

CLERK'S OFFICE

APPROVED

Date: 12-2-03

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

Prepared by: Department of Law

For reading: November 18, 2003

ANCHORAGE, ALASKA

AO No. 2003-160

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 26.10.025 AND 12.25.040 REGARDING CALCULATION AND APPLICATION OF MUNICIPAL UTILITY SERVICE ASSESSMENTS (MUSA); ADDING A NEW SECTION AND DELETING REFERENCES TO ANCHORAGE TELEPHONE UTILITY.

THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1.** Anchorage Municipal Code section 26.10.025 is amended to read as follows:

**26.10.025 Municipal utility service assessment.**

- A. It is the public policy of the municipality to require municipal enterprise activities (the [ANCHORAGE TELEPHONE UTILITY,] municipal water and wastewater utility, municipal light and power, solid waste disposal utility, and refuse collection utility) to pay a municipal utility service assessment (MUSA) for governmental services provided by the municipality, other than those services received on a contract or interfund basis between the enterprise activity and the municipality.
- B. The MUSA shall be applied in a like manner to the [ANCHORAGE TELEPHONE UTILITY,] municipal water and wastewater utility, municipal light and power, solid waste disposal, and refuse collection utility.
- C. The MUSA shall be calculated by applying the millage rate established annually for each service area by the assembly to the net classified [NONCONTRIBUTED] plant in service as of January 1 of the current year of each utility, as [DEFINED BY THE FEDERAL COMMUNICATIONS COMMISSION FOR THE ANCHORAGE TELEPHONE UTILITY, AS] established by the Federal Energy Regulatory Commission for the municipal light and power system, and as published by the National Association of Regulatory Utility Commissioners for the municipal water and wastewater utility, located in that service area. Net book value of plant [LESS NET CONTRIBUTED PLANT] will be the MUSA basis for the refuse collection utility and solid waste disposal utility. The millage rate so established will be that rate assessed other owners of real, personal and business property in each service area.
- D. In addition, 1.25 percent shall be applied, excluding the refuse collection utility, to the actual gross operating revenues as presented in the prior year's annual financial report for municipal enterprise activities. [FOR THE ANCHORAGE

TELEPHONE UTILITY, ACTUAL UNREGULATED GROSS OPERATING REVENUES WILL BE EXCLUDED.] Thus, the formula which will apply to all included enterprise activities for MUSA will be: (net [NONCONTRIBUTED] plant  $\times$  mill rate) + (1.25 percent  $\times$  actual gross operating revenues) = MUSA. [IN 1989 ONLY, TO PROVIDE A TRANSITION, THE 1.25 PERCENT SHALL BE APPLIED TO THE PROJECTED 1989 BUDGET GROSS OPERATING REVENUES. FOR THE ANCHORAGE TELEPHONE UTILITY, BUDGET UNREGULATED GROSS OPERATING REVENUES WILL BE EXCLUDED.] For the municipal water and wastewater utility only, 40 percent of the value of contributed plant shall be used for MUSA calculation purposes during 2004 and the full value of contributed plant shall be included in the MUSA formula beginning in 2005.

(AO No. 94-76A; AO No. 85-174; AO No. 88-162; AO No. 88-173)

**Section 2.** That Anchorage Municipal Code subsection 12.25.040A.2. is amended as follows (*the remainder of the section is not affected and therefore not set out*):

**12.25.040 Computation of maximum attainable tax revenue amount.**

The estimate of maximum attainable tax revenue (next year revenue available) is computed for the next fiscal year according to the following procedures:

A. Define the tax increase escalation amount, (L):

$L = (T - d - e) \times (1 + C + P)$  where:

1. L is the allowable tax increase due to population and inflation growth factors.
2. T is the total amount of real property, and personal property [AND MUNICIPAL UTILITIES SERVICES ASSESSMENT (MUSA) MUNICIPAL] taxes, auto fees and state and federal payments in lieu of taxes levied in the current fiscal year in current-year dollars.

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**Section 3.** That Anchorage Municipal Code Section 12.25.040 is amended to add a new subsection D as follows (*the remainder of the section is not affected and therefore not set out*):

**12.25.040 Computation of maximum attainable tax revenue amount.**

The estimate of maximum attainable tax revenue (next year revenue available) is computed for the next fiscal year according to the following procedures:

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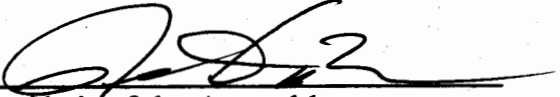
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- D. The fiscal year 2004 maximum attainable tax revenue calculated pursuant to AMC 12.25.040 shall be reduced by an amount equal to the municipal utilities

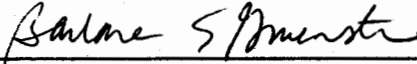
services assessment used to calculate the 2003 maximum attainable tax revenue amount.

