

ORDINANCE NO. 89-11(S)

AN ORDINANCE AMENDING ORDINANCE NO. 87-24S
RELATING TO THE ISSUANCE OF THE 1987 PORT
REVENUE REFUNDING BOND AND PROVIDING FOR AN
EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance 87-24S, the City of Homer (the "City") issued its Port Revenue Refunding Bond, 1987 in the principal amount of \$860,000 (the "1987 Bond"); and

WHEREAS, pursuant to Ordinance 87-24S, the City may issue additional bonds on a parity with the 1987 Bond upon compliance with certain conditions; and

WHEREAS, pursuant to Ordinance No. 88-17(S), the City has authorized the issuance of additional bonds to be issued on a parity with the 1987 Bond; and

WHEREAS, the City deems it to be in the best interest of the City to amend Ordinance 87-24S to facilitate the issuance of additional bonds pursuant to Ordinance No. 88-17(S) and the owner of the 1987 Bond has consented to such amendments.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Paragraph 11 of Section 1, Definitions, of Ordinance No. 87-24S is amended as follows:

"Revenue" means all rates, charges or other income and receipts in each case derived by or for the account of the City arising from the operations and ownership of the System including the proceeds from any litigation award or settlement reached in connection with construction or operation of any portion of the System but not including that portion of such proceeds needed for the repair or reconstruction of the System.

Section 2. Section 10, Senior Bonds, of Ordinance No. 87-24S is amended as follows:

Section 10. Senior Bonds. The City hereby covenants that it will not issue any additional Senior Bonds. [WHILE THE BOND IS OUTSTANDING WITHOUT THE PRIOR WRITTEN CONSENT OF THE OWNER OR OWNERS OF THE BOND.]

Section 3. Paragraph 3 of Section 4, Description of Bond, of Ordinance No. 87-24S is amended as follows:

The Bond shall bear interest at the rate of seven and seven-tenths percent (7.7%) until January 1, 1993, and at the rate of ninety-five percent (95%) of the then current Prime Rate from and after January 1, 1993, except that in no event shall the interest rate exceed thirteen percent (13%).

Section 4 Section 8, Revenue Fund, is amended as follows:

Revenue Fund. There has heretofore been created in Ordinance 71-6 a special fund of the City known as the "Homer Municipal Port Facilities Revenue Fund" (hereinbefore defined as the "Revenue Fund"). The City hereby covenants and agrees that all tariffs, rentals, rates and charges and other Revenues derived by it from its operation of the Facilities shall be deposited in the Revenue Fund. Moneys in such Fund shall be held in the custody of the Treasurer of the City and shall be kept separate and apart from all other moneys of the City.

All costs of maintaining and operating the Facilities, all costs of additions, betterments, improvements and repairs to and replacements and extensions of the Facilities (except when the same are financed by the issuance of bonds), all payments required to be made into the Bond Redemption Fund, all payments which may be required later to pay and secure the payment of the principal of and interest on any revenue bonds of the City which may later be issued and which will be a charge upon such tariffs, rentals, rates and charges and other Revenues, an all payments which may

be legally required later for any other proper purposes in connection with the operation of the Facilities shall be paid out of the Revenue Fund.

The Revenues shall be used only for the following purposes and in the following order of priority:

(1) All Revenues paid into the Revenue Fund shall be applied as follows:

(i) to make all payments required to be made into the Bond Redemption Fund;

(ii) to make all payments required to be made into the Reserve Account in the Bond Redemption Fund;

(iii) to make all payments of the costs of maintaining and operating the Facilities; and

(iv) to make all payments required to be made into any special fund or account created to pay or secure the payment of the principal of and interest on any revenue obligation of the City having a lien upon the Revenues and moneys in the Revenue Fund and accounts therein junior and inferior to the lien thereon for the payment of the principal of and interest on the Bonds.

(2) After all of the above payments and credits have been made, amounts remaining may be used for any other lawful purpose of the City related to the System.

Section 5. The Mayor, Manager of the City, the Finance Director, the City Clerk and other appropriate officials of the City are each hereby authorized and directed to take such steps, to do such other acts and things, and to execute such documents as in their judgment may be necessary, appropriate or desirable in order to carry out the terms and provisions of this Ordinance.

Section 6. This ordinance shall become effective immediately.

PASSED by the Council of the City of Homer, Alaska at a regular meeting held on the 8th day of May, 1989.

CITY OF HOMER, ALASKA

By John P. Calhoun
MAYOR

ATTEST:

By Patti J. Wadlin
City Clerk

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ORDINANCE NO. 89-11

AN ORDINANCE OF CITY OF HOMER, ALASKA, AUTHORIZING THE ISSUANCE OF WATER REVENUE REFUNDING BONDS IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$700,000 FOR THE PURPOSE OF PROVIDING FUNDS NECESSARY TO REFUND THE OUTSTANDING 1965 AND 1975 WATER REVENUE BONDS; PROVIDING FOR THE ESTABLISHMENT OF CERTAIN FUNDS AND ACCOUNTS; MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Homer, Alaska (hereinafter called the "City"), a municipal corporation of the State of Alaska, owns and operates a municipal water system (hereinafter called the system); and

WHEREAS, pursuant to Ordinance No. 2-170.1 the City issued its Water Revenue Bonds, 1965 (hereinafter called the "1965 Bonds"), in the aggregate principal amount of \$150,000, and pursuant to Ordinance No. 75-12 the City issued its Water Revenue Bonds, 1975 (hereinafter called the "1975 Bonds") in the aggregate principal amount of \$1,000,000; and

WHEREAS, the City has determined that it is in the best interest of the public to refund the 1965 Bonds and the 1975 Bonds, and to authorize the issuance at this time for said purpose \$700,000 principal amount of water revenue refunding bonds.

NOW, THEREFORE, THE CITY OF HOMER, ORDAINS:

**ARTICLE I
DEFINITIONS**

SECTION 1.1. Definitions.

As used in this Ordinance, the following words and phrases shall have the meanings herein set forth unless the context shall clearly indicate that another meaning is intended.

(1) "Additional Bonds" means any Bonds issued on a parity with the 1989 Bonds pursuant to Article [IV] V of this Ordinance.

(2) "Adjusted Net Revenues" means Net Revenues as calculated pursuant to Section 4.2.G.

(3) "Annual Debt Service" for any Fiscal Year shall mean the sum of:

(a) the interest due in such Fiscal Year on all outstanding Bonds, excluding interest to be paid from the proceeds of the sale of the Bonds,

(b) the principal of all outstanding [S]serial [B]bonds due in such Fiscal Year, and

(c) the [S]inking [F]fund [R]requirement, if any, for such Fiscal Year.

If the interest rate on any such Bonds is other than a fixed rate, the rate applicable at the time of computation shall be used.

(4) "1989 Bonds" means the Bonds in the aggregate principal amount not to exceed \$700,000 authorized to be issued by this Ordinance.

(5) "Bond Fund" means the 1989 Water Revenue Bond Fund established pursuant to Section 8.2 of this Ordinance. A Principal Account, Interest Account, and Reserve Account are all accounts contained and established within the Bond Fund pursuant to Section 8.2 of this Ordinance.

(6) "Bond Register" means the books or records maintained by the Registrar for the purpose of registration of the Bonds.

(7) "Bonds" means the 1989 Bonds and any Additional Bonds. "Bonds" may include bonds, notes, warrants, certificates of indebtedness or any other evidence of indebtedness.

(8) "City" means the City of Homer, Alaska, a municipal corporation of the State of Alaska.

(9) "Council" means the legislative body of the City as the same shall be duly and regularly constituted from time to time.

(10) "Finance Director" means the City Finance Director of the City.

(11) "Fiscal Year" means the Fiscal Year used by the City at any time. At the time of the adoption of this Ordinance, the Fiscal Year is the twelve-month period beginning January 1 of each year.

(12) "Government Obligations" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America.

(13) "Net Revenues" means, for any period, the excess of Revenues over Operating Expenses for such period, excluding from the computation of Revenues (a) any profit or loss derived from the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets, or resulting from the early extinguishment of debt; (b) insurance and condemnation proceeds; and (c) any other extraordinary, nonrecurring income or contribution.

(14) "1965 Bonds" means the Water Revenue Bonds, 1965 issued in the aggregate principal amount of \$150,000 pursuant to Ordinance No. 2-710.1.

(15) "1975 Bonds" means the Water Revenue Bonds, 1975 issued in the aggregate principal amount of \$1,000,000 pursuant to Ordinance No. 75-12.

(16) "Operating Expenses" means (i) the City's expenses for operation and maintenance of the System, and ordinary repairs, renewals, replacements and reconstruction of the System, including all payments (other than payments out of Bond proceeds) into reasonable reserves in the Revenue Fund for items of Operating Expenses and other costs the payment of which is not immediately required, and shall include, without limiting the generality of the foregoing, all costs of purchased power, rents, costs of transmission, operation and maintenance expenses, administrative and general expenses, engineering expenses, legal and financial advisory expenses, required payments to pension, retirement, health and hospitalization funds, and insurance premiums and Operating Expenses shall not include any costs or expenses for new construction, debt service, any allowance for depreciation or amortization, disbursement to the City from surplus money or municipal levies or payments to the City in lieu of taxes.

