

Presented by: The Manager  
Introduced: 03/05/2018  
Drafted by: Bond Counsel

**ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA**

**Serial No. 2018-09**

**An Ordinance Providing for the Issuance and Sale of a General Obligation School Refunding Bond in the Aggregate Principal Amount of Not to Exceed \$5,500,000; and Providing the Form and Terms of the Bond and for Unlimited Tax Levies to Pay the Bond.**

WHEREAS, the City and Borough of Juneau (the "City and Borough") issued its General Obligation School Bonds, 2008A, under date of July 9, 2008 (the "2008A Bonds") pursuant to Ordinance Serial No. 2008-16(b) and Resolution Serial No. 2447 (together, the "2008 Bond Ordinance"), currently outstanding in the principal amount of \$7,760,000 and maturing in principal amounts as follows:

<u>Maturity Years</u> <u>(June 1)</u>	<u>Principal</u> <u>Amounts</u>	<u>Interest</u> <u>Rates</u>
2018	\$3,970,000	4.50%
2019	695,000	4.50
2020	725,000	4.50
2021	755,000	4.50
2022	790,000	4.60
2023	825,000	4.60

; and

WHEREAS, the 2008A Bonds maturing on and after June 1, 2019 are callable in whole or part on June 1, 2018 (the "2008A Refunded Bonds"), and on any date thereafter at a price of par plus accrued interest to the date of redemption; and

WHEREAS, the City and Borough issued its General Obligation School Bonds, 2008B (Taxable), under date of July 9, 2008 (the "2008B Bonds") pursuant to the 2008 Bond Ordinance, currently outstanding in the principal amount of \$1,415,000 and maturing in principal amounts as follows:

<u>Maturity Years</u> <u>(June 1)</u>	<u>Principal</u> <u>Amounts</u>	<u>Interest</u> <u>Rates</u>
2018	\$ 200,000	5.875%
2019	215,000	5.875
2020	230,000	5.875
2021	245,000	5.875
2022	255,000	5.875
2023	270,000	5.875

; and

WHEREAS, the 2008B Bonds maturing on and after June 1, 2019 are callable in whole or part on June 1, 2018 (the “2008B Refunded Bonds,” and together with the 2008A Refunded Bonds, the “Refunded Bonds”), and on any date thereafter at a price of par plus accrued interest to the date of redemption; and

WHEREAS, the Charter and Code of the City and Borough permit the City and Borough to issue refunding bonds without an election; and

WHEREAS, the Assembly has received the term sheet of Wells Fargo Bank, N.A. (the “Bank”) and finds that it is in the best interest of the City and Borough to sell the bond herein authorized to the Bank on the terms and conditions set forth therein and herein to refund the Refunded Bonds;

NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

**Section 1. Classification.** This ordinance is a noncode ordinance.

**Section 2. Definitions.** As used in this ordinance, the following words shall have the following meanings:

**Acquired Obligations** means the Government Obligations acquired by the City and Borough under the terms of this ordinance and the Escrow Agreement to effect the defeasance and refunding of the Refunded Bonds.

**Assembly** means the Assembly of the City and Borough of Juneau, Alaska as the same shall be duly and regularly constituted from time to time or any successor body.

**Bank** means Wells Fargo Bank, N.A., or any other wholly owned subsidiary of Wells Fargo Bank, N.A., or its permitted assigns.

**Bank Qualified Adjustment Date** means the date of (a) any determination, decision, decree or advisement by the Commissioner of Internal Revenue, or any District Director of Internal Revenue or any court of competent jurisdiction to the effect that the Bond no longer qualifies as a “qualified tax exempt obligation” under Section 265(b)(3) of the Code, or (b) the

delivery to the Bank or the City and Borough of an opinion of counsel delivered by Bond Counsel to the effect that the Bond no longer qualifies as a “qualified tax exempt obligation” under Section 265(b)(3) of the Code.

**Bank Qualified Adjustment Rate** shall have the meaning given such term in the Resolution.

**Base Rate** means the greatest of (i) the Bank’s Prime Rate plus 1%, (ii) the Federal Funds Rate plus 2%, or (iii) 7%.

**Bond Fund** means the “Debt Service Fund” of the City and Borough maintained pursuant to this ordinance.

**Bond Interest is Taxable** means that interest paid or to be paid on the Bond is or will be includable for federal income tax purposes in the gross income of the Bank or any other Registered Owner thereof, but excluding the inclusion of interest on such Bond as an item of tax preference for purposes of the calculation of an alternative minimum tax imposed on the Bank or such other Registered Owner.

**Bond Register** means the registration books for the Bond, maintained by the Bond Registrar, for the purpose of complying with the requirements of Section 149 of the Code and listing, inter alia, the names and addresses of all registered owners of the Bond.

**Bond Registrar** means the Finance Director, for the purposes of registering and authenticating the Bond, maintaining the Bond Register, and paying the principal of and interest on the Bond.

**Bond** means the City and Borough of Juneau, Alaska General Obligation School Refunding Bond, 2018, issued pursuant to this ordinance.

**Bond Year** means each one-year period that ends on the date selected by the City and Borough. The first and last Bond Years may be a shorter period. If no day is selected by the City and Borough before the earlier of the final maturity dates of the Bond or the date that is five years after the date of issuance of the Bond, Bond Years end on each anniversary of the date of issue and on the final maturity date of the Bond.

**City and Borough** means City and Borough of Juneau, Alaska, a municipal corporation duly organized and existing under and by virtue of the laws of the State of Alaska.

**City Manager** means the city manager or interim city manager of the City and Borough.

**Code** means the federal Internal Revenue Code of 1986, as amended from time to time, and the applicable regulations thereunder.