**Section 4.** This ordinance shall become effective on January 1, 2004.

PASSED AND APPROVED by the Anchorage Assembly this 2nd day of December, 2003.

  
Chair of the Assembly

ATTEST:

  
Municipal Clerk

**MUNICIPALITY OF ANCHORAGE**  
**Summary of Economic Effects -- General Government**

AO Number: 2003- 160

Title: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE  
SECTIONS 26.10.025 AND 12.25.040 REGARDING CALCULATION AND  
APPLICATION OF MUNICIPAL UTILITY SERVICE ASSESSMENTS  
(MUSA); ADDING A NEW SECTION AND DELETING REFERENCES TO  
ANCHORAGE TELEPHONE UTILITY.

Sponsor: Chair of the Assembly at the Request of the Mayor  
Preparing Agency: OMB  
Others Impacted: AWWU, ML&P, SWS

**CHANGES IN EXPENDITURES AND REVENUES:**

(In Thousands of Dollars)

|                                  | <u>FY03</u> | <u>FY04</u>     | <u>FY05</u>     | <u>FY06</u>     | <u>FY07</u>     |
|----------------------------------|-------------|-----------------|-----------------|-----------------|-----------------|
| <b>Operating Expenditures</b>    |             |                 |                 |                 |                 |
| 1000 Personal Services           |             |                 |                 |                 |                 |
| 2000 Non-Labor                   |             |                 |                 |                 |                 |
| 3900 Contributions               |             |                 |                 |                 |                 |
| 4000 Debt Service                |             |                 |                 |                 |                 |
| <b>TOTAL DIRECT COSTS:</b>       | <b>\$ -</b> | <b>\$ -</b>     | <b>\$ -</b>     | <b>\$ -</b>     | <b>\$ -</b>     |
| Add: 6000 Charges from Others    |             |                 |                 |                 |                 |
| Less: 7000 Charges to Others     |             |                 |                 |                 |                 |
| <b>FUNCTION COST:</b>            | <b>\$ -</b> | <b>\$ -</b>     | <b>\$ -</b>     | <b>\$ -</b>     | <b>\$ -</b>     |
| <b>REVENUES:</b>                 | <b>\$ -</b> | <b>\$ 2,728</b> | <b>\$ 6,435</b> | <b>\$ 6,435</b> | <b>\$ 6,435</b> |
| <b>CAPITAL:</b>                  |             |                 |                 |                 |                 |
| <b>POSITIONS: FT/PT and Temp</b> |             |                 |                 |                 |                 |

**PUBLIC SECTOR ECONOMIC EFFECTS:**

The increased MUSA is a necessary operating expense of each municipally owned utility. This may result in the need to recover some or all of these costs in increased rates. In Section 2 of the ordinance, an amendment to AMC 12.25.040, proposes that MUSA revenues be removed from the formula used to calculate the maximum attainable tax revenue (the "tax cap"). In addition, Section 3 of the ordinance proposes a new AMC 12.25.040.D that reduces the 2004 tax cap by the amount of MUSA revenues generated in 2003, about \$5.6 million. New MUSA revenues generated under the revised formula proposed in Section 1 of the ordinance would be treated as non-tax revenues in 2004 and as such, constitute new spending authority of about \$2.7 million. Beginning in 2005, all MUSA revenues will be treated as non tax revenue, not subject to AMC 12.25.040.

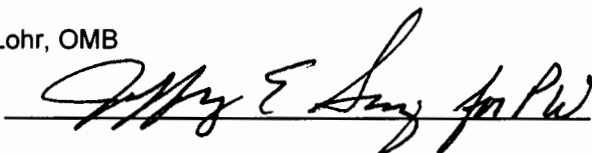
**PRIVATE SECTOR ECONOMIC EFFECTS:**

MUSA is an operating expense of a utility and therefore recoverable through rates. Any increases in MUSA charges, not absorbed by the utility through internal operating efficiencies or otherwise, can be expected to increase utility rates. AWWU has not increased Water Utility rates since 1991 or Wastewater Utility rates since 1992. In 2001, AWWU actually reduced Wastewater Utility rates. AWWU plans to present a rate proposal to the Assembly in December. If approved, it will be filed with the Regulatory Commission of Alaska. Some or all of the 2004 MUSA increase will be included in this already planned rate filing. Based on current estimates, the proposed 2004 change in MUSA will result in an increase of about \$2.21 per month, or 4.7% in combined AWWU rates.

