

CLERK'S OFFICE

APPROVED

Date: 7-21-98

Submitted by: Chairman of Assembly at
the Request of the Mayor

Prepared by: Solid Waste Services

For reading: June 30, 1998

ANCHORAGE, ALASKA

AO NO. 98-114

AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE ALASKA AUTHORIZING AND PROVIDING FOR THE BORROWING OF NOT TO EXCEED \$9,000,000 FROM THE STATE OF ALASKA CLEAN WATER FUND FOR THE PURPOSE OF THE CONSTRUCTION OF CELL 6 AT THE ANCHORAGE REGIONAL LANDFILL; AND PROVIDING FOR RELATED MATTERS

WHEREAS, the State of Alaska (the "State") has, pursuant to Alaska Statutes 46.03.032 and 18 AAC 76.005 et seq. of the Alaska Administrative Code, established the Alaska Clean Water Fund (the "Fund"), a fund which makes use of U.S. Government grants as authorized by the Clean Water Act, as amended by P.L. 100-4; and

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 the Anchorage Regional Landfill; 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, construct, equip, or otherwise obtain items of capital improvements in connection with Cell 6 of the Anchorage Regional Landfill (the "Project"); 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 \$9,000,000 from the Fund for the purposes said project.

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY ORDAINS:

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

"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 Project Facility except proceeds from the sale of bonds or notes, any grants received for the Solid Waste Disposal 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 Project Facility. For purposes of this Ordinance, Gross Revenues shall not include allowance for funds used during construction.

"Operating Expenses" means the current expenses incurred for operation, maintenance or repair of the Project Facility of a non-capital nature, and shall include, without limiting the generality of the foregoing, collection, future landfill closure costs, transmission and treatment 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 expense, 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 Project Facility (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 any payable from Gross Revenues.

"Project Facility" means the existing Anchorage Regional Landfill 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 any of the loans authorized by this Ordinance are outstanding, but shall not include such landfill facilities that may be hereafter purchased, constructed or otherwise acquired by the Municipality as a separate 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.

Section 2. Purpose. The purpose of this Ordinance is to authorize the borrowing of not to exceed \$9,000,000 from the Fund in the form of a loan to provide funds to pay a portion of the costs of the Project and to fix certain details of said loan.

Section 3. Authority for Ordinance. The Assembly has ascertained and hereby determines that each and every matter and thing as to which provision is made in this Ordinance is necessary in order to carry out and effectuate the purposes of the Municipality in accordance with the Constitution and statutes of the State of Alaska, and the Home Rule Charter of the Municipality, and to incur the indebtedness authorized by this Ordinance.

Section 4. Obligation of Loan. The obligation to repay the loan authorized by this Ordinance shall not be a direct and general obligation of the Municipality and neither the faith and credit nor the taxing power of the Municipality is pledged to the payment of the principal of and interest on the loan. The Gross Revenues less the Operating Expenses of the Project Facility are hereby pledged to repayment of the loan authorized by this Ordinance.

Section 5. Authorization of Loan and Purpose of Issuance. For the purpose of providing a portion of the funds required to pay the cost of the Project described herein, and to pay all costs incidental thereto, the Municipality hereby authorizes and determines to borrow money from the Fund in the form of a loan in an aggregate principal amount not to exceed \$9,000,000.

Section 6. Loan Applications. The Director of Solid Waste Services is hereby authorized and directed to complete and submit to the State Department of Environmental Conservation an application to borrow money from the Fund for the purpose of paying a portion of the cost of the Project as authorized in this Ordinance.

Section 7. Negotiation of Terms and Approval of Amount, Interest Rates, Maturities and Other Details of Loans. The Director of Solid Waste Services shall negotiate with the State and the Assembly shall by resolution approve the total amount of the loan to be entered into for the Project; the interest rate, which shall not exceed 75 percent of the Municipal Bond Index as published in the Wall Street Journal on the Friday preceding the closing of any loan; the interest and principal payment dates; the maturities, which shall not exceed 20 years; and any other details of the loan.

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

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

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

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

Fay Van Hemmingen
Chair of the Assembly

ATTEST:

Kyrene F. Ferguson
Municipal Clerk