

Introduced by: Mayor
Date: May 4, 1982
Hearing: May 18, 1982
Vote: Unanimous
Action: Enacted

KENAI PENINSULA BOROUGH

ALASKA

ORDINANCE 82-1 (REENACTED)

AN ORDINANCE OF THE KENAI PENINSULA BOROUGH, ALASKA, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$5,700,000 OF GENERAL OBLIGATION SERVICE AREA BONDS OF THE BOROUGH FOR THE PURPOSE OF RAISING FUNDS TO PAY THE COSTS OF HOSPITAL CONSTRUCTION IN THE CENTRAL KENAI PENINSULA HOSPITAL SERVICE AREA IN THE BOROUGH, FIXING DETAILS OF SAID BONDS, PROVIDING FOR THE FORM AND MANNER OF SALE OF SAID BONDS, AND PLEDGING THE FULL FAITH AND CREDIT OF THE CENTRAL KENAI PENINSULA HOSPITAL SERVICE AREA OF THE BOROUGH TO THE PAYMENT THEREOF.

WHEREAS, pursuant to Ordinance 81-76 of the Kenai Peninsula Borough passed and approved on August 18, 1981, the following question referred to at the election held on October 6, 1981, as the Proposition:

SHALL ORDINANCE 81-76 BE APPROVED TO AUTHORIZE THE KENAI PENINSULA BOROUGH, TO INCUR INDEBTEDNESS AND ISSUE BONDS IN AN AMOUNT NOT TO EXCEED \$5,700,000, TO BE USED FOR CAPITAL IMPROVEMENTS AT THE CENTRAL PENINSULA GENERAL HOSPITAL WITH PAYMENT OF SUCH INDEBTEDNESS TO BE MADE FROM TAXES LEVIED WITHIN THE CENTRAL PENINSULA HOSPITAL SERVICE AREA, AND FROM SUCH OTHER REVENUES OF THE SERVICE AREA AS MAY BE PROPERLY PLEDGED FOR SUCH PAYMENT; WITH THE FULL FAITH AND CREDIT OF THE CENTRAL PENINSULA HOSPITAL SERVICE AREA PLEDGED FOR THE REPAYMNT OF THE INDEBTEDNESS?

(herein called "Proposition") was passed and approved in the Central Kenai Peninsula Hospital Service Area by a vote of 2,608 for and 1,847 against the Proposition at said election, and said election has been duly canvassed and the results thereof certified and confirmed in accordance with law; and

WHEREAS, AS 29.58.170 states that the Assembly shall provide for the form and manner of sale of bonds; and

WHEREAS, the Borough Assembly has determined and does hereby determine that it is necessary to proceed to plan, design, develop, construct, equip, acquire property for, or otherwise acquire the hospital capital improvements specified in the Proposition, as the purpose for the authorization of the Bonds in the Proposition, and to pay the capital costs thereof (hereinafter referred to as the "Project"); and

WHEREAS, it is deemed necessary and advisable and in the best interests of the Central Kenai Peninsula Hospital Service Area of the Borough and its inhabitants that \$5,700,000 principal amount of the general obligation bonds referred to in the Proposition be issued at this time in a single series, as hereinafter fixed and determined, for the purpose of raising funds to pay costs of the Project.

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

Section 1. Definitions. The following terms shall have the following meanings in the Ordinance:

(a) "Bond" shall mean any of the 1982 General Obligation Central Kenai Peninsula Hospital Service Area Bonds, issued pursuant to the Ordinance as the evidence of the indebtedness referred to in the Proposition.

(b) "Cost" shall mean the cost of planning, designing, developing, constructing, equipping, acquiring property for or otherwise acquiring the Project, including interest on the Bonds prior to and during the period of planning, designing, developing, constructing, equipping, acquiring property for or otherwise acquiring the Project, and reasonable fees of the Paying Agents for the payment of such interest, the cost whether incurred by the Borough or another of field surveys and advance planning undertaken in connection with the Project properly allocable to the Project and the cost of acquisition of any land or interest therein required as the site of the Project or for use in

connection therewith, the cost of any indemnity and surety bonds and premiums on insurance incurred in connection with the Project prior to or during construction thereof and all related direct administrative and inspection expenses whether incurred by it or by another in connection with the Project prior to or during construction thereof and allocable portions of direct costs of the Borough, legal fees, fees and expenses of the Paying Agents, cost of issuance of the Bonds by the Borough and financing charges and fees and expenses of bond counsel, financial advisors and consultants in connection therewith, costs of audits, the cost of all machinery, apparatus and equipment, cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, the reimbursement of all moneys advanced from whatever source, for the payment of any item or items of cost of the Project, and all other expenses necessary or incident to determining the feasibility or practicability of the Project, and such other expenses not specified herein as may be necessary or incident to the acquisition and development of the Project, the financing thereof and the placing of the same in use and operation.

