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**CITY OF HOMER
HOMER, ALASKA**

City Manager

ORDINANCE 13-15

AN ORDINANCE OF THE CITY OF HOMER, ALASKA, AUTHORIZING HARBOR REVENUE BONDS OF THE CITY TO BE ISSUED IN SERIES TO FINANCE HARBOR IMPROVEMENTS; CREATING A LIEN UPON NET REVENUE OF THE HARBOR FOR THE PAYMENT OF THE BONDS; AND ESTABLISHING COVENANTS OF THE CITY RELATED TO THE BONDS.

WHEREAS, the City of Homer, a first class city organized under the Constitution and laws of the State of Alaska (the "City") owns and operates a harbor (as further defined in Section 1, the "Harbor") as a revenue-producing enterprise; and

WHEREAS, AS 29.47.250 provides that an election is not required to authorize the City to issue revenue bonds; and

WHEREAS, it is necessary and in the best interest of the City and its residents that the City now provide for the issuance of one or more series of revenue bonds to finance improvements to the Harbor and for any other purpose of the Harbor now or hereafter permitted by law.

THE CITY OF HOMER HEREBY ORDAINS:

Section 1. Definitions. The following terms shall have the following meanings in this Master Ordinance:

"Aggregate Annual Debt Service" means Annual Debt Service for all Outstanding Bonds.

"Annual Debt Service" means the total amount of Debt Service for any Bond or series of Bonds in any Fiscal Year or Base Period.

"Base Period" means any consecutive 12-month period selected by the City out of the 30-month period next preceding the date of issuance of an additional series of Bonds.

"Bond Bank" means the Alaska Municipal Bond Bank, a public corporation of the State of Alaska.

"Bond Register" means the registration books maintained by the Registrar as Bond registrar, which include the names and addresses of the owners or nominees of the owners of the Bonds.

"Bonds" means the bonds, notes or other evidences of indebtedness issued from time to time in series under authority of Section 4.

47 "City" means the City of Homer, Alaska, a first class city organized and existing under
48 the Constitution and laws of the State of Alaska.

49
50 "City Representative" means the City Manager or the City Finance Director, or such
51 other person as may be designated from time to time by resolution of the Council.

52
53 "Consultant" means an independent professional engineer or engineering firm
54 experienced in harbor matters appointed by the City to perform the duties of Consultant under
55 this Master Ordinance. For the purposes of delivering any certificate required by Section 5 and
56 making the calculation required by Section 5(b)(2), the term Consultant also shall include any
57 independent public accounting firm appointed by the City to make such calculation or to provide
58 such certificate.

59
60 "Costs of Construction" means all costs paid or incurred by the City in connection with
61 the acquisition and construction of capital additions, improvements and betterments to and
62 extensions of the Facilities, and the placing of the same in operation, including without limitation
63 paying all or a portion of the interest on the series of Bonds or any portion thereof issued to
64 finance the costs of such improvements during the period of construction of such improvements
65 and for a period of time thereafter; paying amounts required to meet any reserve requirement for
66 the fund or account established or maintained for such series of Bonds; paying or reimbursing
67 the City or any fund thereof or any other person for expenses incident and properly allocable to
68 the acquisition and construction of said improvements and the placing of the same in operation;
69 and all other items of expense incident and properly allocable to the acquisition and construction
70 of said additions and improvements, the financing of the same and the placing of the same in
71 operation.

72
73 "Council" means the general legislative authority of the City, as the same may be
74 constituted from time to time.

75
76 "Coverage Requirement" means Net Revenue equal to or greater than 120% of Aggregate
77 Annual Debt Service.

78
79 "Debt Service" means, for any period, with respect to any Bonds, an amount equal to (1)
80 the principal amount of such Bonds due or subject to mandatory redemption during such period
81 and for which no sinking fund installments have been established, (2) the amount of any payment
82 required to be made during such period into any sinking fund established for the payment of any
83 such Bonds, plus (3) all interest payable during such period on any such Bonds Outstanding and
84 with respect to Bonds with mandatory sinking fund requirements, calculated on the assumption
85 that mandatory sinking fund installments will be applied to the redemption or retirement of such
86 Bonds on the date specified in the Series Ordinance authorizing such Bonds.

87
88 "Facilities" means all equipment and all property, real and personal, or any interest
89 therein, whether improved or unimproved, now or hereafter (for as long as any Bonds shall be
90 Outstanding) owned, operated, used, leased or managed by the Harbor and which contribute in
91 some measure to its Gross Revenue.

92

93 "Fiscal Year" means the fiscal year of the City, which currently is the 12-month period
94 commencing on January 1 and ending the following December 31.