(17) "Ordinance" means this Ordinance, including any amendment or supplements thereto.

(18) "Paying Agent" means the person or persons appointed by the City to carry out the duties of Paying Agent under this Ordinance. In the absence of such appointment, the Finance Director shall act as Paying Agent.

(19) "Permitted Investments" means the following, to the extent that the same are legal for investment of funds of the City: (a) any Government Obligations, including obligations of any of the federal agencies set forth in clause (b) below to the extent unconditionally guaranteed by the United States; (b) obligations of the Export-Import Bank of the United States, the United States Postal Service, the Government National Mortgage

Association, the Federal National Mortgage Association to the extent guaranteed by the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Banks, the Federal Banks for Cooperatives, the Federal Home Loan Bank, the Federal Land Banks, the Farmers Home Administration and the Federal Home Loan Mortgage Association, or any agency or instrumentality of the Federal Government which shall be established for the purposes of acquiring the obligations of any of the foregoing or otherwise providing financing therefor; (c) new housing authority bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contribution under an annual contributions contract or contracts with the United States; or project notes issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States; (d) direct and general obligations of any State within the United States, or any political subdivision thereof, to the payment of the principal of and interest on which the full faith and credit of such State or political subdivision is pledged, provided, that at the time of their purchase, such obligations are rated in one of the two highest rating categories by either Moody's Investors Service, Inc. or Standard & Poor's Corporation; (e) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any State of the United States of America or any national banking association (including the [BOND FUND] Registrar, if any), provided that such certificates of deposit shall be (i) continuously and fully insured by the Federal Deposit Insurance Corporation, or are (ii) continuously and fully secured by such securities as are described above in clauses (a) or (b), which shall have a market value (exclusive of accrued interest) at all times at least equal to the principal amount of such certificates of deposit; (f) repurchase agreements with any bank or trust company organized under the laws of any State of the United States or any national banking association, which is secured by such securities as described in clauses (a) or (b) above in the possession or custody of the City or its agent and in which the City has a first perfected security interest and which are free and clear of all rights of third parties, and which have an aggregate market value determined weekly of not less than 103% of the face amount of the repurchase agreement.

(20) "Professional Utility Consultant" means the independent person(s) or firm(s) selected by the City having a favorable reputation for skill and experience with facilities of comparable size and character to the System in such of the following as are relevant to the purposes for which they are retained: (a) engineering and operations and (b) the design of rates.

(21) "Refunded Bonds" means the 1965 Bonds and the 1975 Bonds.

(22) "Registrar" means the person appointed by the City to carry out the duties of Registrar under this Ordinance. In the absence of such appointment, the Finance Director shall act as Registrar.

(23) "Revenue Fund" means the fund of that name described in Section 8.1 of this Ordinance.

(24) "Reserve Account Requirement" means [THE LESSER OF TEN PERCENT OF BONDS TO BE ISSUED, OR] maximum Annual Debt Service in any Fiscal Year following the date of computation or the maximum amount permitted under the Internal Revenue Code for tax exempt obligations, whichever is less.

(25) "Revenues" means all income (including investment income), receipts and revenues derived by the City through the ownership or operation of the System and all commodities, services and facilities, sold, furnished or supplied by the City through the ownership or operation of the System, together with the proceeds received by the City directly or indirectly from the sale, lease or other disposition of any of the properties, rights or facilities of the System, and together with the investment income earned on moneys held in any fund or account of the City, including any bond redemption funds and the accounts therein, in connection with the ownership and operation of the System (but exclusive of income derived from investments irrevocably pledged to the payment of any specific revenue bonds of the City, such as bonds heretofore or hereafter refunded, or any Bonds defeased pursuant to Section 11.2 hereof or other bonds defeased, or the payment of which is provided for, under any similar provision of any other bond ordinance of the City), and any contributions from other funds of the City or other sources, including without limitation, individual and government agencies, for purposes of the System, but shall not include any income derived by the City through the ownership and operation of any facilities that may hereafter be purchased, constructed or otherwise acquired by the City as a separate utility system.

(26) "Supplemental Ordinance" means any ordinance amending, modifying or supplementing the provisions of this Ordinance, including any ordinance providing for the issuance of Additional Bonds.

(27) "System" means the municipal water utility properties and assets, real and personal, tangible and intangible, heretofore and hereafter purchased, constructed or otherwise acquired by the City, out of the proceeds of the sale of Bonds, or from moneys derived from the System and any additions or improvements to or extensions of said facilities acquired by the City or any other utility or utilities specifically included in the System by action of the City Council including such interest as the City may acquire jointly with another entity or entities in any facility, but shall not include any utility facilities that may be

hereafter purchased, constructed or otherwise acquired by the City as a separate utility system, the revenues of which are not deposited in the Revenue Fund but are used for the operation and maintenance of such separate utility system and may be pledged to the payment of bonds issued to purchase, construct or otherwise acquire such separate utility system.

ARTICLE II FINDINGS AND DETERMINATIONS

SECTION 2.1. Best Interests of the City.

The Council hereby finds and determines that it is in the best interests of the City and the users of the System that the City issue the 1989 Bonds for the purpose of refunding the 1965 Bonds and the 1975 Bonds.

SECTION 2.2 Revenues Sufficient.

The Council hereby further finds and determines that the Revenues to be derived by the City from the operation of the System at the rates to be charged for the services furnished thereby will be sufficient in the judgment of the Council to meet all expenses of operation and maintenance, and to make all necessary repairs, replacements and renewals thereof, and to permit the setting aside out of such Revenues into the Bond Fund of such amounts as may be required to pay the principal of and interest on the 1989 Bonds as the same become due and payable.

SECTION 2.3 Defeasance. The moneys and securities irrevocably deposited in the 1989 Defeasance Account shall be sufficient to pay, when due, the principal of all outstanding 1965 Bonds on or before the date such bonds have been called for redemption, and to pay the interest due on all outstanding 1965 Bonds.

ARTICLE III AUTHORIZATION AND ISSUANCE OF BONDS

SECTION 3.1. Authorization of Bonds.

There are hereby authorized to be issued Bonds of the City, unlimited in amount, to be known as "City of Homer, Alaska, Water Revenue Bonds", consisting of the 1989 Bonds and any Additional Bonds hereafter issued pursuant to Article V of this Ordinance.

SECTION 3.2. Authorization of 1989 Bonds.

For the purpose of refunding the Refunded Bonds there is hereby authorized to be issued, in an aggregate principal amount not to exceed \$700,000, Water Revenue Refunding Bonds, 1989 (the "1989 Bonds") which shall bear interest from their date at such rate or rates per annum at such time and shall mature on October 1 of such years and such amounts (and in such aggregate

principal amount) as shall be fixed by resolution of the Council adopted after final passage of this Ordinance.

SECTION 3.3. Additional Provisions of 1989 Bonds.

The 1989 Bonds shall be dated [APRIL 1, 1989] as of the date specified by resolution of the City after final passage of the Ordinance, and shall be fully registered as to both principal and interest.

Both principal of and interest on the 1989 Bonds shall be payable in lawful money of the United States of America. Interest shall be paid by check or draft on the date such interest is due 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. Principal of the 1989 Bonds shall be payable upon due presentment and surrender of the Bonds at the office of the Registrar. The principal of and interest on the 1989 Bonds shall be payable from the Bond Fund.

The 1989 Bonds shall bear interest from their dated date or from the most recent date to which interest has been paid or duly provided for.

The Bond Register shall be maintained by the Registrar, and shall contain the name and mailing address of the registered owner or owners of each 1989 Bond or nominee of such registered owner or owners and the principal amount and number of 1989 Bonds held by each registered owner or nominee.

SECTION 3.4. Redemption of 1989 Bonds.

The 1989 Bonds shall be subject to mandatory or optional redemption, at such time or times and upon such terms as shall hereafter be fixed by resolution of the City after final passage of this Ordinance.

**ARTICLE IV
REFUNDING AND DEFEASANCE OF REFUNDED BONDS**

SECTION 4.1 Special Funds, Disposition of the Proceeds from the Sale of the 1989 Bonds, and Authorization of Inter-Fund Transfers.

A. There is hereby created a special subaccount within the Water Revenue Bond and Interest Sinking Fund Account created by Ordinance No. 2-710.1 which shall be known as the 1989 Defeasance Account. The 1989 Defeasance Account shall be funded as hereinafter set forth in this section and be drawn upon for the sole purpose of paying the principal of and interest on the 1965 Bonds.

The City shall purchase Government Obligations which, together with the beginning cash balance, if any, will be sufficient for the payment of the redemption premium, principal of and interest on the 1965 Bonds on or before August 1, 1989, the date that the 1965 Bonds have been irrevocably called for redemption.

