

Introduced by:	Mayor
Date:	09/06/16
Action:	Adopted
Vote:	8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH  
RESOLUTION 2016-046**

**A RESOLUTION AUTHORIZING THE KENAI PENINSULA BOROUGH TO ISSUE  
SOUTH KENAI PENINSULA HOSPITAL SERVICE AREA GENERAL OBLIGATION  
REFUNDING BOND IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$3,000,000 TO  
REFUND CERTAIN OUTSTANDING SOUTH KENAI PENINSULA HOSPITAL  
SERVICE AREA GENERAL OBLIGATION BONDS OF THE BOROUGH, FIXING  
CERTAIN DETAILS OF SUCH BOND AND AUTHORIZING THE SALE OF SUCH,  
AND PROVIDING FOR RELATED MATTERS**

- WHEREAS,** the Kenai Peninsula Borough, Alaska (the "Borough") is a second class borough and is authorized to take the actions set forth in this resolution; and
- WHEREAS,** there is now outstanding the principal amount of \$2,960,000 of South Kenai Peninsula Hospital Service Area General Obligation Refunding Bonds, 2007, of the Borough (the "2007 Bond") issued pursuant to Resolution 2006-096 of the Borough; and
- WHEREAS,** the Assembly finds that it is in the best interest of the Borough to provide for the refunding, including the payment of principal of and interest on, those maturities of the 2007 Bond the refunding of which the Mayor or Borough Finance Director determines will produce sufficient debt service savings (the "Refunded Bonds"), by the issuance of its South Kenai Peninsula Hospital Service Area General Obligation Refunding Bond, 2016 (the "Bond"); and
- WHEREAS,** the Assembly finds that it is necessary and appropriate to delegate to each of the Mayor and Borough Finance Director authority to determine the principal installments, interest rates and other details of the Bond, and to determine other matters pertaining to the Bond that are not provided for in this resolution; and
- WHEREAS,** the Alaska Municipal Bond Bank (the "Bond Bank") will purchase the bond with proceeds of its general obligation bonds pursuant to the terms of an amendatory loan agreement (the "Amendatory Loan Agreement"); and
- WHEREAS,** the Amendatory Loan Agreement will amend the Loan Agreement dated as of September 1, 2003, as amended on April 1, 2007 and September 1, 2011, each between the Bond Bank and the Borough, to provide for the refunding of the Refunded Bond.

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

**SECTION 1.**     Definitions. The following terms shall have the following meanings in this resolution:

- (A)     “Amendatory Loan Agreement” means the Amendatory Loan Agreement between the Borough and the Bond Bank, amending the Loan Agreement to provide for the refunding of the Refunded Bond through their exchange for the Bond, and related matters.
- (B)     “Assembly” means the Assembly of the Kenai Peninsula Borough, as the general legislative authority of the Borough, as the same shall be duly and regularly constituted from time to time.
- (C)     “Bond” means the “South Kenai Peninsula Hospital Service Area General Obligation Refunding Bond, 2016” of the Borough, the issuance and sale of which are authorized herein.
- (D)     “Bond Bank” means the Alaska Municipal Bond Bank, a public corporation of the State of Alaska.
- (E)     “Bond Bank Bonds” means the general obligation bonds to be issued by the Bond Bank, a portion of the proceeds of which will be used to refund the Refunded Bond.
- (F)     “Bond Register” means the registration books maintained by the Registrar, which include the name and address of the Registered Owner or its nominee.
- (G)     “Borough” means the Kenai Peninsula Borough, a municipal corporation of the State of Alaska, organized as a second class borough under Title 29 of the Alaska Statutes.
- (H)     “Borough Finance Director” means the Finance Director of the Borough.
- (I)     “Code” means the Internal Revenue Code of 1986, as amended from time to time, together with all regulations applicable thereto.
- (J)     “Continuing Disclosure Certificate” means a certificate relating to the Bond executed in connection, and delivered by the Borough, with respect to compliance with paragraph (b)(5) of Rule 15c2-12 of the Securities and Exchange Commission, as such certificate may be amended or supplemented from time to time.

