

Introduced by: Mayor
Date: April 3, 1984
Action: Adopted Unanimously

KENAI PENINSULA BOROUGH

RESOLUTION 84-66

A RESOLUTION OF THE KENAI PENINSULA BOROUGH FIXING THE INTEREST RATES AND OTHER DETAILS OF \$16,665,000 GENERAL OBLIGATION SCHOOL BONDS 1984; ACCEPTING THE OFFER OF BOETTCHER & COMPANY FOR THE PURCHASE OF THE BONDS.

WHEREAS, Ordinance 84-10 of the Borough adopted on March 6, 1984 authorized the issue of \$16,665,000 General Obligation School Bonds 1984 for the purpose of raising funds to pay the costs of school construction in the Borough; and

WHEREAS, the Borough has this day received an offer of Boettcher & Company to purchase all the Bonds at the interest rates and prices and otherwise in the terms set forth in said offer.

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

Section 1. The Bonds authorized by Ordinance 84-10 shall be issued in the aggregate principal amount of \$16,665,000, shall bear interest as follows:

<u>Maturity Year</u>	<u>Amount</u>	<u>Interest Rate</u>
1985	\$ 725,000	10.75%
1986	965,000	12.75
1987	1,200,000	12.60
1988	1,400,000	7.50
1989	1,700,000	7.75
1990	1,525,000	8.00
1991	1,800,000	8.25
1992	2,150,000	8.50
1993	2,300,000	8.75
1994	2,900,000	9.00

Section 2. The Bonds are not subject to redemption prior to maturity.

Section 3. The written offer of Boettcher & Company contained in the Bond Purchase Agreement submitted to and part of the records of the meeting and attached hereto as Exhibit "A" to purchase the 1984 General Obligation School Bonds under the terms set forth in Ordinance 84-10 and this resolution and at the interest rates, prices and other terms set forth therein and in the Bond Purchase Agreement is hereby approved and the Mayor or Finance Director is authorized to execute the Bond Purchase Agreement and to cause the same to be delivered on behalf of the Borough.

Section 4. Rainier National Bank is appointed Principal Paying Agent and Chemical Bank is appointed Paying Agent for the Bonds.

Section 5. The Finance Director of the Borough is authorized to approve on behalf of the Borough the Official Statement relating to the Bonds and in substantially the form presented and part of the records of this meeting.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA
BOROUGH ON THIS 3RD DAY OF APRIL, 1984.



Assembly President

A T T E S T:


Borough Clerk

\$16,665,000

1984 General Obligation School Bonds

BOND PURCHASE AGREEMENT

BOND PURCHASE AGREEMENT dated April 3, 1984 between KENAI PENINSULA BOROUGH, ALASKA (THE "BOROUGH") and BOETTCHER & COMPANY, INC. (hereinafter referred to as "Boettcher").

This Bond Purchase Agreement is entered into in respect of the sale by the Borough to Boettcher of \$16,665,000 aggregate principal amount of the Borough's 1984 General Obligation School Bonds, (the "Bonds"). The Bonds are to be issued pursuant to Ordinance No. 84-10 enacted on March 6, 1984, (the "Bond Ordinance") and pursuant to a resolution of the Borough scheduled for adoption by the Borough on April 3, 1984.

1. Commitment

Upon execution of this Bond Purchase Agreement by the Borough and Boettcher, this Bond Purchase Agreement shall be in full force and effect in accordance with its terms, shall constitute the complete agreement between the parties hereto with respect to the Bonds, and shall be binding upon the Borough and Boettcher.

2. Purchase, Sale and Closing

Purchase Obligation. On the terms and conditions set forth herein, Boettcher will purchase from the Borough and the Borough will sell to Boettcher \$16,665,000 aggregate principal amount of the Bonds at an aggregate purchase price of par, plus interest accrued from April 1, 1984 to and through the day immediately preceding the date of the Closing.

The Bonds shall be dated April 1, 1984, and shall bear interest payable October 1, 1984 and thereafter semi-annually in each year on April 1 and October 1.

