

The following ordinance was offered by Councilwoman Patricia Jenkins and seconded by Councilman Johnny West:

ORDINANCE NO. 20-004

AN ORDINANCE PROVIDING FOR THE INCURRING OF DEBT AND ISSUANCE OF UTILITY REVENUE BONDS (USDA), SERIES 2020, OF THE TOWN OF HOMER, PARISH OF CLAIBORNE, STATE OF LOUISIANA; PRESCRIBING THE FORM, TERMS AND CONDITIONS OF SAID BONDS; DESIGNATING THE DATE, DENOMINATION AND PLACE OF PAYMENT OF SAID BONDS; PROVIDING FOR THE PAYMENT THEREOF IN PRINCIPAL AND INTEREST; PROVIDING FOR THE ACCEPTANCE OF AN OFFER FOR THE PURCHASE OF SAID BONDS; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the Town of Homer, Parish of Claiborne, State of Louisiana (the "**Issuer**") is a political subdivision of the State of Louisiana (the "**State**") created and existing pursuant to the Constitution and laws of the State; and

WHEREAS, the Issuer desires to incur debt and issue One Million Nine Hundred Ninety-Five Thousand Dollars (\$1,995,000) of its Utility Revenue Bonds (USDA), Series 2020 (the "**Bonds**"), in the manner authorized and provided by Section 1430 of Title 39 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 39:1430, et. seq.) (the "**Act**") for the purposes of providing permanent financing: (i) constructing and acquiring improvements, extensions and replacements to its combined drinking water and wastewater treatment and disposal system (the "**System**"), including but not limited to comprehensive improvements to its drinking water supply, treatment, distribution and storage facilities, as a revenue-producing work of public improvement for the Issuer (the "**Project**"), and (ii) paying the cost of issuance of the Bonds; and

WHEREAS, the United States Department of Agriculture-Rural Development ("**USDA**") has provided a letter of conditions to provide permanent financing for costs of the Project (the "**USDA Permanent Loan**"), subject to interim construction financing of the Project, which was the Issuer's \$1,995,000 Utility Revenue Notes, Series 2018 (the "**Interim Financing**"); and

WHEREAS, the Bonds will be secured by and payable from the income and revenues derived by the Issuer from the operation of the System, after paying the reasonable and necessary costs and expenses of operating and maintaining the System ("**Net Revenues of the System**") on a parity with the Outstanding Parity Bonds (as defined herein); and

WHEREAS, at the time of the delivery of the Bonds, the Issuer will have outstanding (i) \$2,280,000 of its Revenue Refunding Bonds, Series 2013, maturing on December 1, 2033;(ii) \$3,500,000 Taxable Utility Revenue Bonds, Series 2013 (LDEQ), maturing on December 1, 2033; and (iii) \$3,600,000 Taxable Utility Revenue Bonds, Series 2015 (LDHH) maturing December 1, 2035 (collectively, the "**Outstanding Parity Bonds**"), and which are payable from a pledge and dedication of the Net Revenues of the System.

WHEREAS, this Mayor and Board of Selectmen of the Issuer, acting as the governing authority (the "**Governing Authority**") thereof, desires to fix the details necessary with respect to the issuance of the Notes and to provide for their authorization and issuance and obligate itself and its successors pursuant to the terms of this Ordinance; and

WHEREAS, it is the further desire of this Governing Authority to provide for the sale of the Bonds at the price and in the manner hereinafter provided;

NOW, THEREFORE, BE IT ORDAINED, by the Governing Authority of the Issuer, that:

SECTION 1. Definitions. As used herein, the terms used herein shall have the meanings ascribed to such terms as set forth in **Exhibit "A"** attached hereto, unless the context otherwise requires.

SECTION 2. Authorization of Bonds. In compliance with the terms and provisions of the Act, and other constitutional and statutory authority, there is hereby authorized the incurring of an indebtedness of One Million Nine Hundred Ninety-Five Thousand Dollars (\$1,995,000) for, on behalf of, and in the name of the Issuer, for the purpose of the Project, and to represent said

indebtedness, this Governing Authority does hereby authorize the issuance of Bonds, of the Issuer. Proceeds of the Bonds shall be applied as set forth in Section 14 hereof.

