

Introduced by: Mayor
Date: March 1, 1983
Hearing: March 15, 1983
Action: Enacted; 14 Yes, 1 No

KENAI PENINSULA BOROUGH

ORDINANCE 83-16

AN ORDINANCE OF THE KENAI PENINSULA BOROUGH, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$53,540,000 OF GENERAL OBLIGATION BONDS OF THE BOROUGH FOR THE PURPOSE OF RAISING FUNDS TO PAY THE COSTS OF SCHOOL CONSTRUCTION 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 BOROUGH TO THE PAYMENT THEREOF.

WHEREAS, pursuant to Ordinance 82-51 of the Kenai Peninsula Borough passed and approved on August 17, 1982, the following question referred to at the election held on October 5, 1982, as Proposition A:

"Shall each of the following school projects proposed by Ordinance 82-51 be approved to authorize the Kenai Peninsula Borough to incur indebtedness and issue general obligation bonds in the amounts set out for each school for a total amount not to exceed \$53,540,000 which shall be utilized for the purpose of constructing, improving and equipping:

Tustumena School Addition in the amount of \$1,305,000?

_____ Yes _____ No

Sterling School Addition in the amount of \$2,880,000?

_____ Yes _____ No

New elementary school at Kalifornsky Beach in the amount of \$7,420,000.

_____ Yes _____ No

Kenai Central High School 1000-seat auditorium, and two special education classroom additions in the amount of \$10,650,000?

_____ Yes _____ No

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New high school at Homer, Alaska for the estimated cost of \$30,710,000?

_____ Yes _____ No

Seldovia School Addition for the estimated cost of \$575,000?

_____ Yes _____ No

with payment of such indebtedness to be made from taxes levied within the Kenai Peninsula Borough, and from such other revenues as may be properly pledged for such payment, with full faith and credit of the Kenai Peninsula Borough pledged for the repayment of the indebtedness?"

(herein called "Proposition") was passed and approved by a vote as follows:

	<u>For</u>	<u>Against</u>
Tustumena School	5,455	1,847
Stelling School	5,563	1,737
Kalifornsky Beach	5,178	2,118
Kenai Central High School	4,435	2,871
Homer High School	4,781	2,612
Seldovia High School	5,539	1,787

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 items of school 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 interest of the Borough and its inhabitants that \$53,450,000 principal amount of the general obligation bonds re-

ferred 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 1983 General Obligation School 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 Projects 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 cost 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 costs 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) "Ordinance" shall mean this Ordinance of the Borough.

(e) "Paying Agent" and "Principal Paying Agent" shall mean the banks, trust companies, or national banking associations appointed by the Borough pursuant to Section 19 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 Borough and the full faith and credit of the Borough are hereby pledged to the payment of the principal of and interest on the Bonds.

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 bonds of the Borough referred to in the Proposition, each to be designated "1983 General Obligation School 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 Fifty Three Million Five Hundred Forty Thousand Dollars (\$53,540,000).

Section 5. Maturities, Payment Dates, Designation, Form and Numbering of Bonds. The \$53,540,000 principal amount of Bonds authorized pursuant to the Proposition shall mature on April 1 of each year as follows:

<u>Maturity Year</u>	<u>Amount</u>
1984	\$ 3,000,000
1985	2,500,000
1986	2,800,000
1987	3,000,000
1988	3,300,000
1989	3,600,000
1990	4,000,000
1991	5,000,000
1992	12,500,000
1993	13,840,000

The Bonds shall bear interest from their date payable on October 1, 1983 and on the first days of April and October in each year thereafter 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 (herein called "coupon 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 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 April 1, 1983.

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 coupon 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 shall 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

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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, if any, representing such interest as the same respectively fall due.

Section 7. 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 8. Transfer of Registered 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 9. 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 interest 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 10. 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 11. 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 12. Redemption of Bonds. The Bonds maturing on or after April 1, 1992 shall be subject to redemption by or on behalf of the Borough prior to maturity and upon published notice as hereinafter provided, as a whole or in part in inverse order of maturity on any interest payment date on or after April 1, 1991, at a Redemption Price (hereinafter in the Ordinance referred to as the "Redemption Price") equal to the principal amount of each Bond to be redeemed, together with interest accrued thereon to the redemption date.

If less than all of the Bonds of like maturity are to be redeemed, the particular Bonds to be redeemed shall be selected in inverse numerical order.

Section 13. Notice of Redemption. When the Borough determines to redeem any Bonds, it shall give notice of such redemption, which notice shall state the redemption date and identify the Bonds to be redeemed by reference to their numbers and further state that on such redemption date there shall become due and payable upon each such Bond the Redemption Price together with interest accrued to the redemption date, and that from and after such date interest thereon shall cease to accrue. Such notice shall be given by publication at least once not less than sixty days prior to the redemption date in a newspaper which is customarily published at least once a day for at least five days (other than legal holidays) in each calendar week, printed in the English language, and published in one newspaper of general circulation in the Borough of Manhattan, City and State of New York, or the City of Seattle, Washington.

