

Proposed by:	Administration
Bond Counsel:	11/30/2022
Vote:	6 Aye 0 Nay 0 Absent

**MUNICIPALITY OF SKAGWAY BOROUGH  
RESOLUTION NO. 22-44R**

A RESOLUTION OF THE MUNICIPALITY OF SKAGWAY, ALASKA AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,300,000) IN AGGREGATE PRINCIPAL AMOUNT OF TAX ANTICIPATION NOTES; FIXING CERTAIN DETAILS OF SAID NOTES; PROVIDING FOR THE FORM AND MANNER OF SALE OF SAID NOTES; PLEDGING THE RECEIPTS FROM AD VALOREM SALES TAXES TO BE COLLECTED DURING YEAR 2023 AND THE FULL FAITH AND CREDIT TO THE PAYMENT THEREOF; AND DELEGATING CERTAIN MATTERS TO THE MANAGER OR TREASURER IN CONNECTION WITH THE SALE OR PLACEMENT OF THE NOTES.

**RECITALS**

**WHEREAS**, the Municipality of Skagway Borough (the “Borough”) levies ad valorem taxes on retail and rentals on an annual basis with payment thereof allowed to be made in installments; and

**WHEREAS**, the Borough requires funds to meet on-going capital expenses, including but not limited to costs related to Port improvements and rockslide emergency measures, until receipt of sufficient money from the payment of ad valorem sales taxes to be collected in 2023 and from other revenue sources, and desires to borrow such funds and to issue its tax anticipation notes for this purpose; and

**WHEREAS**, Alaska Statutes, Sections 29.47.010 et seq., and the Skagway Municipal Code Section 4.06.010 provide for the borrowing of money by the Borough in anticipation of tax revenues; and

**WHEREAS**, Alaska Statutes Section 29.47.020 provides that the Assembly of the Borough (the “Assembly”) may by resolution provide for the form and manner of sale of bonds and notes; and

**WHEREAS**, the Assembly does herein determine that it is necessary and advisable and in the best interest of the Borough and its inhabitants that tax anticipation notes, in an amount not to exceed \$4,300,000, be issued at this time for the purpose of raising funds to pay on-going capital expenses of the Borough until sufficient money from receipt of year 2023 ad valorem sales taxes and from other revenue sources is available; now, therefore;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH ASSEMBLY OF THE MUNICIPALITY OF SKAGWAY BOROUGH**, as follows:

**Section 1.**     **Purpose.** The purpose of this Resolution is to authorize the issuance and sale of not to exceed \$4,300,000 of tax anticipation notes to provide funds to pay the on-going capital expenses of the Borough, including but not limited to costs related to Port improvements and

rockslide emergency measures, until sufficient funds from receipt of year 2023 ad valorem sales taxes and from other revenue sources are available, to provide for original issue discount or premium, if any, to pay the costs of issuance of the tax anticipation notes authorized herein, and to fix certain details of said notes to be issued.

**Section 2. Definitions.** The following terms shall have the following meanings in this Resolution:

- **Assembly** means the Assembly of the Borough, as the general legislative authority of the Borough, as the same shall be duly and regularly constituted from time to time.
- **Bank** means the financial institution selected to purchase the Note(s) pursuant to Section 16 of this Resolution.
- **Bank Offer** means the Term Sheet and Note Purchase Agreement documents provided by the Bank, together describing the terms and conditions applicable to the Note.
- **Borough** means the Municipality of Skagway Borough.
- **Borough Manager** means the Borough Manager of the Borough.
- **Chief Fiscal Officer** means the Borough Treasurer or his or her written designee.
- **Code** means the Internal Revenue Code of 1986, as heretofore or hereafter amended, together with all applicable regulations and rulings heretofore or hereafter promulgated thereunder.
- **Note** or **Notes** means any of the Borough's 2022 General Obligation Tax Anticipation Note or Notes, the issuance and sale of which are authorized herein.
- **Note Redemption Fund** means the fund or account of the Borough established pursuant to Section 13 of this Resolution for the repayment of the Note.
- **Note Register** means the registration books maintained by the Registrar which include the names and addresses of the owners or nominees of the owners of the Note.
- **Registered Owner** means the person named as the registered owner of a Note in the Note Register.
- **Registrar** means the Borough Treasurer, or such successor in function as the Borough Treasurer may designate, for the purposes of registering and authenticating the Note, maintaining the Note Register, and effecting transfer of ownership of the Note.

