



**Kenai City Council Meeting –
Special Meeting**
August 11, 2023 – 6:00 PM
Kenai City Council Chambers
210 Fidalgo Avenue, Kenai, Alaska

www.kenai.city

****Telephonic/Virtual Information Below****

Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval

B. PUBLIC HEARING

1. **Resolution No. 2023-50** - Authorizing the Issuance of Utility Revenue Bonds in a Principal Amount Not to Exceed One Million Two Hundred Thousand Dollars (\$1,200,000) to Finance the Costs of Planning, Designing and Constructing the City's Water Treatment Pump House and Related Capital Improvements; and to Submit the Question of Issuance of Such Bonds to the Qualified Voters of the City of Kenai at the General Election in and for the City of Kenai on October 3, 2023.

C. PUBLIC COMMENT (*Public comments limited to three (3) minutes per speaker; thirty (30) minutes aggregated*)

D. ADJOURNMENT

The agenda and supporting documents are posted on the City's website at www.kenai.city. Copies of resolutions and ordinances are available at the City Clerk's Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk's Office at 907-283-8231.

Join Zoom Meeting

<https://us02web.zoom.us/j/88320588682>

Meeting ID: 883 2058 8682 **Passcode:** 422723

OR

Dial In: (253) 215-8782 or (301) 715-8592

Meeting ID: 883 2058 8682 **Passcode:** 422723



Sponsored by: Administration

**CITY OF KENAI
RESOLUTION NO. 2023-50**

A RESOLUTION AUTHORIZING THE ISSUANCE OF UTILITY REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000) TO FINANCE THE COSTS OF PLANNING, DESIGNING AND CONSTRUCTING THE CITY'S WATER TREATMENT PUMP HOUSE AND RELATED CAPITAL IMPROVEMENTS; AND TO SUBMIT THE QUESTION OF ISSUANCE OF SUCH BONDS TO THE QUALIFIED VOTERS OF THE CITY OF KENAI AT THE GENERAL ELECTION IN AND FOR THE CITY OF KENAI ON OCTOBER 3, 2023.

WHEREAS, the City of Kenai, Alaska (the "City") is a home rule city and under Section 11 of Article X of the Alaska Constitution may exercise all legislative power not prohibited by law or the charter of the City, and the City has determined that the matters set forth in this Resolution are not prohibited by law or the City's Charter; and,

WHEREAS, Section 6-3 of the City's Charter authorizes the City to borrow money and to issues its revenue bonds therefor, the principal and interest of which are payable solely out of, and the only security of which is, the revenues of revenue-producing utilities and enterprises but only when authorized by the City Council for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement, and or equipment of said utilities and ratified at an election by a majority of those qualified to vote and voting on the question; and,

WHEREAS, the Council views the planning, designing and constructing of the City's water treatment pump house ("Project") as necessary and beneficial to the community; and,

WHEREAS, the cost of the Project is estimated to be One Million Two Hundred Thousand Dollars (\$1,200,000); and,

WHEREAS, City officials secured a condition commitment from the State of Alaska, acting though the Department of Environmental Conservation, Division of Water ("Department"), by letter dated August 1, 2023, which generally states that the cost of the Project, in the amount of One Million Two Hundred Thousand Dollars (\$1,200,000), is eligible for funding from amounts held in the Alaska Drinking Water Fund housed in the Alaska State Revolving Fund Program and that such Project cost has been allocated 100% loan forgiveness; and,

WHEREAS, City officials are pursuing the financing with the Department, to secure the 100% loan forgiveness and, if successful, anticipate issuance of the utility revenue bonds herein authorized will be unnecessary, although determination of the successful financing resolution between the City and Department is not anticipated to be fully resolved until Project completion; and,

WHEREAS, it is necessary and in the best interest of the City to authorize the issuance of utility revenue bonds for the purposes described in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENAI, ALASKA, that:

Section 1. That it is hereby determined to be for a public purpose and in the public interest of the City to incur utility revenue bonded indebtedness in an amount not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000), for the purpose of financing capital improvements to the City’s water treatment pump house, and related capital improvements, and to pay costs of issuance of such bonds.

Section 2. That the City is authorized to borrow the sum of not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000) to finance the capital improvements described in Section 1 above, and the borrowing shall be evidenced by the issuance of utility revenue bonds of the City. The revenues of the City’s water and sewer utility shall be pledged for payment of the principal of and interest on the bonds. The bonds shall not be a general obligation of the City, and neither the full faith and credit nor the taxing power of the City shall be pledged to the payment of the principal of or interest on the bonds when due.

If the bonds herein authorized are not issued within four (4) years after the date of voter authorization, such authorization to issue the bonds shall be null and void as to the bonds which remain unsold.

Section 3. That the City Clerk is hereby directed to submit the following proposition to the qualified voters of the City at the October 3, 2023, regular City election substantially in the following form. The proposition must receive an affirmative vote from a majority of the qualified voters voting on the question to be approved.

PROPOSITION NO. 2023-A
WATER AND SEWER UTILITY REVENUE BONDS

Shall the City of Kenai, Alaska incur utility revenue bonded indebtedness and issue utility revenue bonds in the principal amount of not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000) to finance capital improvements to the City’s water treatment pump house, and related capital improvements, and pay costs of issuance of such bonds?

The bonds shall be paid from water and sewer utility revenues. The bonds shall not be a general obligation of the City, and neither the full faith or credit nor the taxing power of the City shall be pledged to the payment of the principal of or interest on the bonds.

The bond financed project qualifies for financing under the Alaska State Revolving Fund Program and has been allocated, but is not guaranteed, 100% loan forgiveness.

