

CITY OF HOMER, ALASKA

RESOLUTION NO. 88-33

A RESOLUTION OF THE CITY OF HOMER, ALASKA AUTHORIZING THE EXECUTION OF A MASTER LEASE WITH AN OPTION TO PURCHASE EQUIPMENT REQUIRED BY THE CITY OF HOMER; FIXING THE TERMS AND CONDITIONS OF THE LEASE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the provision of State law and of the Homer City Code, the City has determined that it is in the best interest of the City to acquire certain municipal property by lease from Rainier Bank Alaska, N.A.; and

WHEREAS, Rainier Bank Alaska, N.A. has offered to lease Equipment to the City,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF HOMER:

Section 1. Purpose. The purpose of this Resolution is to authorize the acquisition of equipment by lease under a Master Lease Purchase Agreement with Rainier Bank Alaska, N.A.

Section 2. Definitions. As used in this Resolution, unless a different meaning clearly appears from the context:

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

"Commencement Date" means the date on which the Lease is signed.

"Equipment" means the equipment to be leased pursuant to this Resolution and under the terms and conditions of the Lease.

"Lease" means the Master Equipment Lease Purchase Agreement authorized under this Resolution and in substantially the form attached hereto as Attachment "A".

"Lessor" means Rainier Bank Alaska, N.A. or any surviving, resulting or transferee corporation or any assignee.

"Option Purchase Price" means the total outstanding unpaid principal balance over the remaining term of the Lease plus accrued interest to the date of the exercise of the purchase option.

"Prime Rate" means the interest rate established periodically by Rainier Bank Alaska, N.A. as an index rate and published by Rainier National Bank as its prime rate.

"Rental Payments" means the periodic rental payments payable by the City to Lessor in consideration of the right of the City to use the Equipment during the then current portion of the term of the Lease.

Section 3. Authorization for the Acquisition of Equipment by Lease. The Council of the City of Homer hereby authorizes the acquisition of Equipment by Lease for use by the City under terms substantially as set out in the Lease and hereby ratifies and confirms its prior approval of the lease with an option to purchase of an animal control truck.

The Council of the City of Homer hereby ratifies and confirms its prior approval of the offer of Rainier Bank Alaska dated March 1, 1988 to make available \$250,000 for the acquisition of equipment to be leased to the City.

Other offers to make available amounts for the acquisition of lease equipment in addition to the March 1, 1988 offer must be approved by resolution of the Council of the City of Homer prior to acceptance of such offers.

Section 4. Option Purchase Price. The City shall have the option to purchase the Equipment upon thirty (30) days written notice to Lessor by paying to Lessor the Option Purchase Price.

Section 5. Rental Payments Subject to Appropriation and Constitute Current Expense of the City. The obligation of the City to make Rental Payments shall be subject to appropriation by the City Council and constitute a current expense of the City. This obligation shall not in any way be construed to be a debt of the City in contravention of applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the City nor shall this obligation constitute a pledge of the general tax revenues, funds or monies of the City.

Section 6. Non-Appropriation. In the event sufficient funds are not appropriated for payment of Rental Payments required to be paid during the term of the Lease, and if the City has no funds legally available for Rental Payments from other

sources, the Lease shall terminate as to equipment for which funds are not available and the City shall not be obligated to make payment of the Rental Payments beyond the then current fiscal year for which funds have been appropriated. Upon such occurrence, Lessor shall have all rights and remedies and may take possession of the Equipment.

Section 7. Books of Record and Assignments. The interest of Lessor under the Lease shall be recorded on the books of the City. Lessor may assign its interest under the Lease, however, such assignment shall not be effective until the City is notified of the name and address of the assignee and such assignment is recorded on the books of the City.

Section 8. Covenant as to Arbitrage. No part of the funds held under this Resolution shall at any time be used directly or indirectly to acquire securities or obligations, the acquisition of which would cause the rental obligation of the City under this Resolution which, at the time of issuance thereof, to be an "arbitrage bond" (as defined in Section 148 of the Internal Revenue Code of 1986 of the United States of America as then in effect) subject to treatment under said Section 148 as an obligation not described in said Section 148, to be such an "arbitrage bond", and to that end the City will comply with the applicable regulations promulgated under said Section 148 so long as the rental obligation of the City under this Resolution is outstanding.

Section 9. Designation as Qualified Tax Exempt Obligation. The Council of the City of Homer hereby authorizes the City Manager or his designee to designate the lease of not to exceed \$250,000 in value of equipment under the Lease during calendar year 1988 under the offer of Rainier Bank Alaska dated March 1, 1988 as qualified tax-exempt obligations of the city under Section 265(b)(3) of the Internal Revenue Code of 1986.

Section 10. Authorization of Lease. The City Manager and City Clerk are authorized and directed to execute and deliver to Lessor the Lease substantially in the form attached to this Resolution as Attachment "A", with such changes or modifications as the Finance Director, with the advice of the City Attorney and bond counsel to the City, consider necessary or advisable.

Section 11. General Authorization. A. The Mayor, City Clerk, City Manager, and each of the other appropriate officers of the City are each hereby authorized and directed to execute the Lease, take such steps, to do such other acts and things, and to execute such letters, certificates, contracts, amendments, other 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 Resolution.

B. The Manager and the designee of the manager are authorized to lease additional particular Equipment with an

option to purchase under the Lease when funding for the equipment lease has been approved by the Council and the leasing of the particular Equipment has been approved in accordance with applicable provisions of the Homer Code.

Section 12. Prior Acts. All acts taken pursuant to the authority of this Resolution but prior to its effective date are hereby ratified and confirmed.

Section 13. Resolution a Contract. This Resolution is adopted under the authority of and in full compliance with the Constitution and laws of the State of Alaska. In consideration of the execution of the Lease, the provisions of this Resolution shall constitute a contract with the holders of the Lease, and the City covenants that it will not amend or repeal this Resolution during the term of the Lease without the permission of the holders of the Lease.

Section 14. Effective Date. This Resolution shall become effective immediately upon adoption.

APPROVED AT HOMER, ALASKA THIS 11th DAY OF April, 1988.

CITY OF HOMER, ALASKA



JOHN P. CALHOUN, MAYOR

ATTEST:



PATTI J. WHALIN, CITY CLERK