

CITY OF HOMER, ALASKA

ORDINANCE 80-11

AN ORDINANCE of the City of Homer, Alaska, providing for the issuance and sale of a special assessment bond of the City in the principal amount of \$ 44,709.12 for the purpose of providing part of the money required to pay for improvements to the water system in Bay Avenue Water Local Improvement District 78-2; and providing for the date, form, terms and maturity of said special assessment bond.

WHEREAS, the City of Homer, Alaska (hereinafter called the "City"), has created the Bay Avenue Water Local Improvement District 78-2 (hereinafter called "Water L.I.D. 78-2") in the Bay Avenue area of the City in the manner required by law; and

WHEREAS, the assessment roll of the Water L.I.D. 78-2 in the total principal amount of \$ 53,748.35 has been confirmed by Resolution 79-51 of the City, passed on November 27, 1979, in the manner required by law; and

WHEREAS, \$ 9,039.23 of such assessments were paid during the period permitted by law for the payment of assessments without penalty, interests or costs; and

WHEREAS, it is necessary that the City issue its special assessment bond in the total principal sum of \$ 44,709.12 in order to provide part of the money necessary to pay the costs incurred in the construction, acquisition and installation of improvements to the water system within the area of Water L.I.D. 78-2; and

WHEREAS, the City has heretofore entered into an agreement with the United States of America acting through its Farmers Home Administration whereby the United States agreed to purchase such bond to be issued; and

WHEREAS, the City deems it advisable and in the best interest of the City that its special assessment bond be issued and sold to the Farmers Home Administration with privilege of registration.

NOW THEREFORE, THE CITY OF HOMER, ALASKA ordains as follows:

Section 1. Definitions. As used in this Ordinance the following words shall have the following meanings:

a. The word "Assessments" means the amounts levied as special assessments against the properties in Water L.I.D. 78-2 specially benefited by the Project. Assessments shall include installments thereof and interest and penalties thereon.

b. The word "Bond" means the special assessment bond of the City in the principal amount of \$ 44,709.12 , the issuance and sale of which is authorized herein.

c. The word "City" means the City of Homer, Alaska, a municipal corporation duly organized and existing in the State of Alaska.

d. The words "City Code" mean the published codification of ordinances of the City, adopted, and maintained as required by Ordinance 1-100 of the City Council.

e. The words "City Council" means the legislative body of the City as the same shall be duly constituted from time to time.

f. The word "Government" means the Farmers Home Administration of the United States Department of Agriculture.

g. The words "Guarantee Fund" mean the special assessment district guarantee fund of the City established by Section 13.200.209 of the City Code for the purpose of guaranteeing the payment of the principal of all special assessment bonds of the City, interest coupons pertaining thereto, and warrants issued upon any special assessment district funds.

h. The words "Payment Dates" mean the days of year each on which the interest on and installments of principal of the Bond are payable. The Payment Dates shall be the annual anniversary date of the day of delivery of the Bond to the initial purchaser thereof.

i. The word "Project" means the plan of improvements to the water system of the City authorized by Resolution 78-35 to be constructed, acquired and installed in Water L.I.D. 78-2.

j. The word "Water L.I.D. 78-2" means the Bay Avenue Water Local Improvement District Water L.I.D. 78-2, located within the Bay Avenue area of the City and duly created by Resolution 78-35 of the City Council.

k. The words "Special Assessment Fund" mean the Bay Avenue Water Local Improvement District 78-2 Fund created by Section 9 of this ordinance.

Section 2. Authorization of Bond. For the purpose of providing part of the funds necessary to pay the costs of the Project and incidental to the issuance of the Bond, the City shall issue and sell its special assessment bond in the principal amount of \$ 44,709.12.

Section 3. Description of the Bond. The Bond shall be designated "Bay Avenue Water Local Improvement District 78-2, City of Homer, Alaska Bond, 1980," shall be dated as of the date of delivery to the Government, shall be issued in the form of a single bond numbered R-1 in the principal sum of \$ 44,709.12, shall be fully registered, shall bear interest on unpaid installments payable annually on the Payment Dates (commencing on the first such day following delivery of the Bond) in each year at the rate of 5% per annum and shall mature in installments on the Payment Dates in each year as follows:

<u>Years</u>	<u>Amounts</u>
1981	\$ 1,000.00
1982	1,000.00
1983	1,000.00
1984	1,000.00
1985	1,000.00
1986	1,000.00
1987	1,000.00
1988	1,000.00
1989	1,000.00
1990	1,000.00
1991	1,000.00
1992	33,709.12

Both principal of and interest on the Bond shall be payable in lawful money of the United States of America at the Office of the City Treasurer of the City of Homer; provided, however, that so long as the Government is the owner and holder of the Bond, payments of principal and interest shall be made by the Treasurer of the City directly to the Government at its office serving the City of Homer area.