The beginning cash balance and Government Obligations shall be irrevocably deposited in the 1989 Defeasance Account. Such money and Government Obligations are hereby irrevocably pledged to be held and applied solely for the payment of the redemption premium, principal and interest due and to become due on the 1965 Bonds, provided, however, that the City may [FROM TIME TO TIME] after redemption of the 1965 Bonds transfer, or cause to be transferred, from the 1989 Defeasance [FUND] Account to the Revenue Fund any moneys not required for such purposes.

The Council hereby finds and determines that the moneys and Government Obligations to be deposited in the 1989 Defeasance Account to pay the redemption premium, principal and interest due and to become due on the 1965 Bonds are sufficient to discharge and satisfy the obligations of the City under Ordinance No. 2-710.1 authorizing the issuance of the 1965 Bonds and all pledges, charges, trusts, covenants and agreements of the City therein made or provided for with respect to said Bonds shall no longer be deemed to be outstanding obligations payable from the Revenues immediately upon the deposit of such money and the Government Obligations in the 1989 Defeasance Account.

B. The proceeds of the 1989 Bonds shall be applied as follows:

1. The amount which, together with moneys, if any, on hand in any fund of the City transferred to the 1989 Defeasance Account, is necessary to provide for the purchase of Government Obligations, and any necessary beginning cash balance, sufficient for the refunding of the 1965 Bonds shall be deposited in the Defeasance Account.

2. The amount equal to the interest accruing on the 1989 Bonds from [APRIL 1, 1989] their dated date, to the date of their delivery shall be deposited in the Interest Account in the Revenue Fund.

3. The balance of the proceeds shall be applied to the payment of the 1975 Bonds and the costs of issuance of the 1989 Bonds.

C. At the time of closing of the 1989 Bond sale and prior to the deposit of the proceeds of the 1989 Bonds, the Treasurer of the City is directed to make the following inter-fund transfers:

1. To the 1989 Defeasance Account, from moneys of any fund of the City and investments in an amount which, together with the proceeds of the 1989 Bonds transferred to the 1989 Defeasance Account, is necessary to provide for the purchase of Government Obligations, and any necessary beginning cash balance, sufficient for the refunding of the 1965 Bonds.

2. To the Reserve Account, from the Water Revenue Bond and Interest Sinking Fund Account and the Water System Repair and Replacement Account created by Sections 14 and 15 of Ordinance No. 2-710.1, moneys and investments in said account. The balance in the bond fund created by Sections 14 and 15 of Ordinance No. 2-710.1 shall be paid into the Bond Fund.

D. The deposits and interfund transfers specified in this Section may be changed to include modifications found to be necessary or advisable by the City and authorized in a certificate of the Finance Director provided at the time of closing of the 1989 Bond sale.

SECTION 4.2 Redemption of 1965 Bonds.

The City hereby irrevocably calls for redemption of the 1965 Bonds on August 1, 1989, the next interest payment date for the 1965 Bonds. The Manager of the City and the Finance Director of the City are authorized to negotiate and enter into an agreement with the owners of the outstanding 1965 Bonds for the redemption of the 1965 Bonds prior to August 1, 1989. The Manager of the City and the Finance Director of the City are hereby authorized and directed to take such other actions and execute such other documents as may be required to effect the [D]efeasance of the 1965 Bonds as provided herein.

SECTION 4.3 Redemption of the 1975 Bonds.

The City hereby authorizes and calls for early redemption of the 1975 Bonds at the discounted prices offered by the Farmers' Home Administration of the United States Department of Agriculture pursuant to its discount purchase program. The Manager of the City and the Finance Director of the City are authorized and directed to use a portion of the proceeds from the sale of the 1989 Bonds to purchase for redemption the 1975 Bonds at the offered discounted prices and to take such other actions and execute such documents as may be required to effect the early redemption of the 1975 Bonds.

ARTICLE V ISSUANCE OF ADDITIONAL BONDS

SECTION 5.1. Authorization of Series of Additional Bonds.

Before any series of Additional Bonds shall be issued under the provisions of this Article, the City shall adopt an ordinance

or ordinances and supplemental resolutions, if any, authorizing the issuance of such bonds, fixing the amount and the details thereof, describing in brief and general terms the purpose or purposes for which such bonds are to be issued and specifying the amount, if any, of the proceeds of such bonds to be deposited to the credit [ANY FUND BONDS AND TO] of the Reserve Account. The bonds of each series issued under the provisions of this Section shall be designated "Water Revenue Bonds, _____", shall be in such denominations, shall be dated, shall bear interest at a rate or rates shall be payable, both as to principal and interest, at such place or places, shall mature in such year or years, shall be made redeemable at such times and prices (subject to the provisions of this Ordinance), shall be numbered, shall have such Paying Agents, all as may be provided by ordinance or ordinances and supplemental resolutions, if any, adopted by the City prior to the issuance of such bonds.

SECTION 5.2. Additional Bonds.

A. Additional Bonds may be issued payable from the Bond Fund on a parity with the 1989 Bonds and any Additional Bonds theretofore issued, and secured by an equal charge and lien on the Revenues and other monies securing the Bonds, for any lawful purpose of the City related to the System; provided that, (i) except as to Bonds issued pursuant to Section 5.2.D, at the time of the issuance of such Additional Bonds, there is no deficiency in the Bond Fund, and (ii) the requirements of the applicable provisions of this Section 5.2 are complied with.

B. Additional Bonds may be issued for any lawful purpose of the City related to the System if the following requirements are met. A certificate signed by the Finance Director of the City, corroborated by an independent certified public accountant shall set forth:

(i) one-half of the amount of the Net Revenues for any consecutive twenty-four months of the thirty-six months prior to the date of the issuance of such Bonds;

(ii) the amount of the maximum Annual Debt Service as of the time immediately following the issuance of such Additional Bonds; and

(iii) the percentage derived by dividing the amount shown in (i) above by the amount shown in (ii) above, and shall state that such percentage is not less than one hundred thirty per cent (130%);

C. Additional Bonds may also be issued for any lawful purpose of the City if the following requirements are met. A certificate signed by a Professional Utility Consultant and filed with the Finance Director of the City shall set forth:

(i) one-half of the amount of the Adjusted Net Revenues computed as provided in Section 5.2.G;

(ii) the amount of the maximum Annual Debt Service as of the time immediately following the issuance of such Additional Bonds; and

(iii) the percentage derived by dividing the amount shown in (i) above by the amount shown in (ii) above, and shall state that such percentage is not less than one hundred thirty percent (130%);

D. Additional Bonds may also be issued from time to time for the purpose of providing funds, with any other available funds, for retiring at or prior to their maturity or maturities any or all of the outstanding Bonds of any series, including the payment of any redemption premium thereon, and, if deemed necessary by the City, for paying the interest to accrue thereon to the date fixed for their retirement and any expenses incident to the issuance of such Additional Bonds.

E. Additional Bonds issued under subsection D above shall not be delivered unless the proceeds (excluding any accrued interest but including any premium) of such Additional Bonds, together with any other moneys which have been made available for such purposes, and the principal of and the interest on the investment of such proceeds or any such moneys, shall be sufficient to pay the principal of and the redemption premium, if any, on the Bonds to be refunded and the interest which will become due and payable on or prior to the date of their payment or redemption, and the expenses incident to the issuance of such Additional Bonds.

If such Additional Bonds are to be issued pursuant to Section 5.2.D above,

(1) there shall be filed with the City a certificate signed by the Finance Director of the City, showing that the maximum Annual Debt Service in any Fiscal Year thereafter shall not be increased by reason of the issuance of the Additional Bonds, or

(2) There shall be filed with the City a certificate signed by a Professional Utility Consultant setting forth:

(a) one-half of the amount of the Adjusted Net Revenues computed as provided in 5.2.G;

(b) the amount of the maximum Annual Debt Service as of the time immediately following the issuance of such Additional Bonds; and

(c) the percentage derived by dividing the amount shown in (a) above by the amount shown in (b) above and stating that such percentage is not less than one hundred thirty percent (130%).

F. In rendering any certificate under this Section, the Professional Utility Consultant may rely upon, and such certificate shall have attached thereto, financial statements of the System, certified by the Finance Director, showing income and expenses for the period upon which the same are based and a balance sheet as of the end of such period, and similar certified statements by an independent certified public accountant, for as much of said period as any examination by them has been made and completed.

In connection with the issuance of any Bonds pursuant to subsections 5.2.C, 5.2.D, and 5.2.E of this Section, the certificate of the Professional Utility Consultant hereinabove referred to shall be conclusive and the only evidence required to show compliance with the provisions and requirements of said subsection.