The Bonds shall be in a fully registered form, shall be dated as of the date of delivery thereof, shall be issued in the form of one fully registered Bonds numbered TR-1 in denominations of \$5,000 or any integral multiple thereof. The principal of and interest on the Bonds shall be payable over a forty (40) year period commencing one month after the date of the Bonds, continuing monthly thereafter over the life of the Bonds, payments shall be equal in amount and consist of fully amortized payments of principal and interest. Each payment shall be applied, first, to the payment of accrued interest and, second, to the payment of principal, at the following rates of interest per annum:

- (i) \$1,995,000 Term Bond (No. TR2020-1) Due Forty (40) Years from the Date of Delivery.

SECTION 3. Payment Provisions. The outstanding principal of the Bonds, upon maturity or redemption, together with all accrued unpaid interest thereon, shall be payable at the principal office of the Issuer upon presentation and surrender thereof. Principal and interest payments on the Bonds shall be payable by check of the Issuer mailed by the Issuer to the Owner (determined as of the close of business on the Record Date) at the address shown on the Bond Register. Each Bond delivered under this Ordinance upon transfer of, in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond, and each such Bond shall bear interest (as herein set forth) so neither gain nor loss in interest shall result from such transfer, exchange or substitution.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond a certificate of registration, substantially in the form provided in this Ordinance, executed by the Issuer by manual signature.

SECTION 4. Redemption Provisions.

- (i) The Bonds may be called for redemption at any time prior to maturity without penalty; and
- (ii) The Bonds shall be subject to scheduled redemption in the amounts shown on the redemption schedule attached to the form of Bonds on **Exhibits "C"** attached thereto.

SECTION 5. Registration and Transfer. The Bonds shall be delivered to and registered in the name of the United States Department of Agriculture-Rural Development pursuant to the Letter of Conditions dated April 28, 2015. Subsequent transfer of the Bonds, if any, shall be registered and assigned only on the Bond Register, and such registration shall be at the expense of the Issuer. A Bond may be assigned by the execution of an assignment form on the Bond or by other instruments of transfer and assignment acceptable to the Issuer. A new Bond will be delivered by the Issuer to the last assignee (the new Owners) in exchange for such transferred and assigned Bond after receipt of the Bond to be transferred in proper form. Such new Bond shall be in the denomination of \$5,000 or any whole dollar amount in excess thereof within a single maturity.

SECTION 6. Form of Bonds. The Bonds and the endorsements to appear thereon shall be in substantially the forms shown on **Exhibit "B"** attached hereto.

SECTION 7. Execution of Bonds. The Bonds shall be signed by the Mayor and the Clerk of the Issuer for, on behalf of, in the name of and under the corporate seal impression of the Issuer, which signatures and corporate seal may be either manual or facsimile.

SECTION 8. Pledge and Dedication of Revenues. The Bonds shall be secured by and payable solely from the Net Revenues of the System on a parity with the Outstanding Parity Bonds. There is hereby irrevocably pledged and dedicated to the payment of the Bonds an amount of such Net Revenues of the System sufficient to pay same in principal and interest as

they respectively mature. Until the Bonds shall have been paid in full in principal and interest, the Governing Authority does hereby obligate the Issuer, itself and its successors in office, to budget annually a sum of money sufficient to pay the Bonds, the Outstanding Parity Bonds and the interest thereon as they respectively mature, including any principal and/or interest theretofore matured and then unpaid, and to collect other revenues within limits prescribed by law, sufficient to pay the principal of and interest on the Bonds after payment in such years of all statutory, necessary and usual charges for the current year. No further or additional pledges or dedications of the aforesaid Net Revenues of the System shall be made which shall have priority or parity with the pledge and dedication of such revenues herein made except as provided in Section 9 hereof.

SECTION 9. Parity Bonds. The Issuer shall issue no other certificates, revenue bonds or any other debt obligations of any kind or nature payable from or enjoying a lien on the Net Revenues having priority over or parity with the Bonds except that additional debt obligations may hereafter be issued on a parity with the Bond under the following conditions:

- (i) Additional debt obligations may be issued on and enjoy a full and complete parity with the Bonds with respect to the Net Revenues of the System, provided that the anticipated Net Revenues of the System in the year in which the additional revenue bonds are to be issued, as reflected in the budget adopted by this Governing Authority, must at least equal the combined principal and interest requirements for any calendar year on the Bonds, the Outstanding Parity Bonds and any additional debt obligations.
- (ii) Junior and subordinate other debt obligations may be issued without restriction.
- (iii) The Issuer must be in full compliance with all covenants and undertakings in connection with the Bonds and there must be no delinquencies in payments required to be made in connection therewith.

