

ORDINANCE NO. 89-14(S)

AN ORDINANCE AMENDING ORDINANCE NO. 89-10(S) RELATING TO THE ISSUANCE OF THE 1989 WATER REVENUE REFUNDING BONDS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance 89-10(S), the City of Homer (the "City") authorized the issuance of its Water Revenue Refunding Bond, 1989 in the principal amount of not to exceed \$700,000 (the "1989 Bond"); and

WHEREAS, the City deems it to be in the best interest of the City to amend Ordinance 89-10(S) to facilitate the issuance of the 1989 Water Bond by amending the definition of Operating Expenses.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Paragraph 16 of Section 1, Definitions, of Ordinance No. 89-10(S) is amended as follows:

(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, direct 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, or indirect administrative and general expenses including the portion of the City's total administrative and general expenses allocated or apportioned to the System.

Section 2. Paragraph B of Section 8.1, Revenue Fund, is amended as follows:

B. 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 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 of Operating Expenses; and

(v) 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 3. Section 9.9, Books of Account, is amended as follows:

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.

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 9.2 and Section 9.3 of this Ordinance relating to the rate covenant for the preceding Fiscal Year.

Section 4. 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 5. 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. Culberson
MAYOR

ATTEST:

BY Patti J. Whalen
city clerk

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