

**LAID-ON-THE-TABLE**

Submitted by: Assembly Chair LaFrance, Vice  
Chair Constant, and Assembly  
Member Zaletel  
Prepared by: Assembly Counsel's Office  
For reading: January 19, 2023

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

1     **AN EMERGENCY ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY**  
2     **TO REQUIRE APPROVAL BY THE ASSEMBLY OF CONTRACTS AND**  
3     **AMENDMENTS, WITH CERTAIN EXCEPTIONS, AT LOWER THRESHOLDS**  
4     **THAN REQUIRED BY CURRENT ANCHORAGE MUNICIPAL CODE,**  
5     **REPORTING OF SPECIFIC DETAILS OF CONTRACT AND SPENDING**  
6     **MUNICIPAL RESOURCES WHEN SUBMITTING FOR ASSEMBLY APPROVAL,**  
7     **AND NOTICE OF DELEGATION OF MUNICIPAL MAYORAL OR MANAGER**  
8     **AUTHORITY AND DUTIES, BY REPEAL AND REPLACEMENT OF CERTAIN**  
9     **SECTIONS OF TITLES 3 AND 7 OF THE ANCHORAGE MUNICIPAL CODE**  
10    **EFFECTIVE FOR SIXTY DAYS.**

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11  
12    **WHEREAS**, the Anchorage Home Rule Charter, Article X, Section 10.03, provides  
13    that, in case of an emergency as defined in Charter § 17.13(c), “an ordinance may  
14    be introduced and adopted at the same meeting,” provided the Assembly makes a  
15    finding in the emergency ordinance that an emergency exists and provides a  
16    statement of the facts constituting the emergency; and

17  
18    **WHEREAS**, Charter § 17.13(c) states that “*Emergency*’ means an unforeseen  
19    occurrence or condition which results or apparently will result in an insufficiency of  
20    services or facilities substantial enough to endanger the public health, safety or  
21    welfare”; and

22  
23    **WHEREAS**, Charter § 13.08(a) states in part: “No payment shall be made, or  
24    obligation incurred except in accordance with appropriations. Obligations otherwise  
25    incurred are void.”; and

26  
27    **WHEREAS**, the Anchorage Municipal Code Title 7, *Purchasing and Contracts and*  
28    *Professional Services*, governs the procurement of supplies, services and  
29    construction required by the municipality, and requires that

- 30    - No contract, or amendment thereto, may be enforced against the Municipality  
31    unless its terms have been approved in accordance with Title 7;  
32    - No contract, or amendment thereto, may be approved or executed unless the  
33    Chief Fiscal Officer has first certified funds are available, in accordance with  
34    AMC section 6.30.050 (which requires, among other things, the chief fiscal  
35    officer to “certify to the ... proper officer ... that the money required for such  
36    contract, obligation or expenditure was appropriated by the assembly to the  
37    credit of the fund from which it is to be drawn, and not appropriated for any  
38    other purpose,” and further prohibits any “officer of the municipality [to]  
39    authorize commencement of work on any contract, agreement or obligation  
40    without first having been notified of funding approval.”);

1      **WHEREAS**, the current Administration under Mayor Bronson's leadership has in  
2 recent times admitted to failures to comply with Anchorage Municipal Code Title 7,  
3 *Purchasing and Contracts and Professional Services*, one notable example being  
4 the failure to obtain Assembly approval of AM 496-2022 before authorizing  
5 construction work to proceed under proposed Amendment 2 to contract No.  
6 2022001049 to add \$4.9 Million for the proposed MOA Navigation Center, as  
7 required by AMC section 7.15.080A. and D.;  
8

9      **WHEREAS**, on Monday December 19, 2022, Municipal Manager Amy Demboski,  
10 who started in the role when the mayor took office in July of 2021, was allegedly  
11 fired by Mayor Bronson, and no reasons provided publicly other than it was a  
12 personnel matter; and  
13

14      **WHEREAS**, since then, Ms. Demboski has publicly stated her belief that she was  
15 fired in retaliation for an e-mail sent from her to the mayor raising concerns about  
16 several matters, including city code violations by the mayor and other city officials,  
17 errors on contracts executed in violation of municipal code, some occurring when  
18 the mayor "granted the Purchasing Director unlimited signing authority"; and  
19

20      **WHEREAS**, although that improper signature authority was rescinded by the mayor  
21 before Ms. Demboski sent her e-mail, she stated "the challenge remains, we do not  
22 know how many contracts may have been inappropriately executed"; and  
23

24      **WHEREAS**, in addition to the allegations made by Ms. Demboski, since the mayor  
25 took office, the Assembly has received belated notice of contractual obligations and  
26 amendments to contracts that have contributed to an ongoing persistent confusion  
27 about the capacity and efficacy of essential Municipal services, such as snow  
28 plowing and hauling; and  
29

30      **WHEREAS**, as the legislative branch, the Anchorage Assembly has the  
31 appropriations power of the Municipality and is responsible to the people of  
32 Anchorage to oversee that taxpayer funds are spent legally and effectively in  
33 accordance with Municipal Code; and  
34

35      **WHEREAS**, the Assembly in the last year has repeatedly had to delay Municipal  
36 business due to errors in items for contracts and appropriations brought for its  
37 approval; and  
38