G. For the purposes of the certificates required by Sections 5.2.C and 5.2.E of this Ordinance, Adjusted Net Revenues shall be computed by the Professional Utility Consultant as follows:

(a) The Net Revenues for any twenty-four consecutive months (selected by the City) out of the thirty-six months prior to the date of issuance of the Additional Bonds (such twenty-four month period being herein called the "Base Period") may be adjusted:

(i) to reflect any changes in Net Revenues for the Base Period which would have occurred if the schedule of rates and charges in effect at the time of the computation (or approved by the Council as of the time of such computation and to become effective within six months thereof) had been in effect during the portion of the Base Period in which such schedule was not in effect.

(ii) to reflect any changes in Net Revenues estimated to be received as a result of, acquiring existing facilities or the completion of construction or installation of facilities to service existing customers or customers who have applied for services;

(iii) the additional Net Revenue which would have been received by the City if any customers added to the System during such twenty-four month period were customers for the entire period;

(iv) 50% of the additional Net Revenue which will be received by the City from the new customers which the Professional Utility Consultant estimates will be added to the System during the five year period following delivery of the Additional Bonds to be issued.

The Professional Utility Consultant may rely upon, and his certificate shall have attached thereto, financial statements of the System, certified by the Finance Director, showing income and expenses for the period upon which the same is based and similar certified statements by an independent certified accountant, for as much of such period as any examination by them have been made and completed.

H. Nothing contained herein shall prevent the City from refunding at one time all of the Bonds then outstanding. Nothing contained herein shall prevent the City from issuing obligations payable from a lien on the Revenue which is junior and inferior to the Bonds.

I. Additional Bonds may be issued from time to time without complying with the requirements set forth above if, in the opinion of the Professional Utility Consultant, as evidenced by a certificate filed with the City, it is necessary to repair any damage or loss to the System or if any utility comprising a portion of the System has been destroyed or damaged by disaster or unanticipated event to such an extent that it cannot be operated; provided, however, that the proceeds of any Additional Bonds issued for such purpose may only be used to return the System to, or to maintain the System at substantially its former or then operating capacity; and provided further, that in the case of repair, such Additional Bonds may be issued only to the extent that insurance proceeds from such damage or loss are insufficient for the accomplishment of such purpose.

J. In calculating Annual Debt Service for purposes of this Section, if the interest rate on any Bonds is other than a fixed rate, the rate applicable at the time of computation shall be used, unless such rate is less than the most recently published Bond Buyer Revenue Bonds Index for municipal revenue bonds, in which case the rate stated by such index shall be used. If such index is no longer published, another nationally recognized index for municipal revenue bonds maturing in 20 to 30 years may be used.

ARTICLE VI GENERAL TERMS AND PROVISIONS OF BONDS

SECTION 6.1. Execution, Payment of Bonds.

The 1989 Bonds and, except as otherwise provided in the Supplemental Ordinance providing for the issuance thereof, Additional Bonds shall be executed on behalf of the City with the

manual or facsimile signature of the Mayor and attested with the manual or facsimile signature of the City Clerk; and the seal of the City shall be impressed or imprinted on each of the Bonds. In case any of the officers who shall have signed or attested any of the Bonds shall cease to be such officer before such Bonds have been actually issued and delivered, such Bonds shall be valid nevertheless and may be issued by the City with the same effect as though the persons who had signed or attested such Bonds had not ceased to be such officers. The Bonds of each series shall be payable as to principal, premium, if any, and interest in lawful money of the United States of America and, except as otherwise provided in Section 6.7 in respect of the payment of interest, shall be payable at the offices of the [CITY FOR SUCH SERIES OF BONDS] Registrar and Paying Agents.

Only such Bonds as shall bear thereon a Certificate of Authentication in the form set forth in Section 10.2 of this Ordinance, manually executed by the Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this Ordinance. Such Certificate of Authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this Ordinance.

SECTION 6.2. Ownership of Bonds.

The City, the Registrar, the Paying Agent and any other person may treat the registered owner of any Bond as the absolute owner of such Bond for the purpose of paying the principal thereof, and premiums, if any, and interest thereon and for all other purposes, and neither the City, the Registrar nor any Paying Agent shall be bound by any notice or knowledge to the contrary, whether such Bond or the interest thereon shall be overdue or not. All payments of or on account of interest to any registered owner (or to his registered assigns), and all payments of or on account of principal to any registered owner of any Bond, shall be valid and effectual and shall be a discharge of the City, Registrar and Paying Agent, in respect of the liability upon the Bonds or claims for principal or interest, as the case may be, to the extent of the sum or sums paid.

SECTION 6.3. Registration Books.

The City will cause books for the registration and transfer of the Bonds to be kept with the Registrar as provided in this Ordinance and any Supplemental Ordinance authorizing such Bonds at all times while any of such Bonds shall be outstanding and unpaid, and shall provide for the keeping of books for the registration and transfer of such Bonds at such office, or at such place or places, and by such persons, firms or corporations as the City shall determine.

SECTION 6.4. Transfer of Registered Bonds.

Any Bond may be transferred pursuant to its provisions at the principal office of the Registrar in accordance with the systems adopted by such Registrar and by surrender of such Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner in person or by his duly authorized agent in writing, and thereupon the City will execute and the Registrar will authenticate and send to the transferee a new Bond of the same series, form, interest rate, principal amount and maturity, dated so that there shall be no gain or loss of interest as a result of such transfer. To the extent of denominations authorized in respect of any such Bond by the terms thereof, or by the terms of this Ordinance or the Supplemental Ordinance providing for the issuance thereof, one such Bond may be transferred for several such Bonds of the same series, form, interest rate and maturity, and for a like aggregate principal amount, and several such Bonds of the same series may be transferred for one or several such Bonds, respectively, of the same series, form, interest rate and maturity and for a like aggregate principal amount.

SECTION 6.5. Exchange of Bonds.

The registered owner of any Bond may, unless and except as is otherwise provided in the Supplemental Ordinance providing for the issuance thereof, at any time, surrender the same at the office of the Registrar[, WITH INSTRUMENTS OF TRANSFER SATISFACTORY TO THE REGISTRAR,] endorsed in the manner provided thereon and shall be entitled to receive in exchange therefor an equal aggregate principal amount of Bonds of the same series, interest rate and maturity, and of any one or more of the forms the issuance of which have been herein provided for; and the City will execute and the Registrar will authenticate and deliver at its office (or send to the [TRANSFeree] registered owner thereof) the Bonds necessary to make such exchange.

SECTION 6.6. Disposition of Bonds Surrendered on Exchange or Transfer; Charges for Exchange and Transfer.

In every case of an exchange of Bonds, and of a transfer of any Bond, the surrendered Bonds shall be held by the Registrar. All Bonds surrendered for exchange or transfer shall be cancelled. As a condition of any such exchange or [OF ANY REGISTRATION OR] transfer, the City at its option may require the payment by the registered owner of a sum sufficient to reimburse it for any stamp tax or other governmental charge that may be imposed thereon. All Bonds executed and delivered in exchange for or upon transfer of Bonds so surrendered shall be valid obligations of the City evidencing the same debt as the Bonds surrendered, and shall be entitled to all the benefits and protection of this

Ordinance to the same extent as the Bonds in exchange for, or upon transfer for, which they were executed and delivered.

SECTION 6.7. Payment of Bonds and Interest.

The Bonds of each series may be presented for payment at the principal office of the Registrar or any of the Paying Agents for such series of Bonds.

The principal of all Bonds of a series shall be payable at the principal office of the Registrar or any one of the Paying Agents for such series of Bonds. Payment of the interest on each Bond shall be made on each interest payment date by check or draft drawn upon the Registrar or Paying Agent therefor and mailed by first class mail to the registered owner at his address as it appears on the Bond Register as of the fifteenth day of the month preceding the interest payment date.

All Bonds upon the payment thereof shall be cancelled and destroyed by the Registrar. A certificate evidencing such payment, cancellation and destruction shall be promptly transmitted to the City.

SECTION 6.8. Lost, Stolen, Destroyed or Mutilated Bonds.

In case any Bond shall at any time become mutilated or be lost, stolen or destroyed, the City in the case of such mutilated Bond shall, and in the case of such a lost, stolen or destroyed Bond, in its discretion may, execute and deliver a new Bond of the same series, interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender or cancellation of such mutilated Bond, or in lieu of or in substitution for such destroyed, stolen or lost Bond or if such stolen, destroyed or lost Bond shall be matured, instead of issuing a substitute therefor, the City may at its option pay the same without the surrender thereof. Any such exchange or substitution shall be accomplished in accordance with the laws of the State of Alaska, as the same shall be amended from time to time. Except in the case where a mutilated Bond is surrendered, the applicant for the issuance of a substitute Bond shall furnish to the City evidence satisfactory to it of the theft, destruction or loss of the original Bond, and of the ownership thereof, and also such security and indemnity as may be required by the City, and no such substitute Bond shall be issued unless the applicant for the issuance thereof shall reimburse the City for the expenses incurred by the City in connection with the preparation (including printing), execution, issuance and delivery of the substitute Bond. Any such substitute Bond shall be equally and proportionately entitled to the security of this Ordinance with all other Bonds issued hereunder, whether or not the Bond alleged to have been lost, stolen or destroyed shall be found at any time or enforceable by anyone. The City shall advise the Registrar and

Paying Agents of the issuance of substitute Bonds. All mutilated Bonds so surrendered to the City shall be cancelled by it.

