

CITY OF HOMER  
HOMER, ALASKA

ORDINANCE NO. 81-15

AN ORDINANCE OF THE CITY OF HOMER, IRREVOCABLY PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE OUTSTANDING GENERAL OBLIGATION WATER BOND, 1974 OF THE CITY AND THE GENERAL OBLIGATION BOND, 1976 OF THE CITY; ESTABLISHING A PLAN FOR THE DEFEASANCE OF ALL SUCH BONDS AND PROVIDING FOR THE IMPLEMENTATION OF SUCH PLAN.

WHEREAS, the City of Homer, Alaska (hereinafter called the "City"), by Ordinance No. 74-8 authorized the issuance of \$1,100,000 principal amount of its General Obligation Water Bonds, 1974 (hereinafter called the "1974 Bonds") for the purpose of providing funds to pay a portion of the cost of constructing, repairing, improving, extending and making improvements and additions to the City's water system; and

WHEREAS, the City of Homer, by Ordinance No. 76-18 authorized the issuance of \$410,000 principal amount of its General Obligation Bonds, 1976 (hereinafter called the "1976 Bonds") for the purpose of providing funds to pay the cost of constructing and equipping a public safety building; and

WHEREAS, Section 11 of Ordinance 74-8 provides that as long as any of the 1974 Bonds are outstanding and unpaid, the City will levy and collect ad valorem taxes in amounts sufficient together with all other money paid into the bond redemption fund created thereby to pay the principal of and interest on the 1974 Bonds as the same shall become due and payable; and

WHEREAS, Section 9 of Ordinance 76-18 provides that in the event that money and/or Government Obligations, maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to redeem and retire the 1976 Bonds in accordance with their terms are set aside in a special account to effect such redemption or retirement and such money and the principal of and interest on such Government Obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund for the payment of the principal of and interest on the 1976 Bonds and they shall cease to be entitled to any lien, benefit or security of that ordinance except the right to receive the funds so set aside and pledged, and shall be deemed not to be outstanding thereunder; and

WHEREAS, it is desirable for the City to provide for the payment of all of the outstanding 1974 Bonds and 1976 Bonds.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Homer, Alaska as follows:

Section 1. The City shall provide for the payment of the principal of and interest on all of the outstanding 1974 Bonds and the 1976 Bonds. The bonds so provided for are more specifically described as follows and are hereinafter referred to as the "Defeased Bonds."

1974 BONDS

<u>Bond Nos.</u>	<u>Maturity Years</u>	<u>Amounts</u>	<u>Interest Rate</u>
1-2	1977	\$10,000	5%
3-4	1978	10,000	5%
5-6	1979	10,000	5%
7-8	1980	10,000	5%
9-10	1981	10,000	5%
11-13	1982	15,000	5%
14-16	1983	15,000	5%
17-19	1984	15,000	5%
20-22	1985	15,000	5%
23-25	1986	15,000	5%
26-28	1987	15,000	5%
29-32	1988	20,000	5%
33-36	1989	20,000	5%
37-40	1990	20,000	5%
41-44	1991	20,000	5%
45-48	1992	20,000	5%
49-53	1993	25,000	5%
54-58	1994	25,000	5%
59-63	1995	25,000	5%
64-68	1996	25,000	5%
69-73	1997	25,000	5%
74-79	1998	30,000	5%
80-85	1999	30,000	5%
86-91	2000	30,000	5%
92-98	2001	35,000	5%
99-105	2002	35,000	5%
106-112	2003	35,000	5%
113-120	2004	40,000	5%
121-128	2005	40,000	5%
129-136	2006	40,000	5%
137-145	2007	45,000	5%
146-154	2008	45,000	5%
155-164	2009	50,000	5%
165-174	2010	50,000	5%
175-185	2011	55,000	5%
186-196	2012	55,000	5%
197-208	2013	60,000	5%
209-220	2014	60,000	5%

1976 BONDS

<u>Maturity Year</u>	<u>Amounts</u>	<u>Interest Rate</u>
1977	\$30,000	8.00%
1978	30,000	8.00%
1979	35,000	8.00%
1980	35,000	6.55%
1981	40,000	5.00%
1982	40,000	5.20%
1983	50,000	5.40%
1984	50,000	5.60%
1985	50,000	5.80%
1986	50,000	6.00%

Section 2. There is hereby created a special account within the 1974 General Obligation Water Bond Redemption Fund to be known as the "1981 Defeasance Account." There is also hereby created a special account within the 1976 General Obligation Bond Redemption Fund to be known as the "1981 Defeasance Account." These defeasance accounts (hereinafter referred to as the "Defeasance Accounts") shall be used solely for the purpose of paying the principal of and interest on the Defeased Bonds.

