

Introduced by: Mayor
Date: August 20, 1974
Hearing: September 17, 1974

KENAI PENINSULA BOROUGH

ORDINANCE NO. 74- 45

AN ORDINANCE OF KENAI PENINSULA BOROUGH, ALASKA, AUTHORIZING THE ISSUANCE OF \$565,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING BONDS OF THE BOROUGH FOR THE PURPOSE OF PROVIDING PART OF THE FUNDS NECESSARY TO REFUND THE KENAI PENINSULA BOROUGH GENERAL OBLIGATION SCHOOL BONDS OF 1963; PROVIDING FOR AND AUTHORIZING THE PURCHASE OF CERTAIN OBLIGATIONS WITH THE PROCEEDS OF THE SALE OF SUCH REFUNDING BONDS AND CERTAIN MONEYS IN THE BOND REDEMPTION FUND OF THE BOROUGH SECURING SUCH BONDS TO BE REFUNDED AND FOR THE USE AND APPLICATION OF THE MONEYS TO BE DERIVED FROM SUCH INVESTMENTS; PROVIDING FOR THE PAYMENT OF THE OUTSTANDING BONDS TO BE REFUNDED; PROVIDING THE DATE, FORM, TERMS, INTEREST RATE, MATURITIES AND COVENANTS OF SAID REFUNDING BONDS TO BE ISSUED AND FOR UNLIMITED TAX LEVIES TO PAY THE PRINCIPAL THEREOF AND INTEREST THEREON; AND PROVIDING FOR THE SALE THEREOF TO SEATTLE-NORTHWEST SECURITIES CORPORATION OF SEATTLE, WASHINGTON.

WHEREAS, Kenai Peninsula Borough, Alaska (hereinafter called the "Borough"), now has outstanding its general obligation school bonds in the aggregate principal amount of \$645,000 issued under date of June 1, 1963 (hereinafter called the "1963 Bonds"), which bonds all bear interest at the rate of 4.50% per annum and mature on June 1 in each of the following years in the following amounts:

<u>Years</u>	<u>Amounts</u>	<u>Years</u>	<u>Amounts</u>
1975	\$ 60,000	1980	\$ 75,000
1976	60,000	1981	80,000
1977	65,000	1982	80,000
1978	70,000	1983	85,000
1979	70,000		

and

WHEREAS, after due consideration it appears to this Assembly that the 1963 Bonds may be refunded by the issuance and sale of the general obligation refunding bonds of the Borough authorized herein (hereinafter called the "Refunding Bonds") so that a substantial saving to the Borough and its taxpayers will be effected by the issuance of the Refunding Bonds and the payment of principal and interest on the 1963 Bonds as such payments become due; and

WHEREAS, in order to effect such refunding in the manner that will be most advantageous to the Borough and its taxpayers, it is hereby found necessary and advisable that certain "Acquired Obligations" (hereinafter identified), bearing interest and maturing at such time or times as necessary to pay the principal of and interest on the 1963 Bonds as the same shall become due, be purchased out of the proceeds of sale of the Refunding Bonds and moneys in the 1963 bond redemption fund of the Borough;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH, ALASKA:

Section 1. For the purpose of providing part of the moneys required to pay the principal of and interest on the 1963 Bonds as the same become due, the Borough shall issue the Refunding Bonds in the aggregate principal amount of \$565,000.

The Refunding Bonds shall be dated September 1, 1974, shall be in the denomination of \$5,000 each, shall be numbered, shall mature on June 1 in each of the following years and shall bear interest at the rate of 6.90% payable on December 1, 1974, and semiannually thereafter on the first days of each succeeding June and December of each year from date of issue as follows:

<u>Bond Numbers (Inclusive)</u>	<u>Amounts</u>	<u>Years</u>
1 to 10	\$ 50,000	1975
11 to 20	50,000	1976
21 to 31	55,000	1977
32 to 43	60,000	1978
44 to 56	65,000	1979
57 to 70	70,000	1980
71 to 85	75,000	1981
86 to 100	75,000	1982
101 to 113	65,000	1983

Both principal of and interest on the Refunding Bonds shall be payable in lawful money of the United States of America at the main office of the Seattle Trust and Savings Bank, Seattle, Washington.