SECTION 6.9. Limitations on Duty of City to Register, Exchange or Transfer Bonds.

The City shall not be required to register, discharge from registration, transfer or exchange any Bonds which have been designated for redemption within a period of thirty (30) days next preceding the date fixed for redemption.

SECTION 6.10. Paid or Surrendered Bonds Not to be Reissued.

No Bonds shall be issued in lieu of Bonds surrendered upon exchange or transfer, except as expressly provided by this Ordinance; provided that the City reserves the right to account for any Bonds redeemed at the option of the registered owner thereof prior to maturity pursuant to the Supplemental Ordinance authorizing the issuance of such Bonds as having been purchased by the City and eligible for resale or reissuance (including the issuance of substitute Bonds).

SECTION 6.11. CUSIP Identification Numbers.

At the sole option of the City, CUSIP identification numbers may be printed on the Bonds of any series of Bonds, but no such number shall be deemed to be a part of any Bond or a part of the contract evidenced thereby, and no liability shall hereafter attach to the City or any officer or agent thereof (including the Paying Agents) because of or on account of said CUSIP identification numbers or any use made thereof.

SECTION 6.12. Issuance of Coupon or Bearer Bonds.

The City reserves the right to amend and modify the provisions of this Ordinance and to include in any Supplemental Ordinance authorizing the issuance of Additional Bonds provisions relating to the issuance of bonds in bearer or coupon form; provided always that no changes can be made which would impair the obligation of the City to carry out its other promises, covenants, warranties and representations hereunder nor in any way impair its obligation to pay the principal of, premium, if any, or interest on any 1989 Bonds or any Additional Bonds.

SECTION 6.13. Temporary Bonds.

Any Bonds of any series may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the City, and may contain such reference to any of the provisions of this Ordinance as may be appropriate. Every temporary Bond shall be

executed by the City upon the same conditions and in substantially the same manner as the definitive Bonds. If the City issues temporary Bonds, it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds may be surrendered for cancellation at the office of the Registrar and the Registrar shall deliver in exchange for such temporary Bonds so surrendered an equal aggregate principal amount of definitive Bonds of like principal amount and in authorized denominations of the same series, maturity or maturities, interest rate or rates. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Ordinance as definitive Bonds delivered under this Ordinance.

ARTICLE VII REDEMPTION OF BONDS

SECTION 7.1. Notice of Redemption.

Written notice of any redemption of Bonds shall be given by the City, which notice shall specify the title, series, maturities, letters and numbers or other distinguishing marks of the Bonds to be redeemed, the redemption date and the place or places where the amount due upon such redemption will be payable and, in the case of registered Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall further state that upon the date fixed for redemption there shall become due and payable upon each Bond to be redeemed the principal amount thereof plus the premium, if any, due thereon upon the said redemption date, together with interest accrued to the redemption date, and that from and after the redemption date interest thereon, or on the portion of any Bond to be redeemed in part shall cease to accrue and become payable. Such notice shall also further state the CUSIP numbers, if any, of all the Bonds being redeemed, the date of issue of the Bonds as originally issued, the rate of interest borne on each Bond being redeemed, the maturity date of each Bond being redeemed, and any other descriptive information needed to identify accurately the Bonds being redeemed. Such notice shall be mailed by first class mail, postage prepaid, at least thirty-five (35) days before the redemption date to the registered owners of Bonds which are to be redeemed in whole or in part at their last addresses, if any, appearing upon the Bond Register, to the Paying Agents, to all registered securities depositories then in the business of holding amounts of obligations of types comprising the Bonds, to one or more national information services that disseminate notices of redemption of obligations such as the Bonds, to Moody's Investors Service, Inc., and to Standard & Poor's Corporation, but any defect with respect to the redemption of any Bond shall not invalidate the redemption of any other Bond. The City shall transfer to the Registrar for the Bonds so to be redeemed amounts in cash which, in addition to other moneys, if any, held

by such Registrar for such purpose, will be sufficient to redeem, on the redemption date, all the Bonds so to be redeemed.

Each notice shall also be published one time in the Bond Buyer of New York, New York or, if such publication is impractical or unlikely to reach a substantial number of owners of the Bonds, in some other financial newspaper or journal which regularly carries notices of redemption of other obligations similar to the Bonds, such publication to be made at least thirty (30) days prior to the date fixed for redemption.

SECTION 7.2. Payment of Redeemed Bonds; When Interest on Bonds Called for Redemption Ceases to Accrue.

Notice having been given by mailing in the manner provided in Section 7.1 hereof, the Bonds or portions thereof so called for redemption, together with accrued interest to the date fixed for redemption, shall become due and payable on the redemption date designated in said notice, and the Registrar and Paying Agents shall make payments thereof upon presentation and surrender thereof at the offices of the Registrar or Paying Agents specified in such notice together with, in the case of Bonds for which payment is requested by a person other than the registered owner, a written instrument of transfer in form satisfactory to the Paying Agent, duly executed by the registered owner or his duly authorized attorney. In the event there shall be selected for redemption less than all of the Bonds represented by a Bond, the City shall execute and the Registrar shall authenticate and deliver upon the surrender of such Bond without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, a Bond or Bonds of the same series, interest rate and maturity, in either the denomination of such unredeemed balance or in any of the authorized denominations as shall be requested by the registered owner of the Bond so surrendered.

If moneys for the redemption of all the Bonds, or portions thereof, to be redeemed on any redemption date, together with the interest to the redemption date, shall be held by the City so as to be available therefor on the date fixed for the redemption thereof, and if notice of redemption of said Bonds shall have been mailed as provided in this Article, then from and after the redemption date, interest on the Bonds or portions thereof so called for redemption shall cease to accrue and become payable, and all Bonds or portions thereof so called for redemption shall be payable solely from the moneys set aside for the payment thereof with the City, and said Bonds or portions thereof shall no longer be secured by the lien on and pledge of the Revenues herein created for the security and payment thereof; provided, however, that such lien and pledge shall continue in full force and effect as to the portion of any Bond not called for redemption.

ARTICLE VIII
CREATION OF SPECIAL FUNDS AND ACCOUNTS
AND PAYMENTS THEREFROM

SECTION 8.1. Revenue Fund.

A. City has heretofore created a special account of the City called the Water Revenue Fund Account (the "Revenue Fund"). Said Revenue Fund shall be maintained and continued in existence, and shall be held and administered by the City. The City covenants and agrees that it will pay or cause to be paid all Revenues into the Revenue Fund as promptly as practicable after receipt thereof.

B. The Revenues [OF THE CITY] shall be used only for the following purposes and in the following order of priority:

(1) All revenues paid into the Revenue Fund shall be applied as follows:

(i) to make all payments required to be made into the Interest Account in the Bond Fund for the payment of accrued interest on the next interest payment date;

(ii) to make all payments required to be made into the Principal Account in the Bond Fund for the principal payment or sinking fund installment of Bonds coming due;

(iii) to make all payments required to be made into the Reserve Account in the Bond Fund created to secure the payment of the Bonds; and

(iv) to make all payments required to be made into any special fund or account created to pay or secure the payment of the principal of and interest on any revenue bonds, warrants or other revenue obligations of the City having a lien upon Revenues and moneys in the Revenue Fund and accounts therein junior and inferior to the lien thereon for the payment of the principal of and interest on the Bonds.

(2) Subject to the provisions of Section 9.1.A, after all of the above payments and credits have been made, amounts remaining may be used for any other lawful purpose of the City related to the System.

Nothing contained in this Section 9.1 shall be construed to require the deposit into the Revenue Fund of any of the revenues, income, receipts or other moneys of the City derived by the City through the ownership or operation of any separate utility system heretofore or hereafter created or established from funds other than the proceeds of Bonds.

SECTION 8.2. Bond Fund.

A special fund of the City is hereby created and designated the "1989 Water Revenue Bond Fund" (hereinafter referred to as the "Bond Fund"). The Bond Fund shall be held in trust and administered by the City and shall be used solely for the purposes of paying the principal of, premium, if any, and interest on the Bonds, and retiring the Bonds prior to maturity in the manner herein provided. The City may designate one or more banks to serve as depository for moneys deposited in the Bond Fund provided that all moneys held by any such depository bank shall be held for the account of the City.

The Bond Fund shall contain three accounts: the Principal Account, Interest Account, and the Reserve Account. The City hereby obligates and binds itself irrevocably to set aside and to pay (to the extent not otherwise provided) from moneys in the Revenue Fund into the Bond Fund, prior to the payment of any other charge or obligation against such Revenues, amounts sufficient to pay the principal of, premium, if any, and interest on all the Bonds from time to time outstanding as the same respectively become due and payable, either at the maturity thereof or in accordance with the terms of any Sinking Fund Requirement established for the retirement of Term Bonds.