Section 3. For the purpose of irrevocably providing for the payment of the principal of and interest on the Defeased Bonds, the City shall deposit into the Defeasance Accounts substantially the cash and Government Obligations listed on Exhibit A attached hereto and incorporated by reference herein. The City hereby irrevocably calls for redemption of the 1974 Bonds on January 1, 2011, however, if the United States Treasury Bond bearing interest of 12.75 percent and maturing on January 1, 2010 listed on Exhibit A

is redeemed prior to its maturity then the City hereby irrevocably calls for redemption of the 1974 Bonds on the first January 1 following redemption of such Treasury Bond.

Section 4. The City hereby finds and determines that the cash and Government Obligations to be deposited in the Defeasance Accounts are "Government Obligations" and that such cash and Government Obligations will be sufficient to provide money to pay the principal of and interest on all of the Defeased Bonds as the same shall become due. Provision for the payment of the Defeased Bonds having been made by the pledge and deposit within their respective bond funds of cash and direct obligations of the United States of America, the Defeased Bonds shall cease to be outstanding pursuant to the ordinances authorizing their issuance and the covenants of such ordinances shall no longer be applicable to such bonds except that such bonds shall be paid in accordance with their terms from the cash and Government Obligations deposited in the Defeasance Accounts as provided herein.

No additional payments shall be made by the City into the 1974 General Obligation Water Bond Redemption Fund and no further payments shall be made into the 1976 General Obligation Bond Redemption Fund. Upon the irrevocable deposit of substantially the Government Obligations and cash listed on Exhibit A with the Defeasance Agent, all other money remaining in the 1974 General Obligation Water Bond Redemption Fund and the 1976 General Obligation Bond Redemption Fund

shall be deposited in such fund or funds as the Council shall by resolution provide.

Section 5. In order to carry out the provisions of the preceding sections, the City Manager of the City is authorized and directed to negotiate with a bank to act as a Trustee, and to enter into a Defeasance Agent Agreement providing for the irrevocable deposit of substantially the Government Obligations and cash listed on Exhibit A and setting forth the duties, obligations and responsibilities of the Defeasance Agent in connection with the payment of the Defeased Bonds as provided herein. The Defeasance Agent Agreement shall be substantially in the form attached hereto as Exhibit B. In addition, the City Manager is authorized and directed to negotiate with an investment banking firm and to enter into an agreement for the purchase of substantially the Government Obligations listed on Exhibit A and to provide the necessary schedules setting forth the receipts from the Government Obligations and the disbursements to be made for the payment of the principal of and interest on the Defeased Bonds, and the resulting cash balances necessary to be maintained in the Defeasance Account.

Section 6. The City reserves the right to substitute other Government Obligations for the Government Obligations listed on Exhibit A in the event it determines to do so, upon compliance with the following conditions:

A. such substitution is accomplished pursuant to resolution of the City.

B. the Government Obligations to be substituted are "Government Obligations."

C. the substituted Government Obligations are non-callable and bear such interest and mature at such times and in such amounts as to fully replace the Government Obligations withdrawn and such substituted Government Obligations together with remaining Government Obligations and cash are sufficient thereafter for the payment of the principal of and interest on the Defeased Bonds as the same shall become due.

Section 7. Cash balances in the Defeasance Fund shall be invested in the manner set forth in the Defeasance Agent Agreement.

Section 8. The City Manager of the City is hereby authorized and directed to take such other actions and execute such other documents as may be required to effect the Defeasance of the Defeased Bonds as provided herein.

