

Submitted by: Chairman of the Assembly
at the Request of the Mayor
Prepared by: Anchorage Water & Wastewater Utility
For reading: June 30, 1998

CLERK'S OFFICE

APPROVED

Date: 7-21-98

ANCHORAGE, ALASKA

AO No. 98-112

AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE, ALASKA, AUTHORIZING AND PROVIDING FOR THE BORROWING OF NOT TO EXCEED \$6,090,000 FROM THE STATE OF ALASKA DRINKING WATER FUND FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF THE ANCHORAGE LOOP WATER TRANSMISSION MAIN PROJECT PHASE VII (AIRPORT WATER PROJECT PHASE 1B) PROJECT, AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the State of Alaska (the "State") has, pursuant to Alaska Statutes 46.03.036 and 18 AAC 76.200 et seq of the Alaska Administrative Code, established the Alaska Drinking Water Fund (the "Fund"), a fund which makes use of U.S. Government grants as authorized by the Safe Drinking Water Act, Amendments of 1996, P. L. 104-182.

WHEREAS, the Municipality of Anchorage (the "Municipality") is eligible to borrow from the Fund to assist in the planning, designing, constructing, equipping, modifying, improving and expanding of public water treatment, transmission and distribution facilities; and

WHEREAS, the interest rate to be paid by the Municipality on money borrowed from the Fund is a favorable rate considering other sources of funds available to the Municipality; and

WHEREAS, the Home Rule Charter of the Municipality provides at Section 15.03 that the Assembly by ordinance shall provide for the form and manner of sale of bonds and notes; and

WHEREAS, the Assembly of the Municipality has determined and does hereby determine that it is necessary to proceed to plan, design, develop, construct, equip, acquire property for, or otherwise obtain items of capital improvements in conjunction with the **Anchorage Loop Water Transmission Main Phase VII (Airport Water Project Phase 1B)**; and

WHEREAS, it is deemed necessary and advisable and in the best interests of the Municipality and its inhabitants that a final application be submitted and such other actions as may be necessary be taken to borrow an amount not to exceed \$6,090,000 from the Fund for the purpose of financing a portion of the costs associated with said Project.

NOW THEREFORE, the Municipality of Anchorage ordains:

Section 1 Definitions. As used in this Ordinance, unless a different meaning clearly appears from the context:

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"Gross Revenues" means all rates and charges and other income, in each case derived by or for the account of the Municipality, from the ownership, leasing or operation of the System except proceeds from the sale of bonds or notes, any grants received for the Anchorage Water Utility, and interest received and profits derived from the investment of moneys obtained from such sources or from moneys held in any fund to pay or secure the payment of any bonds or notes issued in connection with the System. For the purposes of this Ordinance, Gross Revenues shall not include allowance for funds used during construction.

"Lien Revenue Bonds" means all publicly marketed revenue bonds or other obligations issued by the Municipality having a lien on net revenue (Gross Revenue less Operating Expenses).

"Operating Expenses" means the current expenses incurred for operation, maintenance or repair of the System of a non-capital nature, and shall include, without limiting the generality of the foregoing, water purchase agreements, source of supply expenses, water treatment, transmission and distribution expenses, fuel and electricity expenses, chemical expenses, customer accounts expenses, administrative and general expenses, insurance premiums, lease rentals, legal, regulatory, and engineering expenses, payments to pension, retirement, group life insurance, health and hospitalization funds or other employee benefit funds which are properly chargeable to current operations, interest on customers' deposits, payroll tax expenses, Municipal Utility Service Assessments or any assessment levied in lieu of municipal taxes and any other expenses required to be paid under the provisions of this Ordinance or by law or permitted by standard practices for public utility systems similar to the properties and business of the System (adjusted to reflect public ownership) and applicable in the circumstances. Operating Expenses shall not include any allowances for depreciation or amortization or any principal, redemption price or purchase price of, or interest on, any obligations of the Municipality incurred in connection with and payable from Gross Revenues.