- YES A “YES” vote authorizes the issuance of not to exceed \$1,200,000 of utility revenue bonds for the construction of a water treatment pump house.
- NO A “NO” vote does not authorize the issuance of not to exceed \$1,200,000 of utility revenue bonds for the construction of a water treatment pump house.

Section 4. That Section 2 of this Resolution shall become effective only if the proposition described in Section 3 is approved by a majority of the qualified voters voting on the proposition at the regular election on October 3, 2023. The remaining sections of this Resolution shall become effective upon passage and approval.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENAI, ALASKA THIS 11TH DAY OF AUGUST, 2023.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk



MEMORANDUM

TO: Mayor Gabriel and Council Members

FROM: Terry Eubank, City Manager

DATE: August 8, 2023

SUBJECT: **Resolution 2023-50 Authorizing the issuance of \$1,200,000 of Utility Revenue Bonds before the qualified voters of the City of Kenai.**

On August 1, 2023 the City receive notice that a project to construct a pump house at the City's water treatment facility had been approved for funding through the Alaska State Revolving Fund - Drinking Water Fund. The estimated cost of the project is \$1,200,000. The Alaska State Revolving Loan Fund provides low interest loans to eligible Alaskan communities to construct water and sewer improvements. Some programs offered through the Alaska State Revolving Loan Fund include principal forgiveness provisions. The City's project has been allocated 100% loan forgiveness.

Because the City's award is structured as a loan it could trigger the provisions of Section 6-3 of the City's Charter which allows for the issuance of revenue bonds but requires the issuance to be ratified at an election by a majority of those qualified to vote and voting on the question. It should be noted that the vote is for those qualified to vote and voting of the City and is not restricted to utility customers.

Because the loan has been allocated 100% loan forgiveness, the administration has sought a legal opinion on the applicability of Section 6-3 of the City's Charter and in particular the need for the loan to be ratified at an election by a majority of those qualified to vote and voting if, because of the 100% loan forgiveness, the principal balance of the loan is forgiven. In order to proceed the City's must choose one of two options.

Option 1

The administration has received the attached legal opinion indicating the loan would not require a public vote per Section 6-3 of the City's Charter. The opinion would require the City to appropriate and finance the project with Water and Sewer Utility Funds and seek a single reimbursement upon project completion. Essentially acting as if funding from the State Revolving Loan Fund is not available until project completion and all eligibility requirements have been met. Once eligibility has been confirmed the City would be reimbursed, the 100% loan forgiveness would be applied, and the City would not have incurred any debt.

In order to appropriate the entire project budget and maintain sufficient reserves in the Water & Sewer Utility Special Revenue Fund, three projects funded in the FY2024 Budget would be temporarily placed on hold and funding redirected to the pumhouse construction project. These

projects include \$100,000 for Disinfectant Generation Equipment Design, \$300,000 for Reservoir #1 Pump House Improvements, and \$300,000 for Waste Water Treatment Plant Operations Building Renovation Design. Construction of the new pump house is the utilities highest priority project but was contingent upon grant funding in the City's Capital Improvement Plan for Fiscal Years 2024 – 2028.

It should be noted that the legal opinion provided is based on a draft agreement provided by the State and any substantive changes to that document could invalidate the opinion requiring at a minimum a new opinion or submittal of the loan to the voters.

Option 2

With passage of Resolution 2023-50 the decision to approve the City's decision to borrow up to \$1,200,000 would be placed before the voters of Kenai on October 3, 2023. If successful, an ordinance appropriating the loan proceeds would follow and the project would be constructed following the City's normal process. If unsuccessful, the State would be notified that the City is declining the loan offer and the Administration would continue looking for grant funds to construct the new pumphouse.

Based upon the attached legal opinion, either option is legal and viable path forward. The administration is seeking Council's direction upon which option to proceed. Either option will result in the construction of a new water pumphouse, the City's Water and Sewer Utility's number one capital improvement priority.





THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Environmental
Conservation**

DIVISION OF WATER
Technical Assistance and Financing

555 Cordova Street
Anchorage, Alaska 99501
Main: 907.269.7502
Fax 907.269.7509
dec.alaska.gov

August 1, 2023

Scott Curtin, Director of Public Works
City of Kenai
210 Fidalgo Ave
Kenai, AK 99611

Dear Mr. Curtin:

The Alaska State Revolving Fund Program's State Fiscal Year 2024 (SFY24) Project Priority List for the Alaska Drinking Water Fund (ADWF) has been updated and includes the project listed below based on the questionnaire submitted in February 2023. The complete Project Priority List and the Intended Use Plan can be found online at: <https://dec.alaska.gov/water/technical-assistance-and-financing/state-revolving-fund/intended-use-plans/>.

Alaska Drinking Water Fund

Score	Project Name	Requested Loan Amount	Loan Forgiveness	Estimated Project Start Date
120	Water Treatment Plant Pumphouse	\$1,200,000	\$1,200,000	5/1/2024

This project has been allocated 100% loan forgiveness. If a loan application is not submitted by February 29, 2024, the offer of loan forgiveness may be rescinded and re-allocated to another project that is ready to move forward.

As mentioned in the Intended Use Plan, projects may remain on the Project Priority List for a maximum of two years. These projects will retain the same score originally assigned unless a revised questionnaire is submitted and reviewed. If applications have not been submitted for these projects within two years from the date that the project questionnaires were submitted, the projects will be removed from the list and new questionnaires will be required to relist the project.

The next step in the financing process is to submit a loan application. If you have questions about the next steps you need to take to complete the loan application process, please contact the SRF Program.

Sincerely,

Peggy Ulman
SRF Program Coordinator
907-334-2681
peggy.ulman@alaska.gov