

Submitted by: Assembly Chair LaFrance  
Vice Chair Constant, and  
Assembly Member Zaletel  
Prepared by: Assembly Counsel's Office  
For reading: March \_\_, 2023

**ANCHORAGE, ALASKA**  
**AR No. 2023-\_\_\_\_\_**

1 | **A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY**  
2 | **REAPPROPRIATING NOT TO EXCEED FOUR MILLION NINE HUNDRED**  
3 | **THOUSAND DOLLARS (\$4,900,000) PREVIOUSLY APPROPRIATED BY**  
4 | **AR 2022-111(S), AS AMENDED, "FOR CONSTRUCTION OF AN ADULT**  
5 | **SHELTER AND/OR NAVIGATION CENTER," TO THE EXTENT ANY SUCH**  
6 | **AMOUNTS REMAIN AVAILABLE AND THE APPROPRIATION HAS NOT**  
7 | **LAPSED; TO CLARIFY THAT NO FUNDS ARE AVAILABLE TO MAKE**  
8 | **PAYMENTS IN EXCESS OF \$50,000 THAT ARISE OUT OF, OR IN**  
9 | **CONNECTION WITH RFP2022P077, CONTRACT C-2022001049, AM 496-2022**  
10 | **AND/OR THAT RELATE TO THE PROVISION OF CONSTRUCTION**  
11 | **MANAGER/GENERAL CONTRACTOR SERVICES FOR A NAVIGATION**  
12 | **CENTER TO BE LOCATED AT 4501 ELMORE ROAD; AND TO CLARIFY THAT**  
13 | **THE ASSEMBLY HAS NOT APPROVED BY MAJORITY VOTE PURSUANT TO**  
14 | **AMC SECTION 7.15.043 TO AUTHORIZE ANY SUCH PAYMENTS.**

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16 | **WHEREAS**, in AR 2022-111(S), As Amended, the Anchorage Assembly  
17 | appropriated "the sum of Not to Exceed Four Million Nine Hundred Thousand  
18 | Dollars (\$4,900,000) . . . from previously appropriated funds on AO 2020-99, As  
19 | Amended for property acquisition, within the Areawide General Capital  
20 | Improvement Projects Fund (401800), Maintenance & Operations Department to be  
21 | used for construction of an adult shelter and/or navigation center";

23 | **WHEREAS**, the Administration issued RFP2022P077 to procure construction  
24 | manager/general contractor services for a navigation center to be located at 4501  
25 | Elmore Road, and later awarded Contract C-2022001049 for those services to  
26 | Roger Hickel Contracting, Inc.;

28 | **WHEREAS**, the Administration has acknowledged that work that Roger Hickel  
29 | Contracting, Inc. performed for the Municipality above the original \$50,000 contract  
30 | amount required Assembly approval under AMC sections 7.15.040 and 7.15.080,  
31 | but no approval was requested by the Administration, and no approval was granted  
32 | by the Assembly;

34 | **WHEREAS**, the Administration has already paid Roger Hickel Contracting, Inc.  
35 | \$2.025 million directly and indirectly, and is now proposing to pay Roger Hickel  
36 | Contracting, Inc. an additional \$2,455,351.93;

38 | **WHEREAS**, the Administration has asserted that it may pay Roger Hickel  
39 | Contracting, Inc, the additional \$2.455 million using remaining funds appropriated  
40 | by AR 2022-111(S), As Amended;

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1 **WHEREAS**, Assembly Leadership has taken the position that no funds are available  
2 to the Administration from which to pay Roger Hickel Contracting, Inc. an additional  
3 \$2.455 million because (1) funds appropriated by AR 2022-111(S) lapsed as a  
4 consequence of the Assembly's rejection of AM 496-2022 on October 25, 2022,  
5 which effectively abandoned the navigation center project anticipated by AR 2022-  
6 111(S), and (2) section 13.07 of the Anchorage Municipal Charter, *Lapse of*  
7 *Appropriations*, which provides that "At the close of the fiscal year, an  
8 unencumbered appropriation shall lapse into the fund from which appropriated. An  
9 appropriation for capital improvement, or in connection with requirements of federal  
10 and state grants, shall not lapse until the purpose of the appropriation has been  
11 accomplished or abandoned";  
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13 **WHEREAS**, the Assembly has already made clear with express language that all  
14 appropriations made in the 2023 operating and capital improvement budgets "do not  
15 include an appropriation for the payment of any settlement of claims related in any  
16 amount that in the aggregate exceed \$50,000 that arise out of, or in connection with  
17 RFP2022P077, Contract C-2022001049, AM 496-2022 and/or that relate to the  
18 provision of construction manager/general contractor services for a navigation  
19 center to be located at 4501 Elmore Road," such that "The Mayor and Administration  
20 may not use any funds appropriated [in the 2023 budgets] on such settlement(s)";  
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22 **WHEREAS**, no Administration should be allowed, without Assembly authorization,  
23 to pay a contractor \$4.4 million for work that could not be lawfully performed without  
24 Assembly authorization;  
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26 **WHEREAS**, Roger Hickel Contracting, Inc. knew or should have known that it was  
27 proceeding at risk without the required assembly approval of the general contractor  
28 services amendment as proposed in AM 496-2022, particularly given that, in 2013,  
29 it performed, without required Assembly approval, nearly \$5 million of work on Plant  
30 2A for Municipal Light and Power, which led to significant public attention and  
31 Assembly debate; and  
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33 **WHEREAS**, the Assembly *may* authorize the Administration to make additional  
34 payments to Roger Hickel Contracting, Inc., and it invites the Administration to  
35 convene a worksession on the merits of making any such additional payments; now,  
36 therefore  
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### 38 **THE ANCHORAGE ASSEMBLY RESOLVES:**

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40 **Section 1.** Any unexpired appropriations made by AR 2022-111(S), As Amended,  
41 are hereby reappropriated to not include an appropriation for a payment in any  
42 amount that in the aggregate exceeds \$50,000 arising out of, or in connection with  
43 RFP2022P077, Contract C-2022001049, AM 496-2022 and/or that relates to the  
44 provision of construction manager/general contractor services for a navigation  
45 center to be located at 4501 Elmore Road. The Mayor and Administration may not  
46 use any funds previously appropriated by AR 2022-111(S) to make such payments  
47 without additional Assembly authorization.  
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49 **Section 2.** The Assembly finds and declares it has not, pursuant to AMC section  
50 7.15.043, approved any payment to Roger Hickel Contracting, Inc. for supplies,  
51 services, professional services or construction that Roger Hickel Contracting, Inc.

provided to or performed for the Municipality without required Assembly approval.

**Section 3.** That the Mayor and Administration are invited to convene a worksession to discuss the merits of making any additional payments to Roger Hickel Contracting, Inc.

**Section 4.** This resolution shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Chair of the Assembly

ATTEST:

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Municipal Clerk

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