(c) "Borough" shall mean the Kenai Peninsula Borough, incorporated on January 1, 1964.

(d) "Central Kenai Peninsula Hospital Service Area" shall mean the service area created by Ordinance 69-3 of the Borough.

(e) "Ordinance" shall mean this Ordinance of the Borough.

(f) "Paying Agent" and "Principal Paying Agent" shall mean the banks, trust companies, or national banking associations appointed by the Borough pursuant to Section 11 hereof.

Section 2. Authority for Ordinance. The Borough has ascertained and hereby determines that each and every matter and thing as to which provision is made in this Ordinance is necessary in order to carry out and effectuate the purposes of the Borough in accordance with the Constitution of the State of Alaska, and Title 29 of the Alaska Statutes, and to incur the indebtedness and issue the Bonds as referred to in the Proposition.

Section 3. Obligation of Bonds. The Bonds shall be direct and general obligations of the Central Kenai Peninsula

Hospital Service Area of the Borough and the full faith and credit of the Central Kenai Peninsula Hospital Service Area of the Borough are hereby pledged to the payment of the principal of and interest on the Bonds. The Borough hereby irrevocably pledges and covenants with the holders of the Bonds that it will levy and collect taxes upon all the taxable property in the Service Area without limitation as to rate or amount in amounts sufficient, together with other funds available therefor, to pay principal and interest on the Bonds as the same becomes due and payable.

The Bonds shall not be an obligation of the Borough other than the Central Kenai Peninsula Hospital Service Area nor a charge against the credit or assets of the Borough other than the credit or assets of said Service Area.

Section 4. Purpose and Authorization of Bonds. For the purpose of raising funds to pay the cost of acquiring and developing the Project as authorized by the Proposition, which, in accordance with the Proposition is hereby determined to be necessary, the Borough hereby authorizes and determines to issue and sell the Bonds in the aggregate principal amount of \$5,700,000 or so much thereof as is required as may be fixed and determined by a resolution adopted by the Borough Assembly prior to the time of delivery thereof. The exact amount to be issued and the principal amount of the Bonds to mature in each year shall be hereafter fixed and determined by resolution of the Assembly adopted prior to the delivery thereof.

Section 5. Description of Bonds. The Bonds shall bear interest from their date payable on the first days of May and November in each year, beginning on November 1, 1982, at such rates as may be fixed and determined by resolution of the Assembly adopted prior to the delivery thereof.

The Bonds shall be coupon in form payable to bearer and registrable as to principal alone as herein provided. The Bonds shall each be of the denomination of Five Thousand Dollars (\$5,000) or any integral multiple thereof approved by the Borough, such approval to be evidenced by the execution of such Bonds. The Bonds shall be substantially in the form of such Bonds hereinafter set forth, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to the rules and regulations of any governmental authority, or any usage or requirement of law with respect thereto. Each Bond shall bear a number

or letter, or a number and letter, distinguishing it from every other Bond.

The Bonds shall be dated and bear interest from June 1, 1982.

Each of the Bonds shall be signed by the manual or facsimile signature of the Mayor and the official seal of the Borough (or a facsimile thereof) shall be affixed, imprinted or otherwise reproduced on the Bonds, and attested by the manual or facsimile signature of the Clerk. The coupons attached to the Bonds shall be executed with the facsimile signature of the Clerk. In case any officer whose signature or facsimile of whose signature shall appear on any Bonds or coupons shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in the office until such delivery.

In the event both the signature of the Mayor and the signature of the Clerk are in facsimile form, the Bonds shall contain a certificate of a Paying Agent certifying the authentication of such signatures in the following form:

PAYING AGENT'S CERTIFICATE
OF AUTHENTICATION

This Bond is one of the Bonds described in the within mentioned Ordinance and the signatures imprinted hereon are the authentic signatures in facsimile of the Mayor and Clerk of the Borough.