**Rules of Interpretation.** In this Resolution, unless the context otherwise requires:

- (a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Resolution, refer to this Resolution as a whole and not to any particular article, section, subdivision or clause hereof, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the date of this Resolution;
- (b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa;
- (c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

- (d) Any headings preceding the text of the several articles and sections of this Resolution, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Resolution, nor shall they affect its meaning, construction or effect; and
- (e) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

In this Resolution, the Chief Fiscal Officer may be authorized to create a number of “funds” and/or “accounts.” In each case, the Chief Fiscal Officer may designate each such fund or account in his or her discretion as a fund or as an account, regardless of its designation in this Resolution.

**Section 3. Authority for Resolution.** The Borough has ascertained and hereby determines that each and every matter and thing as to which provision is made in this Resolution is necessary in order to carry out and effectuate the purposes of the Borough in accordance with the Constitution and statutes of the State of Alaska and the Code of the Borough, and to incur the indebtedness and issue the Notes.

**Section 4. Authorization of Notes and Purpose of Issuance.** For the purpose of providing the funds required to pay the on-going capital expenses of the Borough until sufficient funds from the receipt of year 2023 ad valorem sales taxes and from other revenue sources are available, and to pay all costs of issuance, the Borough hereby authorizes the sale and issuance of one or more tax anticipation notes of the Borough (the “Note” or “Notes”) in the aggregate principal amount of not to exceed \$4,300,000 as determined by the Chief Fiscal Officer pursuant to Section 16 of this Resolution.

**Section 5. Designation, Interest Rate, Maturity and Payment Date.** The Note shall be designated “Municipality of Skagway Borough, Alaska, 2022 General Obligation Tax Anticipation Note,” shall be dated the date of its initial issuance and delivery, and if issued as multiple Notes, shall be numbered separately in the manner and with any additional designation as the Registrar deems necessary for purposes of identification; shall be dated as of the date of their issuance and shall mature no later than December 31, 2023, as established by the Chief Fiscal Officer pursuant to Section 16 of this Resolution.

The Note shall bear interest from its date calculated on the basis of a 360 day year composed of twelve 30 day months, or such other basis as provided in the Bank Offer, from its date payable at the maturity thereof at the rate per annum fixed and determined by the Chief Fiscal Officer pursuant to Section 16 of this Resolution.

**Section 6. Registration, Transfer and Exchange.**

- (a) *Registrar/Note Register.* The Note shall be issued only in registered form as to both principal and interest. The Chief Fiscal Officer is hereby authorized to appoint a Registrar for the Note in accordance with Section 14 of this Resolution. The Borough shall cause a

Note Register to be maintained by the Registrar. So long as the Note remains outstanding, the Registrar shall make all necessary provisions to permit the exchange or registration of transfer of Notes. The Registrar may be removed at any time at the option of the Chief Fiscal Officer of the Borough and a successor Registrar appointed by the Chief Fiscal Officer of the Borough. No resignation or removal of the Registrar shall be effective until a successor shall have been appointed and until the successor Registrar shall have accepted the duties of the Registrar hereunder. The Registrar is authorized, on behalf of the Borough, to authenticate and deliver Notes transferred or exchanged in accordance with the provisions of such Notes and this Resolution and to carry out all of the Registrar's powers and duties under this Resolution. The Registrar shall be responsible for its representations contained in the Certificate of Authentication on the Note.

The Registrar shall keep, or cause to be kept, the Note Register which shall at all times be open to inspection by the Borough.