**Default Rate** means a rate per annum equal to the Base Rate plus 3% per annum.

**Determination of Taxability** means (a) any determination, decision, decree or advisement by the Commissioner of Internal Revenue, or any District Director of Internal Revenue or any court of competent jurisdiction to the effect that Bond Interest is Taxable, or (b) the delivery to the Bank or any Registered Owner of an opinion of counsel, delivered by Bond Counsel, to the effect that Bond Interest is Taxable. A **Determination of Taxability** also shall be deemed to have occurred on the first to occur of the following:

(i) the date when the City and Borough files any statement, supplemental statement, or other tax schedule, return or document, which discloses that Bond Interest is Taxable;

(ii) the effective date of any federal legislation enacted or federal rule or regulation promulgated after the date of this ordinance which has the effect that Bond Interest is Taxable; or

(iii) if upon sale, lease or other deliberate action within the meaning of Treas. Reg. § 1.141 2(d), the failure to receive an approving opinion.

**Escrow Agreement** means the Escrow Deposit Agreement, if any, entered into by the City and Borough with the Escrow Agent to be dated as of the date of closing and delivery of the Bond.

**Escrow Agent** means the financial institution, if any, selected pursuant to the conditions set forth in Section 10 of this ordinance.

**Event of Default** means the occurrence of any of the following:

(i) a failure to pay principal or interest on the Bond when due, as provided in this ordinance, and the Bond; or

(ii) a failure by the City and Borough to comply with any of its obligations, or to perform any of its duties, under this ordinance or the Bond, which failure continues, and is not cured, for a period of more than 60 days after the Registered Owner has made written demand on the City and Borough to cure such failure; or

(iii) a material misrepresentation to the Bank by the City and Borough in this ordinance or the Bond, as reasonably concluded by the Bank after investigation and discussion with the City and Borough; or

(iv) the City and Borough shall in writing claim, or repudiate its obligations under, or initiate any legal proceedings to seek an adjudication that, any of the provisions that provide for the payment of principal of or interest on the Bond is not binding upon the City and Borough; or

(v) any court of competent jurisdiction or other governmental authority with jurisdiction to rule on the validity of this ordinance or the Bond shall find or rule that any material provision of this ordinance or the Bond is not valid and binding on the City and Borough; or

(vi) An Event of Insolvency shall have occurred with respect to the City and Borough.

***Event of Insolvency*** means, with respect to the City and Borough, the occurrence of one or more of the following events:

(i) the issuance, under the laws of any state or under the laws of the United States of America, of an order of rehabilitation, liquidation or dissolution of the City and Borough;

(ii) the commencement by or against the City and Borough of a case or other proceeding seeking liquidation, reorganization or other relief with respect to the City and Borough or its debts under any bankruptcy, insolvency or other similar state or federal law now or hereafter in effect, including, without limitation, the appointment of a trustee, receiver, liquidator, custodian or other similar official for the City and Borough or any substantial part of its property or there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it or there shall be declared or introduced or proposed for consideration by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it;

(iii) the making of an assignment for the benefit of creditors by the City and Borough;

(iv) the inability or failure of the City and Borough to generally pay its debts as they become due;

(v) the declaration of a moratorium with respect to the payment of the debts of the City and Borough;

(vi) the City and Borough shall admit in writing its inability to pay its debts when due;

(vii) the City and Borough is “insolvent” as defined in Section 101(32) of the United States Bankruptcy Code; or

(viii) the initiation of any action in furtherance of or to authorize any of the foregoing by or on behalf of the City and Borough.

***Finance Director*** means the director of the finance department of the City and Borough.

***Government Obligations*** means:

(a) Cash (United States currency or demand deposits insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in subparagraph (b)), or

(b) Noncallable indirect obligations of (including obligations issued or held in book-entry form on the books of) the Department of the Treasury of the United States of America, the payment of which is guaranteed by the United States of America.

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

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

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

**Redemption Date** means June 1, 2018.

**Refunded Bonds** means any or all of the 2008A Refunded Bonds and/or the 2008B Refunded Bonds.

**Registered Owner** means the person in whose name ownership of a Bond is identified in the Bond Register, initially Wells Fargo Bank, N.A., or wholly owned subsidiary of Wells Fargo Bank, N.A.

**Resolution** means the resolution of the Assembly adopted pursuant to Section 12 of this ordinance, prescribing the additional terms relating to the Bond, relating, *inter alia*, to the rate or rates of interest, including the additional payments to be made with respect to interest upon the prepayment of the Bond.

**Rule** means the SEC's Rule 15c2-12 under the Securities Exchange Act of 1934, as the same may be amended from time to time.

**Savings Target** means a dollar amount at least equal to three percent (3.0%) of the principal amount of the Refunded Bonds.

**SEC** means the United States Securities and Exchange Commission.

**Taxable Date** means the date on which interest on the Bond is first includable in gross income of a Registered Owner (including, without limitation, any previous Registered Owner) thereof as a result of a Determination of Taxability.

**Taxable Rate** shall have the meaning given such term in the Resolution..

**2008 Bond Ordinance** means, collectively, Ordinance Serial No. 2008-16(b), passed by the Assembly on May 12, 2008 and Resolution Serial No. 2447, passed by the Assembly on June 23, 2008.

**2008A Bonds** means the General Obligation School Bonds, 2008A, of the City and Borough issued under date of July 9, 2008, and presently outstanding in the aggregate principal amount of \$7,760,000.

**2008B Bonds** means the General Obligation School Bonds, 2008B (Taxable), of the City and Borough issued under date of July 9, 2008, and presently outstanding in the aggregate principal amount of \$1,415,000.

