

Introduced by: Mayor
Date: June 21, 1977
Hearing: July 19, 1977
Action: Enacted
Vote: Unanimous

KENAI PENINSULA BOROUGH

ORDINANCE NO. 77-41
(SUBSTITUTE)

AN ORDINANCE OF THE KENAI PENINSULA BOROUGH, CONFIRMING THE RESULTS OF THE SPECIAL ELECTION HELD THEREIN ON JULY 12, 1977; AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$130,000 OF GENERAL OBLIGATION BONDS OF THE BOROUGH TO BE USED FOR SITE ACQUISITION, PURCHASE, CONSTRUCTION, AND THE PURCHASE OF CAPITAL EQUIPMENT FOR A FIRE STATION FOR THE BEAR CREEK SERVICE AREA; PROVIDING FOR THE ISSUANCE AND SALE OF \$130,000 OF SUCH BONDS; FIXING THE DATE, FORM, TERM, INTEREST RATE, MATURITIES AND COVENANTS OF SUCH BONDS; PLEDGING THE ANNUAL LEVY OF AD VALOREM TAXES WITHIN THE SERVICE AREA WITHOUT LIMITATION AND IN AMOUNTS SUFFICIENT TO PAY THE PRINCIPAL AND INTEREST; AND PROVIDING FOR THE SALE OF SUCH BONDS AS A SINGLE BOND TO NATIONAL BANK OF ALASKA of ANCHORAGE.

WHEREAS, at a special election held in the Kenai Peninsula Borough, Alaska, on the 12th day of July 1977, pursuant to Ordinance No. 77-33 of the Borough, adopted June 7, 1977, placing the proposition on the ballot, the qualified electors of the Bear Creek Fire Service Area of the Borough authorized the issuance of general obligation bonds in an amount not to exceed \$130,000 to be used for site acquisition, purchase, construction, and the purchase of capital equipment for a fire station; and

WHEREAS, the Borough has not heretofore issued or sold such bonds or other evidence of indebtedness; and

WHEREAS, it is deemed necessary and advisable that the entire \$130,000 of such bonds so authorized be now issued and sold as a single bond to provide monies for accomplishing such purposes;

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

Section 1. The result of the special Borough election held July 12, 1977, pursuant to Ordinance No. 77-33 of the Borough, adopted 7 June 1977, at which special election the qualified electors of the Bear Creek Fire Service Area of the Borough authorized the issuance of general obligation bonds in the principal sum of not to exceed \$130,000 to be used for site acquisition, purchase, construction, and the purchase of capital equipment for a fire station, is hereby confirmed and ratified.

Section 2. For the purpose of providing monies necessary to carry out the improvements, the Borough shall issue and sell its Bear Creek Fire Service Area General Obligation Bonds 1977 in the principal sum of \$130,000 as authorized by Ordinance No. 77-33 of the Borough and approved by the qualified electors of the Bear Creek Fire Service Area at the special election held on July 12, 1977. The Borough shall cause to be issued and delivered to the purchaser thereof a single bond in the amount of \$130,000. The bond shall be dated as of the date of delivery to the purchaser thereof; shall be registered as to both principal and interest at the Office of National Bank of Alaska as paying agent and registrar; shall be numbered R-1; and shall bear interest at the rate of 5 3/4 % per annum. Interest shall be payable on January 1, 1978, and semiannually thereafter on each succeeding July 1 and January 1, with full obligation on the part of the Borough to pay interest at the bond rate from and after the bond maturity date until the bond, both principal and interest, is paid in full. Both principal of and interest on the bond shall be payable in lawful money of the United States of America at the Office of National Bank of Alaska, Anchorage, Alaska, as paying agent.

The bond shall be payable in principal installments on each of the following dates:

| <u>Maturity Date</u> | <u>July 1</u> |
|----------------------|---------------|
| 1978 | \$ 7,475 |
| 1979 | 7,475 |
| 1980 | 7,475 |
| 1981 | 7,475 |
| 1982 | 7,475 |
| 1983 | 7,475 |
| 1984 | 7,475 |
| 1985 | 7,475 |
| 1986 | 7,475 |
| 1987 | 137,475 |

Section 3. The District reserves the right to prepay on any interest payment date on or after July 1, 1984, the entire unpaid principal of the bond, or, from time to time, in inverse chronological order of principal installments, may prepay such lesser portion in multiples of \$100 as the Borough may determine of the unpaid principal amount thereof, plus accrued interest, to the date of such prepayment.

Notice of any such optional prepayment shall be given at least 30 days prior to the prepayment date by mailing to the registered owner of the bond a notice fixing such prepayment date and the amount of principal and interest to be prepaid.

Section 4. The bond shall be substantially in the following form:

NO. R-1

\$130,000.00

UNITED STATES OF AMERICA

STATE OF ALASKA

KENAI PENINSULA BOROUGH
BEAR CREEK FIRE SERVICE AREA

GENERAL OBLIGATION BOND, 1977

5 3/4 %

The Kenai Peninsula Borough, Alaska (hereinafter called the "Borough"), hereby acknowledges itself to owe and for value received promises to pay to the registered holder hereof the principal sum of

ONE HUNDRED THIRTY THOUSAND DOLLARS

payable in installments on each of the following dates:

| <u>Maturity Year</u> | <u>July 1</u> |
|----------------------|---------------|
| 1978 | \$ 7,475 |
| 1979 | 7,475 |
| 1980 | 7,475 |
| 1981 | 7,475 |
| 1982 | 7,475 |
| 1983 | 7,475 |
| 1984 | 7,475 |
| 1985 | 7,475 |
| 1986 | 7,475 |
| 1987 | 137,475 |

together with interest thereon at the rate of 5 3/4 % per annum, payable on January 1, 1978, and semiannually thereafter on the first days of each succeeding July and January.

