

CITY OF HOMER
HOMER, ALASKA

ORDINANCE # 88-13(S)

AN ORDINANCE OF THE CITY OF HOMER, ALASKA, PROVIDING FOR THE ISSUANCE AND SALE OF SPECIAL ASSESSMENT BONDS OF THE CITY IN THE PRINCIPAL AMOUNT OF \$730,058 FOR THE PURPOSE OF PROVIDING PART OF THE MONEY REQUIRED TO REFUND SPECIAL ASSESSMENT BOND ANTICIPATION NOTE, 1987A; PROVIDING FOR THE DATE, FORM, TERMS AND MATURITY OF SAID SPECIAL ASSESSMENT BONDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Resolution 86-71 the City of Homer, Alaska (hereinafter called the "City"), has created the Sterling Highway Water and Sewer Improvement District, Phase I (hereinafter called "Sterling Highway Water and Sewer L.I.D.") in the Sterling Highway area of the City in the manner required by law; and

WHEREAS, the assessment roll of the Sterling Highway Water and Sewer L.I.D. in the total principal amount of \$807,994 has been confirmed by Resolution # 88-69 of the City, passed on July 25, 1988 in the manner required by law; and

WHEREAS, the City, pursuant to Resolution # 87-48, has issued Special Assessment Bond Anticipation Note, 1987A in the principal amount of \$860,000 for the purpose of providing funds necessary to make improvements within the Sterling Highway Water and Sewer L.I.D.; and

WHEREAS, it is necessary that the City issue its special assessment bonds in the total principal sum of \$730,058 in order to provide part of the money necessary to refund Special Assessment Bond Anticipation Note, 1987A in the principal amount of \$860,000; 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 a portion of such bonds to be issued; and

WHEREAS, the City has heretofore entered into an agreement with National Bank of Alaska, Homer, Alaska whereby the Bank agreed to purchase a portion of such bonds to be issued; and

WHEREAS, the City deems it advisable and in the best interest of the City that a portion of special assessment bonds be issued and sold to Farmers Home Administration in fully registered form and a portion of the special assessment bonds be issued and sold to National Bank of Alaska in fully registered form.

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:

"Assessments" means the amounts levied as special assessments against the properties in Sterling Highway Water and Sewer L.I.D. specially benefitted by the Project. Assessments shall include installments thereof and interest and penalties thereon.

"Bank" means National Bank of Alaska, Homer, Alaska.

"Bonds" means the special assessment bonds of the City in the principal amount of \$730,058, the issuance and sale of which is authorized herein.

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

"City Code" means the published codification of ordinances of the City.

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

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

"Guarantee Fund" means the special assessment district guarantee fund of the City established by Section 17.08.090 of the City Code for the purpose of guaranteeing the payment of the principal of and interest on all special assessment bonds of the City, and notes issued upon any special assessment district funds.

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

"Project" means the plan of improvements to the water and sewer system of the City authorized by Resolution # 86-71 to be constructed, acquired and installed in Sterling Highway Water and Sewer L.I.D.

"Sterling Highway Water and Sewer L.I.D." means the Sewer Highway Water and Sewer Improvement District located within the Sterling Highway area of the City and duly created by Resolution # 86-71 of the City Council.

"Special Assessment Fund" means the 1988 Sterling Highway Water and Sewer Improvement District Fund created by Section 9 of this Ordinance.

Section 2. Authorization of Bonds. For the purpose of providing part of the funds necessary to refund Special Assessment Bond Anticipation Note, 1987A in the principal amount of \$730,058, the City shall issue and sell its special assessment bonds in the principal amount of \$730,058.

Section 3. Description of the Bonds. The Bonds shall be issued as two fully registered bonds numbered R-1 and R-2. Bond No. R-1 shall be sold to the Government and Bond No. R-2 shall be sold to the Bank.

A. Bond No. R-1 shall be designated "City of Homer, Alaska, Sterling Highway Water and Sewer Improvement Bond, 1988A," shall be dated as of the date of delivery to the Government, shall be in the principal sum of \$365,029, 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 6.375% per annum and shall mature in installments on the Payment Dates in each year as follows:

<u>Years</u>	<u>Amounts</u>
1989	\$12,568
1990	12,568
1991	12,568
1992	12,568
1993	12,568
1994	12,568
1995	12,568
1996	12,568
1997	12,568
1998	12,568
1999	12,568
2000	12,568
2001	12,568
2002	12,568
2003	12,568

2004	40,396
2005	40,396
2006	40,396
2007	40,396
2008	14,925

B. Bond No. R-2 shall be designated "City of Homer, Alaska, Sterling Highway Water and Sewer Improvement Bond, 1988B," shall be dated as of the date of delivery to the Bank, shall be in the principal sum of \$365,029, 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 9.75% per annum and shall mature in installments on the Payment Date in each year as follows:

<u>Years</u>	<u>Amounts</u>
1989	\$27,832
1990	27,832
1991	27,832
1992	27,832
1993	27,832
1994	27,832
1995	27,832
1996	27,832
1997	27,832
1998	27,832
1999	27,832
2000	27,832
2001	27,832
2002	3,199
2003	-0-

C. The City Treasurer shall act as authenticating trustee, transfer agent and registrar for the Bonds (collectively, the "Bond Registrar").

Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Principal and interest shall be paid by check or draft mailed to the registered owner of record who is, as of the calendar month next preceding the applicable interest payment date, recorded as the owner on the books of registration kept by the Bond Register. Upon final payment, the Bonds shall be surrendered for cancellation.

Section 4. Execution of Bonds. The Bonds shall be signed on behalf of the City by the Mayor of the City and shall be attested by the City Clerk. The Bonds 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 any Bond in chronological order on any interest payment date.

Section 6. Prepayment Notice. Written notice of any such intended prepayment shall be given to the registered owner(s) at least thirty (30) days prior to said prepayment; provided, however, that so long as Bond No. R-1 is held by the Government, notice of prepayment of Bond No. R-1 shall not be required.

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

A. Bond No. R-1, which shall be sold to the Government, shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. R-1

\$365,029

STATE OF ALASKA
CITY OF HOMER

STERLING HIGHWAY WATER AND SEWER IMPROVEMENT DISTRICT BOND,
1988A

The City of Homer, Alaska (herein after 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 assigns (hereinafter sometimes called the "Alternate Payee"), the principal sum of THREE HUNDRED SIXTY-FIVE THOUSAND TWENTY-NINE AND NO/100 DOLLARS in the following installments at the following times:

<u>Years</u>	<u>Amounts</u>
1989	\$12,568
1990	12,568
1991	12,568
1992	12,568
1993	12,568
1994	12,568
1995	12,568
1996	12,568

1997	12,568
1998	12,568
1999	12,568
2000	12,568
2001	12,568
2002	12,568
2003	12,568
2004	40,396
2005	40,396
2006	40,396
2007	40,396
2008	14,925

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 6.375% per annum payable annually on the anniversary date of the day of delivery of this 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.

Principal and interest shall be paid by check or draft mailed to the registered owner of record who is as of the fifteenth day of the calendar month next preceding the applicable interest payment date, recorded as the owner on the books of registration kept by the Registrar.

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

Reference is hereby made to additional provisions of this Bond set forth on the reverse side hereof and such additional provisions shall for all purposes have the same effect as if set forth in this space. The Bond shall not be valid or become obligatory for any purpose or be entitled to any security under Ordinance # 88-13(s) (hereinafter called the "Bond Ordinance") until the Certificate of Authorization hereon shall have been manually signed by the Bond Registrar.

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 the 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, this 8th day of November 1988.

CITY OF HOMER, ALASKA

By J. P. Colborn
Mayor

ATTEST:

Patti J. Whalen
City Clerk

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

This bond is the bond described in the within-referenced Ordinance # 88-13(S) of the City of Homer, Alaska, and is the City of Homer, Alaska, Sterling Highway Water and Sewer Improvement District Bond, 1988A, dated _____, 1988, of such City.

TREASURER OF THE CITY OF HOMER
As Bond Registrar

By _____
Treasurer

ADDITIONAL BOND PROVISIONS

Both principal of and interest on this bond are payable solely out of the special fund of the City known as the "1988 Sterling Highway Water and Sewer Improvement District Fund" (herein called the "Bond Fund") created by Bond Ordinance and the special assessment district guarantee fund of the City created by Section 17.08.090 of the City Code.

The City hereby reserves the right on any interest payment date to prepay any or all of the unpaid principal amount of this bond in chronological order. Notice of any such 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 Sterling Highway Water and Sewer Improvement District created by Resolution # 86-71 of the City against properties specially benefitted by the improvements to the water and sewer system of the City constructed within said District.