95
96 "Gross Revenue" means all income, receipts and revenue derived by or for the account of
97 the Harbor from time to time from any source from the ownership, leasing or operation of the
98 Facilities whatsoever, and all earnings on any fund or account that is pledged to secure the
99 Bonds. However, the following shall be excluded from Gross Revenue: (i) the proceeds of any
100 borrowing by the City and the earnings thereon (other than earnings on proceeds deposited in
101 reserve funds); (ii) proceeds of insurance or condemnation proceeds other than business
102 interruption insurance; (iii) proceeds of state or federal grants; and (iv) income from investments
103 irrevocably pledged to the payment of Bonds issued or to be defeased under any refunding bond
104 plan of the Harbor.

105
106 "Harbor" means all publicly owned docks, floats, berths, tidal grids and other mooring
107 facilities operated by the City, including without limitation the Deep Water Dock, Pioneer
108 (Ferry) Dock, Fish Dock within the Small Boat Harbor, and associated equipment, offices,
109 warehouses, storage space, roads, paved areas, water banks, beaches and shorelines under the
110 management and control of the City, as the same may be added to, improved and extended for as
111 long as any of the Bonds are Outstanding.

112
113 "Harbor Revenue Fund" means the Port of Homer Enterprise Fund of the City.

114
115 "Master Ordinance" means this Ordinance 13-15.

116
117 "Maximum Annual Debt Service" means, with respect to any Outstanding series of
118 Bonds, the highest remaining Annual Debt Service for such series of Bonds.

119
120 "Net Revenue" means Gross Revenue less any part thereof that must be used to pay
121 Operating Expenses.

122
123 "Operating Expenses" means the current expenses incurred for operation, maintenance or
124 repair of the Facilities of a non-capital nature, and shall include without limitation labor and
125 supply expenses that are properly chargeable to current operations, utility expenses, customer
126 accounts expenses, administrative and general expenses, insurance premiums, lease rentals, legal
127 and engineering expenses, payments to pension, retirement, group life insurance, health and
128 hospitalization funds or other employee benefit funds that are properly chargeable to current
129 operations, interest on customers' deposits, payroll tax expenses, and any other expenses required
130 to be paid under the provisions of this Master Ordinance or by law or permitted by standard
131 practices for public enterprises similar to the properties and business of the Harbor and
132 applicable in the circumstances. Operating Expenses shall not include payments of taxes or
133 assessments (or payments in lieu of taxes or assessments) to the City, payments with respect to
134 judgments, any allowances for depreciation or amortization, or any principal, redemption price
135 or purchase price of, or interest on, any obligations of the City incurred in connection with the
136 Facilities and payable from Gross Revenue.

137

138 "Outstanding" means, as of any date, any Bonds theretofore issued except such Bonds
139 deemed to be no longer Outstanding as provided in the Series Ordinance authorizing the issuance
140 thereof.

141
142 "Parity Bonds" means any Bonds issued in the future under a Series Ordinance which
143 provides that such Bonds shall be on a parity of lien with other series of Bonds issued pursuant to
144 this Master Ordinance, as provided in Section 3.

145
146 "Rate Covenant" means the covenant of the City set forth in Section 6(a).

147
148 "Registered Owner" means the person named as the registered owner of a Bond in the
149 Bond Register.

150
151 "Registrar" means the City Finance Director, or any person that the Council may appoint
152 from time to time by resolution or by a Series Ordinance, to act as registrar for one or more
153 series of Bonds.

154
155 "Reserve Requirement" means, for any series of Bonds, an amount equal to the least of
156 (i) Maximum Annual Debt Service with respect to the Outstanding Bonds of such series; (ii)
157 125% of average Annual Debt Service with respect to the Outstanding Bonds of such series; (iii)
158 10% of the initial principal amount of the Bonds of such series; and (iv) any lesser amount that
159 may be required from time to time under the Code for the exclusion of interest on the Bonds
160 from gross income for federal income tax purposes.

161
162 "Series Ordinance" means an ordinance authorizing the issuance of a series of Bonds, as
163 such ordinance may thereafter be amended or supplemented. Each Series Ordinance shall be
164 supplemental to this Master Ordinance.

165
166 "2013 Bonds" means the City of Homer, Alaska, Harbor Revenue Bonds, 2013
167 authorized by Ordinance 13-16.

