

CITY OF HOMER, ALASKA

ORDINANCE NO. 87- 11

AN ORDINANCE OF THE CITY OF HOMER, ALASKA,
PROVIDING FOR THE ISSUANCE OF \$249,500
SPECIAL ASSESSMENT BONDS FOR THE HEATH STREET
PAVING IMPROVEMENT DISTRICT AND FIXING
DETAILS OF SAID BONDS.

WHEREAS, the Common Council of the City of Homer (the "City") has determined and does hereby determine that there is a need for paving and improving of certain road capital improvements located in the Heath Street Subdivision area in the City (all hereinafter collectively referred to as the "Project") which are complete; and

WHEREAS, a special assessment district has been duly formed and is known as Heath Street Paving Improvement District and special assessments will be levied against properties specially benefited within said special assessment district on account of the Project and said special assessment payments will be sufficient in amount (together with other funds) and available to pay the principal of and interest on the hereinafter defined Bonds; and

WHEREAS, it is deemed necessary and desirable and in the best interests of the City and its inhabitants that \$249,500 principal amount of special assessment bonds be issued at this time in a single series, as hereinafter fixed and determined, for the purpose of paying a portion of the cost of said paving capital improvements which comprise the Project:

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

Section 1. Definitions. In addition to the terms
defined hereinabove, the following terms shall have the following
meanings in the Ordinance and in the Bonds:

(a) "Bond" or "Bonds" shall mean the \$249,500 City
of Homer Special Assessment Bonds, Heath Street Paving
Improvement District, 1987 Series A, issued pursuant to the
Ordinance.

(b) "City" shall mean the City of Homer, a
municipal corporation of the State of Alaska, organized as a
first class city pursuant to Title 29 of the Alaska Statutes.

(c) "Cost" shall mean the cost of constructing and
developing the Project, including interest on the Bonds prior
to and during the period of constructing and developing the
Project, the cost whether incurred by the City or another of
field surveys and advance planning undertaken in connection
with the Project properly allocable to the Project and the
cost of acquisition of any land or interest therein required
as the site of the Project or for use in connection therewith,
the cost of preparation of the site of the Project, the cost
of any indemnity and surety bonds and premiums on insurance
incurred in connection with the Project prior to or during
construction thereof and all related direct administrative and
inspection expenses whether incurred by it or by another in

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connection with the Project prior to or during construction thereof and allocable portions of direct costs of the City; cost of issuance of the Bonds by the City and financing charges and fees and expenses of bond counsel, financial advisors and consultants in connection therewith, costs of audits, the cost of all machinery, apparatus and equipment, cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, the reimbursement of all moneys advanced from whatever source, for the payment of any item or items of cost of the Project, and all other expenses necessary or incident to determining the feasibility or practicability of the Project, and such other expenses not specified herein as may be necessary or incident to the acquisition and development of the Project, the financing thereof and the placing of the same in use and operation.

(d) "Ordinance" shall mean this Ordinance of the City.

Section 2. Authority for Ordinance. The City has ascertained and hereby determines that each and every matter and thing as to which provision is made in this Ordinance is necessary in order to carry out and effectuate the purposes of the City in accordance with the Constitution and statutes of the State of Alaska and the Code of Ordinances of the City, and to incur the indebtedness and issue the Bonds.

Section 3. Purpose and Authorization of Bonds. For the purpose of raising funds to pay a portion of the cost of constructing and developing the Project which is hereby determined to be necessary, special assessment bonds of the City, to be designated "City of Homer Special Assessment Bonds, Heath Street Paving Improvement District, 1987 Series A", shall be issued in the aggregate principal amount of TWO HUNDRED FOURTY-NINE THOUSAND FIVE HUNDRED DOLLARS (\$249,500) as a single issue and sold to Rainier Bank Alaska, N.A. The proceeds of the Bonds shall be used to pay a portion of the cost of certain road capital improvements located in the special assessment district known as Heath Street Paving Improvement District in the City. The Bonds shall be delivered on April 30, 1987 or such other date as shall be agreeable to the City and Rainier Bank Alaska, N.A.