**2008A Refunded Bonds** means any or all of the 2008A Bonds maturing on or after June 1, 2019, designated by the Finance Director pursuant to Section 12.

**2008B Refunded Bonds** means any or all of the 2008B Bonds maturing on or after June 1, 2019, designated by the Finance Director pursuant to Section 12.

**Interpretation and Rules of Interpretation.**

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this ordinance; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this ordinance as a whole and not to any particular Article, Section or subdivision hereof.

**Section 3. Authorization of Bond.** For the purpose of refunding the Refunded Bonds and paying the costs of issuance of the Bond, the City and Borough shall issue its general obligation school refunding bond in the aggregate principal amount of not to exceed \$5,500,000, but in any event providing no more than \$5,500,000 in net proceeds (principal amount plus premium, if any, less costs of issuance) (the "Bond"). The Bond shall be dated as of the date established pursuant to Section 12, shall be fully registered as to both principal and interest, shall

be issued as a single fully registered bond, and shall be numbered in such manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification, and shall bear interest from its date payable on the dates and rate set forth in the Bond, and shall come due on the dates set forth in the Bond of the following years in the following estimated principal installments:

Maturity Year	Amount
2019	\$ 955,500
2020	987,500
2021	1,013,500
2022	1,037,000
2023	1,064,000

Total: \$5,057,500\*

\* Principal maturities do not add to \$5,500,000, as that is a not to exceed amount.

At the time of sale, the City Manager or his/her designee may increase or decrease the foregoing estimated principal amounts in any year by 25%, *provided, however*, in the aggregate, the Bond shall be issued in principal amounts that provide no more than \$5,500,000 (principal amount plus premium, if any, less costs of issuance) in net proceeds or \$5,500,000 in principal amount, whichever is less.

If an Event of Default is continuing, the Registered Owner may increase the interest rate on the Bond to the Default Rate by notice to the City and Borough and the Bond Registrar. The Default Rate will be in effect while the Event of Default is continuing. In addition, in the Event of Default the Registered Owner may exercise any remedy available at law or in equity, other than acceleration. No remedy shall be exclusive. The Registered Owner may waive any Event of Default, but no such waiver shall extend to a subsequent Event of Default. If the Registered Owner reasonably incurs any expenses in connection with enforcing its rights under this Section, the City and Borough shall pay to the Registered Owner, on demand, the Registered Owner's reasonable costs and reasonable attorneys' fees, whether at trial, on appeal or otherwise, including any allocated costs of in-house counsel.

Notwithstanding anything to the contrary herein, (i) from and after any Taxable Date, the interest rate on the Bond shall be established at a rate equal to the Taxable Rate, (ii) from and after any Bank Qualified Adjustment Date, the interest rate on the Bond shall be established at a rate equal to the Bank Qualified Adjustment Rate, and (iii) subject to the interest rate limitations above of this Ordinance, upon the occurrence and continuation of any Event of Default, from and after the effective date of such Event of Default, the interest rate on the Bond shall be established at a rate equal to the Default Rate. In the event that more than one of a Taxable Date, a Bank Qualified Adjustment Date and an Event of Default have occurred, the interest rate on the Bond shall be established at a rate equal to the greatest of (a) the Default Rate, if any Event of Default has occurred, (b) the Taxable Rate, if a Taxable Date has occurred, (c) the Bank Qualified Adjustment Rate, if a Bank Qualified Adjustment Date has occurred, and (d) the interest rate that otherwise would be applicable to the Bond but for the provisions of this paragraph.



Additional provisions relating to the interest rate on the Bond may be set forth in the Resolution.

The determination of the interest rate on the Bond, and its calculation of the amount of interest due for any period, by the Bank shall be conclusive and binding upon the City and Borough and the Registered Owner absent manifest error.

**Section 4. Registration, Exchange and Payments.** The Finance Director shall act as authenticating agent, paying agent and registrar for the Bond (collectively, the “Bond Registrar”). Both principal of and interest on the Bond shall be payable in lawful money of the United States of America. Interest on the Bond shall be calculated on the basis of a 360-day year and twelve 30-day months. Payments of principal of and interest on the Bond will be made by check or draft of the Bond Registrar mailed on the date such principal and interest is due or by electronic funds transfer made on such due date to the registered owner at the address appearing on the Bond Register. Upon payment of the final installment of principal of and interest on the Bond, the Bond shall be presented and surrendered by the Registered Owner at the principal office of the Bond Registrar for cancellation.

The Bond may only be transferred in whole and must be in compliance with the securities laws of the United States of America and only to (i) an affiliate of the Bank, (ii) a trust or other custodial arrangement established by the Bank, the owners of the beneficial interests in which are limited to “qualified institutional buyers” as defined in Rule 144A promulgated under the Securities Act of 1933, as amended, or (iii) a person that is a qualified institutional buyer and a commercial bank having capital and surplus, determined as of the date of any transfer, of \$5,000,000,000 or more that has executed and delivered to the Bank and City and Borough investor letters in the form of Exhibit A hereto. The persons and entities identified in clauses (i) and (ii) of the foregoing sentence shall be referred to as the “Eligible Transferee(s).” Notwithstanding the foregoing, if the principal amount of the outstanding Bond is less than \$250,000.00, the Bond may not be transferred to any Eligible Transferee without the prior written consent of the City and Borough.

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

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

**Section 5. Prepayment.** The City and Borough reserves the right to prepay principal of the Bond, in whole, at any time upon the payment of the Prepayment Fee (as calculated pursuant to Exhibit B hereto); provided, however, that a Prepayment Fee shall not be required in the event that the City and Borough optionally prepays the Bond due to and following the occurrence of a Taxable Date or a Bank Qualified Adjustment Date. The City and Borough shall provide the Bank with at least 30 (but not more than 60) days prior notice of any such prepayment.