- (b) *Registered Ownership.* The Borough and the Registrar, each in its discretion, may deem and treat the Registered Owner of each Note as the absolute owner thereof for all purposes (except as provided in Section 19 of this Resolution), and neither the Borough nor the Registrar shall be affected by any notice to the contrary. Payment of any such Note shall be made only as described in Section 6(e) hereof, but such Note may be transferred as herein provided. All such payments made as described in Section 6(e) shall be valid and shall satisfy and discharge the liability of the Borough upon such Note to the extent of the amount or amounts so paid.
- (c) *Registration of Transfer of Ownership or Exchange; Change in Denominations.* The transfer of any Note may be registered and Notes may be exchanged, but no transfer of any such Note shall be valid unless it is surrendered to the Registrar with the assignment form appearing on such Note duly executed by the Registered Owner or such Registered Owner's duly authorized agent in a manner satisfactory to the Registrar. Upon such surrender, the Registrar shall cancel the surrendered Note and shall authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Note (or Notes at the option of the new Registered Owner) of the same date, maturity and interest rate and for the same aggregate principal amount in any authorized denomination, naming as Registered Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered Note, in exchange for such surrendered and cancelled Note. Any Note may be surrendered to the Registrar and exchanged, without charge, for an equal aggregate principal amount of Notes of the same date, maturity and interest rate, in any authorized denomination. The Registrar shall not be obligated to register the transfer or to exchange any Note during the 15 days preceding any interest payment or principal payment date any such Note is to be redeemed.
- (d) *Additional Restrictions on Transfer.* The Notes may be transferred without limitation to any affiliate of the Registered Owner or to a trust or custodial arrangement established by

the Registered Owner or an affiliate of the Registered Owner, each of the beneficial owners of which are “qualified institutional buyers” as defined in Rule 144A promulgated under the Securities Act of 1933, as amended. The Notes may be transferred to another purchaser (other than an affiliate of the Registered Owner or a trust or custodial arrangement as described in the preceding sentence) in whole if (i) written notice of such transfer, together with addresses and related information with respect to such purchaser, is delivered to the Borough and the Registrar by such transferor and (ii) such purchaser shall have delivered to the Borough, the Registrar and the transferor an investor letter in the form of the letter delivered by the Registered Owner to the Borough and the Registrar and executed by a duly authorized officer of such purchaser; provided that each such purchaser shall constitute (1) a “qualified institutional buyer” as defined in Rule 144A promulgated under the Securities Act of 1933, as amended, and (2) a commercial bank organized under the laws of the United States, or any state thereof, or any other country which is a member of the Organization for Economic Cooperation and Development, or a political subdivision of any such country, and, in any such case, having a combined capital and surplus, determined as of the date of any transfer pursuant to this Section, of not less than \$5,000,000,000.

- (e) *Registration Covenant.* The Borough covenants that, until all Notes have been surrendered and canceled, it will maintain a system for recording the ownership of each Note that complies with the provisions of Section 149 of the Code.
- (f) *Place and Medium of Payment.* Both principal of and interest on the Note shall be payable in lawful money of the United States of America. Interest on the Note shall be paid by check or draft mailed to the Registered Owners at the addresses for such Registered Owners appearing on the Note Register on the fifteenth day of the month preceding the interest payment date, or upon the written request of a Registered Owner of more than \$1,000,000 of Notes (received by the Registrar at least 15 days prior to the applicable payment date), such payment shall be made by the Registrar by wire transfer to the account within the United States designated by the Registered Owner. Principal of the Note shall be payable upon presentation and surrender of such Note by the Registered Owners at the principal office of the Registrar, or upon the written request of a Registered Owner of more than \$1,000,000 of Notes (received by the Registrar at least 15 days prior to the applicable payment date), such payment shall be made by the Registrar by wire transfer to the account within the United States designated by the Registered Owner and without presentment or surrender.

**Section 7.** **Redemption of Notes.** The Note may be subject to redemption prior to its scheduled maturity on the terms provided for in the Bank Offer.

