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**CITY OF HOMER
HOMER, ALASKA**

City Manager

ORDINANCE 16-03(S)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA AMENDING ORDINANCE 13-03(S)(2) TO STATE THE ACTUAL PRINCIPAL AMOUNT OF, AND CHANGE THE PAYMENT DATES FOR, THE NATURAL GAS DISTRIBUTION SPECIAL ASSESSMENT BOND AUTHORIZED BY ORDINANCE 13-02, AND AUTHORIZING AN AMENDMENT TO THE LOAN AGREEMENT BETWEEN THE CITY AND THE KENAI PENINSULA BOROUGH REGARDING THE BOND.

WHEREAS, By Ordinance 13-03(S)(2), adopted February 25, 2013, the City authorized the issuance of a Natural Gas Distribution Special Assessment Bond ("Bond") in the principal amount of not to exceed \$12,700,000, and the execution and delivery of a Loan Agreement between the City and the Kenai Peninsula Borough ("Borough") regarding the Bond; and

WHEREAS, All advances that will be made under the Loan Agreement have been made, the aggregate amount of such advances is \$12,359,388, and such amount may be documented by issuing a new bond to the Borough in exchange for the original Bond; and

WHEREAS, By Resolution 15-017, adopted March 23, 2015 the City confirmed the assessment roll for the Homer Natural Gas Distribution Special Assessment District ("District"); and

WHEREAS, Due to delays in the assessment process, the first assessment payments were due on September 1, 2015, and subsequent assessment installment payments will be due on July 1 of each year; and

WHEREAS, As of the September 1, 2015 assessment payment date, the City had made a payment of principal and interest on the Bond to the Borough from assessment payments received by the City as of that date; and

WHEREAS, To allow prompter payments under the Loan Agreement the due date for installment payments on the Bond should be changed from April 1 to September 1 commencing with the installment payment that is due in 2016.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Section 2 of Ordinance 13-03(S)(2) is amended to read as follows (added language is underlined; deleted language is stricken through):

43 For the purpose of providing the funds necessary to pay the costs of designing and
44 constructing the Improvement, to pay interest on the Bond during the construction of the
45 Improvement, the funding of the reserves required herein, and to pay all costs incidental
46 thereto and to the issuance of the Bond, the City shall issue the Bond in a principal amount
47 equal to the aggregate amount of the advances that the Registered Owner makes to the City
48 for such purposes, which is \$12,359,388.

49
50 Section 2. The second paragraph of Section 4 of Ordinance 13-03(S)(2) is amended to
51 read as follows (added language is underlined; deleted language is stricken through):

52
53 The Bond shall bear interest from its date at a rate of Four Percent (4.0%) per annum,
54 and shall be payable in two payments of interest only on the 1st days of April 2014 and 2015, a
55 payment of principal and interest that was received by the Borough as of the September 1,
56 2015 assessment due date, and nine equal annual installments of principal and interest,
57 commencing on the 1st day of September 2016 and continuing on September 1 of each year
58 thereafter, until September 1, 2024 when the remaining principal balance of the Bond, plus
59 accrued interest, shall be due and payable. Interest will be computed on the basis of a 360-
60 day year.

61
62 Section 3. The first paragraph of the form of the bond in Section 7 of Ordinance 13-
63 03(S)(2) is amended to read as follows (added language is underlined; deleted language is
64 stricken through):

65
66 The City of Homer (the "City"), a municipal corporation of the State of Alaska,
67 acknowledges itself indebted and for value received promises to pay (but only out of the
68 sources mentioned herein) to the Registered Owner identified above, or its registered assigns,
69 a principal amount equal to the aggregate amount of the advances that the Registered Owner
70 makes to the City to pay the costs of designing and constructing the Improvement, to pay
71 interest on the Bond during the construction of the Improvement, the funding of the reserves
72 required herein, and to pay all costs incidental thereto and to the issuance of the Bond, which
73 is Twelve Million Three Hundred Fifty Nine Thousand Three Hundred Eighty Eight Dollars
74 (\$12,359,388), together with accrued interest on the outstanding principal amount of this
75 Bond at a rate of Four Percent (4.0%) per annum. This Bond is payable in two payments of
76 interest only on the 1st days of April 2014 and 2015, a payment of principal and interest that
77 was received by the Borough as of the September 1, 2015 assessment due date, and nine
78 equal annual installments of principal and interest, commencing on the 1st day of September
79 2016 and continuing on September 1 of each year thereafter, until September 2024, when the
80 remaining principal balance of the Bond, plus accrued interest, shall be due and payable.
81 Both principal of and interest on this Bond shall be payable in any lawful money of the United
82 States of America which at the time of payment is legal tender for the payment of public and
83 private debts. Interest on this Bond shall be computed on the basis of a 365-day year.
84 Installments of principal and interest on this Bond shall be paid at the office of the Registered

85 Owner in Soldotna, Alaska, or at the option of the Registered Owner at the office of the
86 Treasurer of the City in Homer, Alaska

87

88 Section 4. The third paragraph of the form of the bond in Section 7 of Ordinance 13-
89 03(S)(2) is amended to read as follows (added language is underlined; deleted language is
90 stricken through):

91

92 This Bond is issued pursuant to Chapter 46, Title 29 of the Alaska Statutes and
93 Ordinance 13-03(S) of the City duly and regularly adopted February 25, 2013, for the purpose
94 of providing funds to pay the costs of designing and constructing a natural gas distribution
95 system (the "Improvement") in the City of Homer Natural Gas Distribution Special
96 Assessment District, and is the single registered Bond entitled \$12,359,388 City of Homer
97 Natural Gas Distribution Special Assessment Bond, 2013.

98

99 Section 5. The amended Bond shall be executed in the name of the City by the
100 signature of the Mayor, and its corporate seal shall be impressed or otherwise reproduced
101 thereon and attested by the signature of the City Clerk.

102

103 Section 6. The City Manager is hereby authorized to execute the Second Amendment
104 to Loan Agreement, in substantially the form presented at this meeting, but with such
105 changes, modifications, additions and deletions therein as she shall deem necessary,
106 desirable or appropriate, the execution thereof to constitute conclusive evidence of approval
107 of any and all changes, modifications, additions or deletions therein from the form and
108 content of said document now before this meeting. The City Manager also is hereby
109 authorized to deliver the amended Bond to the Kenai Peninsula Borough in exchange for the
110 original Bond.

111

112 Section 7. This Ordinance is not permanent in nature, and shall not be codified.

113

114 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 25th day of January, 2016.

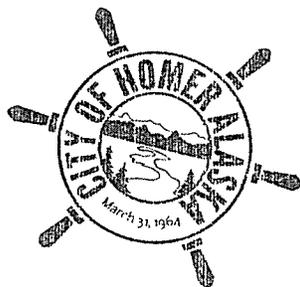
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CITY OF HOMER

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Mary E. Wythe
MARY E. WYTHE, MAYOR

120

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ATTEST:

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124

Jo Johnson
JO JOHNSON, MMC, CITY CLERK

125

126

127 YES: 6
128 NO: 0
129 ABSTAIN: 0
130 ABSENT: 0

131
132

133 First Reading: 1/11/16
134 Public Hearing: 1/25/16
135 Second Reading: 1/25/16
136 Effective Date: 1/26/16

137

138 Reviewed and approved as to form.

139

140 Mary K. Koester
141 Mary K. Koester, City Manager

142

143 Date: 1-28-16

144

145

146 Fiscal Note: NA

Thomas Klinkner, City Attorney

Date: _____