**Section 6. Form of Bond.** The Bond shall be in substantially the following form:

UNITED STATES OF AMERICA

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

STATE OF ALASKA

CITY AND BOROUGH OF JUNEAU  
GENERAL OBLIGATION SCHOOL REFUNDING BOND, 2018

INTEREST RATE: \_\_\_\_\_%

MATURITY DATE: JUNE 1, 2023

REGISTERED OWNER: WELLS FARGO BANK, N.A.  
\_\_\_\_\_  
\_\_\_\_\_

TAX IDENTIFICATION #: \_\_\_\_\_

PRINCIPAL AMOUNT: \_\_\_\_\_ THOUSAND AND NO/100 DOLLARS

THE CITY AND BOROUGH OF JUNEAU, ALASKA (the "City and Borough"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, the Principal Amount indicated above in accordance with the installment payment schedule set forth below (unless prepaid prior thereto as provided herein) and to pay interest thereon from \_\_\_\_\_, 20\_\_, or the most recent date to which interest has been paid or duly provided for until payment of this bond at the interest rates set forth below, payable on \_\_\_\_\_ 1, 20\_\_ and semiannually thereafter on the first day of each \_\_\_\_\_ and \_\_\_\_\_.

Date	Principal Amount	Interest Amount	Total
	\$		

Both principal of and interest on this bond are payable in lawful money of the United States of America. Installments of principal of and interest on this bond shall be paid to the Registered Owner at the address appearing on the Bond Register as set forth in the Bond Ordinance (as defined below), and principal of this bond shall be payable upon presentation and surrender of this bond by the Registered Owner at the principal office of the Finance Director of the City and Borough of Juneau, Alaska (the "Bond Registrar").

The interest rate on this bond is subject to increase upon an Event of Default, Determination of Taxability or the occurrence of a Bank Qualified Adjustment Date, as set forth in the Bond Ordinance.

This bond is a general obligation bond of the City and Borough and is issued pursuant to Ordinance Serial No. 2018-09 of the City and Borough (the "Bond Ordinance") for the purpose of refunding certain outstanding general obligation school bonds of the City and Borough. Capitalized terms used in this bond and not otherwise defined herein have the meanings given such terms in the Bond Ordinance.

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

This bond is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Alaska and ordinances duly adopted by the Assembly, including the Bond Ordinance.

This bond is subject to prepayment as stated in the Bond Ordinance.

This Bond may only be transferred in whole to (i) an affiliate of the Bank, (ii) a trust or other custodial arrangement established by the Bank or one of its affiliates, the owners of the beneficial interests in which are limited to "qualified institutional buyers" as defined in Rule 144A promulgated under the Securities Act of 1933, as amended, or (iii) a person that is a qualified institutional buyer and a commercial bank having capital and surplus, determined as of the date of any transfer, of \$5,000,000,000 or more that has executed and delivered to the Bank and City and Borough investor letters in the form of Exhibit A to the Bond Ordinance. The persons and entities identified in clauses (i) and (ii) of the foregoing sentence shall be referred to as the "Eligible Transferee(s)." Notwithstanding the foregoing, if the principal amount of the outstanding Bond is less than \$250,000, the Bond may not be transferred to any Eligible Transferee without the prior written consent of the City and Borough.

The City and Borough has obligated and bound itself to make annual levies of ad valorem taxes upon all the taxable property within the City and Borough, without limitation as to rate or amount, in amounts sufficient, together with such other moneys of the City and Borough available for such purposes as the Assembly of the City and Borough may, from time to time, appropriate and make available to pay the principal of and interest on this bond as the same shall become due. The full faith, credit and resources of the City and Borough are hereby irrevocably pledged for the levy of such taxes and the prompt payment of such principal and interest. The pledge of tax levies for payment of principal of and interest on the bond may be discharged prior to maturity of the bond by making provision for the payment thereof on the terms and conditions set forth in the Bond Ordinance.

The bond is not a "private activity bond" as such term is defined in the Internal Revenue Code of 1986, as amended (the "Code"). The City and Borough has designated the bond as a

“qualified tax-exempt obligation” under Section 265(b) of the Code for investment by banks, thrift institutions and other financial institutions.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Alaska to exist, to have happened, been done and performed precedent to and in the issuance of this bond have happened, been done and performed and that the issuance of this bond does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the City and Borough may incur.

IN WITNESS WHEREOF, the City and Borough of Juneau, Alaska has caused this bond to be executed by the manual or facsimile signature of its City Manager or his/her designee and attested by the manual or facsimile of the Clerk, and the official seal of the City and Borough to be impressed, imprinted or otherwise reproduced hereon, as of this \_\_\_\_ day of \_\_\_\_\_, 2018.

CITY AND BOROUGH OF  
JUNEAU, ALASKA

By \_\_\_\_\_ /s/ manual or facsimile  
City Manager or Designee

ATTEST:

\_\_\_\_\_/s/ manual or facsimile  
Clerk

The Certificate of Authentication for the Bond shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

Date of Authentication:

This bond is the General Obligation School Refunding Bond, 2018 of the City and Borough of Juneau, Alaska, dated \_\_\_\_\_, 2018, and described in the within-mentioned Bond Ordinance.

Finance Director, City and Borough of Juneau,  
Alaska, as Bond Registrar

By \_\_\_\_\_  
Authorized Signer

**Section 7. Execution of Bond.** The Bond shall be executed on behalf of the City and Borough with the manual or facsimile signature of the City Manager or his/her designee, shall be attested by the manual or facsimile signature of the City and Borough Clerk, and the seal of the

City and Borough shall be impressed or a facsimile thereof imprinted or otherwise reproduced thereon.