- (K) "Loan Agreement" means the Loan Agreement between the Borough and the Bond Bank dated as of September 1, 2003, as amended on April 1, 2007 and September 1, 2011, and further amended by the Amendatory Loan Agreement.
- (L) "2007 Bond" means the outstanding \$2,960,000 South Kenai Peninsula Hospital Service Area General Obligation Refunding Bonds, 2007, of the Borough, issued pursuant to Resolution 2006-096 of the Borough.
- (M) "Refunded Bond" means the principal installments of the 2007 Bond the refunding of which the Mayor or Borough Finance Director determines will produce sufficient debt service savings under Section 12.
- (N) "Registered Owner" means the person named as the registered owner of the Bond in the Bond Register.
- (O) "Registrar" means the Borough Finance Director.
- (P) "Resolution" means this Resolution 2016-046 of the Assembly.

**SECTION 2.** Authorization of Bond and Purpose of Issuance. For the purpose of effecting the refunding by exchange of the Refunded Bond in the manner set forth in this Resolution and in the Amendatory Loan Agreement, the Borough hereby authorizes and determines to issue and sell the Bond in the aggregate principal amount of not to exceed \$3,000,000.

**SECTION 3.** Obligation of Bond. The Bond shall be a direct and general obligation of the South Kenai Peninsula Hospital Service Area and the full faith and credit of the South Kenai Peninsula Hospital Service Area are hereby pledged to the payment of the principal of and interest on the Bond. 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 without limitation as to rate or amount, in amounts sufficient, together with other funds legally available therefor, to pay the principal of and interest on the Bond as the same become due and payable.

**SECTION 4.** Designation, Principal Installments, Interest Rates and Other Details of Bond. The Bond shall be designated "South Kenai Peninsula Hospital Service Area General Obligation Refunding Bond, 2016," with such additional designation as the Registrar deems necessary for purposes of identification, 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. Principal installments of the Bond shall be in the denomination of \$5,000 or any integral multiple thereof. The aggregate principal amount, amount, per

principal installments, interest rates, dated date and principal and interest payment dates of the Bond shall be determined at the time of execution of the Amendatory Loan Agreement under Section 16.

**SECTION 5.**     Prepayment. The Bond is not subject to prepayment prior to maturity.

**SECTION 6.**     Form of Bond. The Bond shall be in substantially the following form, with such variations, omissions and insertions as may be required or permitted by this Resolution:

**UNITED STATES OF AMERICA**

**STATE OF ALASKA**

**KENAI PENINSULA BOROUGH**

NO. \_\_\_\_\_

\$ \_\_\_\_\_

**SOUTH KENAI PENINSULA HOSPITAL SERVICE AREA  
GENERAL OBLIGATION REFUNDING BOND, 2016**

REGISTERED OWNER:     ALASKA MUNICIPAL BOND BANK

PRINCIPAL AMOUNT:

The Kenai Peninsula Borough, Alaska (the "Borough"), a municipal corporation of the State of Alaska, hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner set forth above, or its registered assigns, the Principal Amount set forth above in the following installments on June 1 of each of the following years, and to pay interest on such installments from the date hereof, payable on June 1, and semiannually thereafter on December 1 and June 1 of each year, at the rates per annum as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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For so long as this bond is owned by the Alaska Municipal Bond Bank (the "Bond Bank"), payment of principal and interest shall be made as provided in the Loan Agreement between the Bond Bank and the Borough dated as of September 1, 2003, as amended on April 1, 2007, September 1, 2011 and \_\_\_\_\_, 2016 (the "Loan Agreement"). In the event that this bond is no longer owned by the Bond Bank, installments of principal of and interest on this bond shall be paid by check or draft mailed by first class mail to the Registered Owner as of the close of business on the 15th day of the month preceding each installment payment date; provided, that the final installment of principal of and interest on this bond will be payable upon presentation and surrender of this bond by the Registered Owner at the office of the Registrar. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months. Both principal of and interest on this bond are payable in lawful money of the United States of

America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts.