CITY OF HOMER, ALASKA

By

  
\_\_\_\_\_  
Mayor

ATTEST:

  
  
\_\_\_\_\_  
City Clerk

EXHIBIT A

U.S. GOVERNMENT OBLIGATIONS  
AND/OR CASH

1974 BONDS

<u>Name</u>	<u>Par Amount</u>	<u>Coupon Rate</u>	<u>Maturity</u>
Treasury Bond	\$520,000	12.75%	11/15/2010

1976 BONDS

<u>Name</u>	<u>Par Amount</u>	<u>Coupon Rate</u>	<u>Maturity</u>
Treasury Note	\$45,000	8.00%	8/15/86
Treasury Note	50,000	8.25%	8/15/85
Treasury Note	45,000	13.25%	8/15/84
Treasury Note	40,000	11.875%	8/15/83
Treasury Note	35,000	11.125%	8/31/82
Treasury Note	35,000	9.625%	8/31/82



EXHIBIT B

DEFESANCE AGENT AGREEMENT

THIS AGREEMENT made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 1981, by and between CITY OF HOMER, ALASKA (the "City"), and \_\_\_\_\_ BANK, \_\_\_\_\_, Alaska (the "Defeasance Agent");

W I T N E S S E T H:

Section 1. Recitals. The City has issued its General Obligation Water Bonds (the "1974 Bonds"), in the principal amount of \$1,100,000 pursuant to Ordinance No. 74-8. Pursuant to Ordinance No. \_\_\_\_\_ the City has determined to provide for the payment of all of the outstanding 1974 Bonds. The 1974 Bonds mature and bear interest as follows:

1974 BONDS

<u>Bond Nos.</u>	<u>Maturity Years</u>	<u>Amounts</u>	<u>Interest Rate</u>
1-2	1977	\$10,000	5%
3-4	1978	10,000	5%
5-6	1979	10,000	5%
7-8	1980	10,000	5%
9-10	1981	10,000	5%
11-13	1982	15,000	5%
14-16	1983	15,000	5%
17-19	1984	15,000	5%
20-22	1985	15,000	5%
23-25	1986	15,000	5%
26-28	1987	15,000	5%
29-32	1988	20,000	5%
33-36	1989	20,000	5%
37-40	1990	20,000	5%
41-44	1991	20,000	5%
45-48	1992	20,000	5%
49-53	1993	25,000	5%
54-58	1994	25,000	5%
59-63	1995	25,000	5%
64-68	1996	25,000	5%
69-73	1997	25,000	5%
74-79	1998	30,000	5%
80-85	1999	30,000	5%

1974 BONDS - Continued

<u>Bond Nos.</u>	<u>Maturity Years</u>	<u>Amounts</u>	<u>Interest Rate</u>
86-91	2000	\$30,000	5%
92-98	2001	35,000	5%
99-105	2002	35,000	5%
106-112	2003	35,000	5%
113-120	2004	40,000	5%
121-128	2005	40,000	5%
129-136	2006	40,000	5%
137-145	2007	45,000	5%
146-154	2008	45,000	5%
155-164	2009	50,000	5%
165-174	2010	50,000	5%
175-185	2011	55,000	5%
186-196	2012	55,000	5%
197-208	2013	60,000	5%
209-220	2014	60,000	5%

The City has also issued its General Obligation Bonds, 1976 (the "1976 Bonds"), in the principal amount of \$410,000 pursuant to Ordinance 76-18. Pursuant to Ordinance No.

\_\_\_\_\_ the City has determined to provide for the payment of the 1976 Bonds. The 1976 Bonds to be so provided for mature and bear interest as follows:

1976 BONDS

<u>Maturity Year</u>	<u>Amount</u>	<u>Interest Rate</u>
1977	\$30,000	8.00%
1978	30,000	8.00%
1979	35,000	8.00%
1980	35,000	6.55%
1981	40,000	5.00%
1982	40,000	5.20%
1983	50,000	5.40%
1984	50,000	5.60%
1985	50,000	5.80%
1986	50,000	6.00%

The 1974 Bonds and the 1976 Bonds, are collectively referred to herein as the "Defeased Bonds."

Section 2. Provision for Payment of the Defeased Bonds. To provide for the payment of the principal of and interest on the Defeased Bonds, the City, as set forth in Ordinance No. \_\_\_\_\_ hereby agrees irrevocably to deposit with the Defeasance Agent in trust for the security and benefit of the holders and owners of the Defeased Bonds, certain Government Obligations and cash as set forth in Exhibit A attached hereto and incorporated by reference herein.

On or before the delivery of the Government Obligations, the City agrees that it will cause to be delivered to the Defeasance Agent a schedule setting forth the receipts from the Government Obligations and the disbursements to be made for the payment of the principal of and interest on the Defeased Bonds, and the resulting cash balances necessary to be maintained in the Defeasance Accounts.