Section 4. Execution of Bond. The Bond shall be signed on behalf of the City by the Mayor of the City and shall be attested by the City Clerk. The Bond shall have the seal of the City impressed thereon.

Section 5. Prepayment Privileges. The City hereby reserves the right to prepay, without penalty or premium, all or any portion of the unpaid principal installment of the Bond in Chronological order on any interest payment date.

Section 6. Prepayment Notice. Notice of any such intended prepayment shall be given by the City Treasurer by one publication thereof in a newspaper of general circulation in the City not more than thirty nor less than ten days prior to said prepayment; provided, however, that so long as the Bond is held by the Government, notice of prepayment shall not be required.

Section 7. Form of Bond. The Bond and the certificate of registration to be endorsed thereon shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. R-1

\$ 44,709.12

STATE OF ALASKA

CITY OF HOMER

BAY DRIVE WATER LOCAL IMPROVEMENT DISTRICT, 78-2 BOND, 1980

The City of Homer, Alaska (hereinafter called the "City"), a municipal corporation of the State of Alaska, acknowledges itself indebted and for value received promises to pay to the Farmers Home Administration, United States Department of Agriculture, or its successor (hereinafter sometimes called the "Payee"), or its registered assignees

(hereinafter sometimes called the "Alternate Payee"), the principal sum of

Forty Four Thousand Seven Hundred Nine 12/100-----DOLLARS

in the following installments at the following times:

<u>Years</u>	<u>Amounts</u>
1981	\$ 1,000.00
1982	1,000.00
1983	1,000.00
1984	1,000.00
1985	1,000.00
1986	1,000.00
1987	1,000.00
1988	1,000.00
1989	1,000.00
1990	1,000.00
1991	1,000.00
1992	33,709.12

in lawful money of the United States of America, with interest on the balance of said principal from time to time remaining unpaid from the date hereof at the rate of 5% per annum payable annually on the anniversary date of the day of delivery of the Bond to the initial Payee, commencing on the first such day following delivery hereof until all of such principal installments have been paid or such payment has been duly provided for.

So long as the payee is the registered owner of this bond, payments of principal and interest shall be made by the Treasurer of the City of Homer, Alaska, directly to the Payee at the office of the Farmers Home Administration serving the City of Homer, Alaska area. So long as an Alternate Payee is the registered owner hereof, said payments shall be made at the office of the Treasurer of the City of Homer, Alaska.

Upon final payment of the principal and interest, this bond shall be submitted to the City for cancellation and surrender.

Both principal of and interest on this bond are payable solely out of the special fund of the City known as the "Bay Avenue Water Local Improvement District 78-2 Fund," (herein called the "Bond Fund") created by Ordinance 80-9 of the City (herein called the "Bond Ordinance") and the special assessment district guarantee fund of the City created by Section 13.200.209 of the City Code.

The City hereby reserves the right on any principal payment date to prepay any or all of the unpaid principal amount of this bond. Notice of any such optional prepayment shall be given at least thirty days prior to the prepayment date by mailing to the registered owner of this bond a notice fixing such prepayment date, and the amount of the principal to be prepaid; provided that so long as this bond is held by the Payee, such advance notice shall not be required.

This bond is secured by special assessments levied in the Bay Avenue Water Local Improvement District 78-2 created by the Resolution 78-35 of the City against properties specially benefited by the improvements to the sanitary water system of the City constructed within said District.

Section 13.200.205 of the City Code of Homer, Alaska provides as follows:

"Neither the holder nor the owner of this bond shall have any claim therefor against the City of Homer, Alaska, except for payment from the special assessments made for the improvements for which this bond was issued and except for payment from the special assessment district guarantee fund of the City. The remedy of the holder or owner of this bond in case of nonpayment shall be confined to the enforcement of such assessments and to said guarantee fund. The City shall not be liable to the holder or owner of this bond or warrant for any loss to the said guarantee fund occurring in the lawful operation thereof."