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

In case either of the officers who shall have executed the Bond shall cease to be officer or officers of the City and Borough before the Bond so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the City and Borough, such Bond may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City and Borough as though those who signed the same had continued to be such officers of the City and Borough. Any Bond may also be signed and attested on behalf of the City and Borough by such persons who are at the actual date of delivery of such Bond the proper officers of the City and Borough although at the original date of such Bond any such person shall not have been such officer of the City and Borough.

**Section 8. Lost, Stolen, Destroyed or Mutilated Bond.** In case the Bond shall at any time become mutilated or be lost, stolen or destroyed, the City and Borough in the case of a mutilated Bond shall, and in the case of a lost, stolen or destroyed Bond in its discretion may, execute and deliver a new Bond of the same interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender and cancellation of such mutilated Bond, or in lieu of or in substitution for such destroyed, stolen or lost Bond, or if such stolen, destroyed or lost Bond shall have matured, instead of issuing a substitute therefor, the City and Borough at its option pay the same without the surrender thereof. Except in the case where a mutilated Bond is surrendered, the applicant for the issuance of a substitute Bond shall furnish to the City and Borough evidence satisfactory to it of the theft, destruction, or loss of the original Bond, and of the ownership thereof, and also such security and indemnity as may be required by the City and Borough, and no such substitute Bond shall be issued unless the applicant for the issuance thereof shall reimburse the City and Borough for the expenses incurred by the City and Borough in connection with the preparation, execution, issuance, and delivery of the substitute Bond, and any such substitute Bond shall be equally and proportionately entitled to the security of this ordinance with all other bonds issued hereunder, whether or not the Bond alleged to have been lost, stolen or destroyed shall be found at any time or be enforceable by anyone.

**Section 9. Pledge of Taxes and Credit.** The City and Borough hereby irrevocably covenants that, unless the principal of and interest on the Bond are paid from other sources, it will make annual levies of taxes without limitation as to rate or amount upon all of the property in the City and Borough subject to taxation in amounts sufficient to pay such principal and interest as the same shall become due. The full faith, credit and resources of the City and Borough are hereby irrevocably pledged for the annual levy and collection of such taxes and for the prompt payment of such principal and interest. There is maintained in the office of the Finance Director a special fund of the City and Borough known as the "Debt Service Fund" (the "Bond Fund"), for the sole purpose of paying the principal of and interest on the Bond and all

other general obligation bonds of the City and Borough. Accrued interest, if any, received at the time of delivery of the Bond shall be paid into the Bond Fund.

The City and Borough hereby irrevocably covenants and pledges for as long as the Bond is outstanding that it will make provision for the payment of the principal of and interest on the Bond in its annual budgets and further covenants that it will make annual levies of ad valorem taxes, for payment into the Bond Fund, upon all the property within the City and Borough subject to taxation, without limitation as to rate or amount, in amounts sufficient, with such other moneys available for such purposes as the Assembly from time to time may appropriate and order transferred to the Bond Fund, to pay the principal of and interest on the Bond as the same shall be come due and payable.

**Section 10. Refunding Plan and Call For Redemption of the Refunded Bonds.**

(a) *Refunding Plan.* A portion of the proceeds of sale of the Bond in the dollar amount certified by the City and Borough shall be delivered either to the Escrow Agent or the bond registrar for the Refunded Bonds for the purpose of defeasing the Refunded Bonds. The remaining portion of the proceeds of the sale of the Bond shall be delivered to the City and Borough for the purpose of paying related costs of issuance of the Bond.

Money received by the Escrow Agent or bond registrar for the Refunded Bonds from Bond proceeds and other money provided by the City and Borough, shall be used immediately upon receipt thereof in accordance with the terms of the Escrow Agreement, if any, or the letter of the City and Borough to defease the Refunded Bonds as authorized by the 2008 Bond Ordinance. The City and Borough shall defease the Refunded Bonds and discharge such obligations by the use of money deposited with the Escrow Agent, or the bond registrar for the Refunded Bonds, held as cash or used to purchase certain Government Obligations (which obligations so purchased, are herein called "Acquired Obligations"), bearing such interest and maturing as to principal and interest in such amounts and at such times which, together with any necessary beginning cash balance, will provide for the payment of each of the following bonds that have been designated as "Refunded Bonds":

- (1) interest on the Refunded Bonds coming due on each date on which interest is due and payable, to and including the Redemption Date; and
- (2) the redemption price of the Refunded Bonds (100% of the principal amount thereof) on the Redemption Date.

If needed, the Finance Director is hereby requested and directed to solicit proposals from financial institutions to serve as the Escrow Agent for the Refunded Bonds (the "Escrow Agent") and to select a financial institution to serve as Escrow Agent.

In order to carry out the purposes of this section, the Finance Director is authorized and directed to execute and deliver to the Escrow Agent an Escrow Deposit Agreement when the provisions thereof have been fixed and determined.

(b) *Call for the Redemption of the Refunded Bonds.* The City and Borough hereby irrevocably sets aside sufficient funds out of the cash or purchase of Acquired Obligations from proceeds of the Bond to make the payments described in Section 10(a) of this ordinance.

The City and Borough hereby irrevocably calls the Refunded Bonds for redemption on the Redemption Date, in accordance with the provisions of the 2008 Bond Ordinance authorizing the redemption and retirement of the Refunded Bonds prior to their fixed maturities.

Said call for redemption of the Refunded Bonds shall be irrevocable after the bond registrar for the Refunded Bonds has received the Bond proceeds or after the final establishment of the escrow account and delivery of the Acquired Obligations to the Escrow Agent.

