

INTRODUCED BY: MAYOR
DATE: OCTOBER 13, 1982
HEARING: October 26, 1982
ACTION: Enacted

KENAI PENINSULA BOROUGH

ALASKA

ORDINANCE NO. 82-84

AN ORDINANCE OF THE KENAI PENINSULA BOROUGH, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$3,150,000 OF GENERAL OBLIGATION SERVICE AREA BONDS OF THE BOROUGH FOR THE PURPOSE OF RAISING FUNDS TO PAY THE COSTS OF HOSPITAL CONSTRUCTION IN THE SOUTH 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 SOUTH KENAI PENINSULA HOSPITAL SERVICE AREA OF THE BOROUGH TO THE PAYMENT THEREOF.

WHEREAS, pursuant to Ordinance No. 81-77 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 81-77 be approved to authorize the Kenai Peninsula Borough, to incur indebtedness and issue bonds in an amount not to exceed \$3,150,000, to be used to partially fund approximately \$7,150,000 in capital improvements at the South Peninsula Hospital with payment of such indebtedness to be made from taxes levied within the South Kenai 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 South Kenai Peninsula Hospital Service Area pledged for the repayment of the indebtedness and with the issuance of such bonds to be conditioned upon the receipt of a \$4,000,000 capital improvement grant from the State of Alaska?

(herein called "Proposition") was passed and approved in the South Kenai Peninsula Hospital Service Area by a vote of 909 for and 429 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 South Kenai Peninsula Hospital Service Area of the Borough and its inhabitants that \$3,150,000 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 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 Pro-

ject 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) "South Kenai Peninsula Hospital Service Area" shall mean the service area created by Ordinance 69-4 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 10 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 South Kenai Peninsula Hospital Service Area of the Borough and the full faith and credit of the South Kenai Peninsula Hospital Service Area of the Borough are hereby pledged to the payment of the principal of and interest on the Bonds.

The Bonds shall not be an obligation of the Borough other than the South 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, general obligation service area bonds of the Borough referred to in the Proposition, each to be designated "1982 General Obligation Hospital Service Area Bond", with such other or additional designation as may be fixed and determined by a resolution adopted by the Borough Assembly prior to the time of delivery thereof, are hereby authorized, and shall be issued, in the aggregate principal amount of Three Million One Hundred Fifty Thousand Dollars (\$3,150,000).

Section 5. Maturities, Payment Dates, Designation, Form and Numbering of Bonds. The \$3,150,000 principal amount of Bonds authorized pursuant to the Proposition shall mature on November 1 of each year as follows:

| <u>Maturity year</u> | <u>Amount</u> |
|----------------------|---------------|
| 1983 | \$ 150,000 |
| 1984 | \$ 150,000 |
| 1985 | \$ 175,000 |
| 1986 | \$ 200,000 |
| 1987 | \$ 225,000 |
| 1988 | \$ 250,000 |
| 1989 | \$ 275,000 |
| 1990 | \$ 300,000 |
| 1991 | \$ 325,000 |
| 1992 | \$ 350,000 |
| 1993 | \$ 375,000 |
| 1994 | \$ 375,000 |

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

The Bonds shall be coupon in form and 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). The Bonds shall be substantially in the form 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.

Section 6. Details of Bonds. The Bonds shall be dated and bear interest from November 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 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 be signed by the manual signature of the Finance Director or contain a certificate of a Paying Agent certifying the authenticity 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 sig-

natures 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 or corporate trust offices of the Paying Agents. Payment of the interest on the Bonds shall be made only upon presentation and surrender of the coupons, if any, representing such interest as the same respectively fall due.

Section 7. Redemption of Bonds. The Bonds are not subject to redemption by or on behalf of the Borough prior to maturity.

Section 8. Form of Bond. Each Bond, the coupons to be attached thereto and the provisions for registration to be endorsed thereon, shall be in substantially the following form, 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 Hospital Service Area Bond

Kenai Peninsula Borough
Ordinance No. 82-84
Page 6 of 12 Pages

KNOW ALL MEN BY THESE PRESENTS: That the 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 but only, in the case of interest due at or before maturity of this Bond, according to the tenor of the respective coupons therefore annexed hereto and upon presentation and surrender of said coupons as they severally become due. The principal and interest of this Bond, when due, will be payable at the corporate trust office in the _____, a paying agent of the Borough (hereinafter called the "Principal Paying Agent"), or, at the option of the holder, at the corporate trust 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 Hospital Service Area Bonds of the Kenai Peninsula Borough, of like tenor and effect except as to interest rates, serial number, and maturity, aggregating \$3,150,000 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 South 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 No. 82-84 of the Borough entitled:

AN ORDINANCE OF THE KENAI PENINSULA BOROUGH,
AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF
NOT TO EXCEED \$3,150,000 OF GENERAL OBLIGATION
SERVICE AREA BONDS OF THE BOROUGH FOR
THE PURPOSE OF RAISING FUNDS TO PAY THE COSTS
OF HOSPITAL CONSTRUCTION IN THE SOUTH KENAI
PENINSULA HOSPITAL SERVICE AREA IN THE BOR-

OUGH, 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 SOUTH KENAI PENINSULA HOSPITAL SERVICE AREA OF THE BOROUGH TO THE PAYMENT THEREOF.

(herein called the "Ordinance").

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

The Bonds are not subject to redemption by or on behalf of the Borough prior to maturity.

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 corporate trust 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 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 South Kenai Peninsula Hospital Service Area of the Kenai Peninsula Borough, and the full faith and credit of the South Kenai Peninsula Hospi-

tal 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 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.

IN WITNESS WHEREOF, THE 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 Finance Director 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 November, 1982.

Mayor

Finance Director

(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 to the holder at the corporate trust office in the _____, a paying agent of the Borough, or at the option of the holder, at the corporate trust 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 Hospital Service Area Bond No. _____.

Clerk, Kenai Peninsula Borough

Section 9. Pledge. The Borough hereby irrevocably pledges and covenants that it will levy and collect taxes upon all taxable property within the South Kenai Peninsula Hospital Service Area of the Borough 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.

Section 10. 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 11. Incorporation By Reference. Sections 8, 10 through 12, inclusive, and Sections 19 and 20 of Ordinance No. 77-69 effective January 3, 1978, are incorporated by reference with the same force and effect as if fully set forth herein. Said sections contain standard provisions relating to exchange of bonds, negotiability of bonds, and delivery of bonds, mutilated, destroyed or lost bonds, authority of officers and miscellaneous matters.

Section 12. 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 13. 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 or at the time of sale.

Section 14. Variation of Terms. The date, maturities, payment dates and redemption provisions of the Bonds may be varied or changed by the Borough Assembly by resolution adopted prior to or at the time of sale.

Section 15. 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 16. Effective Date. This Ordinance shall take effect on the day following enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH on this 26 day of October, 1982.

Howard L. McClelland
Assembly President

A T T E S T:

Francis Byrma
Borough Clerk