Prepared by: Bob Lohr, OMB

Telephone 343-4467

Validated by OMB:



Date: 11/18/03



# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

No. 939-2003

Meeting Date: November 18, 2003

1 **FROM:** Mayor

2  
3 **SUBJECT:** Municipal Utility Service Assessment (MUSA)

4  
5  
6 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 26.10.025  
7 AND 12.25.040 REGARDING CALCULATION AND APPLICATION OF MUNICIPAL  
8 UTILITY SERVICE ASSESSMENTS (MUSA); ADDING A NEW SECTION AND DELETING  
9 REFERENCES TO ANCHORAGE TELEPHONE UTILITY.

10  
11  
12 The attached ordinance changes the formula used to calculate the municipal utility service  
13 assessment (MUSA) by eliminating the current exemption on contributed plant, removes MUSA  
14 from the tax cap calculation, provides that the 2004 tax cap will be reduced by the amount of  
15 MUSA collected in 2003, and deletes some unnecessary language regarding the former Anchorage  
16 Telephone Utility. The proposed change reinstates the pre-1988 MUSA treatment of contributed  
17 plant.

18  
19 Contributed plant consists of equipment or facilities received by the utility at no cost from a person  
20 or government agency. For example, a developer may build water and sewer facilities for a  
21 subdivision, then donate them to the utility for use in providing service to purchasers of the lots. In  
22 addition, capital assets acquired with state or federal grant funds are also classified as contributed  
23 plant.

24  
25 Current law requires that municipal owned utilities pay a MUSA for "government services provided  
26 by the municipality, other than those services received on a contract or interfund basis." (AMC  
27 26.10.025.A) The services provided include fire protection, police, and road maintenance, among  
28 others. MUSA is not a tax. Rather, it is a payment in lieu of taxes paid by municipal owned  
29 utilities that are tax exempt. Nationally, most municipally owned utilities pay some form of  
30 MUSA, other tax or franchise fee to their local or state government.

31  
32 An examination of municipal utility budgets and the application of MUSA indicate that the current  
33 MUSA formula results in inconsistent assessments amongst municipal utilities, and in the case of  
34 AWWU, underpayment to the municipality. Although differences in rates of assessment by taxing  
35 districts is a contributor to the inconsistency, the primary causes are the Regulatory Commission of  
36 Alaska's (RCA) restriction on payment of the gross receipts portion of MUSA by AWWU and  
37 ML&P, and the exemption of contributed plant from the property portion of MUSA. Removal of  
38 the RCA restriction is a state regulatory decision and not under the direct control of the  
39 municipality, but the exemption on contributed plant is a local issue that can be changed by the  
40 assembly.

41  
42 The following illustrates the inconsistent results of the current MUSA formula. Privately owned  
43 utilities such as ACS, GCI, AT&T or Enstar pay municipal property taxes based on the assessed

value of their real and business personal property. All utility plant is subject to property tax regardless of whether it was contributed or not. In 2003 ACS paid approximately \$4 million in property taxes on property assessed at \$243.5 million, an effective rate of 16.4 mills. During the same period, AWWU paid a combined total of \$3.1 million in MUSA on property with a net book value of \$590.1 million, an effective assessment rate of 5.3 mills. The difference (16.4 mills vs. 5.3 mills) is primarily a result of the exclusion of contributed plant from the MUSA formula. AWWU's net plant includes \$390.3 million in contributed plant that is currently exempt from the MUSA.

When comparisons are made between municipal utilities, the results are similar. In 2003, ML&P paid about \$2 million in MUSA on total net plant valued at \$155.5 million, an effective rate of assessment of 12.9 mills. During the same period, the Solid Waste Disposal Utility paid MUSA at an effective rate of 16.1 mills (including \$189,556 in gross receipts MUSA) and the Refuse Collection Utility paid at an effective rate of 16.6 mills. These effective rates can be compared with the AWWU combined rate of 5.3 mills. As was the case with the comparison to ACS, the primary reason for the difference in rates is the exemption on contributed plant within the current MUSA formula and the relative high concentration of contributed plant within the AWWU capital structure.

The MUSA can also be compared with rates charged elsewhere. Under the current formula that contains the exemption for contributed capital, AWWU paid a MUSA-equivalent mill rate of .005096 in 2002. This was less than one-third of the mill rate for eight similarly sized public water utilities in the lower 48, including contributed capital (15.407 mills).