Section 14. Payment of Redeemed Bonds. Notice of redemption having been given by publication in the manner provided in Section 13 the Bonds so called for redemption shall become due and payable on the redemption date stated in said notice at the applicable Redemption Price on said date plus interest accrued and unpaid to the redemption date, and, upon presentation and surrender thereof, at the principal office of the Paying Agent together with, in the case of Bonds registered otherwise than to bearer, a written instrument of transfer duly executed by the registered owner or his duly authorized attorney and, all appurtenant coupons maturing subsequent to the redemption date, such Bonds shall be paid at the said Redemption Price plus interest accrued and unpaid to the redemption date not represented by coupons for matured interest installments. All coupons which shall have matured on or prior to the redemption date shall continue to be payable to the bearers of such coupons. if, on the redemption date, moneys for the redemption of all the Bonds to be redeemed, together with interest accrued and unpaid to the redem-

ption date, shall be held on behalf of the Borough at the principal office of the Paying Agent so as to be available therefor on said date and if notice of redemption shall have been published as aforesaid, then from and after the redemption date the Bonds so called for redemption shall cease to bear interest and the coupons for interest appertaining thereto maturing subsequent to the redemption date shall be void and said Bonds and coupons shall no longer be considered as outstanding hereunder

Section 15. Form of 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

1983 General Obligation School Bond

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 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 April and October 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, interest and redemption price of 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.

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This Bond is one of the 1983 General Obligation School Bonds of the Kenai Peninsula Borough, of like tenor and effect except as to interest rates, serial number, and maturity, aggregating \$53,540,000 in principal amount, and constituting Bonds authorized for the purpose of raising funds to pay the costs of school 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 Kenai Peninsula Borough, who voted on the Proposition at an election held in the Borough on October 5, 1982, and is issued pursuant to Ordinance 83-16 of the Borough entitled:

AN ORDINANCE OF THE KENAI PENINSULA BOROUGH, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$53,540,000 OF GENERAL OBLIGATION BONDS OF THE BOROUGH FOR THE PURPOSE OF RAISING FUNDS TO PAY THE COSTS OF SCHOOL CONSTRUCTION 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 BOROUGH TO THE PAYMENT THEREOF.

(herein called the "Ordinance").

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

The Bonds maturing on or after April 1, 1992 are subject to redemption by or on behalf of the Borough prior to maturity and upon published notice as set forth in the Ordinance as a whole or in part in inverse order of maturity on any interest payment date on or after April 1, 1991, at a redemption price equal to the principal amount of each Bond to be redeemed, together with interest thereon to the redemption date. If less than all of the Bonds of like maturity are to be redeemed, the particular Bonds to be redeemed shall be selected by lot within such maturity as provided in the Ordinance.

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 hereon 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 trans-

ferable 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 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 registrable as to principal only.

This Bond is a general obligation of the Kenai Peninsula Borough, and the full faith and credit of the Borough are pledged for the payment of the principal of and the interest on this Bond as the same shall become due.

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 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 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 April, 1983.

Mayor

(S E A L)

A T T E S T:

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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>
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(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 principal office in the
_____, a paying agent of the Bor-
ough, or at the option of the holder, at the principal office in
the _____, upon surrender of this cou-
pon, _____ 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 1983
General Obligation School Bond No. _____.

Clerk, Kenai Peninsula Borough

Section 16. Pledge. The Borough hereby irrevocably
pledges and covenants that it will levy and collect taxes upon
all taxable property within 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 17. Authority of Officers. The Mayor and the Clerk, are, and each of them hereby is authorized and directed to do and perform all things and determine all matters not determined by this Ordinance or to be determined by a subsequent ordinance or resolution of the Borough, to the end that the Borough may carry out its obligations under the Bonds and this Ordinance.

Section 18. Miscellaneous.

(a) All payments made by the Borough of, or on account of, the principal of or interest on the Bonds shall be made on the several Bonds ratably and in proportion to the amount due thereon respectively for principal or interest as the case may be.

(b) No recourse shall be had for the payment of the principal of or the interest on the Bonds or for any claim based thereon or on this Ordinance against any member of the Borough Assembly or officer of the Borough or any person executing the Bonds. The Bonds are not and shall not be in any way a debt or liability of the State of Alaska or of any political subdivision thereof, except the Borough, and do not and shall not create or constitute any indebtedness or obligation, either legal, moral or otherwise, of said State or of any said political subdivision thereof, except the Borough.

Section 19. Paying Agents. The Principal Paying Agent and one additional Paying Agent shall be appointed by a resolution adopted by the Borough Assembly adopted prior to delivery of the Bonds. 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 20. 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 21. 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 at or prior to the time of sale.

Section 22. Variation of Terms. The date, maturities, payment dates and redemption provisions of the Bonds and other details of the Bonds, may be varied or changed by Borough Assembly by resolution adopted prior to the time of sale.

Section 23. 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 24. Effective Date. This Ordinance shall take effect on the day following enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH on this 15 day of March 1983.



Assembly President

A T T E S T:



Borough Clerk