

CLERK'S OFFICE

APPROVED

Date: 9-15-98

ANCHORAGE, ALASKA
AO No. 98- 151

1 AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE, ALASKA, AUTHORIZING
2 AND PROVIDING FOR THE BORROWING OF NOT TO EXCEED \$1,785,000 FROM THE
3 STATE OF ALASKA CLEAN WATER FUND FOR THE PURPOSE OF PAYING A
4 PORTION OF THE COSTS OF WASTEWATER CAPITAL IMPROVEMENTS IN THE
5 MUNICIPALITY, AND PROVIDING FOR RELATED MATTERS.
6

7
8 WHEREAS, the State of Alaska (the "State") has, pursuant to Alaska Statutes
9 46.03.032 and 18 AAC 76.005 et seq of the Alaska Administrative Code, established the
10 Alaska Clean Water Fund (the "Fund"), a fund which makes use of U.S. Government grants
11 as authorized by the Clean Water Act, as amended by P.L. 100-4; and
12

13 WHEREAS, the Municipality of Anchorage (the "Municipality") is eligible to borrow
14 from the Fund to assist in the planning, designing, constructing, equipping, modifying,
15 improving and expanding of public wastewater collection, treatment and discharge facilities;
16 and
17

18 WHEREAS, the interest rate to be paid by the Municipality on money borrowed from
19 the Fund is a favorable rate considering other sources of funds available to the Municipality;
20 and
21

22 WHEREAS, the Home Rule Charter of the Municipality provides at Section 15.03 that
23 the Assembly by ordinance shall provide for the form and manner of sale of bonds and
24 notes; and
25

26 WHEREAS, the Assembly of the Municipality has determined and does hereby
27 determine that it is necessary to proceed to plan, design, develop, construct, equip, acquire
28 property for, or otherwise obtain items of capital improvements in connection with the
29 following projects: **(1) Miscellaneous Small Sewer R&R, Ph I** consisting of (a) 7/8 Alley
30 Sewer Upgrade, (b) Chandalar Sewer Diversion, (c) Glen Caren Sewer Upgrade, (d)
31 Kruger Sewer Upgrade, (e) Lathrop Sewer Upgrade, (f) Misc. Small Sewer R&R, (g) Reka
32 Drive Upgrade and (h) Rhone Circle Sewer R&R; and **(2) Miscellaneous Small Sewer**
33 **R&R, Ph II** consisting of (a) 4/5 Alley/Eagle-Fairbanks, (b) Aero Acres, and (c) Alaska
34 Village Sewer Upgrade; and
35

36 WHEREAS, it is deemed necessary and advisable and in the best interests of the
37 Municipality and its inhabitants that separate final applications be submitted and such other
38 actions as may be necessary be taken to borrow an amount not to exceed \$1,785,000 from
39 the Fund for the purpose of paying a portion of the costs associated with said Projects.

1 NOW THEREFORE, the Municipality of Anchorage ordains:
2

3 Section 1 Definitions. As used in this Ordinance, unless a different meaning clearly
4 appears from the context:
5

6 "Gross Revenues" means all rates and charges and other income, in each case
7 derived by or for the account of the Municipality, from the ownership, leasing or operation of
8 the System except proceeds from the sale of bonds or notes, any grants received for the
9 Anchorage Wastewater Utility, and interest received and profits derived from the investment
10 of moneys obtained from such sources or from moneys held in any fund to pay or secure the
11 payment of any bonds or notes issued in connection with the System. For the purposes of
12 this Ordinance, Gross Revenues shall not include allowance for funds used during
13 construction.
14