Section 2. The Refunding Bonds shall be issued without the right or option of the Borough to redeem the same prior to their respective maturity dates.

Section 3. The Refunding Bonds shall be in substantially the following form:

No. _____

\$5,000.00

UNITED STATES OF AMERICA

STATE OF ALASKA

KENAI PENINSULA BOROUGH

GENERAL OBLIGATION REFUNDING SCHOOL BOND, 1974,
THIRD SERIES

6.90%

The Kenai Peninsula Borough, Alaska (hereinafter called the "Borough"), hereby acknowledges itself to owe and for value received promises to pay to bearer on the first day of June, 19__, the principal amount of

FIVE THOUSAND DOLLARS

together with interest thereon at the rate of 6.90% per annum, payable on December 1, 1974, and semiannually thereafter on the first days of each succeeding June and December of each year from date of issue upon presentation and surrender of the attached interest coupons as they severally become due. Both principal of and interest on this bond are payable in lawful money of the United States of America at the main office of the Seattle Trust and Savings Bank, Seattle, Washington.

This bond is issued without the right or option of the Borough to redeem the same prior to its maturity date.

This bond is one of an issue of 113 bonds of like amount, rate of interest, date and tenor, except as to number and date of maturity, in the aggregate principal amount of \$565,000.00, which bonds are issued for the purpose of providing a part of the moneys necessary to refund outstanding general obligation school bonds of the Borough.

The bonds of this refunding issue are 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 Borough Assembly.

The Borough hereby irrevocably covenants that it will levy taxes annually upon all the taxable property in the Borough without limitation as to rate or amount and in amounts sufficient, with other moneys legally available therefor, to pay the principal of and interest on the bonds of this issue as the same shall become due. The full faith, credit and resources of the Borough are hereby irrevocably pledged

for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

It is hereby certified that all acts, conditions and things required to be done precedent to and in the issuance of this bond have happened, been done and performed and that the total indebtedness of the Borough, including this bond and the bonds of this issue, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, Kenai Peninsula Borough, Alaska, has caused this bond to be signed by the manual signature of the Mayor of the Borough, to be attested by the facsimile signature of its Clerk, the seal of the Borough or a facsimile thereof to be impressed hereon or otherwise reproduced and the interest coupons attached hereto to be signed with the facsimile signatures of said officials this first day of September, 1974.

KENAI PENINSULA BOROUGH, ALASKA

By _____
Mayor

ATTEST:

(facsimile signature)
Borough Clerk

The interest coupons attached to the Refunding Bonds shall be in substantially the following form:

Coupon No. ___ (\$86.25 on
Coupon
\$172.50 No. 1)

On the FIRST DAY OF (JUNE) (DECEMBER), 19__ , KENAI PENINSULA BOROUGH, ALASKA, will pay to bearer at the main office of the Seattle Trust and Savings Bank, Seattle, Washington, the amount shown hereon in lawful money of the United States of America, such amount being the interest due that date on its "General Obligation Refunding School Bond, 1974, Third Series," dated September 1, 1974, and numbered _____.

KENAI PENINSULA BOROUGH, ALASKA

By (facsimile signature)
Mayor

ATTEST:

(facsimile signature)
Borough Clerk

Section 4. The Refunding Bonds shall be signed by the manual signature of the Borough Mayor, shall be attested by the facsimile signature of the Borough Clerk, and shall have the official seal, or facsimile thereof, of the Borough impressed thereon or otherwise reproduced. Each of the interest coupons attached thereto shall be signed with the facsimile signatures of said officials.

Section 5. The Borough hereby irrevocably covenants that for as long as any of the Refunding Bonds are outstanding it will make annual levies of ad valorem taxes without limitation as to rate or amount upon all the property within the Borough subject to taxation which, with other moneys legally available therefor, will be sufficient in amount to pay the principal of and interest on the Refunding Bonds as the same shall become due. The full faith, credit and resources of the Borough are hereby irrevocably pledged for the annual levy and collection of such taxes and for the prompt payment of such principal and interest.

Section 6. There is hereby created a special account of the Borough to be known as the "1974 Third Series Refunded Bond Redemption Account" (hereinafter called the "Refunded Bond Account"), which Account is to be drawn upon for the sole purpose of paying the principal of and interest on the 1963 Bonds.

