

# Kenai Peninsula Borough

## Legal Department

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### MEMORANDUM

**TO:** Wayne Ogle, Assembly President  
Kenai Peninsula Borough Assembly Members

**THRU:** Charlie Pierce, Mayor

**FROM:** Colette Thompson, Borough Attorney  
Brandi Harbaugh, Finance Director

**DATE:** May 24, 2018

**RE:** Amendment to Ordinance 2018-21, Providing for the Submission to the Qualified Voters of the Kenai Peninsula Borough the Question of the Issuance of not to Exceed Three Million Five Hundred Thousand Dollars (\$3,500,000) of General Obligation Bonds of the Kenai Peninsula Borough to Pay the Local Required Match Portion of the Costs of the Kachemak-Selo New K-12 School Construction Project at an Election in and for the Kenai Peninsula Borough on October 2, 2018 (Mayor)

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The following amendments are requested to reflect two changes: (1) The state increased the grant amount to \$10,010,000 which also increased the local match; and, (2) the bonds will not be refundable under the 70 percent match program. Instead, the state is granting the borough 65 percent of the costs and the borough will pay a 35 percent match which are to be funded by the bonds. (Please note the bold underlined language is new and the bold ~~strikeout~~ language in brackets is to be deleted.)

- Amend the title, as follows:

AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF THE KENAI PENINSULA BOROUGH THE QUESTION OF THE ISSUANCE OF NOT TO EXCEED ~~[THREE]~~ FIVE MILLION ~~[FIVE]~~ FOUR HUNDRED FIFTY THOUSAND DOLLARS (~~\$3,500,000~~ 5,450,000) OF GENERAL OBLIGATION BONDS OF THE KENAI PENINSULA BOROUGH TO PAY THE LOCAL REQUIRED MATCH PORTION OF THE COSTS OF THE KACHEMAK-SELO NEW K-12 SCHOOL CONSTRUCTION PROJECT AT AN ELECTION IN AND FOR THE KENAI PENINSULA BOROUGH ON OCTOBER 2, 2018

- Amend the third whereas clause, as follows:

- **WHEREAS**, the educational specifications for the new school were funded by a Community Development Block grant in 2013 and subsequently approved by the Department of Education and Early Development ("DEED") during the FY2017 grant application process and awarded \$~~[8,896,640]~~ **10,010,000** in funding through the State of Alaska 2016-2017 Capital Budget under the School Construction grant program; and

- Amend the fourth whereas clause, as follows:

**WHEREAS**, the \$~~[8,896,640]~~ **10,010,000** DEED grant require~~[d]~~s a 35% match of \$~~[3,113,824]~~ **5,390,000** be provided by the Kenai Peninsula Borough ("Borough"); **and**

- Amend the seventh whereas clause, as follows:

**WHEREAS**, it is expected that the estimated cost of this construction project will not exceed \$~~[12,396,640]~~ **15,460,000**; and

- Amend the eight whereas clause, as follows:

**WHEREAS**, the Kenai Peninsula Borough Board of Education at its June 4, 2018, meeting recommended \_\_\_\_\_; **[and]**

- Delete the ninth whereas clause in its entirety.

- Amend Section 1, as follows:

**SECTION 1.** It is hereby determined to be for a public purpose and in the public interest of the Kenai Peninsula Borough, Alaska (the "Borough") to incur general obligation bonded indebtedness in an amount not to exceed ~~[three] five~~ million ~~[five] four~~ hundred **and fifty** thousand dollars (\$~~[3,500,000]~~ **5,450,000**), for the purpose of paying the costs of planning, **land acquisition**, designing, site preparation, constructing, acquiring, renovating, installing, and equipping the

Kachemak-Selo New K-12 School Construction project. The Borough will not issue bonds in a principal amount greater than the total estimated cost of projects approved ~~[for reimbursement]~~ by the State of Alaska Department of Education and Early Development. ~~[The use of proceeds of the bonds to finance the costs of education capital improvements will occur only if, and to the extent that, such project qualifies for at least 70 percent debt service reimbursement under Alaska Statute 14.11.100, as the same may be amended from time to time.]~~ Upon completion of the projects, any unexpended bond proceeds, including interest income generated through investment of the bond funds, may be used to fund any other educational capital improvement projects chosen by the borough and approved by the Department of Education and Early Development.

- Amend Section 2, as follows:

**SECTION 2.** The sum of not to exceed ~~[three] five~~ million ~~[five] four~~ hundred ~~and fifty~~ thousand dollars (\$~~[3,500,000] 5,450,000~~) shall be borrowed by, for and on behalf of the Borough for the education capital improvements described above and shall be evidenced by the issuance of general obligation bonds of the Borough. The bond proceeds shall be used only for capital improvements and costs of issuance of the bonds. The full faith and credit of the Borough is pledged for the payment of the principal of and interest on the bonds, and *ad valorem* taxes upon all taxable property in the Borough shall be levied without limitation as to rate or amount to pay the principal of and interest on the bonds when due.

- Amend Section 3, as follows:

**SECTION 3.** An election is to be held on October 2, 2018, in and for the Kenai Peninsula Borough, for the purpose of submitting a general obligation bond proposition to the qualified voters of the Borough for approval or rejection. The proposition must receive a majority vote of those in the Borough voting on the question to be

approved. The proposition shall be substantially in the following form:

**PROPOSITION NO. \_\_\_\_**

**EDUCATIONAL CAPITAL IMPROVEMENT  
GENERAL OBLIGATION BONDS**

Shall the Kenai Peninsula Borough borrow up to \$~~[3,500,000]~~  
**5,450,000** through the issuance of general obligation bonds?

The general obligation bond proceeds will be used to pay the 35% local required contribution for the costs of planning, **land acquisition**, designing, site preparation, constructing, acquiring, renovating, installing, and equipping the Kachemak-Selo New K-12 School Construction Project.

The debt will be paid from *ad valorem* taxes on all taxable property levied and collected areawide in the Borough. The Borough will also pledge its full faith and credit for payment of the debt. The approximate annual amount of taxes on \$100,000 of assessed real or personal property value (based on the Borough's FY2018 taxable assessed valuation) to retire the debt is \$~~[1.05]~~**4.95** ~~[,assuming 70 percent debt service reimbursement from the State of Alaska].~~

~~[No bonds will be issued, unless and until the project qualifies for at least 70 percent debt service reimbursement from the State of Alaska under existing or new legislation. Receipt of State reimbursement is subject to legislative appropriations.]~~

(Ordinance No. 2018-\_\_)