Section 4. Description of the Bonds. The Bonds shall be dated as of the date of delivery, shall initially be in the form of a single fully registered bond in the amount of \$249,500 to Rainier Bank Alaska, N.A. and shall bear interest at 6.975% per annum until January 1, 1988 when the rate shall increase to 7.425% per annum. The principal of the Bonds shall be repaid in quarterly installments, plus interest on the outstanding principal due on the fifteenth day of May, August, November and February, with the first installment due May 15, 1987. Principal payments each quarter shall be determined by calculating the payment including principal and interest necessary to fully amortize the

outstanding principal balances over the remaining term of the Bond. The principal of and interest on the Bonds shall be payable in full on May 15, 1992. The quarterly payments of principal and interest authorized by this ordinance supersedes the annual or semi-annual payment provision of Section 17.08.020 of the Homer City Code.

Section 5. Details of Bonds. The Bonds shall be signed by the manual or facsimile signature of the Mayor, and the official seal of the City (or a facsimile thereof) shall be affixed, imprinted or otherwise reproduced on the Bonds, and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or facsimile of whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery.

Both the principal and redemption price of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal of and interest on the Bonds shall be paid, as hereinabove provided, to Rainier Bank Alaska, N.A. at P.O. Box 7007, 550 West 7th Avenue, Anchorage, Alaska 99501 or its registered assigns. When the payment falls on a Saturday, Sunday

or Holiday, the quarterly payment of principal and interest is payable on the next business day observed.

Section 6. Transfer of Registered Bonds. The registered Bonds may be transferred only upon books of the City kept for the registration and transfer of the Bonds, upon presentation thereof at the office of the City, together with an assignment duly executed by the registered owner or its attorney in such form as shall be satisfactory to the City. Upon the transfer of the registered Bonds, the City shall make notation of such transfer thereon or shall issue a new Bond or Bonds of the same maturity.

The City shall not be required to make any such transfer of the Bonds during the ten (10) days next preceding the quarterly payment date on the Bonds.

Section 7. Ownership of Registered Bonds. The Bonds shall be registered to a named person. The person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of such Bond and the interest on the Bonds shall be made only to or upon the order of the registered owner thereof or his legal representative, but such registration may be changed as hereinabove provided.

All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bonds, including the interest thereon to the extent of the sum or sums so paid.

Section 8. Mutilated, Destroyed, Stolen or Lost Bonds.

In case any Bond shall become mutilated or be destroyed, stolen, or lost, the City may cause to be executed, and delivered, a new Bond of like interest rate, principal amount and maturity in exchange and substitution for and upon cancellation of such mutilated Bond, in lieu of and in substitution for such Bond destroyed, stolen or lost, upon the registered owner paying the reasonable expenses and charges of the City in connection therewith and, in the case of a Bond destroyed, stolen or lost, his filing with the City evidence satisfactory to it that such Bond was destroyed, stolen or lost, and of his ownership thereof, and furnishing the City with indemnity satisfactory to it. Any new Bond so delivered may bear a number differing from the number on the Bond it replaces.

Section 9. Redemption of Bonds. The Bonds are subject to redemption in whole by or on behalf of the City prior to maturity and upon notice as hereinafter provided, at any time at par plus accrued interest.

Section 10. Notice of Redemption. When the City determines to redeem the Bonds in whole, it shall give notice of such redemption, which notice shall state the redemption date and further state that on such redemption date there shall become due and payable upon the Bonds the principal amount thereof to be redeemed (hereinafter in this Ordinance referred to as the "Redemption Price") together with interest accrued to the

redemption date. Such notice shall be given by mailing notice to the registered owner of the Bonds at the address kept on the books of the City not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date.

Section 11. Payment of Redeemed Bonds. Notice of redemption having been given in the manner provided in Section 10 of the Ordinance, the Bonds so called for redemption shall become due and payable on the redemption date stated in said notice at the applicable Redemption Price on said date plus interest accrued and unpaid to the redemption date, and, upon presentation and surrender thereof, at the office of the City, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney, such Bonds shall be paid at the said Redemption Price plus interest accrued and unpaid to the redemption date. If, on the redemption date, moneys for the redemption of the Bonds to be redeemed, together with interest accrued and unpaid to the redemption date, shall be held on behalf of the City so as to be available therefor on said date and if notice of redemption shall have been mailed as aforesaid, then from and after the redemption date the Bonds so called for redemption shall cease to bear interest and said Bonds shall no longer be considered as outstanding hereunder.

Section 12. Prepayment of Principal. Prepayment of scheduled principal payments in increments of \$1,000 multiplied by the number of principal payments remaining on the Bonds maybe made

at any time at the option of the City, and shall be made by the City from moneys received by it as a prepayment of assessments levied against properties specifically benefited by the Project within the Heath Street Paving Improvement District.