168
169 Section 2. Priority of Use of Gross Revenue. The Gross Revenue shall be deposited in
170 the Harbor Revenue Fund as collected. The City also may deposit in the Harbor Revenue Fund
171 any other monies that are legally available for that purpose. The Harbor Revenue Fund shall be
172 held separate and apart from all other funds and accounts of the City, and the Gross Revenue
173 deposited therein shall be used only for the following purposes and in the following order of
174 priority:

175
176 First, to pay Operating Expenses not paid from other sources;

177
178 Second, to make all payments, including sinking fund payments, required to be made into
179 the special fund or account provided for the payment of the Bonds of each series to pay the
180 principal of and interest and premium, if any, on any Bonds;

181
182 Third, to make all payments required to be made into any reserve account(s) to secure the
183 payment of any Bonds;

184 Fourth, to make all payments required to be made into any other revenue bond
185 redemption fund and debt service account or reserve account created therein to pay and secure
186 the payment of the principal of and interest on any revenue bonds or other revenue obligations of
187 the City having a lien upon Net Revenue and the money in the Harbor Revenue Fund junior and
188 inferior to the lien thereon for the payment of the principal of and interest on any Bonds; and
189

190 Fifth, to retire by redemption or purchase in the open market any outstanding harbor
191 revenue bonds or other harbor revenue obligations of the City as authorized in the various
192 ordinances of the City authorizing their issuance, or to make necessary additions, betterments,
193 improvements and repairs to or extensions and replacements of the Facilities, or any other lawful
194 City purposes, except to the extent of any deficiencies in payments for Second, Third or Fourth
195 purposes.
196

197 Section 3. Authorization of Bonds. The City hereby is authorized to issue revenue bonds
198 of the City, to be known as the "City of Homer, Alaska, Harbor Revenue Bonds," from time to
199 time in series, and without limitation as to aggregate principal amount. Each series of Bonds
200 may be issued in such amount and upon such terms and conditions as the Council may from time
201 to time deem to be necessary or advisable, for any purposes of the Harbor now or hereafter
202 permitted by law, but only upon compliance with the applicable conditions for their issuance in
203 Section 5.
204

205 All Bonds shall be Parity Bonds having an equal lien and charge upon Net Revenue upon
206 the fulfillment of the conditions for their issuance under this Master Ordinance. From and after
207 the time of issuance and delivery of the Bonds of each series, and so long thereafter as any of the
208 same remain Outstanding, the City hereby irrevocably obligates and binds itself to set aside and
209 pay out of Net Revenue into the special funds created for the payment of the Bonds of such
210 series, on or before the due date, the amount necessary to pay principal or interest coming due on
211 the Bonds of such series. Said amounts so pledged to be paid into such special funds are hereby
212 declared to be a prior lien and charge upon Gross Revenue superior to all other charges of any
213 kind or nature whatsoever except for Operating Expenses and except for charges equal in rank
214 that may be made thereon to pay and secure the payment of the principal of and interest on Parity
215 Bonds issued under this Master Ordinance.
216

217 The Bonds shall not in any manner or to any extent constitute general obligations of the
218 City or of the State of Alaska, or of any political subdivision of the State of Alaska.
219

220 Section 4. Series Ordinance. Each series of Bonds shall be authorized by a Series
221 Ordinance, which shall, among other provisions, specify or provide for:
222

223 (a) the authorized principal amount, designation and series of such Bonds;
224

225 (b) the general purpose or purposes for which such series of Bonds is being issued, and
226 the deposit, disbursement and application of the proceeds of the sale of the Bonds of such series;
227

228 (c) the date or dates, and the maturity dates or dates, of the Bonds of such series, and the
229 principal amount maturing on each maturity date;

230 (d) the interest rate or rates on the Bonds of such series and the interest payment date or
231 dates therefor;

232
233 (e) the circumstances, if any, under which the Bonds of such series will be deemed to be
234 no longer Outstanding;

235
236 (f) the denominations of, and the manner of dating, numbering, and, if necessary,
237 authenticating, the Bonds of such series;

238
239 (g) the paying agent or paying agents, if any, for the Bonds of such series and the duties
240 and obligations thereof;

241
242 (h) the place or places of payment of the principal, redemption price, if any, or purchase
243 price, if any, of and interest on, the Bonds of such series;

244
245 (i) the Registrar or Registrars, if any, for the Bonds of such series and the duties and
246 obligations thereof;

247
248 (j) the form or forms of the Bonds of such series and the methods, if necessary, for the
249 registration, transfer and exchange of the Bonds of such series;

250
251 (k) the terms and conditions, if any, for the redemption of the Bonds of such series prior
252 to maturity, including the redemption date or dates, the redemption price or prices and other
253 applicable redemption terms;

254
255 (l) the manner of sale of the Bonds of such series;

256
257 (m) if so determined by the City, the authorization of and any terms and conditions with
258 respect to credit support for the Bonds of such series and the pledge or provision of moneys,
259 assets or security other than Net Revenue to or for the payment of the Bonds of such series or
260 any portion thereof;

261
262 (n) a special fund or account to provide for the payment of the Bonds of such series, a
263 special reserve fund or account for the purpose of securing the payment of the principal of and
264 interest on the Bonds of such series, and, if so determined by the City, any other specific funds or
265 accounts for the Bonds of such series and the application of moneys or securities therein; and

266
267 (o) any other provisions which the City deems necessary or desirable in connection with
268 the Bonds of such series.