This bond is the South Kenai Peninsula Hospital Service Area General Obligation Refunding Bond, 2016 of the Kenai Peninsula Borough, Alaska, authorized for the purpose of refunding certain South Kenai Peninsula Hospital Service Area general obligation bonds issued by the Borough, and is issued under Resolution 2016-046 of the Borough entitled:

A RESOLUTION AUTHORIZING THE KENAI PENINSULA BOROUGH TO ISSUE ITS SOUTH KENAI PENINSULA HOSPITAL SERVICE AREA GENERAL OBLIGATION REFUNDING BOND IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$3,000,000 TO REFUND CERTAIN OUTSTANDING SOUTH KENAI PENINSULA HOSPITAL SERVICE AREA GENERAL OBLIGATION BONDS OF THE BOROUGH, FIXING CERTAIN DETAILS OF SUCH BOND AND AUTHORIZING THE SALE OF SUCH BOND, AND PROVIDING FOR RELATED MATTERS;

(the "Resolution").

Reference is hereby made to the Resolution and any resolution supplemental thereto for a description of the rights of the Registered Owner and of the rights and obligations of the Borough thereunder, to all of the provisions of which the Registered Owner, by acceptance of this bond, assents and agrees.

This bond is not subject to prepayment prior to maturity.

This bond is transferable as provided in the Resolution (i) only upon the Bond Register and (ii) upon surrender of this bond together with a written instrument of transfer duly executed by the Registered Owner or the duly authorized attorney of the Registered Owner, and thereupon a new fully registered Bond shall be issued to the transferee in exchange therefor as provided in the Resolution and upon the payment of charges, if any, as therein prescribed. The Borough and the Registrar 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 hereof and interest hereon and for all other purposes whatsoever.

This bond is a direct and general obligation of the South Kenai Peninsula Hospital Service Area, and the full faith and credit of the South Kenai Peninsula Hospital Service Area are pledged to the payment of the principal of and interest on this bond. The Borough has irrevocably pledged and covenanted that it will levy and collect taxes upon all taxable property within the South Kenai Peninsula Hospital Service Area without limitation as to rate or amount, in amounts sufficient, together with other funds legally available therefor, to pay the principal of and interest on the Bond as the same become due and payable.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts or things required by the constitution or statutes of the State of Alaska or the ordinances or resolutions of the Borough 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 this bond, together with all

other indebtedness of the Borough, is within every debt and other limit prescribed by said constitution, statutes, ordinances or resolutions.

IN WITNESS WHEREOF, THE KENAI PENINSULA BOROUGH, ALASKA, has caused this bond to be signed in its name and on its behalf by its Mayor and its corporate seal to be hereunto impressed or otherwise reproduced and attested by its Clerk, all as of the \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Borough Clerk

**SECTION 7.**     Execution. The Bond shall be executed in the name of the Borough by the Mayor and the corporate seal of the Borough shall be impressed or otherwise reproduced thereon and attested by the Borough Clerk. The execution of a Bond on behalf of the Borough by persons who at the time of the execution are duly authorized to hold the proper offices shall be valid and sufficient for all purposes, although any such person shall have ceased to hold office at the time of delivery of the Bond or shall not have held office on the date of the Bond.

**SECTION 8.**     Payment of Principal and Interest. The Bond shall be payable in lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts. As long as the Bond Bank is the Registered Owner, payment of principal of and interest on the Bond shall be made as provided in the Loan Agreement. If the Bond Bank is no longer the Registered Owner, installments of principal and interest on the Bond shall be paid by check mailed by first class mail to the Registered Owner as of the 15th day of the month preceding each installment payment date at the address appearing on the Bond Register; provided, that the final installment of principal and interest on the Bond shall be payable upon presentation and surrender of the Bond by the Registered Owner at the office of the Registrar.

**SECTION 9.**     Registration. The Bond shall be issued only in registered form as to both principal and interest. The Borough designates the Borough Finance Director as Registrar. The Registrar shall keep, or cause to be kept, the Bond Register at the principal office of the Borough. The Borough covenants that, until the Bond has been surrendered and canceled, it will maintain a system for recording the ownership of the Bond that complies with the provisions of Section 149 of the Code. The Borough and the Registrar may treat and consider the person in whose name the Bond shall be registered as the absolute owner of the Bond for the purpose of receiving payment of, or on

account of, the principal thereof and interest thereon and for all other purposes whatsoever. All payments of principal of and interest on the Bond made to the Registered Owner or upon its order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Borough nor the Registrar shall be affected by any notice to the contrary.