The \$16,665,000 aggregate principal amount of the Bonds shall bear interest at the rates and shall mature on the dates set forth below:

\$16,665,000 Bonds

<u>Maturity</u> <u>October 1</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
1985	\$ 725,000	10.75%
1986	965,000	12.75
1987	1,200,000	12.60
1988	1,400,000	7.50
1989	1,700,000	7.75
1990	1,525,000	8.00
1991	1,800,000	8.25
1992	2,150,000	8.50
1993	2,300,000	8.75
1994	2,900,000	9.00

The Bonds shall be as described in, and shall be issued pursuant to a resolution adopted by the Borough on April 3, 1984.

Boettcher shall pay for the Bonds at the Closing by a certified or official bank check or wire transfer payable in Clearing House Funds, and said check or wire transfer shall be made payable to the order of the Borough.

The Closing will be held at the offices of Boettcher & Company, Inc., at 10:00 A.M. San Francisco time, April 24, 1984, or at such other date, time and place as may be agreed upon by the parties hereto. The Bonds shall be delivered to Boettcher at the Closing in definitive form in the denomination of \$5,000 or any other authorized denominations and shall be made available to Boettcher for inspection and packaging at least 24 hours prior to the Closing.

Expenses. The fees and disbursements of Wohlforth & Flint and Mudge Rose Guthrie Alexander & Ferdon, the fees of Moody's Investors Service, Inc. and Standard and Poor's Corporation and the expenses and costs for the preparation, printing, photocopying, execution and delivery of the Bonds, the Preliminary Official Statement and the Official Statement shall be paid by the Borough.

3. Representations and Covenants of the Borough

(a) The Borough represents and warrants to Boettcher that:

(1) The Borough is a duly incorporated second class borough and political subdivision of the State of Alaska authorized by the provisions of the Constitution and laws of the State of Alaska to authorize, execute, issue and deliver the Bonds, and to fulfill its obligations under the Bond Ordinance and hereunder.

(ii) The Borough has duly adopted the Bond Ordinance authorizing the issuance of the Bonds and such Bond Ordinance is in full force and effect.

(iii) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending or threatened against or affecting the Borough wherein an unfavorable decision, ruling or finding would adversely affect the transaction contemplated hereby or the validity of the Bonds, the Bond Ordinance, or this Bond Purchase Agreement.

(iv) The Borough is not in breach of or default under any applicable law or administrative regulation of the State of Alaska or the United States in any manner relating to or affecting the transactions contemplated hereby or in breach of or default under any applicable judgment or decree or any loan agreement, note, resolution, ordinance, agreement or other instrument to which the Borough is a party or is otherwise subject; and the execution and delivery of the Bonds, this Bond Purchase Agreement and the adoption of the Bond Ordinance and compliance with the provisions thereof, will not conflict with or constitute on the Borough's part a breach of or a default under any existing law, court or administrative regulation, decree or order or any agreement, indenture, mortgage, lease or other instrument to which it is subject or by which it is bound.

(v) The Borough has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.

(vi) The Borough has reviewed the Official Statement dated April 3, 1984 with respect to the Bonds and has authorized an appropriate official to execute the Official Statement. The information in the Official Statement with respect to the Borough and the Bonds under the headings "Introduction", "The Bonds", "The Borough", "State Aid to Education", "The School District" and "Litigation"; is accurate and complete in all material respects, does not contain any untrue statements of any material fact and does not omit to state any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

4. Conditions of Boettcher's Obligations

The obligation of Boettcher to purchase the Bonds is subject to the fulfillment of the following conditions at or before the Closing. Should the following conditions not be fulfilled in respect of the Bonds, the obligations of Boettcher under this Bond Purchase Agreement shall terminate and neither the Borough nor Boettcher shall have any further obligation hereunder.

(a) The Borough's representations contained in Section 3 hereof shall be true at and as of the time of the Closing and shall be confirmed at the Closing by certificates, in form and substance satisfactory to Boettcher.

(b) The Borough shall not have defaulted in the performance of any of its covenants or obligations hereunder or under the Bond Ordinance.

(c) Boettcher shall receive satisfactory evidence that the Bonds have received a Conditional A rating from Moody's Investors Service, Inc. and a AAA rating from Standard & Poor's Corporation and that such ratings shall not have been lowered or withdrawn prior to the date of Closing.

(d) Boettcher shall receive at the Closing:

(i) A favorable unqualified opinion of Wohlforth & Flint, as Bond Counsel, dated the date of the Closing, as to the authorization, issuance and binding effect of the Bonds and the exemption of interest thereon from present Federal income taxes in form satisfactory to Boettcher.