269
270 Concurrently with the adoption of this Master Ordinance, the City will adopt Ordinance
271 13-16, authorizing the issuance of not to exceed \$4,200,000 in aggregate principal amount of
272 2013 Bonds.

273
274 Section 5. Limitations on Issuance of Bonds. Except for the 2013 Bonds, the City shall
275 not issue any series of Bonds or incur any additional indebtedness with a parity lien or charge on

276 Net Revenue with Bonds at the time Outstanding unless it meets the applicable conditions for the
277 issuance of such series in this section.

278
279 (a) Project Completion. The City may issue Bonds if the City shall not have been in
280 default of its covenant under Section 6(a) for the immediately preceding Fiscal Year, and the
281 Bonds are being issued to pay Costs of Construction of Facilities for which Bonds have been
282 issued previously and the principal amount of such Bonds being issued for completion purposes
283 does not exceed an amount equal to an aggregate of 15% of the principal amount of Bonds
284 theretofore issued for such Facilities and reasonably allocable to the Facilities to be completed as
285 shown in a written certificate of a City Representative, and there is delivered a Consultant's
286 certificate stating that the nature and purpose of such Facilities has not materially changed.

287
288 (b) Any Purposes of the Harbor. The City may issue Bonds if the City shall not have
289 been in default of its covenant under Section 6(a) for the immediately preceding Fiscal Year, and
290 the Bonds are being issued for any purposes permitted under Section 3, upon delivery of a
291 certificate prepared as described in paragraph (1) or (2) of this subsection.

292
293 (1) Certificate of the City without a Consultant. The City may deliver a
294 certificate without a Consultant if Net Revenue for the Base Period (confirmed by an
295 independent audit) is not less than the amount of Net Revenue that would be required to fulfill
296 the Coverage Requirement commencing with the first full Fiscal Year following the date on
297 which any portion of interest on the series of Bonds then being issued will be paid from a source
298 other than the proceeds of such series of Bonds.

299
300 (2) Certificate of a Consultant. Unless the City may deliver a certificate without
301 a Consultant as provided in paragraph (1) of this subsection, the City shall deliver a certificate of
302 a Consultant demonstrating fulfillment of the Coverage Requirement, commencing with the first
303 full Fiscal Year following the date on which any portion of interest on the series of Bonds then
304 being issued no longer will be paid from the proceeds of such series of Bonds. In making the
305 computations for the purpose of certifying compliance with the Coverage Requirement of this
306 section, the Consultant shall determine Net Revenue by adding the following:

307
308 (i) The historic net revenue of the Harbor for the Base Period.

309
310 (ii) The net revenue derived from those customers of the Harbor that have
311 become customers during the Base Period or thereafter and prior to the date of such certificate,
312 adjusted to reflect a full year's Net Revenue from each such customer to the extent such net
313 revenue was not included under subparagraph (i) of this paragraph (2).

314
315 (iii) The estimated annual net revenue to be derived from any customer
316 under any executed contract for Harbor service, which net revenue was not included in any of the
317 other sources of net revenue described in this paragraph (2).

318
319 (iv) The estimated annual net revenue to be derived from the operation of
320 any additions or improvements to or extensions of the Facilities under construction but not
321 completed at the time of such certificate and not being paid for out of the proceeds of sale of

322 such Bonds being issued, and which net revenue is not otherwise included in any of the sources
323 of net revenue described in this paragraph (2)

324
325 (v) The estimated annual net revenue to be derived from the operation of
326 any additions and improvements to or extensions of the Facilities being paid for out of the
327 proceeds of sale of such Bonds being issued.

328
329 If the Harbor will not derive any revenue as a result of the construction of additions,
330 improvements or extensions being or to be made to the Facilities within the provisions of
331 subparagraphs (iv) or (v) of this paragraph (2), the estimated annual Operating Expenses of such
332 additions, improvements and extensions shall be deducted from estimated annual net revenue.

333
334 The words "historic net revenue" or "net revenue" as used in this paragraph (2) shall
335 mean the Gross Revenue or any part or parts thereof less the normal expenses of maintenance
336 and operation of the Facilities or any part or parts thereof, but before depreciation. Such
337 "historic net revenue" or "net revenue" shall be adjusted to reflect the Harbor rates and charges
338 effective on the date of such certificate if there has been any change in such rates and charges
339 during or after the Base Period.

