

CLERK'S OFFICE

APPROVED

Date: 12-08-98

ANCHORAGE, ALASKA  
AO No. 98- 183

AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE, ALASKA, AUTHORIZING AND PROVIDING FOR THE BORROWING FROM THE STATE OF ALASKA DRINKING WATER FUND OF AN AMOUNT NOT TO EXCEED \$4,750,000 FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF THE ANCHORAGE LOOP WATER TRANSMISSION MAIN PHASE VI PROJECT IN THE MUNICIPALITY, 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 connection with the **ANCHORAGE LOOP WATER TRANSMISSION PHASE VI** 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 **\$4,750,000** 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:

"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.

"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.

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

2        Section 2. Purpose. The purpose of this Ordinance is to authorize the borrowing of  
3 not to exceed **\$4,750,000** 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.

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

10        Section 4. Obligation of Loan. The obligation to repay the loan authorized by this  
11 Ordinance shall not be a direct and general obligation of the Municipality and neither the  
12 faith and credit nor the taxing power of the Municipality is pledged to the payment of the  
13 principal of and interest on the loan. The Gross Revenues less the Operating Expenses of  
14 the System are hereby pledged to repayment of the loan authorized by this Ordinance.  
15 Such pledge shall be subordinate to the lien on net revenues of lien revenue bonds of the  
16 Municipality heretofore and hereafter issued.

17        Section 5. Authorization of Loan and Purpose of Issuance. For the purpose of  
18 providing a portion of the funds required to pay the cost of the Project described herein, and  
19 to pay all costs incidental thereto, the Municipality hereby authorizes and determines to  
20 borrow money from the Fund in the form of a loan in an aggregate principal amount not to  
21 exceed **\$4,750,000**.

22        Section 6. Loan Application. The General Manager of the Anchorage Water &  
23 Wastewater Utility ("AWWU") is hereby authorized and directed to complete and submit to  
24 the State Department of Environmental Conservation an application to borrow money from  
25 the Fund for the purpose of financing a portion of the costs of the Project as authorized in  
26 this Ordinance.

27        Section 7. Negotiation of Terms and Approval of Amount, Interest Rates, Maturities  
28 and Other Details of Loans. The General Manager of AWWU shall negotiate with the State  
29 and the Assembly shall by resolution approve the total amount of the loan to be entered into  
30 for the Projects; the interest rate, which shall not exceed 75 percent of the Merrill Lynch 50  
31 State General Revenue Bond Index as published in the Wall Street Journal on the Friday  
32 preceding the closing of any loan; the interest and principal payment dates, the maturities,  
33 which shall not exceed 20 years, and any other details of the loan.

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

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9        Section 9. Severability. If any one or more of the covenants and agreements  
10 provided in this Ordinance to be performed on the part of the Municipality shall be declared  
11 by any court of competent jurisdiction to be contrary to law, then such covenant and  
12 agreements shall be null and void and shall be deemed separable from the remaining  
13 covenant and agreement in this Ordinance and shall in no way affect the facility of the other  
14 provisions of 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 8<sup>th</sup> day of  
19 December, 1998.

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23          
24 Chairman

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26        ATTEST:

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29          
30 Municipal Clerk