

ORDINANCE NO. 89-13(S)

AN ORDINANCE AMENDING ORDINANCE NO. 88-17(S)
RELATING TO THE ISSUANCE OF A PORT REVENUE BOND
AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance 88-17(S), the City of Homer (the "City") authorized the issuance of its Port Revenue Bond, 1988 in the principal amount of not to exceed \$1,500,000 (the "Bond"); and
1,915,000

WHEREAS, the City deems it to be in the best interest of the City to amend Ordinance 88-17(S) to increase the authorized principal amount of the Bond and provide for the issuance of a port revenue bond during 1989 in an amount not to exceed \$1,915,000.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Paragraph 2 of Section 1, Definitions, of Ordinance No. 88-17(S) is amended as follows:

"Bond" means the City of Homer Port Revenue Bond, 1989 [1988] to be issued in the aggregate principal amount not to exceed \$1,915,000 [\$1,500,000] authorized pursuant to this ordinance.

Section 2. Paragraphs 1 and 2, Section 3, Description of Bond, of Ordinance No. 88-17(S) are amended as follows:

Section 3. Description of Bond. For the purpose of providing funds necessary to make capital improvements to the System, the City shall issue the Bond in an aggregate principal amount not to exceed \$1,915,000 [\$1,500,000].

The Bond shall be designated "City of Homer, Alaska, Port Revenue Bond, 1989 [1988]" and shall be in the total principal amount not to exceed \$1,915,000 [\$1,500,000]. The Bond shall be in the aggregate principal amount, shall have such reserve account provisions, shall be dated, shall have such redemption provisions, shall bear interest at the rate or rates and mature in principal installments all as provided in a subsequent resolution of the City Council.

Section 3. Section 4, Form of Bond, of Ordinance No. 88-17(S) is amended as follows:

No. _____

UNITED STATES OF AMERICA

\$ _____

STATE OF ALASKA
CITY OF HOMER
PORT REVENUE BOND, 1989 [1988]

Registered Owner:
Principal Amount:

THE CITY OF HOMER, ALASKA (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, the Principal Amount indicated above in the installments as set forth below on October 1 of each of the years as set forth below, together with interest on such installments [AND TO PAY INTEREST THEREON] from the date hereof, or the most recent date to which interest has been paid or duly provided for, at the rates set forth below payable October 1, 1989, and semiannually thereafter on the first days of each April and October until such installments have been paid, or such payment has been duly provided for as follows:

<u>Maturity Years</u> <u>(October 1)</u>	<u>Principal</u> <u>Amounts</u>	<u>Interest</u> <u>Rates</u>
---	------------------------------------	---------------------------------

[_____. THIS BOND SHALL BEAR INTEREST AT THE RATE OF _____.] Both principal of and interest on this bond are payable in lawful money of the United States of America. Principal and interest shall be paid by mailing a check or draft to the registered owner or assigns at the address shown on the registration books of the Bond Registrar (the "Bond Registrar [Register]") as of the 15th day of the month prior to the interest payment date. Upon final payment of all installments and interest thereon, this bond shall be submitted to the City for cancellation and surrender.

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.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under Ordinance No. ____ of the City (the "Bond Ordinance") until the Certificate of Authentication hereon shall have been manually signed by the Bond Registrar.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Alaska to exist, to have happened, been done and performed precedent to and in the issuance of this bond have happened, been done and performed and that the issuance of this bond does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the City may incur.

IN WITNESS WHEREOF, the City has caused this bond to be executed by the signature of its Mayor and attested by its Clerk, and the seal of the City to be impressed hereon, as of the 8th day of May, 1989 [1988].

CITY OF HOMER, ALASKA

By John P. Colham
Mayor

ATTEST:

Paul J. Whalen
City Clerk

[Seal]

ADDITIONAL BOND PROVISIONS

This bond is the City of Homer, Alaska Port Revenue Bond, 1989 [1988], in the aggregate principal amount of \$1,915,000 [\$1,500,000], and is issued for the purpose of providing funds to pay the cost of improvements to the System as defined in the Bond Ordinance.

The bond is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Alaska and ordinances duly passed by the Council of the City.

The City has reserved the right (subject to any applicable provisions of a loan agreement between the City and the Alaska Municipal Bond Bank Authority, dated as of May 1, 1989), to prepay principal installments of the Bond due on and after October 1, 2000 on October 1, 1999 and on any interest payment date thereafter, in whole or in part, in inverse order of maturity, at a price of par plus accrued interest to the date of prepayment.