340
341 (c) Refunding for Debt Service Savings. The City may issue Bonds for the purpose of
342 refunding Outstanding Bonds where the Annual Debt Service in each Fiscal Year on all Bonds to
343 be Outstanding after the issuance of the refunding Bonds will not be greater than the Annual
344 Debt Service in the same Fiscal Year if such refunding did not occur.

345
346 (d) Compliance with Reserve Requirement. On the date of issuance of any series of
347 Bonds, there shall be on deposit in the reserve fund or account for the Bonds of each series an
348 amount that is not less than the Reserve Requirement for such series.

349
350 Section 6. Specific Covenants. The City hereby covenants with the Registered Owners
351 of all Outstanding Bonds for as long as any Bonds remain Outstanding:

352
353 (a) Rate Covenant. At all times the City will establish, maintain and collect rentals,
354 tariffs, rates, fees, and charges in the operation of all of the business of the Harbor that will
355 produce Net Revenue in each Fiscal Year at least equal to the greater of:

356
357 (1) 120% of the amount required in such Fiscal Year to be paid as Debt Service
358 on Outstanding Bonds, or

359
360 (2) the amount required to be deposited during such Fiscal Year from Net
361 Revenue (i) into bond funds and reserve funds established for Outstanding Bonds, but excluding
362 from each of the foregoing payments made from refunding debt or capitalized Debt Service; plus
363 (ii) the amount required to be deposited into any other revenue bond redemption fund and debt
364 service account or reserve account created to pay and secure the payment of the principal of and
365 interest on any revenue bonds or other revenue obligations of the City having a lien upon Net
366 Revenue and the money in the Harbor Revenue Fund junior and inferior to the lien thereon for
367 the payment of the principal of and interest on any Bonds.

368 The City shall cause the rate coverage calculation described in this Section 6(a) to be
369 made no later than 90 days following the end of each Fiscal Year in which Bonds are
370 Outstanding.

371
372 If the Net Revenue in any Fiscal Year is less than required to fulfill the Rate Covenant,
373 then the City will retain a Consultant to make recommendations as to operations and the revision
374 of schedules of rentals, tariffs, rates, fees and charges, and on the basis of such recommendations
375 and other available information the City will establish such rentals, tariffs, rates, fees and charges
376 for Harbor services and operations as are necessary to meet the Rate Covenant. If the City has
377 taken the steps set forth in this paragraph and the Net Revenue in the Fiscal Year in which
378 adjustments are made nevertheless is not sufficient to meet the Rate Covenant, there shall be no
379 default under the Rate Covenant unless the City fails to meet the Rate Covenant in the Fiscal
380 Year immediately succeeding the Fiscal Year in which the adjustments are made.

381
382 (b) Maintenance and Repairs. The City will at all times maintain, preserve and keep the
383 Harbor's properties and every part and parcel thereof in good repair, working order and
384 condition; will from time to time make or cause to be made all necessary and proper repairs,
385 renewals and replacements thereto so that the business carried on in connection therewith may be
386 properly and advantageously conducted, and will at all times operate the Harbor in an efficient
387 manner and at a reasonable cost.

388
389 (c) Insurance. The City will at all times carry fire and other casualty insurance on the
390 plant and equipment of the Harbor to the full insurable value thereof, and will also carry
391 adequate public liability insurance and such other forms of insurance as under good business
392 practices are ordinarily carried on such plant and equipment. Such insurance also may be
393 maintained by the City through a program of self-insurance.

394
395 (d) Extensions or Betterments. The City will not expend any of the money in the Harbor
396 Revenue Fund for any extensions or betterments which are not economically sound and which
397 will not contribute to the operation of the Harbor in an efficient and economical manner, unless
398 such extensions are required by law or any regulatory body having jurisdiction.

399
400 (e) Accounting. The City will keep and maintain proper books and accounts with respect
401 to the operation of the Harbor in such manner as prescribed by any authorities having jurisdiction
402 over the Harbor and will cause its books of account to be audited annually by competent certified
403 public accountants, copies of which audits shall, upon request, be furnished to Registered
404 Owners of the Bonds. Said audits shall show whether or not the City has in all respects
405 performed and complied with the covenants set forth in this Master Resolution.

406
407 (f) Bonding of Employees. All employees and agents of the City collecting or handling
408 money of the City in connection with the management and operation of the Harbor shall be
409 bonded in an amount commensurate with the funds they handle and in an amount sufficient to
410 protect the City from loss.

411
412 (g) Disposal of Harbor. The City will not sell, or otherwise dispose of, substantially all
413 of the Facilities or other properties of the Harbor, unless contemporaneously with such sale or

414 disposal there shall be paid into a special fund a sum sufficient (together with investment income
415 thereon) to defease all Bonds then Outstanding to the date or dates on which they first may be
416 redeemed.