Prepayment of such assessments shall be accumulated by the City in a special fund to be held for payment of principal and interest and for prepayment of scheduled principal payments. Whenever the amount in said special fund (after taking into account the next scheduled payment of principal and interest) equals or exceeds \$1,000 multiplied by the number of principal payments remaining on the Bonds in an amount which is equal to \$1,000 multiplied by the number of principal payments remaining on the Bonds.

In the event of an optional prepayment of principal or a mandatory prepayment of principal on account of the prepayment of assessments, the outstanding principal amount of the Bonds shall be reduced by the amount so prepaid, and the amount of the principal payments is equal to the amount so prepaid divided by the number of principal payments remaining.

Section 13. Form of Bonds. The single registered Bond shall be substantially in the form of the Bond hereinafter set forth with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance or any resolution of the City adopted pursuant to the provisions of this Ordinance and may have endorsed thereon such legends or text as may be necessary

or appropriate to conform to the rules and regulations of any governmental authority, or any usage or requirement of law with respect thereto.

UNITED STATES OF AMERICA

STATE OF ALASKA

No. 1

\$249,500

CITY OF HOMER
Special Assessment Bond, Heath Street
Paving Improvement District
1987, Series A

Homer, Alaska (the "City"), a municipal corporation of the State of Alaska, for value received hereby acknowledges itself indebted and promises to pay to Rainier Bank Alaska, N.A. or its registered assigns, the sum of TWO HUNDRED FORTY-NINE THOUSAND FIVE HUNDRED DOLLARS (\$249,500), together with interest thereon at a rate equal to 6.975% per annum until January 1, 1988 when the rate shall increase to 7.425% per annum, payable May 15, 1987, and quarterly thereafter on the fifteenth days of May, August, November and February. Such principal sum shall be paid only upon presentation and surrender of this Bond at the principal office of the City. Interest on this Bond shall be computed on the basis of a 360-day year and be paid for the actual number of days elapsed.

Interest hereon shall be paid by check mailed to the registered owner hereof, or his assigns, at the address given to

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the City. Both principal of and interest on this Bond are payable in lawful money of the United States of America.

Commencing on May 15, 1987 and quarterly thereafter on the fifteenth days of May, August, November and February, principal shall be paid through May 15, 1992, when the entire remaining principal balance, if not sooner paid, will be due in full. Principal payments each quarter shall be determined by calculating the payment including principal and interest necessary to fully amortize the outstanding principal balances over the remaining term of the Bond.

This Bond has been designated by the City as a "Qualified Tax Exempt Obligation" as that term is defined by Section 265(b)(3) of the Internal Revenue Code of 1986.

This Bond in the principal sum of \$249,500 is issued pursuant to the Constitution and statutes of the State of Alaska and duly adopted resolutions and ordinances of the City for the purpose of providing funds for the paving of the Heath Street Paving Improvement District described in Ordinance No. _____ of the City authorizing the Bond.

The Bonds may be called for redemption at the option of the City in whole or in part, on any date.

This Bond is payable solely from assessments levied against properties specially benefited within the City special assessment district known as Heath Street Paving Improvement District and is a special obligation of said special assessment

district. Said assessments constitute a sinking fund for the payment of principal of and interest on the Bonds and the properties specially benefited are hereby pledged to secure the Bonds.

Neither the holder nor the owner of any special assessment district bond, interest coupons or warrant issued against a special assessment district fund shall have any claim therefor against the City except for payment from the special assessments made for the improvements for which such special assessments district 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 such special assessment district bond shall be confined to the enforcement of such assessments and to the guarantee fund. The City shall not be liable to the holder or owner of any such bonds, interest coupon or warrant for any loss to the guarantee fund occurring in the lawful operation thereof.

THIS BOND IS NOT A GENERAL OBLIGATION OF THE CITY AND THE FULL FAITH AND CREDIT OF THE CITY IS NOT PLEDGED FOR PAYMENT.

The Bonds are issuable in the form of registered Bonds without coupons in any denomination.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Alaska, resolutions and ordinances of the City to be done precedent to and in the issuance of this Bond have happened, been

done and performed and that the issuance of this Bond does not violate any State constitutional or statutory limitation or City limitations on bonded indebtedness.