**Section 8.** **Form of Note.** The Note or Notes shall be in substantially the following form, with such variations, omissions and insertions as may be required or permitted by this Resolution:

UNITED STATES OF AMERICA

**THE TRANSFERABILITY OF THIS NOTE IS RESTRICTED AS SET FORTH IN SECTION [6] OF  
THE NOTE RESOLUTION**

No. \_\_\_\_\_ \$ \_\_\_\_\_

MUNICIPALITY OF SKAGWAY BOROUGH, ALASKA  
2022 GENERAL OBLIGATION TAX ANTICIPATION NOTE

INTEREST RATE:

MATURITY DATE: December 31, 2023

REGISTERED OWNER:

PRINCIPAL AMOUNT:

CUSIP:

Municipality of Skagway Borough, Alaska (the "Borough"), a municipal corporation of the State of Alaska, hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or its registered assigns, on the Maturity Date identified above, the Principal Amount indicated above together with interest thereon at the Interest Rate shown above, payable on the Maturity Date; provided that upon the occurrence and during the occurrence of an Event of Default (as defined in the Note Purchase Agreement), the Interest Rate shall increase to the Default Rate (as defined in the Note Purchase Agreement); provided, further, that upon a Determination of Taxability (as defined in the Note Purchase Agreement), the Interest Rate shall increase to the Taxable Rate (as defined in the Note Purchase Agreement). Payments of principal of and interest on this note shall be made as provided in Resolution No. 22-44R duly passed by the Municipal Assembly on December 1, 2022 (the "Note Resolution").

The note(s) of this issue is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Alaska and the Skagway Municipal Code, including the Note Resolution. Capitalized terms used in this note have the meanings given such terms in the Note Resolution.

This note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Note Resolution until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Registrar or its duly designated agent.

This note is issued pursuant to the Note Resolution for providing funds for capital expenses of the Borough pending the receipt of taxes of the and to pay costs of issuance.

The notes of this issue are not subject to redemption prior to their stated maturity as provided in the Note Purchase Agreement.

The Borough hereby irrevocably covenants and agrees with the owner of this note that it will include in its annual budget and levy taxes annually, within and as a part of the tax levy permitted to the Borough without a vote of the electorate, upon all the sales subject to taxation in amounts sufficient, together with other money legally available therefor, to pay the principal of and interest on this note as the same shall become due. The full faith, credit and resources of the Borough are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

The notes of this issue are not "qualified tax-exempt obligations" for investment by financial institutions under Section 265(b) of the Code.

The pledge of tax levies for payment of principal of and interest on the notes may be discharged prior to maturity of the notes by making provision for the payment thereof on the terms and conditions set forth in the Note Resolution.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Alaska, the Skagway Municipal Code, ordinances and resolutions of the Borough to be done precedent to and in the issuance of this note have happened, been done and performed.

IN WITNESS WHEREOF, the Municipality of Skagway Borough, Alaska, has caused this note to be executed with the manual or facsimile signature of its Borough Manager or Mayor and to be countersigned with the manual or facsimile signature of its Borough Treasurer and the official seal of the Borough to be impressed, imprinted or otherwise reproduced hereon, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

MUNICIPALITY OF SKAGWAY, ALASKA

By \_\_\_\_\_/s/manual or facsimile signature\_\_\_\_\_  
[Borough Manager][Mayor]

Countersigned:

\_\_\_\_\_/s/manual or facsimile signature\_\_\_\_\_  
Borough Treasurer

(Form of Certificate of Authentication)

Date of Authentication:

This note is the Municipality of Skagway Borough, Alaska, 2022 General Obligation Tax Anticipation Note, described in and issued pursuant to the within mentioned Note Resolution.

Borough Treasurer, as Registrar

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

**Section 9. Execution of Notes.** The Note shall be executed on behalf of the Borough with the manual or facsimile signature of the Borough Manager or Mayor of the Borough, attested with the manual or facsimile signature of the Chief Fiscal Officer and authenticated by the manual signature of an authorized representative of the Registrar. The official seal of the Borough shall be impressed or imprinted or otherwise reproduced on each Note. In case any of the officers who shall have signed, attested or registered any of the Notes shall cease to be such officer before such Notes have been actually issued and delivered, such Notes shall be valid nevertheless and may be issued by the Borough with the same effect as though the persons who had signed, attested or registered such Notes had not ceased to be such officers.

**Section 10. Lost, Stolen, Destroyed or Mutilated Notes.** In case any Note shall at any time become mutilated or be lost, stolen or destroyed, the Borough in the case of such a mutilated Note shall, and in the case of such a lost, stolen or destroyed Note in its discretion may, execute and deliver a new Note 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 Note, or in lieu of or in substitution for such destroyed, stolen or lost Note, or if such stolen, destroyed or lost Note shall have matured, instead of issuing a substitute therefor, the Borough may at its option pay the same without the surrender thereof. Except in the case where a mutilated Note is surrendered, the applicant for the issuance of a substitute Note shall furnish to the Registrar evidence satisfactory to it of the theft, destruction or loss of the original Note, and of the ownership thereof, and also such security and indemnity as may be required by the Borough, and no such substitute Note shall be issued unless the applicant for the issuance thereof shall reimburse the Borough for the expenses incurred by the Borough in connection with the preparation, execution, issuance and delivery of the substitute Note, and any such substitute Note shall be equally and proportionately entitled to the security of this Resolution with all other Notes issued hereunder, whether or not the Note alleged to have been lost, stolen or destroyed shall be found at any time or be enforceable by anyone.



**Section 11. Defeasance.** In the event that money and/or acquired obligations maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to redeem and retire any or all of the Notes in accordance with their terms are set aside in a special trust account in the Note Redemption Fund to effect such redemption or retirement and such money and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Note Redemption Fund for the payment of the principal of and interest on such Notes, and such Notes shall cease to be entitled to any benefit or security of this Resolution except the right to receive the funds so set aside and pledged, and such Notes shall be deemed not to be outstanding hereunder.

**Section 12. Application of Note Proceeds.** The monies derived from the sale of the Note shall be deposited in the fund or funds of the Borough designated in the closing memorandum approved by the Chief Fiscal Officer (or her designee) on the date of delivery of the Note. Certain funds of the Borough may be held and maintained in the custody of the Registrar, if the Chief Fiscal Officer designates an external Registrar, as depository, under the terms of the written agreement with the Registrar. Those funds may be further subdivided into accounts or subaccounts for accounting purposes. All such money and securities held by the Registrar, as depository, shall be applied and invested only in accordance with the terms of the agreement with the Registrar. All interest earnings from investment, if any, of money held in any fund or account held by the Registrar shall accrue for the benefit of the invested fund or account. All money, accounts and funds of the Borough that may be held by the Registrar, as depository, shall be and continue to be funds of the Borough and subject to the terms of this Resolution.

**Section 13. Note Redemption Fund and Provision for Tax Levy Payments.** The Borough shall establish a fund to be used for the payment of debt service on the Note (the "Note Redemption Fund") with the Registrar. No later than the date of maturity, the Borough shall transmit sufficient funds from legally available sources of the Borough to the Registrar for the payment of such principal and/or interest. Money in the Note Redemption Fund may be invested in legal investments for Borough funds.

The Borough hereby irrevocably covenants and agrees that it will include in its budget and levy an ad valorem tax upon all the retail and rental sales within the Borough subject to taxation in an amount that will be sufficient, together with all other revenues and money of the Borough legally available for such purposes, to pay the principal of and interest on the Note as the same shall become due.

The Borough hereby irrevocably pledges that the tax provided for herein to be levied for the payment of such principal and interest shall be within and as a part of the tax levy permitted to the Borough without a vote of the people, and such amounts are hereby irrevocably set aside, pledged and appropriated for the payment of the principal of and interest on the Note. The full faith, credit and resources of the Borough are hereby irrevocably pledged for the levy and collection of said taxes and for the prompt payment of the principal of and interest on the Note as the same shall become due.

**Section 14. Registrar.** The Chief Fiscal Officer is hereby authorized to appoint a Registrar for the Note; provided if a Registrar external to the Borough shall be appointed, such company shall be a bank or trust company organized under the laws of the United States of America or a national banking association and shall be authorized by law to perform all the duties imposed upon it by this Resolution.