From a taxpayer perspective, if the amount of MUSA charged to a municipal utility is too low, it means that taxpayers have paid more in property taxes than necessary. From a regulatory perspective, if the amount of MUSA charged to a municipal utility is too low, it could mean that municipal utility could have an unfair competitive advantage over non-municipal utilities. It is therefore appropriate that the municipality apply comparable levels of municipal charges to utilities regardless of differences in ownership or capital structures of the individual utilities. Inconsistency between what is ultimately charged to municipal and non-municipal utilities, driven primarily by the exemption of contributed plant, is the primary basis for the proposed change in the MUSA formula. The following table shows the 2003 effective rate of assessment under the current MUSA formula and under the rate that would have been charged assuming adoption of the proposed change:

| UTILITY               | 2003 Rate<br>(Current MUSA) | 2003 Rate<br>(Proposed MUSA) |
|-----------------------|-----------------------------|------------------------------|
| Anchorage Water       | 5.5                         | 15.4                         |
| Anchorage Wastewater  | 4.8                         | 16.1                         |
| ML&P                  | 12.9                        | 14.1                         |
| Solid Waste Disposal* | 16.1                        | 17.5                         |
| Refuse Collection     | 16.6                        | 16.6                         |

\* Includes \$189,556 gross receipts MUSA

In addition, there is local precedent for including contributed capital in MUSA. Until 1988 the municipal MUSA ordinance, AO 85-174, covered net plant, including contributed capital, in the

1 assessable base. It was amended by AO 88-162 to exclude contributed capital from the MUSA  
2 formula and to add an assessment equal to 1.25% of the gross operating revenues. One reason cited  
3 at the time was that the addition of the Eklutna project as contributed capital to the Anchorage  
4 Water Utility would have added \$2 million to its MUSA bill under the old MUSA formula.

5  
6 The 1.25% gross receipts component of MUSA was submitted to the Alaska Public Utilities  
7 Commission (APUC); "as a partial substitute for dropping the MUSA on contributed plant." The  
8 Administration believed that it would be accepted by the regulator. (AIM 223-88, 11/1/88, pages 2-  
9 3) However, it was not. The APUC deemed it to be a dividend payment and subjected it to the  
10 same restriction that has prohibited ML&P and AWWU from paying dividends to the municipality  
11 since 1988. Because of this regulatory action, neither ML&P nor AWWU have paid any gross  
12 receipts MUSA. However, the MUSA ordinance has continued to exempt contributed capital from  
13 the MUSA formula since 1988.

14  
15 The attached Ordinance would make the following changes to MUSA:

16  
17 Contributed Plant

18  
19 This ordinance revises the MUSA formula to add contributed plant to the assessable base. The  
20 property tax rate levied for each service area is multiplied times the amount of plant that the utility  
21 has in service within that service area. In the case of most utilities the addition of contributed  
22 capital increases the amount of plant subject to assessment. It produces a dollar amount more  
23 comparable to the real and personal taxes that would be paid by a privately owned entity and results  
24 in a more consistent rate of assessment to each municipal utility.

25  
26 Obsolete References Deleted

27 Since the Anchorage Telephone Utility no longer exists, references to it in the MUSA ordinance are  
28 removed. The transitional language concerning the MUSA in 1989 only is also deleted.

29  
30 Utility Rates

31 AWWU faces the largest increase in MUSA payments from the proposed change. A two year  
32 phase-in, 40% in 2004, followed by the remaining 60% in 2005, is proposed to assist AWWU with  
33 managing the financial impact of the change. The financial impact on other utilities is expected to  
34 be relatively minor so no other utility specific phase-in periods are necessary.

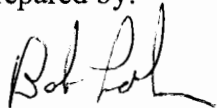
35  
36 MUSA is an operating expense of a utility and therefore recoverable through rates. Any increases  
37 in MUSA charges, not absorbed by the utility through internal operating efficiencies or otherwise,  
38 can be expected to increase utility rates. AWWU has a history of avoiding rate increases through  
39 operating efficiencies. AWWU has not increased Water Utility rates since 1991 or Wastewater  
40 Utility rates since 1992. In 2001, AWWU actually reduced Wastewater Utility rates. AWWU  
41 currently plans to present a rate proposal to the Assembly in December. If approved, it will be filed  
42 with the Regulatory Commission of Alaska. Some or all of the 2004 MUSA increase will be  
43 included in this already planned rate filing. Based on current estimates, the proposed 2004 change  
44 in MUSA will result in an increase of about \$2.21 per month, or 4.7% in combined AWWU rates.