The sources of funds which secure this bond are set forth with particularity in the Bond Ordinance. Reference is made to the Bond Ordinance for a complete statement of the covenants and obligations of the City with regard to this bond and security therefor.


The City hereby covenants and agrees with the owner and holder of this bond that it will keep and perform all of the covenants of this bond and of the Bond Ordinance to be by it kept and performed.

This bond may be assigned, and upon such assignment, the assignor shall promptly notify the Treasurer of the City by registered mail.

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

IN WITNESS WHEREOF, the City of Homer, Alaska, has caused this bond to be signed by its Mayor, to be attested by its Clerk and the corporate seal of the City to be impressed hereon, the 11<sup>th</sup> day of March, 1980.

CITY OF HOMER, ALASKA

By   
Mayor

ATTEST:

  
Clerk

REGISTRATION CERTIFICATE

This bond is registered in the name of the holder on the books of the City in the office of the Treasurer of the City of Homer, Alaska, as to both principal and interest as noted in the registration blank below. No transfer hereof shall be valid unless made by the registered owner or his duly authorized agent, in writing, and similarly noted hereon. All payments of principal of and interest on this bond shall be made by the City with full acquittance by the check of the Treasurer of the City of Homer, Alaska, or by warrant of the City drawn on the Treasurer of the City, made payable to the last registered holder shown hereon and delivered to such holder or mailed to him at his address noted hereon.

<u>Date of Registration</u>	<u>Name and Address of Registered Holder</u>	<u>Signature of Registrar</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

A fully registered bond shall have endorsed thereon the following form of assignment:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned registered owner thereof hereby sells, assigns and transfers the within bond to \_\_\_\_\_.

DATED \_\_\_\_\_, 19\_\_\_\_.

In the presence of:

(Repeat this form of assignment.)

Section 8. Transfer of the Bond. The Bond may be transferred by the registered owner thereof, provided that such transfer relates to the entire unpaid principal amount of the Bond, and any such transfer shall be noted on the bond registration book of the City in the office of the Treasurer of the City of Homer, Alaska.

Section 9. Source of Funds for Repayment of Bonds. The principal of and interest on the Bond shall be payable solely from the Assessments and from the Guarantee Fund. The Special

Assessment Fund shall constitute a fund for the payment of the principal of and interest on the Bond. The Assessments shall be collected by the Treasurer of the City, shall be deposited in the following special funds of the City and shall be used solely for the purposes specified herein.

A. Special Assessment Fund.

There is hereby created a special fund of the City to be known as the Bay Avenue Water Local Improvement District 78-2 Fund, (herein referred to as "Special Assessment Fund") which fund shall be used for no purpose other than redemptions and retirement of warrants or notes and the Bond issued by the City to pay the cost of carrying out the improvements within Water L.I.D. 78-2. The City Treasurer shall deposit into the Special Assessment Fund the Assessments collected and the proceeds received on the sale of the Bond. Amounts in the Special Assessment Fund shall be expended and used only for the following purposes and in the following order of priority:

- (1) Redemption of warrants or notes drawn upon the Special Assessment Fund;
- (2) Payment of the costs of the Project;
- (3) Payments of the principal of and interest on the Bond; and
- (4) Payments to the Guarantee Fund, but only after all costs of the Project have been paid, all warrants and notes on said Fund and the principal of and interest on the Bond have been paid.

B. Guarantee Fund.

There has heretofore been created a Guarantee Fund for the purpose of guaranteeing the payment of the principal of all special assessment bonds, interest coupons pertaining thereto, and warrants issued upon any special assessment district funds. The City hereby covenants that the Guarantee Fund shall be kept



separate from all other money and funds of the City; shall be held in trust for the uses and purposes herein provided.

(1) Deposits in the Guarantee Fund. The City hereby further covenants that within five years from the date of delivery if prior to the issuance of the Bond it will deposit in the Guarantee Fund an amount so that the total funds on hand in the Guarantee Fund, shall not be less than five percent of the total of the principal amounts of the Bond and other special assessment bonds of the City then outstanding. Said deposits may consist in whole or in part of the proceeds of an interfund loan of the City; provided, however, that said loan shall not be required to be repaid if, after such repayment, the balance in the Guarantee Fund would be less than the minimum required by Section 13.200.201 of the City Code or required by the covenants of this ordinance. Any monies paid out of the Guarantee Fund to redeem special assessment district bonds, coupons pertaining thereto, or warrants, shall be replaced by the City as soon as possible out of any legally available sources.