(Name)

Paying Agent

By _____
Authorized Officer

Both the principal and the interest on the Bonds shall be payable in any coin or currency of the United States of America, which at the respective dates of payment thereof, is

legal tender for the payment of public and private debts.

The principal and the interest on all Bonds shall be payable at the principal offices of the Paying Agents. Payment of the interest on the Bonds shall be made only upon presentation and surrender of the coupons representing such interest as the same respectively fall due.

Section 6. Negotiability of Coupon Bonds. Title to any Bond, unless such Bond is registered as to principal in the manner hereinafter provided, and to any interest coupon, shall pass by delivery in the same manner as a negotiable instrument payable to bearer. At the option of the bearer, any Bond may be registered as to principal alone on books for the registration and transfer of Bonds, kept by the Principal Paying Agent as Bond Registrar, upon presentation thereof to the Principal Paying Agent, which shall make notation of such registration thereon. Any such Bond registered as to principal alone may thereafter be transferred only upon an assignment duly executed by the registered owner or his attorney in such form as shall be satisfactory to the Principal Paying Agent, such transfer to be made on such books and endorsed on the Bond by the Principal Paying Agent. Such transfer may be to bearer and thereby transferability by delivery shall be restored, subject, however, to successive registrations and transfers as before. Registration of any Bond as to principal, however, shall not affect the negotiability by delivery of the coupons appertaining to such Bond, but every coupon shall continue to pass by delivery merely and shall remain payable to bearer.

Section 7. Transfer of Registered Bonds and Delivery of New Bonds. Any Bond registered as to principal may be transferred only upon said books kept for the registration and transfer of Bonds, upon surrender thereof at the principal office of the Principal Paying Agent, together with an assignment duly executed by the registered owner or his attorney in such form as shall be satisfactory to the Principal Paying Agent.

Section 8. Ownership of Registered Bonds. As to any Bond registered as to principal other than to bearer, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal on such Bond and the interest on such registered Bond shall be made only to or upon the order of the registered owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the inter-

est thereon to the extent of the sum or sums so paid. The Borough and the Paying Agent may deem and treat the bearer of any coupon Bond registered to bearer or not registered as to principal, and the bearer of any coupon appertaining to any coupon Bonds, whether or not such coupon Bond shall be registered as to principal, as the absolute owner of such Bond or coupon, as the case may be, for the purpose of receiving payment thereof and for all other purposes whatsoever, and neither the Borough nor the Paying Agents shall be affected by any notice to the contrary.

Section 9. Mutilated, Destroyed, Stolen or Lost Bonds. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Borough may cause to be executed and delivered a new Bond of like interest rate, principal amount and maturity in exchange and substitution for and upon cancellation of such mutilated Bond and its interest coupons, if any, or in lieu of and in substitution for such Bond destroyed, stolen or lost, and its coupons, if any, upon the holder paying the reasonable expenses and charges of the Borough in connection therewith and in the case of a Bond destroyed, stolen or lost, his filing with the Borough evidence satisfactory to it that such Bond and coupons, if any, were destroyed, stolen or lost, and of his ownership thereof, and furnishing the Borough with indemnity satisfactory to them. Any new Bond so delivered may bear a number differing from the number on the Bond it replaces.

Section 10. Exchange of Bonds. The Borough shall make provision for the exchange of Bonds at the principal office of the Principal Paying Agent, and shall cause books to be kept by the Principal Paying Agent, as Bond Registrar, for the registration and transfer of Bonds as provided in this Ordinance.

Section 11. Redemption of Bonds. The Bonds are not subject to redemption prior to maturity.

Section 12. Form of Coupon Bond. Each Bond, the coupons to be attached thereto and the provisions for registration to be endorsed thereon shall be, respectively, in substantially the following forms, with such variations, omissions and insertions as may be required or permitted by this Ordinance:

UNITED STATES OF AMERICA

STATE OF ALASKA

KENAI PENINSULA BOROUGH

(A Municipal Corporation of the State of Alaska)

No.