**SECTION 10.** Transfer and Exchange. The Bond may be transferred only upon the Bond Register. Upon surrender for transfer or exchange of the Bond, with a written instrument of transfer or authorization for exchange in form and with guaranty of signature satisfactory to the Registrar, duly executed by the Registered Owner or the duly authorized attorney of the Registered Owner, the Borough shall execute and deliver a new Bond, subject to such reasonable regulations as the Borough may prescribe and upon payment sufficient to reimburse it for any tax, fee or other governmental charge required to be paid in connection with such transfer or exchange. Each Bond surrendered for transfer or exchange shall be canceled by the Registrar.

**SECTION 11.** Bond Mutilated, Destroyed, Stolen or Lost. Upon surrender to the Registrar of a mutilated Bond, the Borough shall execute and deliver a new Bond. Upon filing with the Registrar of evidence satisfactory to the Borough that a Bond has been destroyed, stolen or lost and of the ownership thereof, and upon furnishing the Borough with indemnity satisfactory to it, the Borough shall execute and deliver a new Bond. The person requesting the execution and delivery of a new Bond under this Section shall comply with such other reasonable regulations as the Borough may prescribe and pay such expenses as the Borough may incur in connection therewith.

**SECTION 12.** Designation of Refunded Bond. The Mayor and the Borough Finance Director each is authorized to designate which principal installments of the 2007 Bond shall be refunded, provided that the refunding of the 2007 Bond principal installments so designated shall realize an aggregate debt service savings on a present value basis, net of all issuance costs and underwriting discount.

**SECTION 13.** Tax Covenants. The Borough covenants to comply with any and all applicable requirements set forth in the Code in effect from time to time to the extent that such compliance shall be necessary for the exclusion of the interest on the Bond from gross income for federal income tax purposes. The Borough covenants that it will make no use of the proceeds of the Bond that will cause the Bond or the Refunded Bond to be "arbitrage bonds" subject to federal income taxation by reason of Section 148 of the Code. The Borough covenants that it will not take or permit any action that would cause the Bond to be a "private activity bond" as defined in Section 141 of the Code.

**SECTION 14. Amendatory and Supplemental Resolutions.**

- (A) The Assembly from time to time and at any time may adopt a resolution or resolutions supplemental hereto, which resolution or resolutions thereafter shall become a part of this resolution, for any one or more of the following purposes:
- (1) To add to the covenants and agreements of the Borough in this Resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved to or conferred upon the Borough.
  - (2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this Resolution or in regard to matters or questions arising under this Resolution as the Assembly may deem necessary or desirable and not inconsistent with this Resolution and which shall not adversely affect the interests of the Registered Owner.

Any such supplemental resolution may be adopted without the consent of the Registered Owner, notwithstanding any of the provisions of subsection (B) of this Section.

- (B) With the consent of the Registered Owner, the Assembly may adopt a resolution or resolutions supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Resolution or of any supplemental resolution. It shall not be necessary for the consent of the Registered Owner under this subsection to approve the particular form of any proposed supplemental resolution, but it shall be sufficient if such consent approves the substance thereof.
- (C) Upon the adoption of any supplemental resolution under this Section, this Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Resolution of the Borough and the Registered Owner shall thereafter be subject in all respects to such modification and amendment, and all the terms and conditions of the supplemental resolution shall be deemed to be part of the terms and conditions of this Resolution for any and all purposes.
- (D) Any Bond executed and delivered after the execution of any supplemental resolution adopted under this Section may bear a notation as to any matter provided for in such supplemental resolution, and if such supplemental resolution shall so provide, a new Bond modified so as to conform, in the opinion of the Borough, to any modification of this Resolution contained in any such supplemental resolution may be prepared by the Borough and delivered without cost to the Registered Owner, upon surrender for cancellation of the Bond.



