

CLERK'S OFFICE

**APPROVED**

**ANCHORAGE, ALASKA**

Date: 4-10-12

**AO No. 2012-35**

1 **AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE, ALASKA,**  
2 **AUTHORIZING THE BORROWING AND ACCEPTING, FROM THE STATE**  
3 **OF ALASKA CLEAN WATER FUND, AN AGGREGATE AMOUNT NOT TO**  
4 **EXCEED \$9,480,000 FOR THE PURPOSE OF FINANCING A PORTION OF**  
5 **THE COSTS OF THE SOLID WASTE SERVICES DISPOSAL UTILITY**  
6 **CAPITAL IMPROVEMENT BUDGET (CIB) PROJECT AND PROVIDING FOR**  
7 **RELATED MATTERS.**

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9  
10 **WHEREAS**, the State of Alaska (State), pursuant to Alaska Statutes 46.03.032  
11 and 18 AAC 76.005 *et. seq.*, established the Alaska Clean Water Fund (Fund),  
12 a fund using U.S. Government grants as authorized by 33 U.S.C. 1381 – 33  
13 U.S.C. 1387 (Title VI, Clean Water Act, as amended, P.L. 100-4); and

14  
15 **WHEREAS**, the Municipality of Anchorage (Municipality) is eligible to borrow  
16 from the Fund for the purposes of planning, designing, constructing, equipping,  
17 modifying, improving and expanding non-point water pollution source controls;  
18 and

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

23  
24 **WHEREAS**, Anchorage Municipal Charter Section 10.02(3) requires the  
25 Assembly by ordinance shall authorize the borrowing of money; and

26  
27 **WHEREAS**, the Municipality and Solid Waste Services Disposal Utility (SWS)  
28 determined it is necessary to proceed to plan, design, develop, construct, or  
29 otherwise obtain items of capital improvements in connection with the  
30 Anchorage Regional Landfill Cell 11 and Cell 12 2012 CIB Project (Project),  
31 listed in the Alaska Clean Water Fund Amended SFY2012 Intended Use Plan:

32  
33 

<u>State Funding Priority Planning Project</u>	\$9,480,000
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34  
35 and,

36  
37 **WHEREAS**, it is necessary, advisable, and in the best interests of the  
38 Municipality and its inhabitants for an application to be submitted and such  
39 other actions as may be necessary be taken to borrow, and accept when

approved, an amount not to exceed \$9,480,000 from the Fund for the purpose of financing a portion of the costs associated with said Project; now, therefore,

#### THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1. Purpose.** The purpose of this Ordinance is to authorize the borrowing of, and accepting when approved, an amount not to exceed \$9,480,000 from the Fund in the form of a loan(s) to provide funds to finance a portion of the capital costs of the Project.

**Section 2. Authority for Ordinance.** It is hereby ascertained and determined 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 Alaska Constitution, Alaska State Statutes, and the Municipality's Charter and Code, and to incur the indebtedness authorized by this Ordinance.

**Section 3. Definitions.** As used in this Ordinance, unless a different meaning clearly appears from the context, the following words are defined as follows:

**"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 Services 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 the purposes of this Ordinance, **Gross Revenues** shall not include allowance for funds used during construction.

**"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).

**"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, tipping, transfer and disposal expenses, fuel and electricity 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 Project Facility 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.

**"Project Facility"** means the existing Anchorage Regional Landfill 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 landfill facilities that may be hereafter purchased, constructed or otherwise acquired by the Municipality as a separate landfill facility, 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 landfill facility.

**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(s) authorized by this Ordinance. Such pledge shall be subordinate to the lien on net revenues of lien revenue bonds of the Municipality heretofore and hereafter issued.

**Section 5. Loan Terms.** The following primary terms shall be incorporated into the Loan Agreements:

Principal Amount:	Not to exceed \$9,480,000 (subject to individual draws)
Interest Rate:	1.5% per annum
Interest Accrual:	Accrual begins one year after the date of first disbursement to the Municipality
Term:	Twenty years from the date of initiation of operation of the Project
Date of First Payment:	One year following substantial completion and initiation of operation of the Project
Payment Interval:	Annual
Amortization Schedule:	Level, fully amortizing

1                   Security:                   A subordinate lien pledge of Gross Revenues  
2   less Operating Expenses of the Project  
3   Facility, as those terms are defined herein,  
4   provided that if such monies are not sufficient,  
5   repayment of the loans shall be from any  
6   legally available funds accruing to or in the  
7   possession of the Municipality; and provided  
8   further that repayment of the loans is not a  
9   direct obligation of the Municipality and  
10    neither the faith and credit nor the taxing  
11    power of the Municipality are pledged  
12    therefore.