(ii) The favorable opinion of the Borough Attorney, dated the date of the Closing as to the authority of the Borough to enter into the transactions contemplated hereby and as to no-litigation satisfactory to Bond Counsel and Boettcher.

(iii) Evidence, satisfactory to Boettcher, of the maintenance of the Conditional A rating assigned to the Bonds by Moody's Investors Service, Inc., and of the maintenance of the AAA rating assigned to the Bonds by Standard & Poor's Corporation.

(iv) Evidence, satisfactory in form and substance to Boettcher, of the issuance of a valid and binding municipal bond insurance policy, in the form set forth in Appendix B to the Official Statement, insuring all of the Bonds.

(v) Such additional certificates and other documents as Boettcher may reasonably request to evidence performance of or compliance with the provisions hereof and the transactions contemplated hereby, including certificates and opinions as to information contained in the Official Statement, all such certificates and other documents to be satisfactory in form and substance to Boettcher.

5. Events Permitting Boettcher to Terminate

Boettcher may terminate its obligation to purchase the Bonds at any time before the closing if any of the following should occur:

(a) (i) Legislation shall have been enacted by the Congress of the United States, or recommended to the Congress for passage by the President of the United States or favorably reported for passage to either House of the Congress by any Committee of such House, or (ii) a decision shall have been rendered by a court established under Article III of the Constitution of the United States or by the United States Tax Court, or (iii) an order, ruling or regulation shall have been issued or proposed by or on behalf of the Treasury Department of the United States or the Internal Revenue Service or any other agency of the United States, or (iv) a release or official statement shall have been issued by the President of the United States or by the Treasury Department of the United States or by the Internal Revenue Service, the effect of which in any such case described in clauses (i), (ii), (iii) or (iv) would be to impose, directly or indirectly, Federal income taxation upon interest received on obligations of the general character of the Bonds in such a manner as in the judgment of Boettcher would materially impair the marketability or materially reduce the market price of obligations of the general character of the Bonds.

(b) Any action shall have been taken by the Securities and Exchange Commission or by a court which would require registration of any security under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or qualification of the Indenture under the Trust Indenture Act of 1939, as amended, in connection with the public offering of the Bonds, or any amendment or supplement thereto, or any proceeding for that purpose shall have been initiated or threatened in any such court or by any such authority.

(c) (i) A general suspension of trading in securities shall have occurred on the New York Stock Exchange, or (ii) the United States shall have become engaged in hostilities which have resulted in the declaration, on or after the date of this Bond Purchase Agreement, of a national emergency or war, the effect of which, in either case described in clauses (i) or (ii), is, in the judgment of Boettcher, so material and adverse as to make it impracticable or inadvisable to proceed with the public offering of the bonds on the terms and in the manner contemplated in this Bond Purchase Agreement.

(d) A general banking moratorium shall have been declared by authorities of the United States, the State of New York or the State of Alaska.

(e) Any legislation, ordinance, rule or regulation shall be introduced in, or be enacted by any governmental body, department or agency in the State of Alaska, or a decision by any court of competent jurisdiction within the State of Alaska shall be rendered which in the opinion of Boettcher, materially adversely affects the market price of the Bonds.

6. Notices and Other Actions

All notices, demands and formal actions hereunder will be in writing, mailed, telegraphed or delivered to:

The Borough:

KENAI PENINSULA BOROUGH
Box 850
Soldotna, Alaska 99669

The Underwriter:

BOETTCHER & COMPANY, INC.
One Union Square Building
600 University Street
Seattle, Washington 98101

7. Miscellaneous

This Bond Purchase Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument. This Bond Purchase Agreement will inure to the benefit of and be binding upon the parties and their successors, and will not confer any rights upon any other person. All representations and agreements in this Bond Purchase Agreement shall remain operative and in full force and effect regardless of any investigation made by or on behalf of Boettcher and shall survive the delivery of and payment for the Bonds. Time shall be of the essence of this Bond Purchase Agreement. The validity, interpretation and performance of this Bond Purchase Agreement shall be governed by the laws of the State of Alaska.

BOETTCHER & COMPANY, INC.
as Representative

By: _____
On behalf of the Underwriters,
including themselves

Accepted:

KENAI PENINSULA BOROUGH, ALASKA

By: _____

Attest:
