ANCHORAGE, ALASKA
AR No. 2024-——

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY
AUTHORIZING THE ASSEMBLY COUNSEL TO PURSUE LITIGATION AND ANY
OTHER APPROPRIATE METHOD OF DISPUTE RESOLUTION IN THE MATTER
OF THE EKLUTNA HYDROELECTRIC PROJECT’S PROPOSED FISH AND
WILDLIFE PROGRAM.

WHEREAS, in 1984 the Alaska Power Administration and the Municipality
Anchorage negotiated and executed an Agreement for Public Water Supply and
Energy Generation from Eklutna Lake, Alaska (1984 Agreement) to secure water
rights for the diversion of water from Eklutna Lake while protecting water volume
needed for the Eklutna Hydropower Project; and

WHEREAS, in 1991, the Federal Government sold the Eklutna Dam Hydroelectric
facility to a consortium of electric utilities consisting of Chugach Electric Association,
Matanuska Electric Association, and the Municipality of Anchorage, doing business
as Anchorage Municipal Light and Power (ML&P); and

WHEREAS, the terms of the 1991 agreement require a robust public process, in
place of the process required for a Federal Energy Regulatory Commission license,
whereby the owners were to study and propose a plan for mitigating the impact of
the Eklutna Dam on local fish and wildlife; and

WHEREAS, in 1993, the Alaska Power Administration and the Municipality of
Anchorage executed a supplemental agreement to their earlier 1984 agreement
(1993 Supplement) which currently governs Anchorage Water & Wastewater
Utility’s (AWWU) rights and access to drinking water from Eklutna Lake and is set
to expire in 2025; and

WHEREAS, in May of 2020, the Regulatory Commission of Alaska (RCA) approved
the sale of the ML&P from the Municipality of Anchorage to the Chugach Electric,
with the requirement that the Municipality surrender its vote as a member of the
Eklutna Operating Committee, until it could demonstrate to the RCA that it has
sufficient expertise within Municipal Hydro Power to participate again as a voting
member; and

WHEREAS, the Assembly Leadership recently learned that in October of 2023,
AWWU and the Eklutna Owner’s Group, executed a new agreement with the
Administration, which has been described to the Assembly as a “binding term
sheet,” which would govern AWWU’s rights and access to drinking water from
Eklutna Lake in the event the Governor endorses the currently proposed Fish and
Wildlife Plan; and

WHEREAS, the Municipal Attorney and representatives of AWWU produced the
WHEREAS, on February 23, 2024, the Assembly met again in executive session to discuss the legal implications of the binding term sheet and the Proposed Fish and Wildlife Program; and

WHEREAS, having taken up these matters in executive session, the Assembly finds sufficient basis to conclude that the actions of Administration and the Eklutna Owners Group subvert both the intent and plain language of the Anchorage Municipal Code, Anchorage Municipal Charter, and Alaska Public Records Act and patently ignores the stated policy of the Municipality as articulated in AO No. 2023-131, As Amended; and

WHEREAS, even now, the Assembly still desires to resolve this dispute with the other interested parties through earnest negotiations in good faith, thereby avoiding litigation; now, therefore,

BE IT RESOLVED THAT THE ANCHORAGE ASSEMBLY:

Section 1. Authorizes the Assembly Counsel’s Office to initiate legal action, on behalf and in the name of the Anchorage Municipal Assembly, appropriate to address the issues described in this Resolution, protect the legislative authority and powers of the Anchorage Assembly to whatever extent they may be implicated or infringed upon, and enforce the policy of the Municipality as articulated AO No. 2023-131, As Amended. Assembly Counsel may, on behalf of the Anchorage Municipal Assembly, proceed with negotiation, mediation, litigation, to include seeking injunctive relief, or any other method of dispute resolution as may be provided by the courts, administrative adjudicative forums, or other appropriate forum as Counsel deems most advisable and after conferring with the Assembly Chair and Vice Chair.

Section 2. This resolution shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this ______ day of ________________, 2024.

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Chair of the Assembly

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Municipal Clerk