"System" means the existing water utility system of the Municipality as the same will be added to, improved and extended as authorized and provided in this Ordinance, and as the same may be added to, improved and extended for as long as the loan authorized by this Ordinance is outstanding, but shall not include such water supply, treatment, transmission and distribution facilities that may be hereafter purchased, constructed or otherwise acquired by the Municipality as a separate water utility system, the revenues of which may be pledged to the payment of bonds or notes issued to purchase, construct or otherwise acquire and improve such separate system. The term System shall also include the wastewater system of the Municipality if hereafter combined with the water utility.

2 Section 2. Purpose. The purpose of this Ordinance is to authorize the borrowing of not
3 to exceed \$6,090,000 from the Fund in the form of a loan to provide funds to finance a
4 portion of the capital costs of the Project and to fix certain details of said loan.
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6 Section 3. Authority for Ordinance. The Assembly has ascertained and hereby
7 determines that each and every matter and thing as to which provision is made in this
8 Ordinance is necessary in order to carry out and effectuate the purposes of the Municipality
9 in accordance with the Constitution and statutes of the State of Alaska, and the Home Rule
10 Charter of the Municipality, and to incur the indebtedness authorized by this Ordinance.
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12 Section 4. Obligation of Loan. The obligation to repay the loan authorized by this
13 Ordinance shall not be a direct and general obligation of the Municipality and neither the
14 faith and credit nor the taxing power of the Municipality is pledged to the payment of the
15 principal of and interest on the loan. The Gross Revenues less the Operating Expenses of
16 the System are hereby pledged to repayment of the loan authorized by this Ordinance.
17 Such pledge shall be subordinate to the lien on net revenues of Lien Revenue Bonds of
18 the Municipality heretofore and hereafter issued.
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20 Section 5. Authorization of Loan and Purpose of Issuance. For the purpose of
21 providing a portion of the funds required to pay the cost of the Project described herein, and
22 to pay all costs incidental thereto, the Municipality hereby authorizes and determines to
23 borrow money from the Fund in the form of a loan in an aggregate principal amount not to
24 exceed \$6,090,000.
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26 Section 6. Loan Application. The General Manager of the Anchorage Water &
27 Wastewater Utility ("AWWU") is hereby authorized and directed to complete and submit to
28 the State Department of Environmental Conservation an application to borrow money from
29 the Fund for the purpose of financing a portion of the costs of the Project as authorized in
30 this Ordinance.
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32 Section 7. Negotiation of Terms and Approval of Amount, Interest Rates, Maturities and
33 Other Details of Loans. The General Manager of AWWU shall negotiate with the State, and
34 the Assembly shall by resolution approve, the total amount of the loan to be entered into for
35 the Project; the interest rate, which shall not exceed 75 percent of the Merrill Lynch 50
36 State General Revenue Bond Index as published in the Wall Street Journal on the Friday
37 preceding the closing of any loan; the interest and principal payment dates, the maturities,
38 which shall not exceed 20 years, and any other details of the loan.

2 Section 8. Authority of Officers. The Mayor, the Acting Mayor from time to time, the
3 Municipal Manager, the Chief Fiscal Officer, the General Manager of AWWU, the Municipal
4 Clerk and the Acting Municipal Clerk from time to time, are, and each of them hereby is,
5 authorized and directed to do and perform all things and determine all matters not
6 determined by this Ordinance, or to be determined by a subsequent ordinance or resolution
7 of the Municipality, to this end that the Municipality may carry out its obligations under the
8 loan and this Ordinance.

9 Section 9. Severability. If any one or more of the covenants and agreements provided
10 in this Ordinance to be performed on the part of the Municipality shall be declared by any
11 court of competent jurisdiction to be contrary to law, then such covenant and agreements
12 shall be null and void and shall be deemed separable from the remaining covenant and
13 agreement in this Ordinance and shall in no way affect the facility of the other provisions of
14 this Ordinance or of the loan entered into pursuant to this Ordinance.

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16 Section 10. Effective Date. This Ordinance shall take effect immediately.

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18 PASSED AND APPROVED by the Anchorage Assembly this 21st day of July,
19 1998.

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25 Chairman

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27 ATTEST:

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30 Municipal Clerk
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