SECTION 10. Project Fund. The Issuer has previously established the 2018 Project Fund (the "**Project Fund**") held by the regular fiscal agent bank of Issuer (the "**Fiscal Agent**") into which the proceeds from the Interim Financing were deposited. Monies in the Project Fund shall be expended for the Project.

Upon certification by the Issuer that all costs incurred in connection with the Project have been paid, any balance remaining in the Project Fund shall be deposited without further authorization into the Reserve Fund, or if the Reserve Fund has been fully funded in the amount of the Reserve Fund Requirement, then such amounts may be applied first towards the Contingencies Fund, and if the Contingencies Fund has been fully funded, then toward reduction of the principal amount of the Bonds.

SECTION 11. Reserve Fund. The Issuer hereby establishes and maintains the Series 2020 Debt Service Reserve Fund (the "**Reserve Fund**") by transferring into the Reserve Fund from proceeds of the Bonds on a monthly basis (on or before the 15th day of each month in which the Bonds are outstanding) an amount at closing equal to \$341.50, which payments shall continue until such time as the amount in the Reserve Fund equals the Reserve Fund Requirement. The moneys in the Reserve Fund shall be retained solely for the purpose of paying the principal of and the interest on Bonds as to which there would otherwise be default but if so used, such money shall be replaced by the Issuer as soon as possible thereafter out of Net Revenues of the System after making the required payments.

SECTION 12. Depreciation and Contingency Fund. The Issuer hereby establishes and maintains the following depreciation and contingency funds:

- (i) "Depreciation and Contingencies Fund" (the "**Contingencies Fund**") with the regular fiscal agent bank of the Issuer to care for depreciation, extensions, additions, improvements, capital projects and replacements necessary to operate properly the System, by transferring from the Revenue Fund to the Contingencies Fund not later than the 15th day of each month in which the Bonds are outstanding the amount of \$287.30. Money in the Contingencies Fund shall also be used to

pay the principal of and the interest on the Bonds for the payment of which there is not sufficient money in the Reserve Fund, but if so used, such money shall be replaced by the Issuer as soon as possible thereafter out of Net Revenues of the System after making the required payments into the respective funds hereinabove set out. Payments into the Contingency Fund shall be made as set forth herein, until such time that a balance of \$81,567 is achieved, after which such payments may be made only as necessary to replace or maintain such fund balance. Upon funding in full of the Reserve Fund in the amount of the Reserve Fund Requirement, the monthly amount deposited into the Contingencies Fund shall increase to a total amount equal to \$683.00 per month until the balance in the Contingency Fund required by this Section 12(i) is met.

- (ii) "Short-Lived Assets Depreciation Reserve Fund" (the "**Short-Lived Asset Depreciation Reserve Fund**") with the regular fiscal agent bank of the Issuer to provide for repair and replacement of System assets and equipment having a useful life of 5 years or less ("**Short-lived Assets**") by transferring from the Revenue Fund to the Short-Lived Asset Depreciation Reserve Fund not later than the 15th day of each month in which the Bonds are outstanding the amount of \$3,330.75. Money in the Short-Lived Asset Depreciation Reserve Fund shall also be used to pay the principal of and the interest on the Bonds for the payment of which there is not sufficient money in the Reserve Fund, but if so used, such money shall be replaced by the Issuer as soon as possible thereafter out of Net Revenues of System after making the required payments into the respective funds hereinabove set out.

Any money remaining in the Revenue Fund after making the above required payments may be used by the Issuer for the purpose of calling and/or purchasing and paying any bonds payable from the Revenues, or from such other lawful corporate purposes as this Governing Authority may determine, whether such purposes are or are not in relation to the System.

If at any time it shall be necessary to use moneys in the Reserve Fund or the Contingency Fund above provided for the purpose of paying principal of or interest on Bonds as to which there would otherwise be default, then the moneys so used shall be replaced from the revenues first thereafter received, not hereinabove required to be used for operation and maintenance of the System or for current principal, interest and reserve requirements. If at any time there are sufficient moneys on deposit in the Reserve Fund and the Contingency Fund to retire all outstanding bonds by defeasance, by exercising the redemption option provided by such Bonds or by purchase on the open market, the Issuer may utilize such funds for such purpose.