**Section 15. Arbitrage Covenant.** The Borough covenants with the registered owners of all Notes at any time outstanding that it will make no use of the proceeds of the Note which will cause the Note to be an “arbitrage bond” subject to federal income taxation by reason of Section 148 of the Code. As part of the performance of this covenant, within 25 days of the end of the six month period beginning on the date of delivery of the Note, the Borough will perform such calculations as are necessary to determine whether or not the Borough has met the “safe harbor” requirements of Section 148(f)(4)(B)(iii) of the Code with respect to the Note and, if it has not met such safe harbor requirements, it will, within 45 days after the retirement of the Note, calculate the amount, if any, of investment profits that must be rebated to the United States, and will pay to the United States the amount of any such investment profit within 60 days of retirement of the Note.

**Section 16. Sale of Note, Final Terms, Approval of Bank Offer.** The Note shall be sold by private placement to a financial institution selected by the Chief Fiscal Officer (the “Bank”) upon the terms to be determined by the Chief Fiscal Officer and memorialized in the Bank Offer.

The authority granted to the Chief Fiscal Officer by this Section 16 shall expire 120 days after the date of approval of this Resolution. If the sale for the Note has not been completed within 120 days after the date of final approval of this Resolution, the authorization for the issuance of the Note shall be rescinded, and the Note shall not be issued nor their sale approved unless such Note shall have been re-authorized by resolution of the Borough. The resolution re-authorizing the issuance and sale of such Notes may be in the form of a new resolution repealing this Resolution in whole or in part or may be in the form of an amendatory resolution establishing terms and conditions for the authority delegated under this Section.

The Chief Fiscal Officer and other Borough officials, agents and representative are hereby authorized and directed to do everything necessary for the prompt issuance, execution and delivery of the Notes to the selected bank and for the proper application and use of the proceeds of sale of the Note.

**Section 17. No Undertaking to Provide Ongoing Disclosure; Information Provided to the Bank.** The Borough is exempt from the ongoing disclosure requirements of Securities and Exchange Commission Rule 15c2-12 by reason of the exemption set forth in subsection (d)(i) of that rule with respect to the issuance of securities in authorized denominations of \$100,000 or more.

For as long as the Note is outstanding, the Borough will provide financial information as may be reasonably requested by the Bank from time to time.

**Section 18. Authority of Officers.** The Mayor, the Borough Manager, the Chief Fiscal Officer, and the Borough Clerk from time to time, are, and each of them hereby is, authorized and directed to do and perform all things and determine all matters not determined by this Resolution, or to be determined by a subsequent ordinance or resolution of the Borough, to the end that the Borough may carry out its obligations under the Notes and this Resolution.

**Section 19. Amendatory and Supplemental Resolutions.**

(a) The Assembly from time to time and at any time may adopt an ordinance or resolution(s) supplemental hereto, which ordinance or resolution(s) thereafter shall become a part of this Resolution, for any one or more of the following purposes:

- (1) To add to the covenants and agreements of the Borough in this Resolution contained, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved to or conferred upon the Borough.
- (2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this Resolution or in regard to matters or questions arising under this Resolution as the Assembly may deem necessary or desirable and not inconsistent with this Resolution and which shall not adversely affect the interests of the registered owners of the Notes.

Any such supplemental resolution of the Assembly may be adopted without the consent of the registered owner of any of the Notes at any time outstanding, notwithstanding any of the provisions of subsection (b) of this Section.

(b) With the consent of the registered owners of not less than 60% in aggregate principal amount of the Notes at the time outstanding, the Assembly may adopt an ordinance or resolution(s) supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Resolution or of any supplemental resolution; provided, however, that no such supplemental resolution shall:

- (1) Extend the fixed maturity of the Notes, or reduce the rate of interest thereon, or extend the time of payment of interest from its due date, or reduce the amount of the principal thereof, without the consent of the owner of each Note so affected; or
- (2) Reduce the aforesaid percentage of owners of Notes required to approve any such supplemental resolution without the consent of the owners of all of the Notes then outstanding.

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

- (c) Upon the adoption of any supplemental resolution pursuant to the provisions of this Section, this Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations of the Borough under this Resolution and all owners of Notes outstanding hereunder shall thereafter be determined, exercised and enforced thereunder, subject in all respects to such modification and amendment, and all the terms and conditions of any such supplemental resolution shall be deemed to be part of the terms and conditions of this Resolution for any and all purposes.
  