Section 17.08.050 of the City Code of Homer, Alaska provides as follows:

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 assessment 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 said guarantee fund. The City shall not be liable to the holder or owner of any such bond, interest coupon 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 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 is issued in fully registered form. Upon surrender to the Bond Registrar, this bond is interchangeable for bonds in any authorized denomination of an equal maturity. This bond is transferable only on the records maintained by the Bond Registrar for that purpose upon the surrender of this bond by the registered owner hereof or nominee or his/her duly authorized agent and only if endorsed in a manner provide hereon, and thereupon a new fully registered bond of like principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor. Such exchange or transfer shall be without cost to the registered owner or transferee. The City may deem the person in whose name this bond is registered to be the absolute owner hereof for the purpose of receiving payment of the principal of

and interest on this bond and for any and all other purposes whatsoever.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____

PLEASE INSERT SOCIAL SECURITY OR TAXPAYER IDENTIFICATION NUMBER OF TRANSFEREE

_____ / _____ /

(Please print or typewrite name and address, including zip code of Transferee)

the within bond and does hereby irrevocably constitute and appoint _____ of _____, or its successor, as Trustee to transfer said bond on the books kept for registration thereof with full power of substitution in the premises.

DATED: _____, _____.

SIGNATURE GUARANTEED:

NOTE: The signature on this Assignment must correspond with the name of the registered owner as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

B. Bond No. R-2, which shall be sold to the Bank, shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. R-2

\$365,029

STATE OF ALASKA
CITY OF HOMER

STERLING HIGHWAY WATER AND SEWER IMPROVEMENT DISTRICT BOND,
1988B

The City of Homer, Alaska (herein after called the "City"), a municipal corporation of the State of Alaska, acknowledges itself indebted and for value received promises to pay to National Bank of Alaska, Homer, Alaska, or its successor (hereinafter sometimes called the "Payee"), or its registered assigns (hereinafter sometimes called the "Alternate Payee"), the principal sum of THREE HUNDRED SIXTY-FIVE THOUSAND TWENTY-NINE AND NO/100 DOLLARS in the following installments at the following times:

<u>Years</u>	<u>Amounts</u>
1989	\$27,832
1990	27,832
1991	27,832
1992	27,832
1993	27,832
1994	27,832
1995	27,832
1996	27,832
1997	27,832
1998	27,832
1999	27,832
2000	27,832
2001	27,832
2002	3,199
2003	-0-

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 9.75% per annum payable annually on the anniversary date of the day of delivery of this 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.

Principal and interest shall be paid by check or draft mailed to the registered owner of record who is as of the fifteenth day of the calendar month next preceding the applicable interest payment date, recorded as the owner in the books of registration kept by the Registrar.

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

Reference is hereby made to additional provisions of this Bond set forth on the reverse side hereof and such additional provisions shall for all purposes have the same effect as if set forth in this space. The Bond shall not be valid or become obligatory for any purpose or be entitled to any security under Ordinance # 88-13(S) (hereinafter called the "Bond Ordinance")

until the Certificate of Authentication hereon shall have been manually signed by the Bond Registrar.

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 the 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, this 8th day of November 1988.

CITY OF HOMER, ALASKA

By John P. Callahan
Mayor

ATTEST:

Janni J. Whalen
City Clerk

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

This bond is the bond described in the within-referenced Ordinance # 88-13(S) of the City of Homer, Alaska, and is the City of Homer, Alaska Sterling Highway Water and Sewer Improvement District Bond, 1988B, dated _____, 1988, of such City.

TREASURER OF THE CITY OF HOMER
As Bond Registrar

By _____
Treasurer

ADDITIONAL BOND PROVISIONS

Both principal of and interest on this bond are payable solely out of the special fund of the City known as the "1988 Sterling Highway Water and Sewer Improvement District Fund"

(herein called the "Bond Fund") created by Bond Ordinance and the special assessment district guarantee fund of the City created by Section 17.08.090 of the City Code.

The City hereby reserves the right on any interest payment date to prepay any or all of the unpaid principal amount of this bond in chronological order. Notice of any such 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.

This bond is secured by special assessments levied in the Sterling Highway Water and Sewer Improvement District created by Resolution No. 86-71 of the City against properties specially benefitted by the improvements to the water and sewer system of the City constructed within said District.

Section 17.08.050 of the City Code of Homer, Alaska provides as follows:

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 assessment 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 said guarantee fund. The City shall not be liable to the holder or owner of any such bond, interest coupon 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.

This bond has been designated a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986.

The City hereby covenants and agrees with the owner 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 is issued in fully registered form. Upon surrender to the Bond Registrar, this bond is interchangeable for bonds in any authorized denomination of an equal maturity. This bond is transferable only on the records maintained by the Bond Registrar for that purpose upon the surrender of this bond by the registered owner hereof or nominee or his/her duly authorized agent and only if endorsed in a manner provide hereon, and thereupon a new fully registered bond of like principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor. Such exchange or transfer shall be without cost to the registered owner or transferee. The City may deem the person in whose name this bond is registered to be the absolute owner hereof for the purpose of receiving payment of the principal of and interest on this bond and for any and all other purposes whatsoever.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____

PLEASE INSERT SOCIAL SECURITY OR TAXPAYER IDENTIFICATION NUMBER OF TRANSFEREE

_____ / _____ /

(Please print or typewrite name and address, including zip code of Transferee)

_____ the within bond and does hereby irrevocably constitute and appoint _____ of _____, or its successor, as Trustee to transfer said bond on the books kept for registration thereof with full power of substitution in the premises.