(2) Uses of the Guarantee Fund. Amounts in the Guarantee Fund shall be used to purchase, in the order presented, defaulted special assessment bonds of the City, interest coupons pertaining thereto and special assessment fund warrants of the City.

Upon a payment of any sum from the Guarantee Fund, the City, as trustee of said Fund, shall be subrogated to all the rights of the owner or holder of such bond, interest coupon or warrant so paid, and the proceeds thereof or underlying assessments shall become a part of said Guarantee Fund.

Section 10. Nonliability of the City. Section 13.200.205 of the City Code specifies as follows:

"Neither the holder nor the owner of any Bond shall have any claim therefor against the City except for payment from the Assessments made for the Project and except for payment from the Guarantee Fund of the City.

The City shall not be liable to the holder or owner of the Bond for any loss to the Guarantee Fund occurring in the lawful operation thereof."

Section 11. Security of the Bondholder. The Assessments on the respective properties in Water L.I.D. 78-2 constitute a first lien prior and paramount to all liens, except City real property tax liens, upon said properties from the time of passage of Resolution 79-51, confirming the assessment roll on said properties, and the lien is of the same character, effect and duration as a lien for City real property taxes.

The City hereby covenants that it will collect and foreclose such liens for Assessments in Water L.I.D. 78-2 in accordance with the procedures provided in Title 29 of Alaska Statutes for the collection, foreclosure and enforcement of municipal tax liens on real property. Such lien is hereby additionally pledged to secure payment of the principal of and interest on the Bond, and shall be enforceable in default of said payment by the registered owner of the Bond in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property.

The City hereby further covenants with respect to City owned lots included in Water L.I.D. 78-2 that it shall levy and collect taxes sufficient to pay the assessments against the City owned lots when due and hereby pledges the full faith and credit of the City that such assessments will be paid when due into the Special Assessment Fund.

Section 12. Defeasance. In the event that money, and/or direct obligations of the United States of America maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to redeem and retire the Bond in accordance with its terms, are set aside in the Special Assessment Fund to effect such redemption and retirement, and such money and/or 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 Special Assessment Fund for the payment of principal of and interest on the Bond, and the Bond shall 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 the Bond shall be deemed not to be outstanding hereunder.

Section 13. Sale of the Bond. The Bond shall be sold to the Government on the terms and conditions specified herein.

Section 14. Approval of the Project. The appropriate official of the City is hereby directed to provide the Government with evidence as requested by the Government that the completed Project is acceptable to all regulatory agencies.

Section 15. Easements and Rights of Way. The City hereby covenants that it has obtained all lands, rights-of-way, easements, permits and franchises required for and to complete the Project. The appropriate official of the City is hereby authorized to execute on behalf of the City the following forms for the purpose of providing satisfactory evidence to the Government of such action: Form FmHA 442-20, "Rights-of-Way Easement;" Form FmHA 442-21, "Right-of-Way Certificate;" and Form FmHA 442-22, "Opinion of Counsel Relative to Rights-of-Way." Such official is further authorized to execute additional documents that may be required by the Government relative to the granting of easements over private lands in Water L.I.D. 78-2.

Section 16. Equal Opportunity for Employment. The appropriate official of the City is hereby authorized and directed to execute for and on behalf of the City Form FmHA 400-1, entitled "Equal Opportunity Agreement," to which is attached an "Equal Opportunity Clause" which shall apply to each construction contract involving \$10,000 or more.

Section 17. Non-Discrimination. The appropriate official of the City is hereby also authorized and directed to execute on

behalf of the City Form FmHA 400-4, entitled "Non-Discrimination Agreement" (under Title IV, Civil Rights Act of 1964).

Section 18. Ordinance As Contract. The provisions of this Ordinance shall constitute a contract between the City and the Government so long as any portion of the Bond remains unpaid.

CITY OF HOMER, ALASKA

By  \_\_\_\_\_  
MAYOR

ATTEST:

 \_\_\_\_\_  
Clerk

FIRST READING 2/25/80

PUBLIC HEARING 3/10/80

SECOND READING 3/10/80

EFFECTIVE DATE 3/11/80