In the event that there shall be a deficiency in the Principal and Interest Account in the Bond Fund, the City shall promptly make up such deficiency from the Reserve Account by the withdrawal of cash therefrom for that purpose and by the sale or redemption of obligations held in the Reserve Account, if necessary, in such amounts as will provide cash in the Reserve Account sufficient to make up any such deficiency. The City covenants and agrees that any deficiency created in the Reserve Account by reason of any withdrawal therefrom for payment into the Principal Account and Interest Account shall be made up from moneys in the Revenue Fund first available and then for the required payments into such Principal and Interest Accounts.

Upon the issuance of the 1989 Bonds, the City shall deposit into the Bond Fund for credit to the Reserve Account from moneys in the Water Revenue Bond and Interest Sinking Fund Account and the Water System Repair and Replacement Account an amount equal to the Reserve Account Requirement. In the event of the issuance of any Additional Bonds, the Supplemental Ordinance authorizing the issuance of such Additional Bonds shall provide for approximately equal monthly deposits into the Bond Fund for credit to the Reserve Account from the moneys in the Revenue Fund, in such amounts and at such times so that by no later than five (5) years from the date of issuance of such Additional Bonds or by the final maturity established for such series of Additional Bonds, whichever occurs first, there will be credited to the Reserve Account an amount equal to the Reserve Account Requirement; provided, however, that the proceedings authorizing the issuance

of Additional Bonds may provide for payments to the Registrar for deposit into the Bond Fund for credit to the Reserve Account from the proceeds of such Additional Bonds or from any other moneys lawfully available therefor in which event, in providing for deposits and credits required by the foregoing provisions of this paragraph, allowance shall be made for any such amounts so paid into such Account.

The Bond Fund shall be drawn upon solely for the purpose of paying the principal of, premium, if any, and interest on the Bonds.

SECTION 8.3. Investment of Funds.

Moneys held for the credit of the Revenue Fund, the Principal and Interest Account, and the Reserve Account in the Bond Fund shall, to the fullest extent practicable and reasonable, be invested and reinvested at the direction of the City solely in Permitted Investments which shall mature prior to the respective dates when the moneys held for the credit of such Accounts will be required for the purposes intended.

Except to the extent there are deficiencies in any account in the Bond Fund, all income received from the investment of moneys in the Bond Fund shall be from time to time deposited in the Revenue Fund.

**ARTICLE IX
COVENANTS TO SECURE BONDS**

SECTION 9.1. Security for Bonds.

The City covenants and agrees with the purchasers and owners of all Bonds issued pursuant to this Ordinance, so long as any such Bonds are outstanding, as follows:

A. All Bonds are special limited obligations of the City payable from and secured solely by Revenues, and by other moneys and assets specifically pledged hereunder for the payment thereof. There are hereby pledged as security for the payment of the principal of, premium, if any, and interest on all Bonds in accordance with the provisions of this Ordinance, subject only to the provisions of this Ordinance restricting or permitting the application thereof for the purposes and on the terms and conditions set forth in this Ordinance: (i) the Revenues, and (ii) the moneys and investments, if any, credited to the Revenue Fund, and the Bond Fund, and the income therefrom. The Revenues and other moneys and securities hereby pledged shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City regardless of whether such parties have notice thereof.

All Bonds now or hereafter outstanding shall be equally and ratably payable and secured hereunder without priority by reason of date of adoption of the ordinance providing for their issuance or by reason of their series, number or date of sale, issuance, execution or delivery, or by the liens, pledges, charges, trusts, assignments and covenants made herein, except as otherwise expressly provided or permitted in this Ordinance and except as to insurance which may be obtained by the City to insure the repayment of one or more series or maturities within a series.

The pledge of the Revenues and of the amounts to be paid into and maintained in the funds and accounts described above in this Section to pay and secure the payment of Bonds is hereby declared to be a prior lien and charge on the Revenues and the moneys and investments in such funds and accounts superior to all other liens and charges of any kind or nature.

B. No moneys may be removed from the Revenue Fund for transfer to any fund of the City not described in this Ordinance while any deficiency exists and is continuing in any payment required by this Ordinance into the Bond Fund or any account therein.

Bonds shall not in any manner or to any extent constitute general obligations of the City or of the State of Alaska, or any political subdivision of the State of Alaska, or a charge upon any general fund or upon any moneys or other property of the City or of the State of Alaska, or of any political subdivision of the State of Alaska, not specifically pledged thereto by this Ordinance.

SECTION 9.2. Rate Covenant - General.

The City will establish, maintain and collect rates and charges for services, facilities and commodities sold, furnished or supplied through the facilities of the System which shall be fair and nondiscriminatory and adequate to provide Revenues sufficient for the punctual payment of the principal of, premium, if any, and interest on the Bonds for which the payment has not otherwise been provided, for all payments which the City is obligated to make into the Bond Fund, and for the proper operation and maintenance of the System, and all necessary repairs, replacements and renewals thereof, including the payment of all taxes, assessments or other governmental charges lawfully imposed on the System or the Revenues therefrom, or payments in lieu thereof, and the payment of all other amounts which the City may now or hereafter become obligated to pay from the Revenues by law or contract.

SECTION 9.3. Rate Covenant - Debt Service Coverage.

The City will also establish, maintain and collect rates and charges which shall be adequate to provide in each Fiscal Year

Net Revenues in an amount equal to at least 1.30 times the maximum Annual Debt Service on the then outstanding Bonds in any succeeding Fiscal Year.

The calculation of the coverage requirement set forth above, and in Section 5.2 hereof, and the City's compliance therewith, may be made solely with reference to this Ordinance without regard to future changes in generally accepted accounting principles.

SECTION 9.4. Restrictions on Contracting of Obligations Secured by Revenues.

A. The City will not hereafter create any other special fund or funds for the payment of revenue bonds, warrants or other revenue obligations, or issue any bonds, warrants or other obligations or create any additional indebtedness which will rank prior to the charge and lien on the Revenues or properties of the System.

B. The City will not hereafter create any other special fund or funds for the payment of revenue bonds, warrants or other revenue obligations, or issue any bonds, warrants or other obligations or create any additional indebtedness which will rank on a parity with the charge and lien on the Revenues or properties of the System for the payments into the Bond Fund, except as provided under Article V hereof.

C. The City may issue bonds, notes, warrants or other obligations payable from and secured by a lien on the Revenues of the System that is subordinate or inferior to the lien on such Revenues securing the Bonds and may create a special fund or funds for payment of such subordinate obligations.

SECTION 9.5. Covenant to Maintain System in Good Condition.

The City shall at all times maintain, preserve and keep, or cause to be maintained, preserved and kept, the properties of the System and all additions and betterments thereto and extensions thereof and every part and parcel thereof, in good repair, working order and condition, and will from time to time make, or cause to be made, all necessary and proper repairs, renewals, replacements, extensions and betterments thereto so that at all times the business carried on in connection therewith shall be properly and advantageously conducted. The City will at all times operate such properties and the business in connection therewith or cause such properties and business to be operated in an efficient manner and at a reasonable cost.

SECTION 9.6. Covenants Concerning Disposal of Properties of System.

The City shall not sell, mortgage, lease or otherwise dispose of the properties of the System except as provided in this Section.

A. The City will not sell or otherwise dispose of the System in its entirety unless simultaneously with such sale or other disposition, provision is made for the payment, redemption or other retirement of all Bonds then outstanding.

B. Except as provided in C below, the City will not sell or otherwise dispose of any part of the System unless provision is made for the payment, redemption or other retirement of a principal amount of Bonds equal to the greater of the following amounts:

(1) An amount which will be in the same proportion to the net principal amount of Bonds then outstanding (defined as the total principal amount of Bonds outstanding less the amount of cash and investments in the Principal Account and Bond Retirement Account in the Bond Fund) that the Revenues attributable to the part of the System sold or disposed of for the twelve preceding months bears to the total Revenues for such period; or

(2) An amount which will be in the same proportion to the net principal amount of Bonds then outstanding that the book value of the part of the System sold or disposed of bears to the book value of the entire System immediately prior to such sale or disposition.

C. The City may sell or otherwise dispose of any part of the System which shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the System, or no longer necessary, material to or useful in such operation. If the proceeds of any single sale or disposition pursuant to the foregoing proviso, exceed 0.15% of Net Revenue for the preceding Fiscal Year, such proceeds shall be paid into the Reserve Account to the extent necessary to make up any deficiency in said Reserve Account and the balance, if any, shall be [USED FOR RENEWALS, REPLACEMENTS OR CAPITAL ADDITIONS TO THE SYSTEM, OR BE ADDED TO THE RESERVE ACCOUNT] deposited in the Revenue Fund.

D. The proceeds of sale of any part of the System under paragraphs B or C above shall be deposited in the Reserve Account, to the extent of any deficiency therein, and the balance deposited in the Revenue Fund.