The proceeds of sale of the Refunding Bonds shall be credited to such Account and used immediately upon the receipt thereof to discharge the obligations of the Borough under Ordinance No. 47 of the City of Kenai authorizing the issuance of the 1963 Bonds by providing for the payment as hereinafter set forth in this section of the principal of and interest on the 1963 Bonds. The Borough shall discharge such obligations, which were succeeded to by the Borough, by the use of moneys now held in the bond redemption fund of the Borough created by said Ordinance No. 47 (in an amount not greater than the interest and principal accruing on the 1963 Bonds from their last interest payment date to the date of delivery of the Refunding Bonds to the initial purchaser thereof), and by the purchase of certain obligations of the United States government, or agencies thereof ("Acquired Obligations"), bearing such interest and maturing as to principal and interest in such amounts and at such times so as to provide for the payment of:

- (a) Interest on the 1963 Bonds as it becomes due and payable, and
- (b) The principal of the 1963 Bonds as they mature.

Such "Acquired Obligations" are set forth in "Schedule A" attached to this ordinance and incorporated by reference herein. Such "Acquired Obligations" shall be purchased at a yield not greater than 6.897% per annum; provided, however, that a sum not greater than \$93,538.13 may be used to acquire "Acquired Obligations" at the current market price.

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Such money and "Acquired Obligations" shall be irrevocably deposited with Seattle Trust and Savings Bank, Seattle, Washington (hereinafter called "Refunding Trustee").

Section 7. The Refunding Trustee is hereby authorized and directed to pay to the Borough Finance Director, or, at the direction of the Finance Director, to the paying agents for the 1963 Bonds, sums sufficient to pay, when due, the sums specified in subparagraphs (a) and (b) of Section 6 of this ordinance. All such sums shall be paid from the moneys and "Acquired Obligations" deposited with said Refunding Trustee pursuant to the previous section of this ordinance, and the income therefrom and proceeds thereof. All moneys and "Acquired Obligations" deposited with the Refunding Trustee and any income therefrom shall be deemed assets of the Refunded Bond Account and shall be held, invested (but only at the direction of the Borough Finance Director) and applied in accordance with the provisions of this ordinance and with the laws of the State of Alaska. All moneys held by the Refunding Trustee pursuant to this ordinance, after June 1, 1983, shall be paid to the Borough.

The Mayor and Clerk of the Borough are directed to execute with and deliver to the Refunding Trustee an agreement (in the form attached hereto, marked Exhibit A and by this reference made a part of this ordinance) setting forth the duties, obligations and responsibilities of the Refunding Trustee in connection with the retirement of the 1963 Bonds as provided herein.

Section 8. There has heretofore been created by Ordinance No. 74-39 a special fund of the Borough known as the "Debt Service Fund" (hereinafter called the "Bond Fund"), which fund is to be drawn upon for the purpose of paying the principal of and interest on all voted general obligation bonds and all general obligation refunding bonds of the Borough as the same shall become due, including the Refunding Bonds.

Section 9. In the event that money and/or direct obligations of the United States of America, and/or obligations guaranteed by the United States of America, maturing at such time or times and bearing interest to be earned thereon in amounts (together with such money, if necessary) sufficient to redeem and retire the Refunding Bonds in accordance with their terms, are set aside in the Bond Fund to effect such redemption and retirement, and such moneys and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund for the payment of the principal of and interest on the Refunding Bonds, and the Refunding Bonds and the coupons appurtenant thereto shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive the moneys so set aside and pledged, and the Refunding Bonds and such coupons shall be deemed not to be outstanding hereunder.

Section 10. The Borough hereby covenants that it will not make any use of the proceeds of sale of the Refunding Bonds or any other funds of the Borough which may be deemed to be proceeds of such Refunding Bonds pursuant to Section 103(d) of the Internal Revenue Code and the applicable Regulations thereunder which, if such use had been reasonably expected on the date of delivery of the Refunding Bonds to the initial purchaser thereof, would have caused the Refunding Bonds to be "arbitrage bonds" within the meaning of said section and said Regulations. The Borough will comply with the requirements of subsection (d) of Section 103 of the Internal Revenue Code and the applicable Regulations thereunder throughout the term of the Refunding Bonds.

