ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2011-30

An Ordinance Providing for the Issuance and Sale of a General Obligation Refunding Bond in the Aggregate Principal Amount of Not to Exceed $6,300,000; 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, 2000 Series B, under date of December 15, 2000 (the “2000 Series B Bonds”) pursuant to Ordinance Serial No. 2000-43 and Resolution Serial No. 2065 (together, the “2000 Series B Bond Ordinance”), currently outstanding in the principal amount of $915,000 and maturing in principal amounts as follows:

<table>
<thead>
<tr>
<th>Maturity Years (December 15)</th>
<th>Principal Amount</th>
<th>Interest Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$210,000</td>
<td>4.75%</td>
</tr>
<tr>
<td>2013</td>
<td>220,000</td>
<td>4.85</td>
</tr>
<tr>
<td>2014</td>
<td>240,000</td>
<td>4.90</td>
</tr>
<tr>
<td>2015</td>
<td>245,000</td>
<td>5.00</td>
</tr>
</tbody>
</table>

; and

WHEREAS, the 2000 Series B Bonds maturing on and after December 15, 2011 are callable in whole or part on December 15, 2010, 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, 2002, under date of March 1, 2002 (the “2002 Bonds”) pursuant to Ordinance Serial No. 2001-55 and Resolution Serial No. 2147 (together, the “2002 Bond Ordinance”), currently outstanding in the principal amount of $6,160,000 and maturing in principal amounts as follows:
<table>
<thead>
<tr>
<th>Maturity Years (February 1)</th>
<th>Principal Amount</th>
<th>Interest Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$ 915,000</td>
<td>4.625%</td>
</tr>
<tr>
<td>2013</td>
<td>955,000</td>
<td>4.625</td>
</tr>
<tr>
<td>2014</td>
<td>1,000,000</td>
<td>4.650</td>
</tr>
<tr>
<td>2015</td>
<td>1,045,000</td>
<td>4.750</td>
</tr>
<tr>
<td>2016</td>
<td>1,095,000</td>
<td>4.850</td>
</tr>
<tr>
<td>2017</td>
<td>1,150,000</td>
<td>5.000</td>
</tr>
</tbody>
</table>

; and

WHEREAS, the 2002 Bonds maturing on and after February 1, 2013 (the “2002 Refunded Bonds”) are callable in whole or part on February 1, 2012, 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, it is deemed necessary and advisable and in the best interests of the City and Borough and its inhabitants that the City and Borough issue a refunding bond in the maximum principal amount of $6,300,000 to accomplish the refunding of the 2000 Series B Bonds and the 2002 Refunded Bonds, (together, the “Refunded Bonds”); and

WHEREAS, the Assembly finds that it is in the best interest of the City and Borough to sell the bond herein authorized to the Alaska Municipal Bond Bank (the “Bond Bank”) on the terms and conditions set forth herein and in a loan agreement between the City and Borough and the Bond Bank, as authorized by this ordinance;

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

**Bond Bank Bonds** means bonds to be issued by the Bond Bank to provide funds to be loaned to the City and Borough pursuant to the Loan Agreement.

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

**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 Refunding Bond, 2012 authorized to be 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 date 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.

**Escrow Agreement** means the Escrow Deposit Agreement 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 selected pursuant to the conditions set forth in Section 10 of this ordinance.

**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.

**Loan Agreement** means the Loan Agreement for the Bond by and between the City and Borough and the Bond Bank authorized to be entered into pursuant to Section 13 of this ordinance.

**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 the date or dates designated by the Finance Director as the date or dates on which the Refunded Bonds will be paid and redeemed.

**Refunded Bonds** means any or all of the 2000 Series B Bonds and the 2002 Refunded Bonds.

**Registered Owner** means the person in whose name ownership of a Bond is identified in the Bond Register.

**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.
SEC means the Securities and Exchange Commission.

2000 Series B Bond Ordinance means, collectively, Ordinance Serial No. 2000-43, passed by the Assembly on November 6, 2000 and Resolution Serial No. 2065, passed by the Assembly on December 13, 2000.

2000 Series B Bonds means the General Obligation School Bonds, 2000 Series B, of the City and Borough issued under date of December 15, 2000, and presently outstanding in the aggregate principal amount of $915,000.