The bond is not a general obligation of the City.

The bond is payable out of moneys in the Homer Municipal Port Facilities Revenue Fund, into which the City has pledged shall be paid as collected all tariffs, rentals, rates and charges derived by it from its operation of all of its Facilities as the same are defined in the Bond Ordinance.

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

The City does hereby pledge and bind itself to set aside from the money in its Municipal Port Facilities Revenue Fund and to pay into the Bond Redemption Fund the various amounts required by said Bond Ordinance to

be paid into and maintained in said Fund, all within the times provided by said Ordinance.

The amounts so pledged to be paid into and maintained in said Bond Redemption Fund are hereby declared to be a lien and charge upon the money in such Homer Municipal Port Facilities Revenue Fund inferior and junior to the amounts required to be maintained or paid pursuant to Ordinance No. 71-6 with respect to Senior Bonds as defined in the Bond Ordinance[, AND THE NECESSARY COST OF MAINTENANCE AND OPERATION OF THE MUNICIPAL PORT FACILITIES, EQUAL IN RANK TO ANY CHARGES THAT MAY BE MADE LATER ON SUCH REVENUE FUND TO PAY AND SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON ANY PARITY BONDS AS DEFINED IN THE BOND ORDINANCE, AND SUPERIOR IN RANK TO ALL OTHER CHARGES OF ANY KIND OR NATURE ON THE REVENUES].

The City has further bound itself to maintain the Facilities as defined in the Bond Ordinance in good condition and repair, to operate the same in an efficient manner and at a reasonable cost, and to establish, maintain and collect tariffs, rentals, rates and charges and the Revenues for the use of such Facilities for as long as the bond of this issue and any bonds which may be issued later on a parity therewith are outstanding that will produce Revenue available for debt service on all of such bonds as the same shall become due in an amount equal to at least 1.25 times the maximum amount required in any calendar year to pay such debt service after necessary costs of maintenance and operation of the Facilities have been paid, but before depreciation.

[THE BOND IS INTERCHANGEABLE FOR BONDS OF ANY AUTHORIZED DENOMINATION OF EQUAL AGGREGATE PRINCIPAL AMOUNT AND OF THE SAME INTEREST RATE AND MATURITY UPON PRESENTATION AND SURRENDER TO THE BOND REGISTRAR.]

The Bond Registrar's Certificate of Authentication on the Bond shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

This bond is the Port Revenue Bond, 1989 [1988] of the City of Homer, Alaska, dated _____.

_____ as Bond Registrar

By _____ Authorized Officer

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

DATED: _____, 19____.

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.

SIGNATURE GUARANTEED:

Section 4. Section 7, Revenue Fund, is amended as follows:

Section 7. 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, and 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. Paragraph 2 of Section 8, Bond Redemption Fund, is amended as follows:

Said amounts so pledged to be paid out of the Revenue Fund into the Bond Redemption Fund are hereby declared to be a lien and charge upon the money in the Revenue Fund inferior and junior to the amounts required to be maintained or paid pursuant to Ordinance 71-6 with respect to Senior Bonds [AND THE NECESSARY COSTS OF MAINTENANCE AND OPERATION OF THE FACILITIES, EQUAL IN RANK TO THE CHARGES TO PAY AND SECURE THE PAYMENT OF THE PRINCIPAL OF AN INTEREST ON ANY PARITY BONDS, AND SUPERIOR TO ALL OTHER CHARGES OF ANY KIND OR NATURE ON THE REVENUES].

Section 6. Paragraph f. of Section 11, General Covenants, is amended as follows:

f. That it will keep proper records and books of account relating to the Facilities in accordance with generally accepted accounting practices for facilities of like type and size, in which complete and correct entries shall be made of all pertaining transactions. That on or before 60 days after the end of each fiscal year of the City it will provide to any Bondholder who shall request the same in writing an annual audit prepared by a certified public accountant or official of the auditing department of the State of Alaska reflecting the financial condition and operation of the City, the Facilities, and any other facilities or properties of the City which may produce Revenue pledged to the payment of the Bond and any Parity Bonds.

Within 120 days after the end of each Fiscal Year the City will deliver to the Alaska Municipal Bond Bank a copy of its most recent audit report which shall include within it a statement whether or not the City has complied with Section 11.a of this Ordinance relating to the rate covenant for the preceding Fiscal Year.

Section 7. 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 8. 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. Callan
MAYOR

ATTEST:

By Patti J. Whalin
City Clerk

PUBLISHED: 4/27 & 5/4
1989
Homer News