417
418 The City may sell or dispose of any portion of the Facilities or other properties of the
419 Harbor to related or unrelated entities, provided that if such properties constitute five percent or
420 greater of the "book value" of the Harbor's properties or generate five percent or greater of the
421 Net Revenue of the Harbor at the time of such sale or disposition, the Harbor has on hand a
422 report from a Consultant verifying compliance with the Coverage Requirement for the next three
423 full Fiscal Years.

424
425 The City also may sell, dispose of or convey any assets which are no longer deemed to be
426 used or useful to the operations of the Harbor.

427
428 Section 7. Amendatory and Supplemental Ordinances.

429
430 (a) The Council from time to time and at any time may adopt an ordinance or ordinances
431 supplemental hereto, which ordinance or ordinances thereafter shall become a part of this Master
432 Ordinance, for any one or more of the following purposes:

433
434 (1) To provide for the issuance of a series of Bonds pursuant to Section 4, and to
435 prescribe the terms and conditions pursuant to which such Bonds may be issued, paid or
436 redeemed.

437
438 (2) To add covenants and agreements of the City for the purpose of further
439 securing the payment of the Bonds; provided that such additional covenants and agreements are
440 not contrary to or inconsistent with the covenants and agreements of the City contained in this
441 Master Ordinance.

442
443 (3) To prescribe further limitations and restrictions upon the issuance of Bonds
444 and the incurring of indebtedness by the City payable from Net Revenue which are not contrary
445 to or inconsistent with the limitations and restrictions thereon theretofore in effect.

446
447 (4) To surrender any right, power or privilege reserved to or conferred upon the
448 City by the terms of this Master Ordinance.

449
450 (5) To make such provisions for the purpose of curing any ambiguities or of
451 curing, correcting or supplementing any defective provision contained in this Master Ordinance
452 or in regard to matters or questions arising under this Master Ordinance as the Council may deem
453 necessary or desirable and not inconsistent with this Master Ordinance and which shall not
454 adversely affect the interests of the Registered Owners of the Bonds.

455
456 Any such supplemental ordinance may be adopted without the consent of the Registered
457 Owner of any of the Bonds at any time outstanding, notwithstanding any of the provisions of
458 subsection (b) of this section.

459

460 (b) With the consent of the Registered Owners of not less than 60 percent in aggregate
461 principal amount of the Bonds at the time Outstanding, the Council may adopt an ordinance or
462 ordinances supplemental hereto for the purpose of adding any provisions to or changing in any
463 manner or eliminating any of the provisions of this Master Ordinance or of any supplemental
464 ordinance; provided, however, that no such supplemental ordinance shall:
465

466 (1) extend the fixed maturity of any of the Bonds, or reduce the rate of interest
467 thereon, or reduce the amount or change the date of any sinking fund installment, or extend the
468 time of payments of interest from their due date, or reduce the amount of the principal thereof, or
469 reduce any premium payable on the redemption thereof, without the consent of the Registered
470 Owner of each Bond so affected; or
471

472 (2) reduce the aforesaid percentage of Registered Owners of Bonds required to
473 approve any such supplemental ordinance without the consent of the Registered Owners of all of
474 the Bonds then outstanding.
475

476 It shall not be necessary for the consent of the Registered Owners of the Bonds under this
477 subsection to approve the particular form of any proposed supplemental ordinance, but it shall be
478 sufficient if such consent approves the substance thereof.
479

480 (c) Upon the adoption of any supplemental ordinance under this section, this Master
481 Ordinance shall be deemed to be modified and amended in accordance therewith, and the
482 respective rights, duties and obligations under this Master Ordinance of the City and all
483 Registered Owners of Outstanding Bonds shall thereafter be subject in all respects to such
484 modification and amendment, and all the terms and conditions of the supplemental ordinance
485 shall be deemed to be part of the terms and conditions of this Master Ordinance for any and all
486 purposes.
487

488 (d) Bonds of any series delivered after the effective date of any amendment adopted
489 under this section to this Master Ordinance or the Series Ordinance with respect to that series
490 may bear a notation as to any matter provided for in such supplemental ordinance, and if such
491 supplemental ordinance shall so provide, new Bonds modified so as to conform, in the opinion of
492 the City, to the terms of any such supplemental ordinance may be prepared by the City and
493 delivered without cost to the Registered Owners of the affected Bonds then outstanding, upon
494 surrender for cancellation of such Bonds in equal aggregate principal amounts.
495

496 Section 8. Notice to Registered Owners. Except as this Master Ordinance specifically
497 provides otherwise, any notice under this Master Ordinance to Registered Owners of any Bonds
498 may be given by first class mail, postage prepaid, to such Registered Owners at their respective
499 addresses appearing upon the Bond Register maintained by or on behalf of the City.
500