15 "Operating Expenses" means the current expenses incurred for operation,
16 maintenance or repair of the System of a non-capital nature, and shall include, without
17 limiting the generality of the foregoing, collection, transmission and treatment expenses, fuel
18 and electricity expenses, chemical expenses, customer accounts expenses, administrative
19 and general expenses, insurance premiums, lease rentals, legal, regulatory, and
20 engineering expenses, payments to pension, retirement, group life insurance, health and
21 hospitalization funds or other employee benefit funds which are properly chargeable to
22 current operations, interest on customers' deposits, payroll tax expenses, Municipal Utility
23 Service Assessments or any assessment levied in lieu of municipal taxes and any other
24 expenses required to be paid under the provisions of this Ordinance or by law or permitted
25 by standard practices for public utility systems similar to the properties and business of the
26 System (adjusted to reflect public ownership) and applicable in the circumstances.
27 Operating Expenses shall not include any allowances for depreciation or amortization or any
28 principal, redemption price or purchase price of, or interest on, any obligations of the
29 Municipality incurred in connection with and payable from Gross Revenues.
30

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

1 "Lien Revenue Bonds" means all publicly marketed revenue bonds or other
2 obligations issued by the Municipality having a lien on net revenues (Gross Revenues less
3 Operating Expenses).
4

5 Section 2. Purpose. The purpose of this Ordinance is to authorize the borrowing of
6 not to exceed \$1,785,000 from the Fund in the form of separate loans to provide funds to
7 pay a portion of the capital costs of the Projects and to fix certain details of said separate
8 loans.
9

10 Section 3. Authority for Ordinance. The Assembly has ascertained and hereby
11 determines that each and every matter and thing as to which provision is made in this
12 Ordinance is necessary in order to carry out and effectuate the purposes of the Municipality
13 in accordance with the Constitution and statutes of the State of Alaska, and the Home Rule
14 Charter of the Municipality, and to incur the indebtedness authorized by this Ordinance.
15

16 Section 4. Obligation of Loans. The obligation to repay the separate loans authorized
17 by this Ordinance shall not be a direct and general obligation of the Municipality and neither
18 the faith and credit nor the taxing power of the Municipality is pledged to the payment of the
19 principal of and interest on the separate loans. The Gross Revenues less the Operating
20 Expenses of the System are hereby pledged to repayment of the loans authorized by this
21 Ordinance. Such pledge shall be subordinate to the lien on net revenues of lien revenue
22 bonds of the Municipality issued heretofore and hereafter on behalf of the Anchorage
23 Wastewater Utility.
24

25 Section 5. Authorization of Loans and Purpose of Issuance. For the purpose of
26 providing a portion of the funds required to pay the cost of the Projects described herein,
27 and to pay all costs incidental thereto, the Municipality hereby authorizes and determines to
28 borrow money from the Fund in the form of separate loans in an aggregate principal amount
29 not to exceed \$1,785,000.
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31 Section 6. Loan Application. The General Manager of the Anchorage Water &
32 Wastewater Utility ("AWWU") is hereby authorized and directed to complete and submit to
33 the State Department of Environmental Conservation applications to borrow money from the
34 Fund for the purpose of paying a portion of the costs of the Projects as authorized in this
35 Ordinance.
36

37 Section 7. Negotiation of Terms and Approval of Amount, Interest Rates, Maturities
38 and Other Details of Loans. The General Manager of AWWU shall negotiate with the State
39 and the Assembly shall by resolution approve the total amount of the loans to be entered
40 into for the Projects; the interest rate, which shall not exceed 75 percent of the Merrill Lynch
41 50 State General Obligation Bond Index as published in the Wall Street Journal on the
42 Friday preceding the closing of any loans; the interest and principal payment dates, the
43 maturities, which shall not exceed 20 years, and any other details of the loans.

Section 8. Authority of Officers. The Mayor, the Acting Mayor from time to time, the Municipal Manager, the Chief Fiscal Officer, the General Manager of AWWU, 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 this end that the Municipality may carry out its obligations under the loans 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 and agreements shall be null and void and shall be deemed separable from the remaining covenant and agreement in this Ordinance and shall in no way affect the facility of the other provisions of this Ordinance or of the loans entered into pursuant to this Ordinance.

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

PASSED AND APPROVED by the Anchorage Assembly this 15th day of September, 1998.

Fay Van Hemmen
Chairman

ATTEST:

Lizanne Fergusson
Municipal Clerk