**SECTION 15.** Defeasance. In the event money and/or non-callable direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America or an agency or instrumentality of the United States of America, maturing at such times and bearing interest to be earned thereon in amounts sufficient to redeem and retire any or all principal installments of the Bond in accordance with the terms of the Bond are set aside in a special trust account to effect such redemption or retirement and such money and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made to pay or secure the payment of the principal of and interest on such principal installments and such principal installments shall be deemed not to be outstanding.

**SECTION 16.** Exchange of Bonds; Amendatory Loan Agreement. The Bond shall be delivered to the Bond Bank in exchange for the Refunded Bond. The Borough has been advised by the Bond Bank that bond market conditions are fluctuating and that the most favorable market conditions for the sale of the Bond Bank Bonds may not occur on the date of a regular Assembly meeting. The Assembly has determined that it would be inconvenient to hold a special meeting on short notice to approve the terms of the Bond. Therefore, the Assembly hereby determines that it is in the best interest of the Borough to delegate the authority to approve the terms of the Bond as provided herein. Each of the Mayor and the Borough Finance Director is hereby authorized to determine the aggregate principal amount, amount per principal installment, interest rates, dated date and principal and interest payment dates and prepayment provisions, if any, for the Bond, so that such terms of the Bond conform to the terms of the Bond Bank Bonds, provided that the interest rate on each principal installment shall not exceed the interest rate on the corresponding maturity of the Bond Bank Bonds. Based upon the foregoing determination, the Mayor and the Borough Finance Director each is authorized to negotiate, execute and deliver the Amendatory Loan Agreement. The authority granted to the Mayor and Borough Finance Director by this Section shall expire 180 days after the effective date of this Resolution. If the Mayor or Borough Finance Director has not executed an Amendatory Loan Agreement within 180 days after the effective date of this Resolution, the Amendatory Loan Agreement may not be executed on behalf of the Borough without further authorization from the Assembly.

**SECTION 17.** Official Statement. The Mayor and Borough Finance Director each is hereby authorized to approve the form of the preliminary and the final Official Statement for the Bond Bank Bonds as each pertains to the Borough and the Bond.

**SECTION 18.** Authority of Officers. The Mayor, the Borough Finance Director and the Borough 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

Resolution, to the end that the Borough may carry out its obligations under the Bond and this Resolution.


**SECTION 19.** No Recourse. No recourse shall be had for the payment of the principal of or the interest on the Bond or for any claim based thereon or on this Resolution against any member of the Assembly or officer of the Borough or any person executing the Bond. The Bond is 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 does not and shall not create or constitute an indebtedness or obligation, either legal, moral or otherwise, of the State of Alaska or of any political subdivision thereof, except the Borough.

**SECTION 20.** Continuing Disclosure. The Borough hereby covenants and agrees that it will execute and carry out all of the provisions of a Continuing Disclosure Certificate in form and substance satisfactory to the Bond Bank if execution and delivery of such Certificate is required by the Bond Bank. Notwithstanding any other provision of this Resolution, failure of the Borough to comply with the Continuing Disclosure Certificate shall not be considered a default of the Borough's obligations under this Resolution or the Bond; however, the beneficial owner of the Bond or any Bond Bank Bond may bring an action for specific performance, to cause the Borough to comply with its obligations under this Section.


**SECTION 21.** Severability. If any one or more of the provisions of this Resolution shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this Resolution and shall in no way affect the validity of the other provisions of this Resolution or of the Bond.

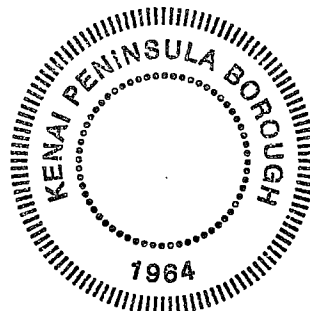
**SECTION 21.** Effective Date. This resolution shall take effect upon adoption by the Borough Assembly.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF SEPTEMBER, 2016.**

  
Blaine Gilman, Assembly President

ATTEST:

  
John Blankenship, MMC, Borough Clerk



Yes: Bagley, Cooper, Dunne, Holmdahl, Johnson, Knopp, Ogle, Gilman

No: None

Absent: Welles