501 Section 9. Execution of Instruments by Registered Owners. Any instrument in writing
502 that this Master Ordinance requires or permits to be executed by Registered Owners of Bonds
503 may be in any number of concurrent instruments of similar tenor and may be executed by such
504 Registered Owners in person or by an agent duly appointed by an instrument in writing. The fact
505 and date of the execution by any person of any such instrument may be proved sufficiently for

506 any purpose of this Master Ordinance by either (a) an acknowledgment executed by a notary
507 public or other officer empowered to take acknowledgments of deeds to be recorded in the
508 particular jurisdiction, (b) an affidavit of a witness to such execution sworn to before such a
509 notary public or other officer, or (c) a signature guarantee. Where such execution is by an officer
510 of a corporation or association or a member of a partnership on behalf of such corporation,
511 association or partnership, such acknowledgment or affidavit shall also constitute sufficient proof
512 of the authority of such person. The foregoing shall not be construed as limiting the City to such
513 proof, it being intended that the City may accept any other evidence of the matters herein stated
514 which to it may seem sufficient.

515
516 Section 10. Ordinances a Contract with Registered Owners. In consideration of the
517 purchase and acceptance of the Bonds by those who shall own the same from time to time, the
518 provisions of this Master Ordinance and of any Series Ordinance shall constitute a contract with
519 the Registered Owners of each Bond, and the obligations of the City under this Master Ordinance
520 and under any Series Ordinance shall be enforceable by any court of competent jurisdiction; and
521 the covenants and agreements herein set forth to be performed on behalf of the City shall be for
522 the equal benefit, protection and security of the Registered Owners of any and all of the Bonds.

523
524 Section 11. Events of Default. To protect and safeguard the covenants and obligations
525 undertaken by the City securing the Bonds, the City hereby covenants and agrees with the
526 Registered Owners from time to time of the Bonds that the following shall constitute "Events of
527 Default":

528
529 (a) If default is made in the due and punctual payment of the principal of or premium,
530 if any, on any of the Bonds when the same become due and payable, either at maturity or by
531 proceedings for redemption or otherwise;

532
533 (b) If default is made in the due and punctual payment of any installment of interest
534 on any Bond;

535
536 (c) If the City defaults in the observance and performance of any other of the
537 covenants, conditions and agreements on the part of the City contained in this Master Ordinance
538 and such default or defaults continues for a period of 90 days after the City receives from a
539 representative of (a) Registered Owners of not less than 66% in principal amount of the Bonds
540 then Outstanding or (b) the Bond Bank, if the Bond Bank is then the Registered Owner of any of
541 the Bonds, a written notice specifying and demanding the cure of such default;

542
543 (d) If the City (except as herein permitted) sells, transfers, assigns or conveys any
544 properties constituting the Facilities or interests therein, or makes any agreement for such sale or
545 transfer;

546
547 (e) If an order, judgment or decree is entered by any court of competent jurisdiction:
548 (a) appointing a receiver, trustee or liquidator for the City or the whole or any substantial part of
549 the Facilities; (b) approving a petition filed against the City seeking the bankruptcy, arrangement
550 or reorganization of the City under any applicable law of the United States or the State of
551 Alaska; or (c) assuming custody or control of the City or of the whole or any substantial part of

552 the Facilities under the provisions of any other law for the relief or aid of debtors and such order,
553 judgment or decree is not vacated or set aside or stayed (or, in case custody or control is assumed
554 by said order, such custody or control is not otherwise terminated) within 90 days from the date
555 of the entry of such order, judgment or decree; or

556
557 (f) If the City: (i) admits in writing its inability to pay its debts generally as they
558 become due; (ii) files a petition in bankruptcy or seeking a composition of indebtedness under
559 any state or federal bankruptcy or insolvency law; (iii) makes an assignment for the benefit of its
560 creditors; (iv) consents to the appointment of a receiver of the whole or any substantial part of
561 the Facilities or (v) consents to the assumption by any court of competent jurisdiction under the
562 provisions of any other law for the relief or aid of debtors of custody or control of the City or of
563 the whole or any substantial part of the Facilities.

564
565 Section 12. Remedies Available for an Event of Default.

566
567 (a) *Waivers of Default.* No delay or omission of the Registered Owners of the Bonds
568 to exercise any right or power arising upon the happening of an Event of Default shall impair any
569 right or power or shall be construed to be a waiver of any such Event of Default or to be an
570 acquiescence therein; and every power and remedy given by this Section to the Registered
571 Owners of Bonds may be exercised from time to time and as often as may be deemed expedient
572 by such Registered Owners.