The Escrow Agent or bond registrar for the Refunded Bonds is hereby authorized and directed to provide for the giving of a notice of the redemption of the Refunded Bonds in accordance with the applicable provisions of the 2008 Bond Ordinance. The Finance Director is authorized and requested to provide whatever assistance is necessary to accomplish such redemption and the giving of notice therefor. The costs of publication of such notice shall be an expense of the City and Borough.

The City and Borough will take such actions as are found necessary to see that all necessary and proper fees, compensation and expenses of the Escrow Agent shall be paid when due.

#### **Section 11. Tax Covenants.**

(a) *Arbitrage Covenant.* The City and Borough hereby covenants that it will not make any use of the proceeds of sale of the Bond or any other funds of the City and Borough which may be deemed to be proceeds of the Bond pursuant to Section 148 of the Code and the applicable regulations thereunder which, if such use had been reasonably expected on the dates of delivery of the Bond to the initial purchasers thereof, would have caused such Bond to be "arbitrage bonds" within the meaning of said section and said regulations. The City and Borough will comply with the requirements of Section 148 of the Code and the applicable regulations thereunder throughout the term of the Bond.

(b) *Private Person Use Limitation for the Bond.* The City and Borough covenants that for as long as the Bond is outstanding, it will not permit:

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

(2) More than 10% of the principal or interest payments on the Bond in a Bond Year to be directly or indirectly (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City and Borough) in respect of property, or borrowed money, used or to be used for any Private Person Use.

The City and Borough further covenants that, if:

(3) More than five percent of the Net Proceeds of the Bond is to be used for any Private Person Use; and

(4) More than five percent of the principal or interest payments on the Bond in a Bond Year are (under the terms of this ordinance or any underlying arrangement) directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City and Borough) in respect of property, or borrowed money, used or to be used for any Private Person Use, then, (i) any Private Person Use of the projects described in subsection (3) hereof or Private Person Use payments described in subsection (4) hereof that is in excess of the five percent limitations described in such subsections (3) or (4) will be for a Private Person Use that is related to the state or local governmental use of the projects refinanced by the Bond, and (ii) any Private Person Use will not exceed the amount of Net Proceeds of the Bond used for the state or local governmental use portion of the project to which the Private Person Use of such portion of the project relates. The City and Borough further covenants that it will comply with any limitations on the use of the projects refinanced by the Bond by other than state and local governmental users that are necessary, in the opinion of its bond counsel, to preserve the tax status of the Bond. The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bond. To that end, the provisions of this section may be modified or eliminated without any requirement for formal amendment thereof upon receipt of an opinion of the City and Borough's bond counsel that such modification or elimination will not adversely affect the tax status of the Bond.

(c) *Special Designation.* The City and Borough hereby designates the Bond as a "qualified tax-exempt obligation" for purchase by financial institutions pursuant to Section 265(b) of the Code. The City and Borough does not anticipate that it will issue more than \$10,000,000 in qualified tax-exempt obligations during the year 2018 (excluding obligations permitted by the Code to be excluded for purposes of the City and Borough's qualification as a qualified small issuer).

## **Section 12. Designation of Refunded Bonds; Sale of Bond.**

(a) *Designation of Refunded Bonds.* As outlined in Section 2 and Section 10 of this ordinance, the 2008A Refunded Bonds and the 2008B Refunded Bonds may be called for redemption prior to their scheduled maturities. All or some of the 2008A Refunded Bonds and/or 2008B Refunded Bonds may be refunded with the proceeds of the Bond authorized by this ordinance. The City Manager or his/her designee may select some or all of the 2008A Refunded Bonds and/or 2008B Refunded Bonds and designate those 2008A Refunded Bonds and 2008B Refunded Bonds as the "Refunded Bonds" if and to the extent that the net present value aggregate savings with respect to all Refunded Bonds to be realized as a result of the refunding of the Refunded Bonds, after payment of all costs of issuance of the allocable Bond), is at least equal to the Savings Target.



(b) *Sale of Bond.* The City and Borough hereby ratifies and confirms its acceptance of the Bank's term sheet dated February 21, 2018, to purchase the Bond on the terms specified therein, but subject to the terms of this ordinance. The City Manager or his/her designee is authorized to negotiate and complete the sale of the Bond to the Bank on terms and conditions consistent with this ordinance and the Bond. Such terms and conditions, including the final principal amount, date, principal installment payment schedule, interest rates, and payment dates, all as provided for in this ordinance, shall be set forth in the Bond, all subject to the Assembly's approval by resolution (the "Resolution"), which Resolution may, at the option of the Assembly, provide for delegation within parameters approved by the Assembly. The proper City and Borough officials are hereby authorized and directed to do everything necessary for the prompt execution and delivery of the Bond to the Bank and for the proper application and use of the proceeds of the Bond.

### **Section 13. Additional Covenants and Agreements of the City and Borough.**

(a) *Loan Treatment.* In addition to any other covenants and agreements of the City and Borough contained in this ordinance, the City and Borough further covenants and agrees that no placement agent or underwriter shall be involved in the sale and purchase of the Bond and that the Bond shall not be (i) assigned a rating by any credit rating agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) offered for sell pursuant to any type of offering document or official statement, or (iv) assigned a CUSIP number by Standard & Poor's CUSIP Service. The City and Borough further covenants that no prospectus, official statement, offering memorandum or other disclosure document shall be prepared and delivered in connection with the issuance and purchase of the Bond.