\$5,000

1982 General Obligation Central Kenai Peninsula
Hospital Service Area Bond

KNOW ALL MEN BY THESE PRESENTS: That Kenai Peninsula Borough, a municipal corporation of the State of Alaska (the "Borough"), for value received, acknowledges itself indebted and hereby promises to pay from the sources stated herein, to the bearer or if this Bond be registered as herein provided, the registered owner, hereof, on the first day of _____, 19____, upon presentation and surrender hereof, the principal sum of Five Thousand Dollars (\$5,000), and to pay interest on such principal sum from the date hereof until its obligation with respect to the payment of such principal sum shall be discharged, at the rate of _____ per centum (____%) per annum, payable on the first days of May and November in each year (commencing November 1, 1982) but only, in the case of interest due at or before maturity of this Bond, according to the tenor of the respective coupons therefor annexed hereto and upon presentation and surrender of said coupons as they severally become due. The principal and interest on this Bond, when due, will be payable at the principal office in the _____, a paying agent of the Borough (hereinafter called the "Principal Paying Agent"), or, at the option of the holder, at the principal office in the _____ (herein, collectively, together with the Principal Paying Agent, called the "Paying Agents"), in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the 1982 General Obligation Central Kenai Peninsula Hospital Service Area Bonds of the Kenai Peninsula Borough; of like tenor and effect except as to interest rates, serial number, and maturity, aggregating \$5,700,000 in principal amount, and constituting Bonds authorized for the purpose of raising funds to pay the costs of hospital capital improvements in the Borough, with the question of their issuance for such purpose approved and ratified by a majority vote of the qualified voters of the Central Kenai Peninsula Hospital Service Area (the "Service Area") of the Kenai Peninsula Borough, who

voted on the Proposition at an election held in the Borough on October 6, 1981, and is issued pursuant to Ordinance 82-1 (Re-enacted) of the Borough entitled:

AN ORDINANCE OF THE KENAI PENINSULA BOROUGH, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$5,700,000 OF GENERAL OBLIGATION SERVICE AREA BONDS OF THE BOROUGH FOR THE PURPOSE OF RAISING FUNDS TO PAY THE COSTS OF HOSPITAL CONSTRUCTION IN THE CENTRAL KENAI PENINSULA HOSPITAL SERVICE AREA IN THE BOROUGH FIXING DETAILS OF SAID BONDS, PROVIDING FOR THE FORM AND MANNER OF SALE OF SAID BONDS, AND PLEDGING THE FULL FAITH AND CREDIT OF THE CENTRAL KENAI PENINSULA HOSPITAL SERVICE AREA OF THE BOROUGH TO THE PAYMENT THEREOF. (Reenacted)

(herein called the "Ordinance").

The Bonds are numbered from one consecutively upwards in order of maturity.

The Bonds are not subject to redemption.

This Bond is transferable by delivery, unless registered as to principal other than to bearer. It may be registered as to principal in the name of the bearer on the books of the Borough kept for that purpose at the principal office of the Principal Paying Agent, such registration to be noted hereon, after which no transfer hereof shall be valid unless made on said books by the registered owner hereof in person or by his attorney duly authorized in writing, and similarly noted hereon; but this Bond may be discharged from registration by being in like manner transferred to bearer, after which it shall again become transferable by delivery. This Bond may again, from time to time, be registered or discharged from registration in the same manner. Such registration, however, shall not affect the negotiability by delivery of the coupons appertaining hereto, which shall continue to pass by delivery merely and shall remain payable to bearer. The Borough and the Paying Agents of the Borough may treat and consider the bearer of this Bond, or if it be registered as herein provided, the person in whose name it is registered, as the holder and absolute owner of this Bond for the purpose of receiving payment of, or on account of, the principal hereof and for all other purposes whatsoever except for the purpose of receiving payment of coupons, and may treat and consider the bearer of any

coupon appertaining hereto as the holder and absolute owner thereof for the purpose of receiving payment thereof and for all other purposes whatsoever.

The Bonds are issuable in the form of coupon Bonds in the denomination of \$5,000.

