

AD99-128

CLERK'S OFFICE

APPROVED

Date: 10-13-99Submitted by: Chairman of the Assembly
at the Request of the Mayor

Prepared by: Anchorage Water & Wastewater Utility

For reading: SEPTEMBER 21, 1999

ANCHORAGE, ALASKA
AO No. 99- 128

AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE, ALASKA, AUTHORIZING AND PROVIDING FOR THE BORROWING OF NOT TO EXCEED \$10,576,000 FROM THE STATE OF ALASKA CLEAN WATER FUND FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF WASTEWATER CAPITAL IMPROVEMENT PROJECTS IN THE MUNICIPALITY, 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 public wastewater collection, treatment and discharge 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 following wastewater projects:

Hillside Contributed Flow Study	\$ 50,000
Wastewater Studies - 1999	\$ 225,000
<i>On-Site/Public Systems and</i>	
<i>Pt. Woronzof Wastewater Treatment Facility Plan (Risk Management)</i>	
Old Glenn Highway Interceptor	\$ 300,000
Septic Site Upgrade	\$ 500,000
Disinfection Alternative Upgrades	\$ 500,000
Miscellaneous Sewer System Upgrades - 2000	\$ 505,000
<i>Michael Court Sewer Upgrade,</i>	
<i>Pump Station 6 (Woodside Park & 20th),</i>	
<i>Primrose & 16th Sewer Upgrade, and</i>	
<i>Reka Sewer Upgrade - Phase I;</i>	
Operations Facility Phase III	\$2,000,000
Wastewater Data Processing Equipment - 1998	\$ 285,000
Wastewater Data Processing Equipment - 1999	\$2,115,000
Wastewater Data Processing Equipment - 2000	\$4,096,000; and

AM 878-99

WHEREAS, it is deemed necessary and advisable and in the best interests of the Municipality and its inhabitants that separate final applications be submitted and such other actions as may be necessary be taken to borrow an amount not to exceed **\$18,976,000** from the Fund for the purpose of paying a portion of the costs associated with said Projects.

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 Wastewater 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, collection, 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 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 wastewater 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 collections, transmission and treatment facilities that may be hereafter purchased, constructed or otherwise acquired by the Municipality as a separate wastewater 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 water system of the Municipality if thereafter combined with the wastewater system.

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

1 Section 2. Purpose. The purpose of this Ordinance is to authorize the borrowing
2 of not to exceed **\$10,576,000** from the Fund in the form of separate loans to provide
3 funds to pay a portion of the capital costs of the Projects and to fix certain details of said
4 separate loans.

5
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
9 Municipality in accordance with the Constitution and statutes of the State of Alaska, and
10 the Home Rule Charter of the Municipality, and to incur the indebtedness authorized by
11 this Ordinance.

12
13 Section 4. Obligation of Loans. The obligation to repay the separate loans
14 authorized by this Ordinance shall not be a direct and general obligation of the
15 Municipality and neither the faith and credit nor the taxing power of the Municipality is
16 pledged to the payment of the principal of and interest on the separate loans. The Gross
17 Revenues less the Operating Expenses of the System are hereby pledged to repayment
18 of the loans authorized by this Ordinance. Such pledge shall be subordinate to the lien
19 on net revenues of lien revenue bonds of the Municipality issued heretofore and
20 hereafter on behalf of the Anchorage Wastewater Utility.

21
22 Section 5. Authorization of Loans and Purpose of Issuance. For the purpose of
23 providing a portion of the funds required to pay the cost of the Projects described herein,
24 and to pay all costs incidental thereto, the Municipality hereby authorizes and
25 determines to borrow money from the Fund in the form of separate loans in an
26 aggregate principal amount not to exceed **\$10,576,000**.

27
28 Section 6. Loan Application. The General Manager of the Anchorage Water &
29 Wastewater Utility ("AWWU") is hereby authorized and directed to complete and submit
30 to the State Department of Environmental Conservation applications to borrow money
31 from the Fund for the purpose of paying a portion of the costs of the Projects as
32 authorized in this Ordinance.

33
34 Section 7. Negotiation of Terms and Approval of Amount, Interest Rates,
35 Maturities and Other Details of Loans. The General Manager of AWWU shall negotiate
36 with the State and the Assembly shall by resolution approve the total amount of the
37 loans to be entered into for the Projects; the interest rate, which shall not exceed 75
38 percent of the Merrill Lynch 50 State General Obligation Bond Index as published in the
39 Wall Street Journal on the Friday preceding the closing of any loans; the interest and
40 principal payment dates, the maturities, which shall not exceed 20 years, and any other
41 details of the loans.

42
43 Section 8. Authority of Officers. The Mayor, the Acting Mayor from time to time,
44 the Municipal Manager, the Chief Fiscal Officer, the General Manager of AWWU, the
45 Municipal Clerk and the Acting Municipal Clerk from time to time, are, and each of them
46 hereby is, authorized and directed to do and perform all things and determine all matters
47 not determined by this Ordinance, or to be determined by a subsequent ordinance or
48 resolution of the Municipality, to this end that the Municipality may carry out its
49 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 12th day of October, 1999.

Chairman

ATTEST:

Municipal Clerk