DATED: _____, ____.

SIGNATURE GUARANTEED:

NOTE: The signature on this Assignment must correspond with the name of the registered owner as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Section 8. Registration and Transfer of the Bonds. The Bond Registrar shall keep, or cause to be kept, at its office sufficient records for the registration and transfer of the Bonds. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of such Bonds and this Ordinance and to carry out all of the Bond Registrar's powers and duties under this Ordinance. Any Bonds may be transferred by the registered owner thereof, provided that such transfer relates to the entire unpaid principal amount of the Bonds, and any such transfer shall be noted on the bond registration books of the City in the office of the Bond Registrar.

Section 9. Source of Funds for Repayment of Bonds. The principal of and interest on the Bonds 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 Bonds. 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 1988 Sterling Highway Water and Sewer Improvement District Fund (herein referred to as "Special Assessment Fund"), which fund shall be used for the purposes provided in this section. The City Treasurer shall deposit into the Special Assessment Fund the Assessments collected and the proceeds received on the sale of the Bonds. 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 Bonds; and
- (4) Payments to the Guarantee Fund, but only after all costs of the Project have been paid and the principal of and interest on the Bonds 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 and 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 (5) years from the date of delivery of the Bonds 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 Bonds 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 covenants of this Ordinance. Any money 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 17.08.050 of the City Code specifies as follows:

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 assessment 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 said guarantee fund. The City shall not be liable to the holder or owner of any such bond, interest coupon or warrant for any loss to the said guarantee fund occurring in the lawful operation thereof.

Section 11. Security of the Bondowner. The Assessments on the respective properties in the Sterling Highway Water and Sewer

L.I.D. 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 No. 88-69, 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 the Sterling Highway Water and Sewer L.I.D. 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 Bonds, and shall be enforceable in default of said payment by the registered owner of the Bonds in any 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 Sterling Highway Water and Sewer L.I.D. 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. Sale of the Bonds. Bond No. R-1 shall be sold to the Government on the terms and conditions specified herein and Bond No. R-2 shall be sold to the Bank on the terms and conditions specified herein.

Section 13. 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 14. 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, "Rights-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 Sterling Highway Water and Sewer L.I.D.

Section 15. 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."

Section 16. Nondiscrimination. The appropriate official of the City is hereby also authorized and directed to execute on behalf of the City, Form FmHA 400-4, entitled "Assurance Agreement" (under Title IV, Civil Rights Act of 1964).

Section 17. Ordinance As Contract. The provisions of this Ordinance shall constitute a contract between the City and the Government so long as any portion of Bond No. R-1 remains unpaid and between the City and the Bank so long as any portion of Bond No. R-2 remains unpaid.

Section 18. Special Designation. The Bonds are hereby designated qualified tax-exempt obligations for purposes of Section 265(b) of the Internal Revenue Code of 1986.

Section 19. Arbitrage Covenant. The City covenants and agrees with the owners of the Bonds that it will not use or invest the proceeds of the Bonds or any other funds or obligations of the City which may be deemed to be proceeds of such Bonds pursuant to Section 148 of the Internal Revenue Code of 1986 and the applicable regulations thereunder which, if such use had been reasonably expected on the date of delivery of the Bonds to the original purchasers thereof, would cause the Bonds to be "arbitrage bonds" as defined in said section and said regulations. The City will comply with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended (or any successor provision thereof applicable to the Bonds), and the applicable regulations promulgated thereunder throughout the term of the Bonds.

Section 20. Interest Rate on Assessments. The assessments levied in the Sterling Highway Water and Sewer L.I.D. shall bear interest at a rate of 8.5625 percent, being one-half of one percent higher than the net effective interest rate on the Bonds.

Section 21. Bond Sale Execution. The proper City officials are authorized and directed to do everything necessary for the prompt execution, issuance and delivery of the Bonds and for the proper use and application of the proceeds of such sale.

Section 22. Approval of Maturity Schedule. Notwithstanding anything to the contrary, if any, in Section 17.08.010 of the City Code of Homer, Alaska, the maturity schedule of Bond No. R-2 as described under Section 3B of this Ordinance is hereby approved.

Section 23. Effective Date. This Ordinance becomes effective immediately upon adoption.

CITY OF HOMER, ALASKA

By John P. Calhoun
John P. Calhoun, Mayor

ATTEST:

Patti J. Whalin
Patti J. Whalin, City Clerk