

Introduced by: Mayor
Date: January 7, 1975
Hearing: February 4, 1975

KENAI PENINSULA BOROUGH

ORDINANCE NO. 75-3

AN ORDINANCE OF KENAI PENINSULA BOROUGH, ALASKA, AUTHORIZING THE ISSUANCE OF \$750,000.00 PRINCIPAL AMOUNT OF "NORTH PENINSULA RECREATION SERVICE AREA REFUNDING BONDS, 1975," OF THE BOROUGH FOR THE PURPOSE OF PROVIDING PART OF THE FUNDS NECESSARY TO REFUND THE BOROUGH'S OUTSTANDING "NORTH PENINSULA RECREATION SERVICE AREA BONDS, 1974"; 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 AND REDEMPTION OF THE OUTSTANDING BONDS TO BE REFUNDED; PROVIDING THE DATE, FORM, TERMS, INTEREST RATES, MATURITIES AND COVENANTS OF SAID REFUNDING BONDS TO BE ISSUED AND FOR UNLIMITED TAX LEVIES UPON THE TAXABLE PROPERTY WITHIN NORTH PENINSULA RECREATION SERVICE AREA OF THE BOROUGH 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 "North Peninsula Recreation Service Area Bonds, 1974," in the aggregate principal amount of \$750,000.00 issued under date of September 1, 1974 (hereinafter called the "Outstanding Bonds"), all of which bonds mature on June 1, 1985, and bear interest at the rate of 7% per annum; and

WHEREAS, the proceedings of the Assembly of the Borough authorizing the issuance of the Outstanding Bonds provide that the Borough may call such bonds for redemption on June 1, 1980, or on any interest payment date thereafter, at par plus accrued interest to date of redemption; and

WHEREAS, after due consideration it appears to this Assembly that the Outstanding 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 the taxpayers of the North Peninsula Recreation Service Area of the Borough will be effected by the issuance of the Refunding Bonds and the redemption of the Outstanding Bonds on June 1, 1984; 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 interest on the Outstanding Bonds as the same shall become due and to redeem the Outstanding Bonds on June 1, 1984, be purchased out of the proceeds of sale of the Refunding Bonds and moneys in the bond redemption fund of the Borough for the Outstanding Bonds;

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 interest on the Outstanding Bonds coming due to and including June 1, 1984, and to redeem and retire on June 1, 1984, all of the Outstanding Bonds, the District shall issue the Refunding Bonds in the aggregate principal amount of \$750,000.00.

The Refunding Bonds shall be dated January 1, 1975, shall be in the denomination of \$5,000.00 each, shall be numbered, shall mature on June 1 in each of the following years and shall bear interest payable on June 1, 1975, and semiannually thereafter on the first days of each succeeding December and June of each year from date of issue as follows:

<u>Bond Numbers (Inclusive)</u>	<u>Amounts</u>	<u>Interest Rates</u>	<u>Years</u>
1	\$ 5,000	6.250%	1976
2	5,000	6.250%	1977
3	5,000	6.250%	1978
4	5,000	6.250%	1979
5	5,000	6.250%	1980
6	5,000	6.250%	1981
7	5,000	6.250%	1982
8	5,000	6.250%	1983
9	5,000	6.250%	1984
10 to 150	705,000	6.500%	1985

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 in Seattle, Washington.

Section 2. The Borough hereby reserves the right to redeem any or all of the Refunding Bonds outstanding in whole, or in part in inverse numerical order, on any interest payment date on or after June 1, 1980, at a redemption price equal to the principal amount of each bond to be redeemed, together with interest accrued thereon to the redemption date.

Notice of any such intended redemption shall be given by one publication thereof in a financial journal of general circulation in the City of New York, New York, not more than 40 nor less than 30 days prior to such redemption date and by mailing a like notice at the same time to Seattle-Northwest Securities Corporation at its main office in Seattle, Washington, or to the successor or successors in business of such corporation, if any, at its or their main office. Interest on any Refunding Bond or Bonds so called for redemption shall cease on such redemption date unless the same are not redeemed upon presentation made pursuant to such call.

In addition to such publication and mailing the Borough shall also mail notice of any such intended redemption to Standard & Poor's Corporation and Moody's Investors Service, Inc., New York, New York, or to their business successors, if any. The mailing of such notice shall not, however, be a condition precedent to the call of any of the Refunding Bonds for redemption, and failure to give such notice shall not affect the right of the Borough to redeem the Refunding Bonds called for redemption in the manner set forth in the preceding paragraph.

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

NORTH PENINSULA RECREATION SERVICE AREA
REFUNDING BOND, 1975

_____ %

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 _____ % per annum, payable on June 1, 1975, and semiannually thereafter on the first days of each succeeding December and June 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.

The Borough reserves the right to redeem any or all of the outstanding bonds of this issue in whole, or in part in inverse numerical order, on any interest payment date on or after June 1, 1980, at a redemption price equal to the principal amount of each bond to be redeemed, together with interest accrued thereon to the redemption date.