This Assembly hereby finds and determines that the issuance and sale of the Refunding Bonds at this time will effect a saving to the Borough and its taxpayers. In making such finding and determination this Assembly has given consideration to the reduced principal amount of the Refunding Bonds and the interest to the fixed maturities of the Refunding Bonds and the 1963 Bonds being refunded, the costs of the issuance of the Refunding Bonds and the known earned income from the investment of the proceeds of sale of the Refunding Bonds pending retirement of the 1963 Bonds.

This Assembly hereby further finds and determines that the moneys and "Acquired Obligations" to be deposited with the Refunding Trustee for the 1963 Bonds in accordance with Section 6 of this ordinance will discharge and satisfy the obligations of the Borough under the ordinance authorizing the issuance of the 1963 Bonds and the pledges, charges, trust, covenants and agreements of the Borough therein made or provided for as to said 1963 Bonds, and that said 1963 Bonds shall no longer be deemed to be outstanding under said ordinance immediately upon the deposit of such moneys and the "Acquired Obligations" with the Refunding Trustee.

Section 11. Seattle-Northwest Securities Corporation of Seattle, Washington, has submitted an offer to purchase the Refunding Bonds and to provide the "Acquired Obligations" at the prices and under the conditions specified in such offer, which offer is on file with the Borough Clerk. This Assembly deems it to be in the best interests of the Borough and its taxpayers that such offer be accepted and such offer is, therefore, duly accepted.

The proper Borough officials are hereby authorized and directed to do everything necessary for the prompt execution and delivery of the Refunding Bonds to said purchaser and for the proper application and use of the proceeds of sale thereof as herein provided.

Section 12. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the Borough shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining

covenants and agreements in this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Refunding Bonds.

Section 13. This ordinance shall become effective on the day of enactment.

ADOPTED BY THE ASSEMBLY of the Kenai Peninsula Borough, Alaska, at a regular meeting thereof this 17 day of September, 1974.

KENAI PENINSULA BOROUGH

By James V. Cress
President of the Assembly

ATTEST:

Frances Byrner
Borough Clerk

SCHEDULE A

KENAI PENINSULA BOROUGH
 INVESTMENTS PURCHASED FOR "1974 THIRD SERIES
 REFUNDED BOND REDEMPTION ACCOUNT"

<u>Amount</u>	<u>Maturity Date</u>	<u>Type</u>	<u>Coupon</u>
\$ 80,000	5/25/83	FHLB	7.300%
79,000	4/20/82	FLB	6.900%
74,000	4/20/81	FLB	6.700%
60,000	3/10/80	FNMA	6.875%
5,000	10/23/79	FLB	6.800%
60,000	5/25/79	FHLB	8.750%
5,000	10/19/78	FLB	7.350%
60,000	5/25/78	FHLB	7.600%
50,000	5/25/77	FHLB	8.700%
50,000	5/25/76	FHLB	7.200%
<u>50,000</u>	<u>5/27/75</u>	<u>FHLB</u>	<u>6.800%</u>
\$573,000			

CODE:

FHLB - Federal Home Loan Bank Bonds
 FLB - Federal Land Bank Bonds
 FNMA - Federal National Mortgage Association Debentures

A G R E E M E N T

THIS AGREEMENT made and entered into as of the _____ day of September, 1974, by and between KENAI PENINSULA BOROUGH, a municipal corporation of the State of Alaska (the "Borough"), and SEATTLE TRUST AND SAVINGS BANK (Corporate Trust Division), Seattle, Washington (the "Refunding Trustee"):

W I T N E S S E T H:

SECTION 1. Recitals. The Borough now has outstanding "General Obligation School Bonds, 1963," issued under date of June 1, 1963, in the aggregate principal amount of \$645,000.00 (which bonds shall hereinafter be called the "1963 Bonds"). The Borough by Ordinance No. 74-45, adopted by the Assembly of the Borough, has determined to refund such 1963 Bonds out of the proceeds of the sale of its "General Obligation Refunding School Bonds, 1974, Third Series" (the "Refunding Bonds"), and other moneys of the Borough legally available therefor.

