities served by the Agency prior to the dissolution or through the dissolution plan, and the dissolution plan does not provide for the immediate redemption or defeasance or payment in full of all Agency Bonds, indebtedness and other obligations, including, without limitation, any obligations payable to a third party providing credit enhancement or liquidity support for such Bonds; or

(4) if the winding up of the operations of the Agency is not properly provided for in the dissolution plan, including collection of sums owing to the Agency, and the dissolution plan does not provide for the immediate redemption or defeasance or payment in full of all Agency Bonds, indebtedness and other obligations, including, without limitation, any obligations payable to a third party providing credit enhancement or liquidity support for such Bonds.

(c) A dissolution plan approved by the Board of Directors pursuant to this Section shall include provisions providing for the Projects and all other assets of the Agency to be either (i) completely transferred and conveyed to a successor entity to the Agency that is a state or local governmental unit within the meaning of Treas. Reg. § 1.103-1(b) or (ii) completely and equitably distributed to the Member Utilities that are State or local governmental units within the meaning of Treas. Reg. § 1.103-1(b) and, in the event any Member Utility is not a State or local governmental unit within the meaning of Treas. Reg. § 1.103-1(b), then to the municipality or municipalities served by such Member Utility.

(d) Upon either (i) compliance with paragraphs (a), (b) and (c) of this Section, or (ii) automatic dissolution of the JAA pursuant to paragraph (d) of this Section, the Chairperson shall designate by signed resolution that the Agency is dissolved and shall file such resolution in the office of the Commissioner of the Alaska Department of Commerce and Economic Development.

Section 19. Indemnification.

(a) A properly-appointed Director, alternate, officer or employee of the Agency is not individually liable for conduct performed within the scope of his or her duties for the Agency; however, the protected person may be held individually liable for the conduct if it the person did not reasonably believe the conduct to be in the best interests of the Agency. The Agency shall maintain a directors and officers insurance policy and such other insurance coverage as the Board of Directors shall determine to be appropriate and commercially reasonable for the protection of the Agency's Directors, alternates, officers and employees in the performance of their duties for and on behalf of the Agency.

(b) The Agency shall indemnify a protected person who is or may be made a party to a contested matter or legal proceeding against expenses actually and reasonably incurred in connection with the contested matter. However, the Agency may not indemnify the protected person if the person did not reasonably believe the conduct to be in the best interests of the Agency. With respect to a criminal action or proceeding, the Agency shall indemnify the protected person unless the person had reasonable cause to believe that the conduct was unlawful.

(c) The Agency shall purchase and maintain insurance on behalf of a protected person against liability asserted against the protected person and incurred in an official capacity or arising out of the person's status, whether or not the Agency would have the power to indemnify the person against the liability under this Section.

(d) For purposes of indemnification and insurance for Directors, alternates, officers, employees, and agents of the Agency, the following definitions apply:

(1) "conduct" includes any action, inaction, and omission;

(2) "legal proceeding" means any proposed, pending or completed action or proceeding, whether civil, criminal, administrative, or investigative;

(3) "expenses" include travel expenses, attorney fees, judgments, fines, and amounts paid in settlement;

(4) "protected person" shall mean any past or current Director or alternate, officer, employee, or agent of the Agency acting or being named in any legal proceeding through his or her official capacity or action for the Agency Board of Directors.

Section 20. Contributions and Advances. Contributions or advances of public funds and of the use of personnel, equipment or property may be made to the Agency by the Member Utilities for any of the purposes of this Agreement. Any such advance may be made subject to repayment and, in such case shall be repaid, in the manner agreed upon by the Agency and the party making such advance at the time of such advance.

Section 21. Immunities. The Agency shall have all of the privileges and immunities associated with its status as a public corporation and governmental unit of the State of Alaska, together with those granted to each of its Member Utilities, including without limitation the protections granted by AS 09.65.070. Further, all of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents or employees of Member Utilities when performing their respective functions within the territorial limits of their respective Public Utilities, shall apply to them to the same degree and extent while engaged as members of the Board or otherwise as an officer, agent or other representative of the Agency or while engaged in the performance of any of their functions or duties extraterritorially under the provisions of this Agreement.

Section 22. Regulation by the Federal Energy Regulatory Commission. Notwithstanding any provision contained herein, the Agency, its successors, and assigns, shall have the right to perform any and all acts required by an order of the Federal Energy Regulatory Commission or its successor affecting any of the Projects or any portion thereof without the prior approval or consent of any of the Member Utilities. The Member Utilities shall direct the Agency to comply with the orders of FERC. No Member Utility may veto, delay or otherwise hinder or direct its appointed Director to veto, delay or otherwise hinder the Agency's compliance with a FERC order.

Section 23. Amendments. This Agreement shall not be amended, modified or altered except by the unanimous consent of all of the Member Utilities evidenced by a written instrument duly executed by each of the Member Utilities.

Section 24. Partial Invalidity. If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 25. Successors. This Agreement shall be binding upon and inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no party may assign any right or obligation hereunder without the consent of the other parties.

Section 26. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 27. Section Headings. The section headings herein are for convenience only, and are not to be construed as modifying or governing the language in the section referred to.

Section 28. Alaska Statutes. All references to the Alaska Statutes contained in this Agreement refer to the identified provisions of the Alaska Statutes as the same may be amended, restated, supplemented, repealed and/or replaced from time to time.

Section 29. Governing Law. This Agreement is made in the State of Alaska, under the Constitution and laws of the State, and is to be so construed.

Section 30. Entire Agreement. This Agreement is the complete and exclusive statement of the agreement among the parties hereto, which amends and restates the Initial JAA Agreement and supersedes and merges all prior proposals, understandings and other agreements, whether oral, written or implied in conduct, between and among the parties relating to the subject matter of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunto duly authorized as of the day and year first above written.

MEMBER UTILITIES

CITY OF KETCHIKAN d/b/a Ketchikan Public Utilities

By: Bob Weinstein
Name: Bob Weinstein
Title: Mayor

ATTEST:

By: Katherine M. Suiter
Name: KATHERINE M. SUITER
Title: CITY CLERK

CITY OF PETERSBURG d/b/a Petersburg Municipal
Power and Light

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

CITY OF WRANGELL d/b/a City of Wrangell
Light Department

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

SIGNATURE PAGE – Third Amended and Restated Joint Action Agency Agreement

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunto duly authorized as of the day and year first above written.

MEMBER UTILITIES

CITY OF KETCHIKAN d/b/a Ketchikan Public Utilities

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

CITY OF PETERSBURG d/b/a Petersburg Municipal
Power and Light

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

CITY OF WRANGELL d/b/a City of Wrangell
Light Department

By: [Signature]
Name: DON MCCONACHIE S.D.
Title: MAYOR

ATTEST:

By: Carol Bean
Name: Carol Bean
Title: Deputy Borough Clerk

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunto duly authorized as of the day and year first above written.

MEMBER UTILITIES

CITY OF KETCHIKAN d/b/a Ketchikan Public Utilities

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

CITY OF PETERSBURG d/b/a Petersburg Municipal
Power and Light

By: T. Underkofler
Name: RICHARD UNDERKOFLE
Title: CITY MANAGER

ATTEST:

By: Kathy O'Rear
Name: KATHY O'REAR
Title: CITY CLERK

CITY OF WRANGELL d/b/a City of Wrangell
Light Department

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

SIGNATURE PAGE -- Third Amended and Restated Joint Action Agency Agreement

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