

MAY 8

CITY OF HOMER, ALASKA

AGENDA ITEM

Resolution No. 89-43(S)

133
SUBSTITUTE

A RESOLUTION of the City Council of Homer, Alaska, authorizing the issuance and sale of a bond anticipation note in the principal amount of \$560,000 for the purpose of redeeming certain water revenue bonds of the City; providing the form, terms, conditions and covenants of said note; providing for the sale thereof; and providing for the disposition of the proceeds of the sale.

WHEREAS, the Council of the City of Homer, Alaska (the "City"), by Ordinance No. 89-10(S), passed on April 10, 1989, as amended by Ordinance No. 89-14(S), passed on May 8, 1989 (collectively the "Bond Ordinance"), authorized the issuance of the Water Revenue Refunding Bonds, 1989 of the City in the principal amount of not to exceed \$700,000 (the "1989 Bonds") for the purpose of redeeming the outstanding 1975 Water Revenue Bonds (the "1975 Bonds") of the City sold to the Farmers Home Administration pursuant to Ordinance No. 75-12 of the City; and

WHEREAS, Ordinance No. 89-10(S) authorized the Council of the City, by subsequent resolution, to establish the date, principal amount, interest rate or rates, and maturity schedule for the 1989 Bonds, all of which has been done by Resolution No.89-42, passed on May 8, 1989 authorizing the issuance and sale of the 1989 Bonds in the amount of \$635,000 to the Alaska Municipal Bond Bank Authority (the "Authority"); and

WHEREAS, the 1989 Bonds cannot be issued and sold to the Authority until May 24, 1989, and the City's deadline for redeeming

the 1975 Bonds from the Farmers Home Administration at a discount is May 9, 1989; and

WHEREAS, it is deemed necessary and desirable that the City issue and sell a short-term obligation in the form of a bond anticipation note in the principal amount of \$560,000 to refund the 1975 Bonds pending the issuance and sale of the 1989 Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HOMER, ALASKA, as follows:

Section 1. Definitions. As used in this resolution the following terms shall have the following meanings, unless a different meaning clearly appears from the context:

"1975 Bonds" means the 1975 Water Revenue Bonds of the City issued pursuant to Ordinance No. 75-12 of the City.

"1989 Bonds" means the Water Revenue Refunding Bonds, 1989 to be issued to pay and redeem the Note or any refunding note or notes.

"City" means the City of Homer, Alaska, a municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of Alaska.

"Council" means the general legislative authority of the City as the same shall be duly and regularly constituted from time to time.

"Note" means the Homer, Alaska, Water Revenue Refunding Bond Anticipation Note, 1989 issued pursuant to and for the purposes provided in this resolution.

"Note Redemption Fund" means the Water Revenue Refunding Bond Anticipation Note, 1989 Redemption Fund Account to be created within the Revenue Fund pursuant to this resolution.

"Revenue Fund" means the heretofore created special fund of the City known as the Water Revenue Fund Account.

Section 2. Authorization of the 1989 Bonds. The issuance and sale of the 1989 Bonds as heretofore authorized by Ordinance No. 89-10(S) and Resolution No. 89-42 is hereby affirmed. From the proceeds of the 1989 Bonds, funds sufficient to pay and redeem the Note shall be paid into the Note Redemption Account.

Section 3. Authorization of the Note. In anticipation of the issuance of the 1989 Bonds, the City shall issue a short-term obligation in the principal amount of \$560,000. Said short-term obligation shall be designated the "Homer, Alaska, Water Revenue Refunding Bond Anticipation Note, 1989," shall be dated the date of its delivery and shall be in bearer form.

The Note shall be in the total principal amount of \$560,000, shall mature on June 1, 1989, and shall bear interest at 9.2% per annum, calculated on the basis of a 360-day year with twelve 30-day months and payable upon maturity.

The City shall be obligated to pay interest at the same rate on the Note until the Note shall have been paid in full.

Both the principal of and interest on the Note shall be payable in lawful money of the United States of America in same day

funds at the office of the Finance Director in Homer, Alaska, or at such location as designated by the Finance Director.

Section 4. Note Redemption Fund. There has heretofore been created a special fund of the City known as the Water Revenue Fund Account (the "Revenue Fund"). There is hereby created in the Revenue Fund a special account to be known as the Water Revenue Refunding Bond Anticipation Note, 1989 Redemption Fund Account (the "Note Redemption Fund"). The Note Redemption Fund shall be drawn upon for the sole purpose of paying the principal of and interest on the Note. Any money remaining in the Note Fund after payment in full of the principal and interest on the Note may be transferred to the Revenue Fund, and the Note Redemption Fund shall be closed.

Both the principal of and interest on the Note are payable solely from the proceeds of the sale of the 1989 Bonds or refunding bond anticipation notes to be issued by the City. The City hereby covenants with the holder of the Note that it will issue the 1989 Bonds, refunding bond anticipation notes, or a combination of the foregoing, in an amount sufficient to pay when due the principal of and interest on the Note and will thereupon redeem the Note. The Note is not a general obligation of the City and is not payable otherwise than as stated herein.