Computation of Maximum Attainable Tax Revenue

The Municipal Attorney's Memorandum dated November 4, 2003 concluded that new MUSA revenues are currently subject to the tax cap, but the Assembly may move MUSA outside the cap ordinance. Section 2 of the ordinance amends AMC 12.25.040, removing MUSA revenues from the formula used to calculate the maximum attainable tax revenue (the "tax cap"). In addition, Section 3 of the ordinance proposes a new AMC 12.25.040.D, reducing the 2004 tax cap by the amount of MUSA revenues generated in 2003, about \$5.6 million. New revenues generated as a result of changes in the MUSA formula, would be treated as new non-tax revenues and as such, increase 2004 spending authority by about \$2.7 million. Beginning in 2005, all MUSA revenues will be treated as non-tax revenue, not subject to the limitations of AMC 12.25.040.

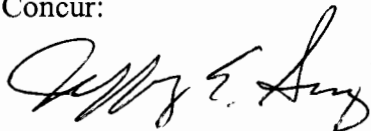
THE ADMINISTRATION RECOMMENDS APPROVAL OF AO NO. 2003 - 160  
AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 26.10.025  
AND 12.25.040 REGARDING CALCULATION AND APPLICATION OF MUNICIPAL  
UTILITY SERVICE ASSESSMENTS (MUSA); ADDING A NEW SECTION AND DELETING  
REFERENCES TO ANCHORAGE TELEPHONE UTILITY.

Prepared by:



Bob Lohr  
Office of Management & Budget

Concur:



Jeffrey E. Sinz  
Chief Fiscal Officer

Concur:



Denis C. LeBlanc  
Municipal Manager

Respectfully submitted:



Mark Begich  
Mayor



Municipality of Anchorage  
MUNICIPAL CLERK'S OFFICE  
**Agenda Document Control Sheet**

*AO 2003-160*

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

|          |  |   |
|----------|--|---|
| <b>1</b> | SUBJECT OF AGENDA DOCUMENT<br>An Ordinance Amending Anchorage Municipal Code Sections<br>26.10.025 and 12.25.040 Regarding Calculation and | DATE PREPARED<br>11/18/03   |
|          | Application of Municipal Service Assessments (MUSA); and<br>Deleting References to Anchorage Telephone Utility                             | Indicate Documents Attached<br><input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM |
| <b>2</b> | DEPARTMENT NAME<br>Finance   | DIRECTOR'S NAME<br>Jeffrey Sinz   |
| <b>3</b> | THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY<br>Bob Lohr   | HIS/HER PHONE NUMBER<br>343-4467  |
| <b>4</b> | <b>COORDINATED WITH AND REVIEWED BY</b>  | <b>INITIALS</b>   |
| <b>X</b> | <b>Mayor</b>   | <i>[Signature]</i>  |
|          | Heritage Land Bank   |   |
|          | Merrill Field Airport  |   |
|          | Municipal Light & Power  |   |
|          | Port of Anchorage  |   |
|          | Solid Waste Services   |   |
|          | Water & Wastewater Utility   |   |
| <b>X</b> | <b>Municipal Manager</b>   | <i>[Signature]</i>  |
|          | Cultural & Recreational Services   |   |
|          | Employee Relations   |   |
| <b>X</b> | <b>Finance, Chief Fiscal Officer</b>   | <i>[Signature]</i>  |
|          | Fire   |   |
|          | Health & Human Services  |   |
|          | Office of Management and Budget  |   |
|          | Management Information Services  |   |
|          | Police   |   |
|          | Planning, Development & Public Works   |   |
|          | Development Services   |   |
|          | Facility Management  |   |
|          | Planning   |   |
|          | Project Management & Engineering   |   |
|          | Street Maintenance   |   |
|          | Traffic  |   |
|          | Public Transportation Department   |   |
|          | Purchasing   |   |
| <b>X</b> | <b>Municipal Attorney</b>  | <i>[Signature]</i>  |
|          | <b>Municipal Clerk</b>   |   |
|          | <b>Other</b>   |   |
| <b>5</b> | <b>Special Instructions/Comments</b>   |   |
|          | <i>11/18/03 Add in the Table - Introduction</i>  |   |
|          |  |   |
| <b>6</b> | ASSEMBLY HEARING DATE REQUESTED<br>11/18/03  | <b>7</b> PUBLIC HEARING DATE REQUESTED<br>12/2/03   |