All or any part of the moneys in the foregoing funds and accounts shall, at the written request of the Issuer, be invested in accordance with the provisions of the laws of the State of Louisiana, except that moneys in said Reserve Funds must be invested in Government Securities maturing in five (5) years or less from the date of investment. All income derived from such investments shall be added to the money in said respective funds or to the Revenue Fund, and such investments shall, to the extent at any time necessary, be liquidated and the proceeds thereof applied to the purpose for which the respective funds are herein created.

SECTION 13. Budget; Audit. As long as the Bonds are outstanding and unpaid in principal or interest, the Issuer shall prepare and adopt a budget prior to the beginning of each Fiscal Year and shall furnish a copy of such budget within thirty (30) days after its adoption to the Purchaser; the Issuer shall also furnish a copy of such budget to any Owners who request the same. Not later than six (6) months after the close of each Fiscal Year, the Issuer shall cause an audit of its books and accounts to be made by the Legislative Auditor or an independent firm of certified public accountants showing the receipts and disbursements made by the Issuer during the previous Fiscal Year. Such audit shall be available for inspection by any Owners, and a copy of such audit shall be furnished to the Purchaser.

SECTION 14. Application of Proceeds. The proceeds derived from the sale of the Bonds shall be used to repay the Interim Financing and provide permanent financing for the Project by providing for a redemption (in full) of the Interim Financing. The Mayor and the Clerk of the Issuer (collectively, the "**Executive Officers**") are hereby empowered, authorized and

directed to do any and all things necessary and incidental to carry out all of the provisions of this Ordinance, to cause the necessary Bond to be printed, to issue, execute and seal the Bonds, to effect delivery thereof as hereinafter provided, and to provide for a redemption in full of the Interim Financing with the proceeds of the Bonds.

SECTION 15. Ordinance a Contract. The provisions of this Ordinance shall constitute a contract between the Issuer, or its successor, and the Owners from time to time of the Bonds, and any such Owners may at law or in equity, by suit, action, mandamus or other proceedings, enforce and compel the performance of all duties required to be performed by this Governing Authority or the Issuer as a result of issuing the Bonds.

No material modification or amendment of this Ordinance, or of any ordinance amendatory hereof or supplemental hereto, may be made without the consent in writing of the Owners.

SECTION 16. Severability; Application of Subsequently Enacted Laws. In case any one or more of the provisions of this Ordinance or of the Bonds shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Ordinance or of the Bonds, but this Ordinance and the Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. Any constitutional or statutory provisions enacted after the date of this Ordinance which validate or make legal any provision of this Ordinance and/or the Bonds which would not otherwise be valid or legal, shall be deemed to apply to this Ordinance and to the Bonds.

SECTION 17. Recital of Regularity. This Governing Authority having investigated the regularity of the proceedings had in connection with the Bond and having determined the same to be regular, the Bonds shall contain the following recital, to-wit:

"It is certified that this Bond is authorized by and issued in conformity with the requirements of the constitution and statutes of the State of Louisiana."

SECTION 18. Effect of Registration. The Issuer, and any agent thereof may treat the Owners in whose name any Bonds are registered as the Owners of such Bonds for the purpose of receiving payment of the principal of and interest on such Bond and for all other purposes whatsoever, and to the extent permitted by law, the Issuer shall not be affected by notice to the contrary.

SECTION 19. Notices to Owners. Wherever this Ordinance provides for notice to Owners of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Owner of such Bond, at the address of such Owner as it appears in the Bond Register. In any case where notice to Owners is given by mail, neither the failure to mail such notice to any particular Owner, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Owner or Owners entitled to receive such notice, either before or after the event, and such waiver shall be equivalent of such notice. Waivers of notice by Owners shall be filed with the Issuer, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 20. Cancellation of Bonds. All Bonds surrendered for payment, redemption, transfer, exchange or replacement, if surrendered to the Paying Agent, shall be promptly canceled by it. The Issuer may at any time cancel any Bonds previously registered and delivered which the Issuer may have acquired in any manner whatsoever, and all Bonds so delivered shall be disposed of as directed in writing by the Issuer.

SECTION 21. Discharge of Resolution; Defeasance. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid to the Owners, the principal of and interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the pledge of the money, securities, and funds pledged under this Ordinance and all covenants, agreements, and other obligations of the Issuer to the Owners shall thereupon cease, terminate, and become void and be discharged and satisfied.