SECTION 2. Provisions for Refunding the Outstanding Bonds. To accomplish the refunding of the 1963 Bonds, including the payment of the principal of and interest on the 1963 Bonds until June 1, 1983, the final maturity date for such 1963 Bonds, the Borough, simultaneously with the delivery of the Refunding Bonds issued pursuant to said Ordinance No. 74-45, does hereby agree to irrevocably deposit with the Refunding Trustee in trust for the security and benefit of the holders and owners of the 1963 Bonds and the Refunding Bonds the sum of \$1,032.66 in cash and certain Federal Home Loan Bank Bonds, Federal National Mortgage Association Debentures, and Federal Land Bank Bonds with amounts, interest rates and maturities as more particularly set forth in "Schedule A" attached to this Agreement and by this reference incorporated herein, which securities are hereinafter referred to as "Obligations," and such cash and Obligations, with the investment income therefrom, will be sufficient to provide for the payment of the principal of and interest on the 1963 Bonds until June 1, 1983, the final maturity date for the 1963 Bonds.

On or before the delivery of the Refunding Bonds the Borough agrees that it will cause to be delivered to the Refunding Trustee a statement setting forth the amount of interest and principal to be paid on each semiannual interest payment date on the 1963 Bonds up through June 1, 1983.

SECTION 3. Disbursements by the Refunding Trustee The Refunding Trustee shall present for payment on the due date thereof the Obligations so deposited and shall apply the proceeds derived therefrom in accordance with the provisions of this section.

Moneys shall be transferred by the Refunding Trustee to the main office of the Seattle Trust and Savings Bank, Seattle, Washington, the paying agents for the 1963 Bonds, in amounts sufficient to pay the interest on and principal of the 1963 Bonds becoming due and payable on or before June 1, 1983, the final maturity date for such 1963 Bonds.

SECTION 4. Nonreinvestment of Funds; Custody and Safekeeping of Obligations. All moneys deposited with the Refunding Trustee or received by the Refunding Trustee as maturing principal or interest on Obligations prior to the time required to make the payments hereinbefore set forth shall be held by the Refunding Trustee and shall not be reinvested.

All income derived from the Obligations and any moneys deposited with the Refunding Trustee pursuant to Section 2 hereof in the hands of the Refunding Trustee (which moneys are not required to make the payments hereinbefore required to be made) shall be paid to the main office of the Seattle Trust and Savings Bank, Seattle, Washington, for the credit of the "Debt Service Fund" of the Borough (hereinafter called the "Bond Fund") as and when realized and collected for use and application as other moneys deposited in said Bond Fund.

For as long as any of the 1963 Bonds are outstanding, on or before the 10th day of each month, commencing with the month of October, 1974, the Refunding Trustee shall render a statement as of the last day of the preceding month to the Director of Finance of the Borough, which statement shall set forth the Obligations which have matured and the amounts received by the Refunding Trustee by reason of such maturity, the amounts paid to the main office of the Seattle Trust and Savings Bank, Seattle, Washington, for credit to the Bond Fund, the amount of cash delivered to the main office of the Seattle Trust and Savings Bank, Seattle, Washington, and the dates of such delivery, for the payment of the interest on and principal of the 1963 Bonds as the same shall become due and/or payable, and any other transactions of the Refunding Trustee pertaining to its duties and obligations as set forth herein.

All Obligations, moneys and investment income deposited with or received by the Refunding Trustee pursuant to this Agreement shall be subject to the trust created by this Agreement and the Refunding Trustee shall be liable for the preservation and safekeeping thereof.

SECTION 5. Duties and Obligations of Refunding Trustee. The duties and obligations of the Refunding Trustee shall be as prescribed by the provisions of this Agreement, and the Refunding Trustee shall not be liable except for the performance of its duties and obligations as specifically set forth herein and to act in good faith in the performance thereof and no implied duties or obligations shall be incurred by such Refunding Trustee other than those specified herein.

The Refunding Trustee may consult with counsel of its choice and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or not taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

Provisions for the fees, compensation and expenses of the Refunding Trustee satisfactory to it have been made by the bond purchaser.

KENAI PENINSULA BOROUGH, ALASKA

By Stan Thompson
Mayor

ATTEST:

Francis Brymer
Borough Clerk

SEATTLE TRUST AND SAVINGS BANK
(Corporate Trust Division)

By _____
Trust Officer