

KENAI PENINSULA BOROUGH

ALASKA

ORDINANCE 85-10

AN ORDINANCE OF THE KENAI PENINSULA BOROUGH, ALASKA, PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CENTRAL KENAI PENINSULA HOSPITAL SERVICE AREA OF THE BOROUGH IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,000,000 TO PROVIDE FUNDS REQUIRED TO REFUND CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF SAID SERVICE AREA, FIXING CERTAIN DETAILS OF SUCH BONDS AND AUTHORIZING THEIR SALE.

WHEREAS, there are now outstanding general obligation bonds of the Central Kenai Peninsula Hospital Service Area of the Borough issued pursuant to Ordinance 82-1 (REENACTED) and 82-32 adopted May 18, 1982; and

WHEREAS, after due consideration it appears to the Assembly that it is economically advantageous to refund the aforesaid bonds (the "Outstanding Bonds") by the issuance of general obligation bonds of the Central Kenai Peninsula Hospital Service Area of the Borough in the principal amount of not to exceed \$9,000,000 (the "Bonds") in a single series entitled "Central Kenai Peninsula Hospital Service Area General Obligation Refunding Bonds, 1985 Series A" to refund the aforesaid Outstanding Bonds, in order to effect a better debt service schedule and an overall debt service saving to the Service Area; and

WHEREAS, in order to effect such refunding in the most economical manner, it is deemed necessary and advisable that the net proceeds of the sale of the Bonds herein authorized and other moneys available for refunding purposes be invested in obligations to be later specified by resolutions of the Assembly, maturing in such amounts and at such times as are required to pay the maturing principal of and interest on the Outstanding Bonds; and

WHEREAS, AS 29.58.240-280 provides for the issuance of refunding bonds in the manner set forth in this Ordinance; and

WHEREAS, because the amount of Bond proceeds and the obligations necessary to effect the refunding of the Outstanding Bonds depend, in part, on the interest rate to be borne by the Bonds to be issued pursuant to this Ordinance, the exact amount (not to exceed \$9,000,000) and maturities of the Bonds to be issued and the specific obligations to be acquired shall hereafter be fixed by resolution of the Assembly.

NOW, THEREFORE, THE KENAI PENINSULA BOROUGH ORDAINS:

Section 1. Purpose. The purpose of this Ordinance is to authorize the issuance and sale of not to exceed \$9,000,000 of general obligation bonds of the Central Kenai Peninsula Hospital Service Area of the Borough to provide part of the funds to refund certain outstanding general obligation bonds of the Service Area, and to fix certain details of said bonds to be issued.

Section 2. Definitions. As used in this Ordinance, unless a different meaning clearly appears from the context:

A. "Acquired Obligations" means the Government Obligations to be acquired to effect the refunding of the Outstanding Bonds as provided in this Ordinance.

B. "Bond" or "Bonds" means any of the bonds, the issuance and sale of which are authorized herein.

C. "Borough" means the Kenai Peninsula Borough, a municipal corporation of the State of Alaska.

D. "Government Obligations" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America and bank certificates of deposit secured by such obligations.

E. "Outstanding Bonds" means the General Obligation Central Kenai Peninsula Hospital Service Area Refunding Bonds, 1982 Series A, of the Borough dated June 1, 1982 with a current principal outstanding of \$5,485,000 and the General Obligation Central Kenai Peninsula Hospital Service Area Bond, 1982 Series B with a current principal outstanding of \$3,400,000.

F. "Service Area" means the Central Kenai Peninsula Hospital Service Area of the Borough created by Ordinance 69-3 of the Borough.

Words importing the singular number include the plural number and vice versa.

Section 3. 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 and Service Area in accordance with the Constitution and statutes of the State of Alaska, and to incur the indebtedness and issue the Bonds.

Section 4. Obligation of Bonds and Pledge. The Bonds shall be direct and general obligations of the Service Area. The full faith, credit and taxing power of the Service Area are hereby pledged to the payment of the principal of and interest on the Bonds. The Borough hereby irrevocably pledges and covenants 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 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 5. Authorization of Bonds and Purpose of Issuance. For the purpose of providing part of the funds required to purchase Acquired Obligations and to provide beginning cash to effect the refunding of the Outstanding Bonds in the manner and at the times hereinafter set forth, the Borough hereby authorizes and determines to issue and sell the Bonds in the aggregate principal amount of \$9,000,000 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, together with other moneys available and used for such purpose, to effect the refunding of the Outstanding Bonds. 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 6. Description of Bonds. The Bonds shall bear interest from their date payable on the first days of April and October in each year, beginning on October 1, 1985, at such rates as may be fixed and determined by resolution of the Assembly adopted prior to the delivery thereof.

The Bonds shall be in registered form. The Bonds shall each be of the denomination of Five Thousand Dollars (\$5,000) or any integral multiple thereof. 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 April 1, 1985.

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. In case any officer whose signature or facsimile of whose signature shall appear on any Bonds 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 be signed by the manual signature of the Finance Director or 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 on all Bonds shall be payable at the principal offices of the Paying Agents. Interest on the Bonds

shall be made by check or draft mailed to the registered owner at the address appearing on the bond register of the Borough kept at the principal office of the Principal Paying Agent.