E. No sale of any part of the System, for a price in excess of 10% of the book value of the System, shall be made if, in the opinion of a Professional Utility Consultant, based on financial statements of the System for the most recent Fiscal

Year available, such sale would prevent the City from meeting the requirements of the first paragraph of Section 9.3.

SECTION 9.7. Insurance.

The City shall either self-insure or, as needed, and to the extent insurance coverage is available at reasonable cost with responsible insurers, keep, or cause to be kept, the System and the operation thereof insured, with policies payable to the City, against the risks of direct physical loss, damage to or destruction of the System, or any part thereof, and against accidents, casualties or negligence, including liability insurance and employer's liability, at least to the extent that similar insurance is usually carried by utilities operating like properties.

In the event of any loss or damage, the City will promptly repair or replace the damaged portion of the insured property and apply the proceeds of any insurance policy for that purpose; or in the event the City should determine not to repair or reconstruct such damaged portion of the properties of the System, the proceeds of such insurance shall be paid into the Reserve Account to the extent that such transfer shall be necessary to make up any deficiency in said Reserve Account and the balance, if any, shall at the option of the City, be used either for repairs, renewals, replacements, or capital additions to the System or for the purchase, payment or redemption of Bonds.

SECTION 9.8. Condemnation.

In the event of any loss or damage to the properties of the System by reason of condemnation, the City will (i) with respect to each such loss, promptly replace, repair and reconstruct to the extent necessary to the proper conduct of the operations of the System the condemned portion thereof and shall apply the proceeds of any condemnation award for that purpose to the extent required therefor, or (ii) if the City shall not use the entire proceeds of such condemnation award to repair, replace or reconstruct such lost or damaged property, such award not so used shall be paid into the Revenue Fund, and if appropriate in the opinion of the the City shall be used to purchase or redeem Bonds or to acquire or construct extensions, betterments and improvements to the System.

SECTION 9.9. Books of Account.

The City shall keep proper books of account in accordance with any applicable rules and regulations prescribed by the State of Alaska. The City shall cause its books of account to be audited annually by independent certified public accountants licensed, registered or entitled to practice, and practicing as such, under the laws of the State of Alaska. The City will furnish a copy of the most recent audit report to any owner of Bonds upon written request therefor. Any owner of Bonds may also

obtain at the offices of the City copies of the balance sheet and income and expense statements showing in reasonable detail the financial condition of the System as of the close of each Fiscal Year, including the transactions relating to the Revenue Fund, the Bond Fund, and all other funds and accounts created or maintained pursuant to the provisions of this Ordinance.

SECTION 9.10. Covenant Not to Render Service Free of Charge.

So long as any Bonds are outstanding, the City shall not furnish or supply or permit the furnishing or supplying of any commodity, service or facility furnished by or in connection with the operation of the System, free of charge to any person, firm or corporation, public or private, and the City will promptly enforce the payment of any and all accounts owing to the City and delinquent, by discontinuing service or by filing suits, actions or proceedings, or by both discontinuance of service and filing suit.

SECTION 9.11. Covenant to Make Only Economically Sound Improvements.

The City shall not expend any moneys in the Revenue Fund or the proceeds of Additional Bonds or other obligations for any renewals, replacements, extensions, betterments and improvements to the System which are not economically sound, and which will not properly and advantageously contribute to the conduct of the business of the System in an efficient and economical manner; provided that the foregoing shall not preclude the City from paying any legal or contractual obligations.

SECTION 9.12. Covenant to Pay Bond Principal and Interest Punctually.

The City shall duly and punctually pay or cause to be paid, but only from Revenues, and other moneys pledged therefor, under this Ordinance, the principal of, premium, if any, and interest on each and every Bond on the dates and at the places and in the manner provided in the Bonds, according to the true intent and meaning thereof, and will faithfully do and perform and fully observe and keep any and all covenants, undertakings, stipulations and provisions contained in the Bonds and in this Ordinance and each Supplemental Ordinance authorizing Additional Bonds.

SECTION 9.13. Covenant to Pay Taxes, Assessments and Other Claims.

The City shall from time to time duly pay and discharge, or cause to be paid and discharged, when the same shall become due, all taxes, assessments and other governmental charges, or payments in lieu thereof, lawfully imposed upon the System or the Revenues, and all claims for labor and materials and supplies which, if not paid, might become a lien or charge upon the

System, or any part thereof, or upon the Revenues (prior to the lien thereon for the payment of the Bonds), or which might in any way impair the security of the Bonds, except taxes, assessments, charges or claims which the City shall in good faith contest by proper legal proceedings.

SECTION 9.14. Employees to be Bonded.

All employees or agents of the City, collecting or handling Revenue or money deposited in any fund or account hereby established, shall at all times be bonded by a responsible surety company, or companies, in amounts sufficient to protect the City adequately from loss.

SECTION 9.15. Tax-Exemption.

The City hereby covenants that it will not make any use or investment of the proceeds from the sale of the 1989 Bonds, [ADDITIONAL BONDS] or any other monies or obligations of the City which may be deemed to be proceeds of such 1989 Bonds pursuant to Section 148[(a)] of the Internal Revenue Code of 1986 and the applicable regulations thereunder which, if such use has been reasonably expected on the date of delivery of the 1989 Bonds to the initial purchasers thereof, would have caused the 1989 Bonds or Bond to be "arbitrage bonds" within the meaning of said section of the Code and said regulations. The City will comply with the applicable requirements of Section 148[(f)] of the Internal Revenue Code of 1986 and the applicable regulations thereunder throughout the term of the 1989 Bonds. The City covenants that it will not act or fail to act in a manner which will cause the 1989 Bonds or other bonds to be considered obligations not described in Section 103(a) of the Internal Revenue Code.

The City will take no actions and will make no use of the proceeds of the 1989 Bonds or any bonds or any other funds held under this Ordinance which would cause any 1989 Bonds to be treated as a "private activity bond" (as defined in Section 141[(b)](a) of the Internal Revenue Code of 1986 then in effect[]) SUBJECT TO TREATMENT UNDER SAID SECTION 141(b) AS AN OBLIGATION NOT DESCRIBED IN SUBSECTION (a) OF SAID SECTION 103, UNLESS THE TAX EXEMPTION THEREOF IS NOT AFFECTED].

The City hereby designates the 1989 Bonds as "qualified tax-exempt obligations" under Section 265(b) of the Internal Revenue Code of 1986 for investment by financial institutions. The City does not anticipate that it will issue more than \$10,000,000 of qualified tax exempt obligations during 1989.

**ARTICLE X
FORM OF BONDS**

SECTION 10.1. Form of Bonds.

The 1989 Bonds shall be in substantially the form provided in Section 10.2 of this Ordinance. The bonds of each series of Additional Bonds shall, unless or except as is otherwise provided in the Supplemental Ordinance or Ordinances authorizing their issuance, be in substantially the form provided in Section 10.2, with such modifications, additions or deletions as may be necessary or advisable to reflect the details and provisions of the issuance of such Bonds and the provisions of this Ordinance authorizing the same or as otherwise required or permitted by the provisions of this Ordinance.

SECTION 10.2. Form of 1989 Bonds.

The 1989 Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. _____ STATE OF ALASKA \$ _____

CITY OF HOMER
WATER REVENUE REFUNDING BOND 1989

Interest Rate: _____ Maturity Date: _____ CUSIP No.: _____

Registered Owner: _____

Principal Amount: _____

The City of Homer, Alaska, a municipal corporation of the State of Alaska (hereinafter called the "City"), for value received, hereby promises to pay to the Registered Owner stated above, or registered assigns, the Principal Amount stated above on the Maturity Date stated above and to pay interest on such principal sum from the date hereof or the most recent date to which interest has been paid or duly provided for, at the rate of _____ and the first day of _____ in each year until the payment in full of such principal sum.

Payments of principal of and interest and premium, if any, on this bond are payable solely out of the revenue of the System and moneys pledged therefor under the Ordinance. Such payments are made out of the special fund of the City known as the "1989 Water Revenue Bond Fund" created and established by Ordinance No. 89-105, adopted by the City Council of the City on 4/10/89, 1989 (hereinafter referred to as the "Bond Fund"). Both principal of and interest on this bond are payable in lawful money of the United States of America. Interest shall be paid by mailing

a check or draft to the registered owner or assigns at the address shown on the Bond Register as of the 15th day of the month prior to the interest payment date. Principal shall be paid to the registered owner or assigns upon presentation and surrender of this bond at the principal office of Registrar.

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 on this space.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance (as hereinafter defined) until the Certificate of Authentication hereon shall have been manually signed by the Registrar.

It is hereby certified, recited and declared that all acts, conditions and things required by the Constitution and statutes of the State of Alaska to exist, to have happened and to have been performed precedent to and in the issuance of this Bond to exist, have happened and have been performed in due time, form and manner as prescribed by law, and that the amount of this Bond, together with all other obligations or indebtedness of the City, does not exceed any constitutional or statutory limitations of indebtedness.

