

**Submitted by:** Chair of the Assembly at  
the Request of the Mayor  
**Prepared by:** Department of Law  
**For Reading:** June 5, 2023

**ANCHORAGE, ALASKA  
AR NO. 2023-196**

1 **A RESOLUTION OF THE MUNICIPALITY REAPPROPRIATING TWO MILLION FOUR**  
2 **HUNDRED FIFTY-FIVE THOUSAND THREE HUNDRED FIFTY-ONE DOLLARS AND**  
3 **NINETY-THREE CENTS (\$2,455,351.93) ALL WITHIN THE AREAWIDE GENERAL**  
4 **CAPITAL IMPROVEMENT PROJECTS (CIP) FUND (401800) FOR PAYMENT OF A**  
5 **LEGAL SETTLEMENT.**

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6  
7 **WHEREAS**, Following a public bidding process the Municipality entered into a contract for  
8 pre-construction services with Roger Hickel Contracting, Inc., (“RHC”) in March 2022 for the  
9 design and construction management services relating to a proposed Navigation Center  
10 (the “Project”); and

11  
12 **WHEREAS**, the Anchorage Assembly passed AR 2022-111(S), as amended, in May 2022,  
13 which appropriated \$4,900,000 “to be used for construction of an adult shelter and/or  
14 navigation center (“Sprung Structure”); and

15  
16 **WHEREAS**, on May 31, 2022, MOA and RHC executed an amendment to the contract that  
17 changed RHC’s scope of services to included serving as the general contractor for the  
18 Project; and

19  
20 **WHEREAS**, RHC prepared and submitted to MOA nine work packages for various stages  
21 of work, including procurement of engineered shop drawings for a prefabricated building,  
22 the ordering of long-lead plumbing and mechanical equipment, the work necessary to  
23 provide a concrete foundation and other components of the structure; and

24  
25 **WHEREAS**, each work package was authorized and signed by the Director of Maintenance  
26 and Operations; and

27  
28 **WHEREAS**, the total value of the work packages delivered to RHC was \$2,455,351.93; and

29  
30 **WHEREAS**, RHC worked expeditiously to fulfill the work packages before winter 2022, if  
31 possible, and for on-site work to begin in the early fall of 2022; and

32  
33 **WHEREAS**, RHC’s invoice and supporting documentation for the nine work packages has  
34 been thoroughly reviewed by an independent third party, who confirmed the accuracy of the  
35 invoice with the exception of \$3,749.99; and

36  
37 **WHEREAS**, the Administration has acknowledged that work that RHC performed above the  
38 original \$50,000 contract amount required Assembly approval under AMC sections  
39 7.15.040 and 7.15.080, but no approval was requested by the Administration and no  
40 approval was granted by the Assembly; and

41  
42 **WHEREAS**, Assembly Leadership has taken the position that no funds are available to the  
43 Administration from which to pay RHC because (1) funds appropriated by AR 2022-111(S)  
44 lapsed as a consequence of the Assembly’s rejection of AM 496-2022 on October 25, 2022,  
45 which effectively abandoned the navigation center project anticipated by AR 2022-111(S),  
46 and (2) section 13.07 of the Anchorage Municipal Charter, *Lapse of Appropriations*, which

1 provides that "At the close of the fiscal year, and unencumbered appropriation shall lapse  
2 into the fund from which appropriated. Anc appropriation for capital improvement, or in  
3 connection with requirements of federal and state grants, shall not lapse until the purpose  
4 of the appropriation has been accomplished or abandoned."; and  
5

6 **WHEREAS**, RHC filed an action in the Superior Court for the State of Alaska to compel  
7 payment of the sum of \$2,455,351.93 and has offered to settle the lawsuit for that amount,  
8 with no additional interest, costs or attorney's fees, now, therefore,  
9

10  
11 **THE ANCHORAGE ASSEMBLY RESOLVES:**

12  
13 **Section 1.** The Settlement Agreement between RHC and MOA is approved and the  
14 sum of Two Million Four Hundred Fifty-Five Thousand Three Hundred Fifty-One Dollars and  
15 Ninety-Three Cents (\$2,455,351.93) is hereby reappropriated within the Areawide General  
16 Capital Improvement Projects Fund (401800) to the Maintenance and Operations  
17 Department for payment to Roger Hickel Contracting Inc., as a legal settlement.  
18