Principal and interest installments for the payment of which money shall have been set aside and shall be held in trust (through deposit by the Issuer of funds for such payment or otherwise) at the maturity date thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section if they are defeased in the manner provided by Chapter 14 of Title 39 of the Louisiana Revised Statutes of 1950, as amended.

SECTION 22. Disclosure Under SEC Rule 15c2-12. It is recognized that the Issuer will not be required to comply with the continuing disclosure requirements described in the Rule 15c2-12(b) of the Securities and Exchange Commission [17 CFR §240.15c2-12(b)], because the Bonds are not being purchased by a broker, dealer or municipal securities dealer acting as an underwriter in a primary offering of municipal securities; and the bonds are being sold to only one financial institution (i.e., no more than thirty-five persons), which (i) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment in the Bond and (ii) is not purchasing the Bond for more than one account or with a view to distributing the Bond.

SECTION 23. Arbitrage. The Issuer covenants and agrees that, to the extent permitted by the laws of the State of Louisiana, it will comply with the requirements of the Internal Revenue Code of 1986 and any amendment thereto (the "**Code**") in order to establish, maintain and preserve the exclusion from "gross income" of interest on the Bonds under the Code. The Issuer further covenants and agrees that it will not take any action, fail to take any action, or permit any action within its control to be taken, or permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in the manner, the effect of which would be to cause the Bonds to be "arbitrage bonds" or would result in the inclusion of the interest on any of the Bonds in gross income under the Code, including, without limitation, (i) the failure to comply with the limitation on investment of Bond proceeds or (ii) the failure to pay any required rebate of arbitrage earnings to the United States of America or (iii) the use of the proceeds of the Bond in a manner which would cause the Bonds to be "private activity bonds".

The Executive Officers are hereby empowered, authorized and directed to take any and all action and to execute and deliver any instrument, document or certificate necessary to effectuate the purposes of this Section.

SECTION 24. Qualified Tax-Exempt Obligations. The Bonds are designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code. In making this designation, the Issuer finds and determines that:

- (i) the Bonds are not "private activity bonds" within the meaning of the Code; and
- (ii) the reasonably anticipated amount of qualified tax-exempt obligations which will be issued by the Issuer and all subordinate entities in calendar years 2021 does not exceed \$10,000,000.

SECTION 25. Publication. A copy of this Ordinance shall be published immediately after its adoption in one issue of the official journal of the Issuer.

SECTION 26. Headings. The headings of the various sections hereof are inserted for convenience of reference only and shall not control or affect the meaning or construction of any of the provisions hereof.

SECTION 27. Effective Date. This Ordinance shall become effective immediately.

The Ordinance having been submitted to a vote, the vote hereon was as follows:

YEAS: 4 (West, Johnston, Adams, Jenkins)

NAYS: 0

ABSTAIN: 0

ABSENT: 1 (Hardaway)

THUS DONE, adopted and signed on this the 17th day of August, 2020.



Xanthe Seals, Mayor



Shenika Wright, Clerk

STATE OF LOUISIANA

PARISH OF CLAIBORNE

I, the undersigned Clerk of the Town of Homer do hereby certify that the foregoing pages constitute a true and correct copy of the proceedings taken by the Board of Selectmen, acting as the governing authority (the "**Governing Authority**"), of the Town of Homer, State of Louisiana (the "**Issuer**") on August 17, 2020 with respect to:

AN ORDINANCE PROVIDING FOR THE INCURRING OF DEBT AND ISSUANCE OF UTILITY REVENUE BONDS (USDA), SERIES 2020, OF THE TOWN OF HOMER, PARISH OF CLAIBORNE, STATE OF LOUISIANA; PRESCRIBING THE FORM, TERMS AND CONDITIONS OF SAID BONDS; DESIGNATING THE DATE, DENOMINATION AND PLACE OF PAYMENT OF SAID BONDS; PROVIDING FOR THE PAYMENT THEREOF IN PRINCIPAL AND INTEREST; PROVIDING FOR THE ACCEPTANCE OF AN OFFER FOR THE PURCHASE OF SAID BONDS; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

IN FAITH WHEREOF, witness my official signature and the impress of the official seal of said Town of Homer, Parish of Claiborne, Louisiana, on this, the 18th day of August, 2020.



Shenika Wright, Clerk