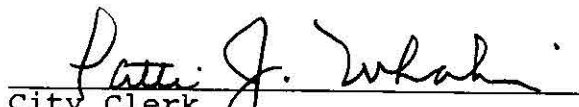
IN WITNESS WHEREOF, the City of Homer, Alaska, by its City Council, has caused this Bond to be executed in its name with the manual or facsimile signature of its Mayor, and attested by the manual or facsimile signature of the City Clerk, and the seal of said City to be impressed or imprinted hereon, all as of the 10th day of 4, 1989.

CITY OF HOMER, ALASKA


Mayor

(SEAL)

Attest:


City Clerk

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

This bond is one of the bonds described in the within mentioned Bond Ordinance and is one of the Water Revenue Refunding Bonds, 1989 of City of Homer, Alaska, dated [APRIL 1] _____, 1989.

By _____
Registrar

By _____
Authorized Officer

ADDITIONAL BOND PROVISIONS

This bond is one of a duly authorized series of bonds aggregating \$_____ in principal amount and designated as "Water Revenue Refunding Bonds, 1989." This bond is issued under and pursuant to the aforesaid Ordinance No. 89-10 S (said ordinance hereinafter being referred to as the "Bond Ordinance"), and under the authority of and in full compliance with the Constitution and laws of the State of Alaska. The Bonds are issued for the purpose of refunding the 1965 Bond and the 1975 Bond. The Bond Ordinance permits the issuance of Additional Bonds payable from the Bond Fund ranking on a parity with the Bonds and secured by an equal charge and lien on the Revenues of the System (as such terms are defined in the Bond Ordinance).

The Bond Ordinance contains a more complete description of the Revenues available for the payment of the principal of, premium, if any, and interest on the Bonds and the rights and remedies of the owners of the Bonds with respect thereto, the terms and conditions upon which the Bonds have been issued, and the terms and conditions upon which this Bond shall no longer be secured by the Bond Ordinance or deemed to be outstanding hereunder if moneys or certain specified securities sufficient for the payment of this Bond shall have been set aside in a special account and held in trust solely for the payment thereof.

Under the Bond Ordinance, the City is obligated to set aside and pay into the Bond Fund out of the Revenues of said System, amounts sufficient to pay the principal of and interest and premium, if any, on all Bonds and any bonds at any time outstanding issued on a parity therewith payable from such Fund as the same become due and payable, all as is more fully provided in the Bond Ordinance. The Bonds and any bonds issued on a parity therewith payable from the Bond Fund and the interest thereon constitute the only charge against the Bond Fund and the Revenues or other monies so pledged to said Bond Fund.

In and by the Bond Ordinance, the City covenants to establish, maintain and collect rates or charges for services, facilities and commodities sold, furnished or supplied by the System of the City which shall be fair and nondiscriminatory and adequate to provide Revenues sufficient for the amounts which the City is obligated to set aside in the Bond Fund to pay the principal of and interest and premium, if any, on this Bond, and any other bonds payable from said Fund on a parity with the Bonds and for the proper operation and maintenance of the System, and all necessary repairs thereto and replacements and renewals thereof.

The Bonds maturing are subject to redemption prior to maturity, at the option of the City, on or after _____, in whole or in part on any interest payment date, upon written notice as provided hereinafter, at the redemption prices with respect to each Bond (expressed as a percentage of the principal amount of the Bond to be redeemed) set forth below, together with the interest accrued thereon to the date fixed for redemption:

Redemption Dates

Redemption Price

If less than all of the Bonds subject to optional redemption are to be called for redemption, the City shall choose the maturities to be redeemed. In the event that less than all of the Bonds of any maturity are called for redemption, the particular Bonds of such maturity to be redeemed shall be selected by lot by the Registrar.

Written notice of redemption shall be given by first class mail, postage prepaid, at least thirty-five (35) days before the redemption date to the registered owners of the Bonds to be redeemed in whole or in part at their last addresses, if any, appearing on the Bond Register, but failure to mail or to receive any such notice shall not affect the validity of the proceedings for redemption of Bonds. Notice of redemption having been given by mailing, as aforesaid, the Bonds so called for redemption shall on the date specified in such notice become due and payable at the applicable redemption price herein provided, and from and after the date so fixed for redemption (unless the City shall default in the payment of the Bonds so called for redemption) interest on said Bonds so called for redemption shall cease to accrue.

This Bond shall be transferable by the registered owner at the principal offices of the Registrar upon surrender and cancellation of this Bond, and thereupon a new registered Bond of the same principal amount and interest rate and maturity will be issued to the transferee as provided in the Bond Ordinance. The City, may treat the person in whose name this Bond is registered

as the absolute owner hereof for the purpose of receiving payment hereof and for all purposes and shall not be affected by any notice to the contrary, whether this Bond be overdue or not.

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 Registrar to transfer said bond on the books kept for registration thereof with full power of substitution in the premises.

DATED: _____, 19__.

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.

**ARTICLE XI
MISCELLANEOUS, DEFEASANCE**

SECTION 11.1. Ordinance and Laws a Contract With Bondowners.

This Ordinance is adopted under the authority of and in full compliance with the Constitution and laws of the State of Alaska, as amended and supplemented. In consideration of the purchase and acceptance of the Bonds by those who shall hold the same from time to time, the provisions of this Ordinance and of any Supplemental Ordinance authorizing the issuance of Additional Bonds, and of said laws shall constitute a contract with the owner or owners of each Bond and the obligations of the City and its Council under said acts and under this Ordinance shall be enforceable by any court of competent jurisdiction; and the covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the owners of any and all of said Bonds all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of said Bonds over any others thereof except as expressly provided herein.

SECTION 11.2. Bonds Deemed No Longer to be Outstanding Hereunder.

In the event that the City, in order to effect the payment, retirement or redemption of any Bond, sets aside in the Bond Fund or in another special account, held in trust by the City, advance refunding bond proceeds or other money lawfully available or direct obligations of or obligations the principal of and the interest on which are unconditionally guaranteed by the United States Government ("Government Obligations"), or any combination of such proceeds, money and/or Government Obligations, in amounts which, together with known earned income from the investment thereof are sufficient to redeem, retire or pay such Bond in accordance with its terms and to pay when due the interest and redemption premium, if any, thereon, and such proceeds, money and/or Government Obligation 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 such Bond, and the owner of such Bond shall cease to be entitled to any lien, benefit or security of this Ordinance except the right to receive payment of principal, premium, if any, and interest from such special account, and such Bonds shall be deemed not to be outstanding hereunder.

SECTION 11.3. Sale of the 1989 Bonds.

The Manager of the City and its Finance Director are hereby authorized and directed to negotiate with the Alaska Municipal Bond Bank Authority or other purchaser and to establish the terms of an agreement with the Authority or other purchaser for the

sale of the Bonds to the Authority or other purchaser, provided that the interest rate to be borne by any installment of the Bonds shall not exceed the interest rate on any corresponding bond or bonds of the Authority or other purchaser sold to provide funds for the purchase of the Bonds by the Authority or other purchaser. The amount of Bonds to be sold, the maturity schedule, interest rates and payment dates and the form and terms of said agreement shall be subject to approval by resolution of the Council. The provisions of said agreement when so approved shall be applicable to the Bonds as if set forth herein in full.

The proper officials of the City are hereby authorized and directed to do all things necessary for the prompt execution and delivery of the 1989 Bonds and for the proper use and application of the proceeds of the sale thereof.

SECTION 11.4. Severability.

If any one or more of the covenants or agreements provided in this Ordinance on the part of the City to be performed shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements shall be null and void and shall be deemed separable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Ordinance or of the Bonds issued hereunder.

SECTION 11.5. General Authorization.

The Manager of the City, the Finance Director, the City Clerk and each of the other appropriate officers of the City are each hereby authorized and directed to take such steps, to do such other acts and things, and to execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable in order to carry out the terms and provisions of, and complete the transactions contemplated by, this Ordinance.

SECTION 11.6. Prior Acts.

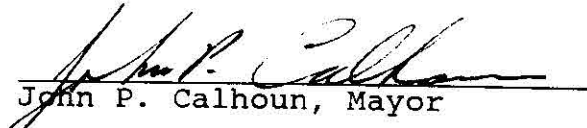
All acts taken pursuant to the authority of this Ordinance but prior to its effective date are hereby ratified and confirmed.

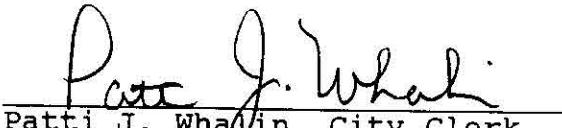
SECTION 11.7. Effective Date of Ordinance.

This Ordinance shall be in effect immediately upon its passage and publication as required by law.

PASSED by the City Council of the City of Homer, Alaska, at
a regular meeting thereof this 10th day of April, 1989.

CITY OF HOMER


John P. Calhoun, Mayor


Patti J. Whalen, City Clerk