(b) *Information to Bank.* The City and Borough shall provide the Bank with a copy of the following: (i) as soon as available, and in any event within 210 days after the close of each fiscal year of the City and Borough, the audited financial statements of the City and Borough which shall be certified to the City and Borough by a certified public accountant as (A) having been prepared in accordance with GAAP (applied on a basis consistent with that of the preceding fiscal year) and (B) fairly presenting the financial condition of the City and Borough as of the end of such fiscal year and reflecting its operations during such fiscal year and (C) showing all material liabilities, direct or contingent, and disclosing the existence of any off-balance sheet liability, and shall include, without limitation, balance sheets, profit and loss statements and statements of cash flows, together with notes and supporting schedules, all on a consolidated and consolidating basis and in reasonable detail and including a copy of any management letter or audit report provided to the City and Borough by such certified public accountant within 30 days of receipt; (ii) as soon as available and in any event within 45 days of the beginning of each fiscal year, the annual operating budget of the City and Borough for such upcoming fiscal year. The operating budget shall include all amounts expected to be payable to the Bank in connection with the Bond in such fiscal year. Additionally, promptly after the adoption thereof, any amendments to the annual operating budget which may have an impact on any amount expected to be payable to the Bank; and (iii) as soon as available, any other relevant information reasonably requested by the Bank. Such information shall be made available to the Bank in the manner and form agreed upon to be acceptable to the Bank.

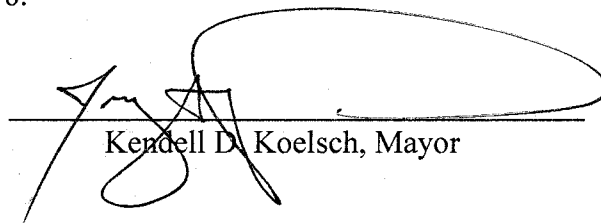
(c) *Right of Entry; Communication with State Auditor.* The City and Borough shall permit the duly authorized agents or representatives of the Bank during normal business hours and upon reasonable notice to visit and inspect any of the premises of the City and Borough, or any parts thereof, and to examine its financial and corporate books, records and accounts and to make copies thereof and extracts therefrom, and to discuss the City and Borough's affairs, finances, business and accounts with its officers, employees and agents.

(d) *Amendments.* The City and Borough shall not amend, modify or supplement, nor agree to any amendment or modification of, deviation from, or supplement to this Ordinance without the prior written consent of the Bank, or, if the Bank no longer owns the Bond, without the prior written consent of the Registered Owner of a majority of the outstanding principal amount of the Bond.

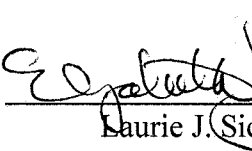
**Section 14. Severability.** If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City and Borough shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bond.

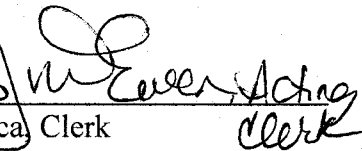
**Section 15. Effective Date.** This ordinance shall become effective thirty days after adoption.

ADOPTED this 2<sup>nd</sup> day of April, 2018.

  
Kendell D. Koelsch, Mayor

ATTEST:

  
Laurie J. Sica, Clerk

  
Clerk


## CERTIFICATE

I, the undersigned, Clerk of the City and Borough of Juneau, Alaska (the "City and Borough"), Do HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance Serial No. 2018-09 (the "Ordinance") of the City and Borough as finally passed at a regular meeting of the Assembly of the City and Borough (the "Assembly") held on the 2nd day of April, 2018, and duly recorded in my office.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 2<sup>nd</sup> day of April, 2018.

  
Laurie J. Sica, Clerk  
City and Borough of Juneau

## EXHIBIT A

### FORM OF INVESTOR LETTER

The undersigned, an authorized representative of the Bank, hereby represents to the City and Borough of Juneau, Alaska (“City and Borough”):

1. The Bank has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the City and Borough’s General Obligation School Refunding Bond, 2018 (“Bond”).

2. The Bank has authority to purchase the Bond and to execute this letter and any other instruments and documents required to be executed by the Bank in connection with the purchase of the Bond.

3. The undersigned is a duly appointed, qualified and acting representative of the Bank and is authorized to cause the Bank to make the certifications, representations and warranties contained herein by execution of this letter on behalf of the Bank.

4. The Bank is (a) an affiliate of Wells Fargo Bank, N.A., (b) a trust or other custodial arrangement established by Wells Fargo Bank, N.A. or one of its affiliates, the owners of the beneficial interests in which are limited to “qualified institutional buyers” as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (the “1933 Act”), or (c) a qualified institutional buyer that is a commercial bank with capital and surplus of \$5,000,000,000 or more. The persons and entities identified in (a) and (b) of the foregoing sentence shall be referred to as the “Eligible Transferee(s)”.

5. The Bank understands that no official statement, prospectus, offering circular, or other comprehensive offering statement is being provided with respect to the Bond. The Bank has made its own inquiry and analysis with respect to the City and Borough, the Bond and the security therefor, and other material factors affecting the security for and payment of the Bond.

6. The Bank acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, regarding the City and Borough, to which a reasonable investor would attach significance in making investment decisions, and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the City and Borough, the Bond and the security therefor, so that as a reasonable investor, it has been able to make its decision to purchase the Bond.

7. The Bank understands that the Bond (i) is not registered under the 1933 Act and is not registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, (ii) is not listed on any stock or other securities exchange, and (iii) carries no rating from any credit rating agency.

8. The Bond is being acquired by the Bank for investment for its own account and not with a present view toward resale or distribution; provided, however, that the Bank reserves

the right to sell, transfer or redistribute the Bond, but agrees that any such sale, transfer or distribution by the Bank shall be to a Person:

(a) that is an affiliate of Wells Fargo Bank, N.A.;

(b) that is a trust or other custodial arrangement established by Wells Fargo Bank, N.A. or one of its affiliates, the owners of any beneficial interest in which are limited to qualified institutional buyers or accredited investors; or

(c) that is a qualified institutional buyer and a commercial bank having capital and surplus of \$5,000,000,000 or more.