19 **Section 2.** That this resolution shall take effect upon approval by the Anchorage  
20 Municipal Assembly.  
21

22 PASSED AND APPROVED by the Anchorage Municipal Assembly this \_\_\_\_\_ day of  
23 \_\_\_\_\_, 2023.  
24

25 \_\_\_\_\_  
26 Chair

27 ATTEST:  
28  
29 \_\_\_\_\_  
30 Municipal Clerk

31  
32 Department of Appropriation:  
33 Maintenance & Operations \$2,455,351.93



# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

No. AM 457-2023

Meeting Date: June 5, 2023

1  
2 **FROM: MAYOR**

3  
4 **SUBJECT: A RESOLUTION OF THE MUNICIPALITY OF ANCHORAGE**  
5 **REAPPROPRIATING TWO MILLION FOUR HUNDRED FIFTY-FIVE**  
6 **THOUSAND THREE HUNDRED FIFTY-ONE DOLLARS AND NINETY-**  
7 **THREE CENTS (\$2,455,351.93) ALL WITHIN THE AREAWIDE GENERAL**  
8 **CAPITAL IMPROVEMENT PROJECTS FUND (401800) FOR PAYMENT**  
9 **OF A LEGAL SETTLEMENT.**

10  
11 Following a public bidding process the Municipality entered into a contract for pre-  
12 construction services with Roger Hickel Contracting, Inc., ("RHC") in March 2022 for the  
13 design and construction management services relating to a proposed Navigation Center  
14 (the "Project"). On May 31, 2022, MOA and RHC executed an amendment to the contract  
15 that changed RHC's scope of services to included serving as the general contractor for  
16 the Project.

17  
18 RHC prepared and submitted to MOA nine work packages for various stages of work,  
19 including procurement of engineered shop drawings for a prefabricated building, the  
20 ordering of long-lead plumbing and mechanical equipment, the work necessary to provide  
21 a concrete foundation and other components of the structure. Each work package was  
22 authorized and signed by the Director of Maintenance and Operations and the total value  
23 of the work packages delivered to RHC was \$2,455,351.93.

24  
25 RHC's invoice and supporting documentation for the nine work packages has been  
26 thoroughly reviewed by an independent third party, who confirmed the accuracy of the  
27 invoice with the exception of \$3,749.99. The Administration has acknowledged that work  
28 that RHC performed above the original \$50,000 contract amount required Assembly  
29 approval under AMC sections 7.15.040 and 7.15.080, but no approval was requested by  
30 the Administration and no approval was granted by the Assembly

31  
32 The Anchorage Assembly passed AR 2022-111(S), as amended, in May 2022, which  
33 appropriated \$4,900,000 "to be used for construction of an adult shelter and/or navigation  
34 center ("Sprung Structure").

35  
36 The Anchorage Assembly further passed AR 2023-101 on March 22, 2023 which  
37 reappropriated previous appropriation on AR 2022-111(S), as amended "to the extent  
38 any such amounts remain available and the appropriation has not lapsed; to clarify that  
39 no funds are available to make payments in excess of \$50,000 that arise out of, or in  
40 connection with RFP2022P077, Contract C-2022001049, AM 496-2022 and/or that relate  
41 to the provision of construction manager/general contractor services for a navigation  
42 center to be located at 4501 Elmore Road...."

43  
44 RHC filed an action in the Superior Court for the State of Alaska to compel payment of  
45 the sum of \$2,455,351.93 and has offered to settle the lawsuit for that amount, with no  
46 additional interest, costs, or attorney's fees.

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The budget detail is as follows:

**REVENUE**

<b>Account Number</b>	<b>Account Name</b>	<b>Amount</b>
401800-221000-PF22001-450010	Transfer to Other Funds	\$2,455,351.93

**EXPENDITURES**

<b>Account Number</b>	<b>Account Name</b>	<b>Amount</b>
401800-221000-PF22001-530380	Professional Services	\$2,455,351.93

**THE ADMINISTRATION RECOMMENDS APPROVAL.**

Prepared By: Department of Law  
 Approved By: Anne Helzer, Municipal Attorney  
 Concur: Courtney Petersen, Director, OMB  
 Fund Certification: Alden Thern, Acting CFO  
 401800-221000-530380-PF22001 \$2,455,351.93  
 (Areawide General CIP Fund)  
 Concur: Kent Kohlhase, Municipal Manager  
 Respectfully Submitted: Dave Bronson, Mayor