Section 5. Right of Prior Redemption. The City reserves the right to redeem the Note at any time prior to its maturity, without

premium or penalty, at par plus accrued interest to the date of redemption.

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

UNITED STATES OF AMERICA

NO. _____

\$560,000

STATE OF ALASKA

CITY OF HOMER

WATER REVENUE REFUNDING BOND ANTICIPATION NOTE, 1989

The City of Homer, Alaska (the "City"), a municipal corporation organized and existing under and by virtue of the laws of the State of Alaska, hereby acknowledges itself indebted and for value received promises to pay to bearer, on the 1st day of June, 1989, the principal sum of FIVE HUNDRED SIXTY THOUSAND DOLLARS (\$560,000) together with interest thereon from the date hereof at a rate equal to 9.2% per annum, payable on maturity, or on the date of prepayment, or until such principal sum shall have been paid or payment duly provided for. Interest shall be calculated on the basis of a 360-day year with twelve 30-day months.

Both principal of and interest on this note are payable solely from the proceeds of the Water Revenue Refunding Bonds, 1989 or refunding bond anticipation notes to be issued by the City. Payment shall be made to the holder hereof at the office of the Finance Director in Homer, Alaska. Reference is made to Resolution No. 89-43 of the City (the "Note Resolution") for definitions of other defined terms used herein.

The City has reserved the right to redeem this Note at any time prior to its scheduled maturity, without premium or penalty, at par plus accrued interest to the date of redemption.

The City has designated this note as a qualified tax-exempt obligation under Section 265(b) of the Internal Revenue Code of 1986.

The City hereby covenants with the holder of this note that it will issue the Water Revenue Refunding Bonds, 1989 or refunding

bond anticipation notes in an amount sufficient to pay the principal of and interest on this note when due and will thereupon redeem this note. This note is not a general obligation of the City and is not payable otherwise than as stated herein.

It is hereby certified and declared that this note is issued pursuant to and in strict compliance with the Constitution and laws of the State of Alaska and the duly adopted code and resolutions of the City, and that all acts, conditions and things required to have happened, been done, and performed precedent to and in the issuance of this note have happened, been done, and performed.

IN WITNESS WHEREOF, Homer, Alaska, has caused this note to be executed on behalf of the City by its Mayor, to be attested by the City Clerk and the official seal of the City to be impressed hereon this ____ day of May, 1989.

HOMER, ALASKA

By _____
Mayor

ATTEST:

City Clerk

(S E A L)

Section 7. Execution of the Note. The Note shall be signed on behalf of the City by the Mayor, shall be attested by the City Clerk, and shall have the official seal of the City impressed thereon.

Section 8. Application of Proceeds of Sale of the Note. There has heretofore been created a special fund of the City known as the 1975 Water Revenue Bond Redemption Fund (The "1975 Bond Fund"). From the proceeds of the sale of the Note, an amount sufficient to redeem the outstanding 1975 Bonds on May 9, 1989 shall be deposited in the 1975 Bond Fund and used to pay the cost of redseming the 1975 Bonds. The remainder of the proceeds,

if any, of the sale of the Note shall be deposited in the Revenue Fund and used to pay the costs of issuing the Note.

Section 9. Sale of the Note. The sale of the Note to Security Pacific Bank Alaska, N.A. of Anchorage, Alaska, in accordance with its written offer dated May 8, 1989 and this ordinance, is hereby authorized and approved.

The appropriate City officials are hereby authorized and directed to do everything necessary for the prompt issuance, execution and delivery of the Note and for the proper application and use of the proceeds thereof.

Section 10. Lost or Destroyed Note. In case the Note authorized by this resolution shall be lost, stolen or destroyed, the City may execute and the Finance Director of the City may deliver a new note of like amount, date, and tenor to the holder thereof upon the holder's paying the expenses and charges of the City in connection therewith, and upon his filing with the Finance Director of the City evidence satisfactory to said Finance Director that the note was actually lost, stolen or destroyed and of his ownership thereof, and upon furnishing the City with indemnity satisfactory to the Finance Director.

Section 11. Note Not Arbitrage Bond; Not Private Activity Bond. The City covenants and agrees that throughout the term of the Note no part of the proceeds of the Note or any other moneys or obligations held under this resolution shall at any time be used for any purpose or invested in such a manner, nor shall the

City take any other action, that would cause the Note to be (i) an "arbitrage bond" under the Internal Revenue Code of 1986, as amended (the "Code") or (ii) a "private activity bond" under the Code.

The City hereby designates the Note as a "qualified tax-exempt obligation" under Section 265(b) of the Code. The City does not expect to issue tax-exempt obligations in an aggregate principal amount in excess of five million dollars during calendar year 1989.

Section 12. Severability. If any one or more of the covenants or agreements provided in this resolution to be performed on the part of the City 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 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 13. Prior Acts. Any act taken pursuant to the authority of this resolution but prior to its effective date is hereby ratified and confirmed.

Section 14. Effective Date. This resolution shall become effective immediately upon its adoption and approval.

PASSED by the City Council this 8th day of May, 1989.

HOMER, ALASKA

BY John P. Callahan
Mayor

ATTEST:

Pete J. White
City Clerk