This bond is payable, both principal and interest, at the Office of National Bank of Alaska as paying agent. Payments of principal and interest, including prepayments of installments of principal as hereinafter provided, shall be noted on the Payment Record made a part of this bond, and such payment shall fully discharge the obligation of the Borough hereon to the extent of the payment so made. Upon final payment of principal and interest this bond shall be submitted to Finance Director for cancellation.

This bond, designated as the "Bear Creek Fire Service Area General Obligation Bond, 1977" (hereinafter referred to as the "Bond") of the Borough is issued in the aggregate principal amount of \$130,000 pursuant to the laws of the State of Alaska for the purpose of providing the funds necessary for site acquisition, purchase, construction and the purchase of capital equipment for a fire station to be located in the Bear Creek Fire Service Area within the Borough.

The Borough reserves the right to prepay on any interest payment date on or after July 1, 1984, the entire unpaid principal of the bond, or, from time to time, in inverse chronological order of principal installments, may prepay such lesser portion in multiples of \$100 as the Borough may determine of the unpaid principal amount thereof, plus accrued interest, to the date of such prepayment. Notice of any such optional prepayment shall be given at least 30 days prior to the prepayment date by mailing to the registered owner of this Bond a notice fixing such prepayment date and the amount of principal to be prepaid.

This bond may be assigned and upon such assignment the assignor shall promptly notify the Borough at the office of Finance Director by registered mail, and the assignee shall surrender the same to the paying agent either in exchange for a duly registered bond or for transfer on the registration records and verification of the endorsements made on the payment record attached hereto of the portion of the principal amount hereof and interest hereon paid or prepaid, and every such assignee shall take this bond subject to such condition.

This bond is 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 has irrevocably covenanted that it will levy and collect taxes annually upon all the taxable property within the Bear Creek Fire Service Area of the Borough without limitation as to rate or amount and in amounts, which with other monies available therefor, will be sufficient to pay the principal of and interest on the bond as the same shall become due. The Borough has irrevocably pledged to make prompt payment of such principal and interest from the proceeds of such property taxes.

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, the Kenai Peninsula Borough, Alaska, has caused this bond to be signed by the manual signature of the Borough Mayor and attested by the manual signature of its Clerk and its official seal or a facsimile thereof to be impressed or otherwise reproduced hereon, this first day of July, 1977.

KENAI PENINSULA BOROUGH, ALASKA

By _____
Borough Mayor

ATTEST:

Borough Clerk

FORM OF PAYMENT RECORD

| <u>Date</u> <u>Due</u> | <u>Principal</u> <u>Payment</u> | <u>Principal</u> <u>Balance</u> <u>Due</u> | <u>Interest</u> <u>Payment</u> <u>%</u> | <u>Date</u> <u>Paid</u> | <u>Signature of</u> <u>Paying Agent</u> |
|---------------------------|------------------------------------|--|---|----------------------------|--|
|---------------------------|------------------------------------|--|---|----------------------------|--|

Section 5. The bond shall be signed by the manual signature of the Borough Mayor, shall be attested by the manual signature of the Borough Clerk, and shall have the official seal or facsimile thereof of the Borough impressed thereon.

Section 6. There is hereby created a special fund of the Borough to be known as the "Bear Creek Fire Service Area Debt Service Fund" (hereinafter called the "Bond Fund"), which fund shall be drawn upon for the purpose of paying the principal of and interest on the general obligation bond payable from taxes levied only within the Bear Creek Fire Service Area, and the bond refunding the same, as the same shall become due. The Borough hereby covenants that it will pay into this fund all those taxes collected from tax levies made to pay the bond in the Bear Creek Fire Service Area.

Section 7. The Borough hereby irrevocably covenants that for as long as the bond is outstanding it will make annual levies of ad valorem taxes without limitation as to rate or amount upon all the taxable property within the Bear Creek Fire Service Area subject to taxation which, with other monies available therefor, will be sufficient in amount to pay the principal of and interest on the bond as the same shall become due.

Section 8. The Borough hereby covenants that it will not make any use of the proceeds of sale of the bond or any other funds of the Borough which may be deemed to be proceeds thereof pursuant to Section 103(c) of the Internal Revenue Code, as amended, and the applicable regulations thereunder which, if such use had been reasonably expected on the date of delivery of the bond to the initial purchasers thereof, would have caused the bond to be an "arbitrage bond" within the meaning of said section and said regulations.

Section 9. National Bank of Alaska of Anchorage, Alaska, has submitted an offer to purchase the bond at the price 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 interest of the Borough and its taxpayers 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 bond to said purchaser and for the proper application and use of the proceeds of sale thereof as herein provided.

Section 10. 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 or other provisions of this ordinance or of the bond.

Section 11. 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 19th day of July, 1977.

KENAI PENINSULA BOROUGH

By *Jo Ann Larson*
President of the Assembly

ATTEST:

Frances Bryner
Borough Clerk