2002 Bond Ordinance means Ordinance Serial No. 2001-55, passed by the Assembly on December 17, 2001 and Resolution Serial No. 2147, passed by the Assembly on March 11, 2002.

2002 Bonds means the General Obligation School Bonds, 2002, of the City and Borough issued under date of March 1, 2002, and presently outstanding in the aggregate principal amount of $6,160,000.

2002 Refunded Bonds means the 2002 Bonds maturing on and after February 1, 2013.

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 refunding bond in the aggregate principal amount of not to exceed $6,300,000 (the “Bond”). The Bond shall be dated as of the date established pursuant to Section 13, shall be fully registered as to both principal and interest, shall be numbered separately in such manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification, and shall bear interest from their date payable on the dates and rates set forth in the Loan Agreement, and shall come due on the dates set forth in the Loan Agreement of the following years in the following estimated principal installments:
<table>
<thead>
<tr>
<th>Maturity Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>$1,230,000</td>
</tr>
<tr>
<td>2014</td>
<td>$1,260,000</td>
</tr>
<tr>
<td>2015</td>
<td>$1,300,000</td>
</tr>
<tr>
<td>2016</td>
<td>$1,345,000</td>
</tr>
<tr>
<td>2017</td>
<td>$1,165,000</td>
</tr>
</tbody>
</table>

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, the aggregate principal amount of such bond issued may not exceed $6,300,000.

**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. Interest on the Bond shall be paid by check or draft of the Bond Registrar mailed (on the date such interest is due) to the Registered Owners or nominees at the addresses appearing on the Bond Register on the fifteenth day of the month preceding each interest payment date. Principal of the Bond shall be payable upon presentation and surrender of the Bond to the Bond Registrar by the registered owners or nominees at the office of the Bond Registrar. Notwithstanding the foregoing, so long as the Bond Bank is the Registered Owner of the Bond, payments of principal of and interest on the Bond shall be made to the Bond Bank in accordance with the Loan Agreement.

The Bond may be transferred only on the Bond Register maintained by the Bond Registrar for that purpose upon the surrender thereof by the registered owner or nominee or his/her duly authorized agent and only if endorsed in the manner provided thereon, and thereupon a new fully registered Bond of like principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor. Upon surrender thereof to the Bond Registrar, the Bond is interchangeable for a bond or bonds in any authorized denomination of an equal aggregate principal amount and of the same interest rates and maturities. Such transfer or exchange shall be without cost to the Registered Owner or transferee.

The City and Borough may deem the person in whose name each 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.** Provisions for the optional prepayment of some or all principal installments of the Bond may be established pursuant to Section 13 of this ordinance and shall be set forth in the Loan Agreement.

So long as the Bond Bank is the owner of the Bond, notice of prepayment shall be given according to the terms of the Loan Agreement. If the Bond Bank is not the owner of the Bond, notice of prepayment shall be given not less than 20 nor more than 60 days prior to the date fixed for prepayment by first class mail, postage prepaid, to the Registered Owners of the Bond at the

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addresses appearing on the Bond Register. The requirements of this section shall be deemed complied with when notice is mailed as herein provided, regardless of whether or not it is actually received by the owners of the Bond.

Each official notice of prepayment shall be dated and shall state: (i) the prepayment date, (ii) the prepayment price or prepayment premium, if any, payable upon such prepayment; (iii) if less than all of an installment of principal is to be prepaid, the principal amount to be prepaid (which must be an integral multiple of $5,000); (iv) that the interest on the Bond, or on the principal amount thereof to be prepaid, designated for prepayment in such notice, shall cease to accrue from and after such prepayment date; and (v) that on such date there will become due and payable on the Bond the principal amount thereof to be prepaid and the interest accrued on such principal amount to the prepayment date.

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 REFUNDING BOND, 2012

INTEREST RATES: See Below

FINAL MATURITY DATE:

REGISTERED OWNER: ALASKA MUNICIPAL BOND BANK

PRINCIPAL AMOUNT:

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 __________, 2012, 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 ________.
<table>
<thead>
<tr>
<th>Year of Principal Installment Payment</th>
<th>Principal Installment Amount</th>
<th>Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>(________ 1)</td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

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 by check or draft mailed to the Registered Owner at the address appearing on the Bond Register on the 15th day of the month preceding the interest payment date, 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”).