Notice of any such intended redemption shall be given by one publication thereof in a financial journal of general circulation in the City of New York, New York, not more than 40 nor less than 30 days prior to such redemption date and by mailing a like notice at the same time to Seattle-Northwest Securities Corporation at its main office in Seattle, Washington, or to the successor or successors in business of such corporation, if any, at its or their main office. Interest on any bond or bonds so called for redemption shall cease on such redemption date unless the same are not redeemed upon presentation made pursuant to such call.

This bond is one of an issue of 150 bonds of like amount, date and tenor, except as to number, rate of interest and date of maturity, in the aggregate principal amount of \$750,000.00, which bonds are issued for the purpose of providing part of the moneys necessary to refund the outstanding "North Peninsula Recreation Service Area Bonds, 1974," of the Borough dated September 1, 1974.

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 within the North Peninsula Recreation Service Area of the Borough without limitation as to rate or amount and in amounts sufficient, with other revenues attributable to the operation of the North Peninsula Swimming Pool, to pay the principal of and interest on the bonds of this issue as the same shall become due.

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.

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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 January, 1975.

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. _____ (\$ _____
on Coupon
\$ _____ 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 "North Peninsula Recreation Service Area Refunding Bond, 1975," dated January 1, 1975, 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 North Peninsula Recreation Service Area subject to taxation which, with such other revenues attributable to the operation of the North Peninsula Swimming Pool as may be properly pledged therefor, will be sufficient in amount to pay the principal of and interest on the Refunding Bonds as the same shall become due.

Section 6. There is hereby created a special account of the Borough in the "North Peninsula Recreation Service Area Debt Service Fund" (hereinafter called the "Bond Fund") created by Ordinance No. 74-46 to be known as the "1975 Refunded Bond Redemption Account" (hereinafter called the "1975 Refunded Bond Account"), which Account is to be drawn upon for the sole purpose of paying the principal of and interest on the Outstanding Bonds.

The proceeds of sale of the Refunding Bonds (exclusive of accrued interest thereon which shall be paid into the Bond Fund) shall be credited to such Account and used immediately upon the receipt thereof to discharge the obligations of the Borough under Ordinance No. 74-46 of the Borough authorizing the issuance of the Outstanding Bonds by providing for the payment as hereinafter set forth in this section of the principal of and interest on the Outstanding Bonds. The Borough shall discharge such obligations by the use of moneys now held in the Bond Fund (in an amount not greater than the interest accruing on the Outstanding 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 Outstanding Bonds which will become due and payable on or before June 1, 1984, and

(b) The redemption price payable on June 1, 1984, for the principal of the Outstanding Bonds maturing on June 1, 1985.

Such "Acquired Obligations" consist of \$150,000.00 principal amount of Federal Home Loan Bank Bonds maturing June 1, 1984, with all coupons detached by the seller and \$600,000.00 principal amount of Federal Home Loan Bank Bonds maturing June 1, 1984, and bearing interest at 8.75% per annum, which "Acquired Obligations" shall be purchased from Seattle-Northwest Securities Corporation of Seattle, Washington, at a cost of \$759,479.17.

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

Section 7. The Borough hereby irrevocably calls for redemption on June 1, 1984, the Outstanding Bonds maturing on June 1, 1985, in accordance with the provisions of Ordinance No. 74-46 of the Borough authorizing the redemption and retirement of the Outstanding Bonds prior to their fixed maturity.

Such call for redemption shall be irrevocable after the delivery of the Refunding Bonds to the initial purchaser thereof.

The Refunding Trustee, acting in concert with the Borough Clerk, is hereby authorized and directed to provide for the giving of notice of the redemption of the Outstanding Bonds in accordance with the applicable provisions of said ordinance.

The Refunding Trustee is hereby authorized and directed to pay to the Borough Finance Director, or, at the option of the Finance Director, to the paying agent for the Outstanding Bonds, sums sufficient to pay, when due, the sums specified in Section 6 of this ordinance. All such sums shall be paid from the "Acquired Obligations" deposited with said Refunding Trustee pursuant to the previous section of this ordinance, and the income therefrom and proceeds thereof. All "Acquired Obligations" deposited with the Refunding Trustee and any income therefrom shall be deemed assets of the 1975 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, 1984, 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 redemption and retirement of the Outstanding Bonds as provided herein.

Section 8. 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 9. 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 the taxpayers of the North Peninsula Recreation Service Area. In making such finding and determination this Assembly has given consideration to the interest to the fixed maturities of the Refunding Bonds and the Outstanding 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 redemption of the Outstanding Bonds.

This Assembly hereby further finds and determines that the "Acquired Obligations" to be deposited with the Refunding Trustee for the Outstanding 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 Outstanding Bonds and the pledges, charges, trust, covenants and agreements of the Borough therein made or provided for as to said Outstanding Bonds, and that said Outstanding Bonds shall no longer be deemed to be outstanding under said ordinance immediately upon the deposit of such "Acquired Obligations" with the Refunding Trustee.

Section 10. 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 the taxpayers of the North Peninsula Recreation Service Area that such offer be accepted and such offer is, therefore, hereby 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 11. 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 12. 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 held this 4th day of February 1975.

KENAI PENINSULA BOROUGH, ALASKA

By James V. Ornes
President of the Assembly

ATTEST:

Frances Bryner
Borough Clerk

