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**CITY OF HOMER  
HOMER, ALASKA**

City Manager

**RESOLUTION 15-081(S)**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, CONFIRMING THE ASSESSMENT ROLL FOR CONDOMINIUM UNITS IN THE HOMER NATURAL GAS DISTRIBUTION SPECIAL ASSESSMENT DISTRICT, AND ESTABLISHING DELINQUENCY, PENALTY AND INTEREST PROVISIONS FOR THOSE SPECIAL ASSESSMENTS.

WHEREAS, Council adopted Ordinance 13-02 on February 11, 2013 creating the City of Homer Natural Gas Distribution Special Assessment District (“District”); and

WHEREAS, The actual costs of the improvement, including construction cost and the amounts required for administrative costs, bond counsel fees, reserves and related costs are \$3,237.14 per parcel; and

WHEREAS, By Resolution 15-017, adopted March 23, 2015, the City confirmed the assessment roll for the District; and

WHEREAS, On April 3, 2015, the Superior Court in *Castner v. City of Homer, et al.*, Case No. 3HO-13-00038CI, ruled that the City’s method of assessing condominium units in the District was unlawful, and the Alaska Supreme Court denied a Petition for Review of this ruling; and

WHEREAS, The City has prepared a new assessment roll for condominium units in the District, with assessments that comply with the Superior Court’s decision; and

WHEREAS, All record owners of condominium units in the District were mailed notice of their assessments, of the right to object to the assessments, and of notice of a public hearing on the assessment roll to be held on September 14, 2015, not less than 15 days before the hearing; and

WHEREAS, The Council held a public hearing on the assessment roll on September 14, 2015, at which time all the written objections to the assessment roll were considered and all persons present who objected in writing were given the opportunity to be heard; and

WHEREAS, The Council has corrected all errors and inequalities in the assessment roll, and finds that the assessment roll should be confirmed.

43 NOW, THEREFORE, BE IT RESOLVED, that the final assessment roll for condominium  
44 units in the District as presented by the City Clerk and reviewed and corrected where  
45 necessary, which is attached hereto as Attachment A, is hereby confirmed as the official  
46 assessment roll for condominium units in the Homer Natural Gas Distribution Special  
47 Assessment District and the Mayor and Clerk are authorized and directed to sign the same.  
48

49 BE IT FURTHER RESOLVED that in accordance with HCC 19.04.090, the City shall  
50 prepare assessment statements for all assessed condominium units in the District, which  
51 shall be submitted to the Superior Court for approval as provided in the Stipulated Motion for  
52 Stay in *Castner v. City of Homer, et al.* Upon the Superior Court's approval of the assessment  
53 statements, the City Manager shall fix the due date for assessment payments, which shall not  
54 be earlier than the time specified in HCC 19.04.090 nor later than 90 days after the Superior  
55 Court's approval.  
56

57 BE IT FURTHER RESOLVED that on or before 5:00 p.m. on the due date fixed by the City  
58 Manager for assessment payments, all assessments of condominium units in the Homer  
59 Natural Gas Distribution Special Assessment District shall become due and payable in full. An  
60 optional installment payment plan is offered whereby any assessment of a condominium unit  
61 in an amount exceeding \$405.27 may be paid in yearly installments of principal plus interest  
62 of four percent (4%) per annum on the unpaid balance of the assessment, with each  
63 installment of principal plus interest being equal to the lesser of \$405.27 and the amount of  
64 the outstanding principal of the assessment plus accrued interest. The first such installment  
65 shall be due and payable on or before 5:00 p.m. on the due date fixed by the City Manager for  
66 assessment payments, with interest accrued from July 1, 2015 to the due date, and each  
67 installment thereafter shall be due on or before July 1 of each year. The outstanding balance  
68 of an assessment, plus accrued interest, may be prepaid at any time. If payment in full of any  
69 annual installment payment is not received when due, the entire outstanding principal  
70 amount of the assessment shall be in default and shall be immediately due and payable. The  
71 entire outstanding assessment principal (including the annual installment) shall have added  
72 a penalty of ten percent (10%) on the outstanding principal. The principal and penalty shall  
73 draw interest at the rate of ten and one half percent (10.5%) per annum until paid. Should  
74 default occur, the City of Homer will institute a civil action for a foreclosure of the assessment  
75 lien. Foreclosure shall be against all property on which assessments are in default. All costs,  
76 including collection and legal fees resulting from such action, shall be added and  
77 incorporated into the assessed amount due plus interest and penalties and shall be  
78 reimbursed from the proceeds of foreclosure sale of the assessed real property.  
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80 PASSED AND ADOPTED by the Homer City Council on this 14<sup>th</sup> day of September 2015.  
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CITY OF HOMER  
*Mary E. Wythe*  
MARY E. WYTHE, MAYOR

ATTEST:

*Jo Johnson*  
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JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A