Section 3. Disbursements by the Defeasance Agent. The Defeasance Agent shall collect the principal of and interest on the Government Obligations deposited pursuant to this agreement and shall apply the proceeds derived therefrom to the payment of the principal of and interest on the Defeased Bonds as the same shall become due. Moneys shall be transferred by the Defeasance Agent in a timely manner, to the City Treasurer or, at the direction of the City Treasurer to the holders of or the paying agents for the Defeased Bonds in amounts sufficient for the payment of the principal of

and interest on the Defeased Bonds as the same shall become due. The City, pursuant to Ordinance No. \_\_\_\_\_ has irrevocably called for redemption the 1974 Bonds on January 1, 2011, however, if the United States Treasury Bond bearing interest of 12.75 percent and maturing on November 15, 2010 listed on Exhibit A is redeemed prior to its maturity, then the City has irrevocably called for redemption of the 1974 Bonds on the first January 1 following redemption of such Treasury Bond. Upon the maturity or redemption of such Treasury Bond, monies shall be transferred by the Defeasance Agent in a timely manner, to the City Treasurer or, at the direction of the City Treasurer to the holders of or the paying agent for the Defeased Bond in amounts sufficient to redeem the 1974 Bonds.

Section 4. Investment of Funds. Any money deposited with the Defeasance Agent for the benefit of the City, or received by the Defeasance Agent as payments of principal or interest on Government Obligations prior to the time required to make payments of principal or interest on the Defeased Bonds shall be invested and reinvested by the Defeasance Agent, subject to the following conditions:

A. investments shall be limited to "Government Obligations"

B. investments shall mature at or prior to the time which the money invested is required for the payment of principal of or interest on the Defeased Bonds.

C. the Defeasance Agent shall make investments in accordance with instructions, if any, received from the City Treasurer not less than one (1) working day prior to the date funds are to be invested, except that in any case investments must comply with the limitations set forth in subparagraphs A and B above. Instructions from the City Treasurer shall be confirmed in writing. In the event no instruction is received from the City at the time amounts are available for investment, the Defeasance Agent shall invest such amounts in such manner as it may determine (subject to conditions A and B above). In no event shall the Defeasance Agent be liable for failure to obtain optimum investment yields.

Amounts received as investment income as a result of investments made pursuant to this paragraph shall be remitted to the City Treasurer each January 1 and July 1 unless for any reason such amounts shall become necessary for the payment of the principal of or interest on the Defeased Bonds.

Any moneys remaining in the hands of the Defeasance Agent derived from the Government Obligations or the income or proceeds thereof, after payment of all of the Defeased Bonds, shall be paid to the City.

Section 5. Reports and Safekeeping of Government Obligations. For as long as any of the Defeased Bonds are outstanding, on or before the 20th day of each month commencing

with the month of \_\_\_\_\_, the Defeasance Agent shall render a statement as of the last day of the preceding month to the Treasurer of the City, which statement shall set forth the Government Obligations held by the Defeasance Agent, the amounts received by the Defeasance Agent as principal of and interest on Government Obligations, the amount of cash delivered to the City Treasurer or otherwise, and the dates of such delivery, for the payment of the principal of and interest on the Defeased Bonds as the same shall become due and any other transactions of the Defeasance Agent pertaining to its duties and obligations as set forth herein.

All Government Obligations, moneys and investment income deposited with or received by the Defeasance Agent pursuant to this agreement shall be subject to the trust created by this agreement and the Defeasance Agent shall be liable for the preservation and safekeeping thereof. The Defeasance Agent shall not be liable for any depreciation in value of any investments or moneys so deposited with the Defeasance Agent.

Section 6. Duties and Obligations of Defeasance Agent. The duties and obligations of the Defeasance Agent shall be as prescribed by the provisions of his agreement, and the Defeasance Agent shall not be liable except for the performance of its duties and obligations as set forth herein and in Ordinance No. \_\_\_\_\_; and to act in good faith in the performance thereof.

The Defeasance Agent may consult with counsel of its choice and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or not taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

Section 7. Compensation of Defeasance Agent. For services provided in accordance herewith the Defeasance Agent shall be paid the sum of \_\_\_\_\_ at the time of the deposit of the Government Obligations plus an investment fee of \_\_\_\_\_ per annum on the excess cash flow.

CITY OF HOMER, ALASKA

By \_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

BANK

By \_\_\_\_\_