This bond is a general obligation bond of the Borough and is issued pursuant to Ordinance Serial No. 2011-30 (the “Bond Ordinance”) for the purpose of refunding certain outstanding general obligation bonds of the City and Borough.

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. Capitalized terms used in this bond and not otherwise defined herein have the meanings given such terms in the Bond Ordinance.

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 Loan Agreement.

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 [not] 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 ________, 2012.

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 Refunding Bond, 2012 of the City and Borough of Juneau, Alaska, dated ____________, 2012, 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.

The Bond shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance only if the Bond bears thereon a Certificate of Authentication in the form hereinbefore recited, manually executed by the Bond Registrar. 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 such mutilated Bond shall, and in the case of such lost, stolen or destroyed Bond in its discretion may, execute and deliver a new Bond 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 to the Escrow Agent shall be delivered to the Escrow Agent for the purpose of defeasing the Refunded Bonds and paying related costs of issuance.

Money received by the Escrow Agent from Bond proceeds and other money provided by the City and Borough, shall be used immediately by the Escrow Agent upon receipt thereof in accordance with the terms of the Escrow Agreement to defease the Refunded Bonds as authorized by the 2000 Series B Bond Ordinance and the 2002 Bond Ordinance, and to pay costs of issuance of the Bond. The City and Borough shall defease the Refunded Bonds and discharge such obligations by the use of money deposited with the Escrow Agent 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.

Such Acquired Obligations shall be purchased at a yield not greater than the yield permitted by the Code and regulations relating to acquired obligations in connection with refunding bond issues.

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.

The Escrow Agent shall use the moneys received as interest on and principal of matured Acquired Obligations to satisfy the foregoing obligations.

(b) Call for the Redemption of the Refunded Bonds. The City and Borough hereby irrevocably sets aside sufficient funds out of the 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 2000 Series B Bond Ordinance and the 2002 Bond Ordinance, respectively, 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 final establishment of the escrow account and delivery of the Acquired Obligations to the Escrow Agent.

The Escrow Agent 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 2000 Series B Bond Ordinance and the 2002 Bond Ordinance, respectively. 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. Defeasance. In the event that money and/or noncallable Government Obligations maturing or having guaranteed redemption prices at the option of the owner at such time or times and bearing interest to be earned thereon in amounts (together with such money, if any) sufficient to redeem and retire part or all of the Bond in accordance with their terms, are hereafter irrevocably set aside in a special account and pledged to effect such redemption and retirement, then no further payments need be made into the Bond Fund or any account therein for the payment of the principal of and interest on the certain Bond so provided for and such Bond shall then cease to be entitled to any lien, benefit or security of this ordinance, except the right to receive the funds so set aside and pledged and to receive notices of early redemption, if any, and such Bond shall no longer be deemed to be outstanding hereunder, or under any ordinance or resolution authorizing the issuance of bonds or other indebtedness of the City and Borough.
Section 12. 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 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 Gastineau Elementary School Project 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 Gastineau Elementary School Project, 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 Gastineau Elementary School Project to which the Private Person Use of such portion of the Gastineau Elementary School Project relates. The City and Borough further covenants that it will comply with any limitations on the use of the Gastineau Elementary School Project 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.

Section 13. Sale of Bond. The City Manager or his/her designee is authorized to negotiate and complete the sale of the Bond to the Bond Bank on terms and conditions consistent with this ordinance and the Loan Agreement for the Bond. Following the sale of the Bond Bank Bonds, such terms and conditions, including the final principal amount, date, principal installment payment schedule, interest rates, payment dates and prepayment provisions, all as provided for in this ordinance, shall be set forth in the Loan Agreement, all subject to the Assembly’s approval by resolution.

Section 14. Undertaking to Provide Ongoing Disclosure. The City and Borough will execute a certificate for ongoing disclosure in form and substance satisfactory to the purchaser of the Bond, and the City Manager or his/her designee is hereby authorized and directed to execute such certificate.

Section 15. 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 16. Effective Date. This ordinance shall become effective thirty days after adoption.

ADOPTED this 9th day of January, 2012.

________________________________________
Bruce Botelho, Mayor

ATTEST:

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Laurie J. Sica, Clerk