9. Notwithstanding the foregoing, the Bond may not be transferred to any Eligible Transferee if the outstanding principal is less than \$250,000 without the prior written consent of the City and Borough.

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

## EXHIBIT B

### CALCULATION OF PREPAYMENT FEE

The Prepayment Fee applicable to each Prepayment (as defined below) shall be calculated as set forth in this Exhibit B.

1. Capitalized terms used in this Exhibit B and not otherwise defined herein have the meanings assigned thereto in the Ordinance.

The following defined terms are used in this Exhibit B:

**Calculation Agent** means Wells Fargo Bank, National Association or its affiliates or such other entity designated by the Bank.

**Day Count Fraction** is the anticipated basis on which interest is to be computed on the Bond. The Day Count Fraction utilizes 30-day months and 360-day years.

**Interest Payment Frequency** is the anticipated frequency of interest payments under the Bond. The Interest Payment Frequency is semi-annually, with interest to be paid on the each \_\_\_\_ 1 and \_\_\_\_ 1, commencing on \_\_\_\_ 1, 2018.

**Maturity Date** means June 1, 2023.

**Prepayment** means each optional redemption of all or any portion of the Bond prior to the Initial Index Rate Purchase Date.

**Prepayment Date** means the date fixed for any Prepayment.

**Prepayment Fee** means the premium required to be paid by the City and Borough in connection with any Prepayment, calculated as provided in this Exhibit B.

**Reference Rate** means \_\_\_\_% per annum.

**Scheduled Date** means each date specified on Schedule 1 hereto in the columns labeled Scheduled Date.

**Schedule of Principal Amounts** means the anticipated principal amount of the Bond scheduled to be outstanding on the date the Bond is funded and on the Scheduled Dates. The Schedule of Principal Amounts for the Scheduled Dates is specified in Schedule 1 to this Exhibit B.

2. In connection with any Prepayment, a premium shall be paid by the City and Borough to the Bank if the Prepayment Fee is a positive number. No Prepayment Fee shall be

payable for a Prepayment if the Prepayment Fee for that Prepayment is a negative number. Prepayment Fees will be determined by the Calculation Agent, on the Business Day next preceding the Prepayment Date, as follows:

“**Prepayment Fee**” for any Prepayment is the difference of:

(i) the sum of the present values of a series of amounts computed for each Scheduled Date after the Prepayment Date through the Maturity Date, each of which amounts is equal to the product of (A) the Affected Principal Amount for the Affected Principal Period ending on that Scheduled Date, times (B) the Reference Rate times (C) the Day Count Fraction for such Affected Principal Period,

*minus*

(ii) the sum of the present values of a series of amounts computed for each Scheduled Date after the Prepayment Date through the Maturity Date, each of which amounts is equal to the product of (A) the Affected Principal Amount for the Affected Principal Period ending on that Scheduled Date, times (B) the Prepayment Rate, times (C) the Day Count Fraction for such Affected Principal Period,

*where:*

(1) the Calculation Agent computes such present values by discounting each such series of amounts described in clauses (i) and (ii) above from their respective Scheduled Date to the Maturity Date using a series of discount factors corresponding to those Scheduled Dates as determined by the Calculation Agent from the swap yield curve that the Calculation Agent would use as of the Prepayment Date in valuing a series of fixed rate interest rate swap payments similar to such series of amounts;

(2) the “**Affected Principal Amount**” for an Affected Principal Period is the principal amount of the Bonds reflected in the Schedule of Principal Amounts scheduled to be outstanding during that Affected Principal Period determined as of the relevant Prepayment Date by reference to such Schedule of Principal Amounts before giving effect to any Prepayment on that Prepayment Date, and for any Prepayment, multiplying each such principal amount times the Prepayment Fraction;

(3) the “**Affected Principal Period**” is each period from and including a Scheduled Date to but excluding the next succeeding

Scheduled Date; provided, however, if the Prepayment Date is not a Scheduled Date, the initial Affected Principal Period shall be the period from and including the Prepayment Date to but excluding the next succeeding Scheduled Date and the Affected Principal Amount for such initial Affected Principal Period shall be the amount stated in the Schedule of Principal Amounts Outstanding for the Scheduled Date next preceding the Prepayment Date;

(4) the “*Prepayment Fraction*” means, for each Scheduled Date, a fraction the numerator of which is the amount of the credit to be applied pursuant to the applicable provisions of the Bonds and the Agreement to reduce the amount of the payment otherwise due on such date and the denominator of which is the amount of the payment otherwise due on such date (without regard to such credit); and

(5) the “*Prepayment Rate*” for any Prepayment Date is the fixed rate the Calculation Agent determines is representative of what swap dealers would be willing to pay to the Calculation Agent (or, if required to be cleared under the Commodity Exchange Act or a Commodity Futures Trading Commission rule or regulation promulgated thereunder, to a swap clearinghouse) as fixed rate payors semi-annually in return for receiving one month LIBOR based payments monthly under interest rate swap transactions that would commence on such Prepayment Date, and mature on, or as close as commercially practicable to, the Maturity Date.

3. The Calculation Agent shall determine the Prepayment Fee hereunder with respect to each Prepayment reasonably and in good faith. The Calculation Agent’s determination in good faith shall be conclusive and binding except (i) in the case of manifest error or (ii) if the City and Borough demonstrates that the Calculation Agent has erred or used an unreasonable basis for determination of the Breakage Payment.



**SCHEDULE 1 TO EXHIBIT B**

**Scheduled Dates**

**Schedule of Principal  
Amounts**

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

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

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

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

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