This Bond is a general obligation of the Central Kenai Peninsula Hospital Service Area of the Kenai Peninsula Borough, and the full faith and credit of the Central Kenai Peninsula Hospital Service Area of the Borough are pledged for the payment of the principal of and interest on this Bond as the same shall become due. The Borough irrevocably pledges and covenants with the holders of the Bonds that it will levy and collect taxes upon all the taxable property within the Service Area without limitation as to rate or amount, in amounts sufficient together with other funds available therefor, to pay principal and interest on the Bonds as the same become due and payable. The Bonds are not an obligation of the Borough other than the Service Area nor a charge against the credit or assets of the Borough other than the credit or assets of the Service Area.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts or things required by the Constitution or statutes of the State of Alaska to exist, to have happened or to have been performed precedent to or in the issuance of this Bond, exist, have happened and have been performed, and that the issuance of Bonds of which this is one, together with all other indebtedness of the Borough, is within every debt and other limit prescribed by said Constitution or statutes.

This Bond shall not be entitled to any benefit under the Ordinance or be valid or become obligatory for any purpose until this Bond shall have been authenticated by the execution by the Principal Paying Agent of the Paying Agent's Certificate of Authentication hereon.

IN WITNESS WHEREOF, KENAI PENINSULA BOROUGH has caused this Bond to be signed in its name, and on its behalf by the manual or facsimile signature of its Mayor and its corporate seal (or a facsimile thereof) to be hereunto affixed, imprinted or otherwise reproduced, and attested by the manual or facsimile signature of its Clerk, and coupons for interest, bearing and signed by the facsimile signature of the said Clerk, to be attached hereto, all as of the first day of _____, 1982.

Mayor

(S E A L)

A T T E S T:

Clerk

(FORM OF PROVISIONS FOR REGISTRATION)

Notice: No Writing Below Except By The
Paying Agent as Registrar:

| <u>Date of Registration</u> | <u>Name of Registered Owner</u> | <u>Authorized Signature Of Registrar</u> |
|-----------------------------|---------------------------------|--|
| | | |
| | | |
| | | |

(FORM OF COUPONS)

No.

On the first day of _____, 19____, the Kenai Peninsula Borough, a municipal corporation of the State of Alaska, will pay from the sources provided on the within Bond to the holder at the principal office in the _____, a paying agent of the Borough, or at the option of the holder, at the principal office in the _____, upon surrender of this coupon, _____ Dollars (\$ _____), in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, being six months interest then due on its 1982 General Obligation Central Kenai Peninsula Hospital Service Area Bond No. _____.

Clerk, Kenai Peninsula Borough

Section 13. Paying Agents. The Principal Paying Agent and one additional Paying Agent shall be appointed by a resolution adopted by the Borough Assembly. The Borough shall indemnify and save harmless the Paying Agents against any liabilities which they may incur in the exercise and performance of their powers and duties as Paying Agents which are not due to their negligence or default, and shall pay their reasonable charges for their services as Paying Agents. The Paying Agents may become the owners of or may deal in Bonds, as fully and with the same rights as if they were not the Paying Agents.

Section 14. Arbitrage Covenant. The Borough covenants with the holders of all Bonds at any time outstanding that it will make no use of the proceeds of the Bonds which will cause the Bonds to be "arbitrage bonds" subject to federal income taxation by reason of Section 103(c) of the Internal Revenue Code of 1954. To that end, so long as any of the Bonds are outstanding, the Borough, with respect to the proceeds of the Bonds, shall comply with all requirements of said Section 103(c) and of all regulations of the United States Department of the Treasury issued thereunder, to the extent that such requirements are, at the time, applicable and in effect.

Section 15. Sale of Bonds. The Bonds shall be sold at public or private sale upon such terms and conditions as may be fixed and determined by a resolution adopted by the Borough Assembly prior to the time of sale.

Section 16. Terms. The date, maturities, payment dates redemption provisions and other details of the Bonds may be completed, varied or changed by the Borough Assembly by resolution adopted prior to the time of sale.

Section 17. Prohibited Sale of Bonds. No person, firm or corporation, or any agent or employee thereof, acting as financial consultant to the Borough under an agreement for payment in connection with the sale of the Bonds is eligible to bid for the Bonds as a member of the original underwriting syndicate either at public or private sale.

Section 18. Severability. If any one or more of the covenants and 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 Bonds.

Section 19. Effective Date: This Ordinance shall take effect on the day following enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH on this 18th day of May, 1982.



Assembly President

A T T E S T:



Borough Clerk