573
574 The Registered Owners of not less than 66% in principal amount of the Bonds at the time
575 outstanding (the "Majority Bondowners"), or their attorneys-in-fact duly authorized, may on
576 behalf of the owners of all of the Bonds waive any past default under this ordinance and its
577 consequences, except a default in the payment of the principal of, premium, if any, or interest on
578 any of the Bonds. No such waiver shall extend to any subsequent or other default or impair any
579 right consequent thereon.

580
581 (b) *Suits at Law or in Equity.* The Majority Bondowners may, upon the happening of
582 an Event of Default, and during the continuance thereof, take such steps and institute such suits,
583 actions or other proceedings all as may be deemed appropriate for the protection and
584 enforcement of the rights of Registered Owners of the Bonds to collect any amounts due and
585 owing the City, or to obtain other appropriate relief, and may enforce the specific performance of
586 any covenant, agreement or condition contained in this Master Ordinance, or in any of the
587 Bonds.

588
589 Any action, suit or other proceedings instituted by the Majority Bondowners hereunder
590 shall be brought in the name and on behalf of all Registered Owners of the Bonds, and all such
591 rights of action upon or under any of the Bonds or the provisions of this Master Ordinance may
592 be enforced by the Majority Bondowners without the possession of any of said Bonds and
593 without the production of the same at any trial or proceedings relative thereto except where
594 otherwise required by law, and the respective Registered Owners of said Bonds, by taking and
595 holding the same, shall be conclusively deemed irrevocably to appoint the Majority Bondowners
596 the true and lawful trustee of the respective Registered Owners of the Parity Bonds, with
597 authority to institute any such action, suit or proceeding; to receive as trustee and deposit in trust

598 any sums becoming distributable on account of the Bonds; to execute any paper or documents
599 for the receipt of such money, and to do all acts with respect thereto that the Registered Owner of
600 a Bond might have done in person. Nothing herein contained shall be deemed to authorize or
601 empower the Majority Bondowners to consent to accept or adopt, on behalf of any Registered
602 Owner of any Bond, any plan of reorganization or adjustment affecting the Bonds or any right of
603 any Registered Owner thereof, or to authorize or empower the Majority Bondowners to vote the
604 claims of the Registered Owners thereof in any receivership, insolvency, liquidation, bankruptcy,
605 reorganization or other proceeding to which the City shall be a party.
606

607 Nothing contained in this Master Ordinance shall, in any event or under any
608 circumstance, be deemed to authorize the acceleration of maturity of principal on Bonds
609 Outstanding, and the remedy of acceleration is expressly denied to the Registered Owners of
610 Bonds Outstanding under any circumstances including without limitation upon the occurrence
611 and continuance of an Event of Default.
612

613 (c) *Books of City Open to Inspection.* The City covenants that if an Event of Default
614 occurs and is not remedied, the books of record and account of the City will at all reasonable
615 times be subject to the inspection and use of the Registered Owners of any Bonds.
616

617 The City covenants that if an Event of Default happens and is not remedied, the City will
618 continue to account, as trustee of an express trust, for all Gross Revenues and other money,
619 securities and funds pledged under this Master Ordinance.
620

621 Section 13. Severability. If any one or more of the covenants or agreements provided in
622 this Master Ordinance to be performed on the part of the City shall be declared by any court of
623 competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or
624 agreements shall be null and void and shall be deemed separable from the remaining covenants
625 and agreements in this Master Ordinance and shall in no way affect the validity of the other
626 provisions of this Master Ordinance or of the Bonds.
627

628 Section 14. Non-Code Ordinance. This ordinance is not permanent in nature and shall
629 not be codified.
630

631 Section 15. Effective Date. This ordinance shall take effect upon passage and approval.
632

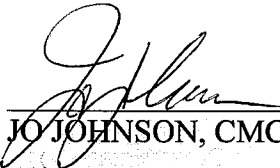
633 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this 13th
634 day of May, 2013.
635

636 CITY OF HOMER

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639 _____
640 FRANCIE ROBERTS, MAYOR PRO TEMPORE
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ATTEST:



JO JOHNSON, CMC, CITY CLERK

AYES: 6
NOES: 0
ABSTAIN: 0
ABSENT: 0

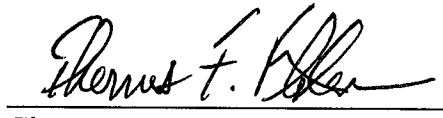
First Reading: 4/22/13
Public Reading: 5/13/13
Second Reading: 5/13/13
Effective Date: 5/14/13

Reviewed and approved as to form:



Walt Wrede, City Manager

Date: 5/16/13



City Attorney

Date: 5-23-16