Section 7. Transfer of Bonds and Delivery of New Bonds. Any Bond 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 Bonds. As to any Bond, 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 and interest 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.

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 or in lieu of and in substitution for such Bond destroyed, stolen or lost, 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 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 Bond. Each Bond 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. _____ \$ _____

General Obligation Central Kenai Peninsula
Hospital Service Area Refunding Bond, 1985 Series A

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 _____, or registered assigns, on the first day of _____, 19 __, upon presentation and surrender hereof, the principal sum of _____ Dollars (\$ _____), 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, commencing October 1, 1985. The principal 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. Payment of the interest on the Bonds shall be made by check or draft mailed to the registered owner at the address appearing on the bond register of the Borough kept at the principal office of the Principal Paying Agent.

This Bond is one of the General Obligation Central Kenai Peninsula Hospital Service Area Refunding Bonds, 1985 Series A of the Kenai Peninsula Borough, of like tenor and effect, except as to interest rates and maturity aggregating \$ _____ in principal amount, and constituting Bonds authorized for the purpose of refunding certain Central Kenai Peninsula Hospital Service Area Bonds issued by the Borough, and is issued pursuant to Ordinance 85-10 of the Borough entitled:

AN ORDINANCE OF THE KENAI PENINSULA BOROUGH,
ALASKA, PROVIDING FOR THE ISSUANCE OF CENTRAL
KENAI PENINSULA HOSPITAL SERVICE AREA GENERAL
OBLIGATION BONDS IN THE AGGREGATE PRINCIPAL
AMOUNT OF NOT TO EXCEED \$9,000,000 TO PROVIDE

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FUNDS REQUIRED TO REFUND CERTAIN OUTSTANDING
GENERAL OBLIGATION BONDS OF SAID SERVICE
AREA, FIXING CERTAIN DETAILS OF SUCH BONDS
AND AUTHORIZING THEIR SALE.

(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, as provided in the Ordinance, only upon the bond register of the Borough kept for that purpose at the principal office of the Principal Paying Agent, upon surrender of this Bond together with a written instrument of transfer duly executed by the registered owner or his attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance and upon the payment of charges, if any, as therein prescribed. The Borough and the Paying Agent may treat and consider the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or Redemption Price, if any, hereof and interest due hereon and for all other purposes whatsoever.

This Bond is a general obligation of the Central Kenai Peninsula Hospital Service Area of the Kenai Peninsula Borough and the full faith, credit and taxing power of the Service Area 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 April, 1985.

Mayor

(S E A L)

A T T E S T:

Clerk

Section 13. Disposition of the Proceeds of Sale of the Bonds and Authorization of a Safekeeping Agreement. The proceeds received from the sale of the Bonds shall be held pursuant to the terms of an Escrow Agreement to be entered into by the Borough and a bank or trust company as Trustee. The Escrow Agreement shall provide that the proceeds shall be first used to pay all costs incidental to the acquisition and safekeeping of the Acquired Obligations and for the deposit of the balance of the proceeds in a Bond Refunding Account, which is hereby created and used, together with moneys to be transferred to said account pursuant to resolution of the Assembly, to deposit cash and to purchase Acquired Obligations maturing as to principal and interest in such amounts and at such times as to provide for the payment of the principal of and interest on the Outstanding Bonds and to redeem and retire the remaining Outstanding Bonds under the terms of the Escrow Agreement.

The terms of the Escrow Agreement shall further provide that such money and Acquired Obligations shall be irrevocably set aside and held in the Bond Refunding Account and deposited in a

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trust account for safekeeping with the bank or trust company acting under the Escrow Agreement as Refunding Trustee. Such money and obligations are hereby pledged to be held and applied solely for the purpose set forth herein and in the Escrow Agreement, provided, however, that the Borough may from time to time transfer, or cause to be transferred, free of trust from the Bond Refunding Account any moneys not required for such purposes upon securing a verification from the Refunding Trustee and opinion of bond counsel as set forth in the next succeeding paragraph.

The Escrow Agreement may provide that the Borough have the right to substitute higher yield direct obligations of the United States of America for investments in the Bond Refunding Account in the event it may do so pursuant to Section 103(c) of the Internal Revenue Code and applicable regulations thereunder, provided, that, at all times the moneys and Acquired Obligations in the Bond Refunding Account shall be sufficient to accomplish the refunding of the Outstanding Bonds as provided herein and in the Bond Refunding Account. The Escrow Agreement may further provide that prior to each such substitution the Borough shall obtain (1) a verification by the Refunding Trustee which shall be satisfactory to bond counsel to the Borough that the moneys and Acquired Obligations on deposit after such substitution will be sufficient to effect such refunding of the Outstanding Bonds, and (2) an opinion from bond counsel that such substitution shall not cause any of the Bonds to lose their tax exempt status under Section 103(c) of the Internal Revenue Code of 1954, as amended, and the applicable regulations promulgated thereunder and that when all of the Outstanding Bonds shall have been redeemed and retired, the Borough may cause to be transferred from the Bond Refunding Account free of trust all moneys remaining therein.

Section 14. 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 15. 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 16. 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 17. Terms. The date, amount, 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 18. 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 19. 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 20. Effective Date. This Ordinance shall take effect immediately.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH on this ____ day of March, 1985.

Assembly President

A T T E S T:

Borough Clerk