- (d) Notes executed and delivered after the execution of any supplemental resolution adopted pursuant to the provisions of this Section may bear a notation as to any matter provided for in such supplemental resolution, and if such supplemental resolution shall so provide, new Notes so modified so as to conform, in the opinion of the Borough, to any modification of this Resolution contained in any such supplemental resolution may be prepared by the Borough and delivered without cost to the registered owners of the Notes then outstanding, upon surrender for cancellation of such Notes in equal aggregate principal amounts.

**Section 20.** **Prohibited Sale of Notes.** No person, firm or corporation, or any agent or employee thereof, acting as financial consultant to the Borough under an agreement for payment in connection with the sale of the Notes is eligible to purchase the Note at private sale.

**Section 21.** **Miscellaneous.** No recourse shall be had for the payment of the principal of or the interest on the Note or for any claim based thereon or on this Resolution against any member of the Assembly or officer of the Borough or any person executing the Note. The Note is not and shall not be in any way a debt or liability of the State of Alaska or of any political subdivision thereof, except the Borough, and does not and shall not create or constitute an indebtedness or obligation, either legal, moral or otherwise, of said State or of any political subdivision thereof, except the Borough.

**Section 22.** **Severability.** If any one or more of the covenants and agreements provided in this Resolution to be performed on the part of the 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 in this Resolution and shall in no way affect the validity of the other provisions of this Resolution or of the Note.

**Section 23.** **Classification.** This Resolution is not of a permanent and general nature and will not be codified.

**Section 24. Effective Date.** This Resolution will become effective from and after the date of its passage. All acts taken pursuant to the authority of this Resolution but prior to its effective date are hereby ratified.

ADOPTED AT A REGULAR MEETING OF THE ASSEMBLY OF THE MUNICIPALITY OF SKAGWAY BOROUGH ON DECEMBER 1, 2022.

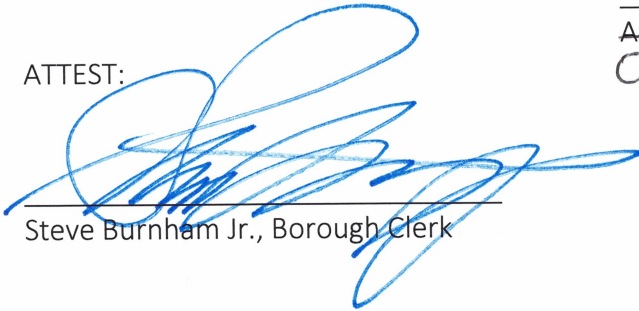
MUNICIPALITY OF SKAGWAY BOROUGH



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Andrew Cremata, Mayor  
Orion Hanson, Vice Mayor

ATTEST:



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Steve Burnham Jr., Borough Clerk

(SEAL)



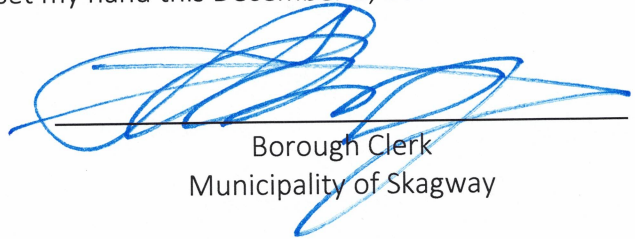
CLERK'S CERTIFICATE

I, the undersigned, Borough Clerk of the Municipality of Skagway (the "Borough"), and keeper of the records of the Borough Assembly (the "Assembly"), DO HEREBY CERTIFY:

1. That the attached Resolution (the "Resolution") is a true and correct copy of Resolution No. 22-44R of the Borough, as finally passed at a meeting of the Assembly held on December 1, 2022, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the adoption of the Resolution; that all other requirements and proceedings incident to the proper adoption of the Resolution have been fully 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 December 1, 2022.



\_\_\_\_\_

Borough Clerk  
Municipality of Skagway