13  
14 **Section 6. Authorization of Loan; Purpose of Issuance.** For the purpose of  
15 providing a portion of the funds required to pay the cost of the Project described  
16 herein, and to pay all costs incidental thereto, the borrowing of money from the  
17 Fund in the form of a loan in an aggregate principal amount not to exceed  
18 \$9,480,000 is hereby authorized.

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20 **Section 7. Loan Applications and Loan Agreements.** The SWS Director is  
21 hereby authorized and directed to complete and submit to the State applications  
22 to borrow money from the Fund for the purpose of financing a portion of the  
23 costs of the Project authorized by this Ordinance. Further, the SWS Director  
24 and SWS Finance Manager are hereby authorized, empowered and directed to  
25 execute and deliver Loan Agreements, for and on behalf of the Municipality,  
26 including necessary counterparts, as authorized by this Ordinance.

27  
28 **Section 8. Acceptance of Loan Funds.** The SWS Director is hereby authorized  
29 to accept, when approved and available, loan funds from the State, pursuant to  
30 loan applications approved in this ordinance, for the purpose of reimbursement  
31 and payment of the costs of the Project.

32  
33 **Section 9. Authority of Officers.** The Mayor, the Municipal Manager, the Chief  
34 Fiscal Officer, the SWS Director, the Municipal Clerk, are, and each of them  
35 hereby is, authorized and directed to do and perform all things and determine  
36 all matters not determined by this Ordinance, or to be determined by a  
37 subsequent ordinance or resolution of the Municipality, to this end that the  
38 Municipality may carry out its obligations under the loan and this Ordinance.

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40 **Section 10. Severability.** If any one or more of the covenants and agreements  
41 provided in this Ordinance to be performed on the part of the Municipality shall  
42 be declared by any court of competent jurisdiction to be contrary to law, then  
43 such covenant and agreements shall be null and void and shall be deemed  
44 separable from the remaining covenant and agreement in this Ordinance and  
45 shall in no way affect the facility of the other provisions of this Ordinance or of  
46 the loan entered into pursuant to this Ordinance.

**Section 11. Effective Date.** This Ordinance shall take effect immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 10<sup>th</sup> day of April, 2012.

Dalbir Ossandin  
Chair

ATTEST:

Barbara S. Grent  
Municipal Clerk

**MUNICIPALITY OF ANCHORAGE**  
**ASSEMBLY MEMORANDUM**

No. AM 192-2012

Meeting Date: March 27, 2012

1 **From: MAYOR**

2  
3 **Subject: AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE,**  
4 **ALASKA, AUTHORIZING THE BORROWING AND**  
5 **ACCEPTING, FROM THE STATE OF ALASKA CLEAN**  
6 **WATER FUND, AN AGGREGATE AMOUNT NOT TO EXCEED**  
7 **\$9,480,000 FOR THE PURPOSE OF FINANCING A PORTION**  
8 **OF THE SOLID WASTE SERVICES DISPOSAL UTILITY**  
9 **CAPITAL IMPROVEMENT BUDGET (CIB) PROJECT AND**  
10 **PROVIDING FOR RELATED MATTERS**  
11

12 The State of Alaska Department of Environmental Conservation offers low-  
13 interest loans through the Alaska Clean Water Fund program to communities  
14 for the planning, design, and construction of publicly-owned wastewater  
15 capital projects.  
16

17 The Ordinance authorizes borrowing and accepting of not to exceed  
18 \$9,480,000 to be used specifically for financing a portion of the costs of the  
19 Anchorage Regional Landfill Cell 11 and Cell 12 CIB project included in the  
20 Alaska Clean Water Fund FY2012 Intended Use Plan.  
21

22 **THE ADMINISTRATION REQUESTS APPROVAL OF AN ORDINANCE**  
23 **AUTHORIZING THE BORROWING AND ACCEPTING, FROM THE STATE**  
24 **OF ALASKA CLEAN WATER FUND, AN AGGREGATE AMOUNT NOT TO**  
25 **EXCEED \$9,480,000 FOR THE PURPOSE OF FINANCING A PORTION**  
26 **OF THE COSTS OF ANCHORAGE REGIONAL LANDFILL CELL 11 AND**  
27 **CELL 12 CIB PROJECT.**  
28

29 Prepared by: Solid Waste Services Disposal Utility  
30 Recommended by: Mark G. Madden, P.E., Director, SWS  
31 Concur: Dennis A. Wheeler, Municipal Attorney  
32 Concur: George J. Vakalis, Municipal Manager  
33 Respectfully submitted: Daniel A. Sullivan, Mayor