IN WITNESS WHEREOF, Homer, Alaska, has caused this Bond to be executed with the signature of its Mayor and to be attested with the signature of its Clerk and the official seal of the City to be impressed or imprinted hereon, this ___ day of April, 1987.

HOMER, ALASKA

By _____
Mayor

Q S E A L!

A T T E S T:

City Clerk

ASSIGNMENT

FOR VALUE RECEIVED, THE UNDERSIGNED Registered Owner does hereby sell, assign, and transfer, without recourse, unto _____ the within mentioned Bond and hereby irrevocably constitutes and appoints _____ to transfer the same on the registry books of the City of Homer, Alaska with full power of substitution in the premises.

DATED this ___ day of _____, 198__.

REGISTERED OWNER

Section 14. Authority of Officers. The Mayor, the Finance Director, the City Treasurer and the City Clerk, are, and each of them hereby is authorized and directed to do and perform all things and determine all matters not determined by this Ordinance or to be determined by a subsequent ordinance or resolution of the City, to the end that the City may carry out its obligations under the Bonds and this Ordinance.

Section 15. Miscellaneous. No recourse shall be had for the payment of the principal of or the interest on the Bonds or for any claim based thereon or on this Ordinance against any member of the Common Council or officer of the City or any person executing the Bonds. The Bonds are not and shall not be in any way a debt or liability of the State of Alaska or of any political subdivision thereof, except the City, and do not and shall not create or constitute any indebtedness or obligation, either legal, moral or otherwise, of said State or of any political subdivision thereof, except the City, and neither said State, nor any political subdivision thereof, except the City, shall be liable on the Bonds, and the Bonds are not and shall not be payable out of any funds other than those received by the City from the levy of special assessments against the property in Heath Street Paving Improvement District in the City specially benefited by certain paving improvements.

Section 16. Sale of Bonds. The City hereby determines to issue and sell the Bonds to Rainier Bank Alaska, N.A., upon the

terms and conditions contained in this Ordinance as such terms and conditions may be amended pursuant to Section 17 of this Ordinance or by resolution adopted by the Common Council prior to the time of delivery of the Bonds.

Section 17. Amendment of Terms. The Finance Director is authorized to negotiate with Rainier Bank Alaska, N.A. and to approve any proposed changes in the terms of the Bonds including dates, receipt of bond proceeds, interest payment dates, installment dates and amounts of installments.

Section 18. Arbitrage Covenant. The City covenants that it will not use any of the proceeds of the Bond in such manner, or take or omit to take any other action in such manner, as to impair the exemption of interest on the Bond from federal income taxation. The Bond is hereby designated as a "qualified tax exempt obligation" in accordance with Section 265(b)(3) of the Internal Revenue Code of 1986. The City further covenants that no part of the proceeds of the Bond or any other funds of the City shall at any time be used directly or indirectly to acquire securities or obligations, the acquisition of which would cause the Bond to be or become "arbitrage bond" as defined in Section 148 of the Internal Revenue Code of 1986. The City shall not permit any of the proceeds of the Bond, or any products purchased with such proceeds, to be used in any manner that would cause the Bond to constitute a "private activity bond" within the meaning of Section 141 of the Internal Revenue Code of 1986.


Section 19. Obligation of Bonds. The Bonds are a special obligation of Heath Street Paving Improvement District of the City and are payable solely from assessments levied against the properties which are specially benefited by the Project within the Heath Street Paving Improvement District. Said assessments shall constitute a sinking fund for the payment of principal of and interest on the Bonds and the properties specially benefited by the Project are hereby pledged to secure payment of principal of and interest on the Bonds. Neither the faith and credit nor the taxing power of the City are pledged to the payment of the principal of and interest on the Bonds.

Section 20. Levy of Assessments. The City agrees to take all action necessary for the Project to be completed, the improvement plan to be approved, the costs thereof to be assessed against properties in proportion to benefit received and the assessment roll to be completed and corrected.

Section 21. Effective Date. This Ordinance shall become effective immediately.

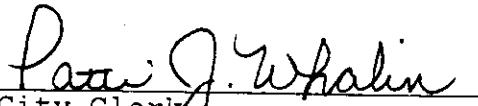
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PASSED AND APPROVED by the Common Council of the City of
Homer, Alaska, this 11th day of ~~April~~ ^{May}, 1987.



Mayor

A T T E S T:



City Clerk