39      **WHEREAS**, the Assembly has an ongoing reasonable basis to believe that  
40 municipal resources, particularly the spending of taxpayer funds, may not be in  
41 compliance with Municipal Code given the lack of cooperation from the Bronson  
42 Administration with reporting, transparency and resolving questions regarding the  
43 consistency of contracts with appropriations and their stated purposes; and  
44

45      **WHEREAS**, past and continued actions by the Bronson Administration that may be  
46 in violation of current Anchorage Municipal Code Title 7 have resulted in in an  
47 insufficiency of services or facilities substantial enough to endanger the public  
48 health, safety or welfare; now, therefore  
49

50      **THE ANCHORAGE ASSEMBLY ORDAINS:**

1  
2 **Section 1.** Pursuant to Anchorage Municipal Charter Section 10.03, the  
3 Assembly hereby specifically finds that based on circumstances described in this  
4 emergency ordinance immediate action is now required. Failure to immediately  
5 address these issues will likely result in effects on Municipal services and business  
6 in a manner substantial enough to endanger the welfare of the Municipality.  
7

8 **Section 2.** The following sections of Anchorage Municipal Code Title 7 are  
9 repealed and replaced by the following for 60 days to read as follows (*text that is a  
10 substantive change from current Code is bolded and underlined for convenience of  
11 the reader, but current code that is deleted may not be shown*):  
12

13 **7.15.040 - Assembly approval of contracts.**

14 A. No contract for supplies, services, professional services or  
15 construction whereby the municipality is obligated to pay more than  
16 **\$10,000.00** pursuant to a contract awarded through competitive  
17 procedures, which are described in sections 7.20.020 through  
18 7.20.040(bids) and 7.20.060 (proposals), or more than **\$10,000.00**  
19 including any amendment pursuant to contracts awarded under  
20 section 7.20.080A.5, or more than **\$10,000.00** pursuant to contracts  
21 awarded through other authorized procedures, may be executed  
22 unless the assembly has approved a memorandum setting forth the  
23 essential terms of the contract. To the extent applicable for particular  
24 contracts, the following essential terms shall be set forth:  
25

- 26 1. The identity of the contractor;  
27 2. The contract price;  
28 3. The nature and quantity of the performance that the  
29 municipality shall receive under the contract;  
30 4. The using agency;  
31 5. The time for performance under the contract;  
32 6. **Any terms that allow for supplies, services, professional**  
33 **services or construction not contemplated within the**  
34 **subject of the memorandum submitted for assembly**  
35 **approval.**

36  
37 **For all contracts awarded through the competitive process described**  
38 **in subsection A of this section, a monthly report of contracts awarded**  
39 **during the current month shall be provided to the Assembly by the 15<sup>th</sup>**  
40 **of the following month and contain the information described in**  
41 **subsections 1. through 6. of this subsection and include information**  
42 **for any payments made under such contracts, including the fund**  
43 **source for payment and the amount paid.**

44 B. If contracts are awarded to more than one bidder pursuant to an  
45 invitation for bids, contracts with different bidders shall be considered  
46 separately for purposes of determining the application of subsection  
47 A. of this section. If any contract to be awarded under a given bid is  
48 subject to assembly approval, the award of other contracts pursuant  
49

1 to the same invitation for bids may, at the discretion of the purchasing  
2 officer, be delayed pending assembly approval.  
3

4 C. No grant to a governmental or quasi-governmental agency or to a  
5 private nonprofit corporation under the provisions of Chapter 7.70 for  
6 **\$10,000.00 or more** may be issued unless the assembly has  
7 approved a memorandum setting forth:

- 8 1. The identity of the grantee;  
9 2. The grant amount;  
10 3. The purpose to which grant funds are to be devoted; and  
11 4. The agency charged with administration of the grant.  
12

13 D. No contractor may provide supplies, services, professional services,  
14 or construction provided to the municipality before the applicable  
15 requirements of this section are first satisfied. No contract for  
16 construction which exceeds \$3,500,000.00 may be executed unless  
17 it has first been reviewed for a community workforce agreement as  
18 required by section 7.15.045.  
19

20 E. Regardless of the amount involved, all contracts for professional  
21 lobbying services and must be approved in advance by the  
22 assembly.  
23

24 **7.15.080 - Contract amendments – Assembly amendments.**

25 A. No contract amendment or change order that will cause the total  
26 value of the contract to exceed the limits specified below may be  
27 executed unless the assembly has approved a memorandum setting  
28 forth the essential terms of the amendment or change order request:  
29

- 30 1. For contracts with an original award value of **\$10,000.00** or  
31 less excluding contracts awarded under section 7.20.080A.5.;  
32 a contract amendment or change order, or cumulative contract  
33 amendments or change orders, that will cause the total  
34 contract amount, as amended, to exceed **\$12,500.00** or 125  
35 percent of the original contract award, whichever is greater.  
36 For contracts awarded under section 7.20.080A.5.; any  
37 contract amendment or change order, or cumulative or  
38 successive contract amendments or change orders, that will  
39 cause the total contract amount to exceed **\$10,000.00**, or  
40 continue to exceed **\$10,000.00**, as amended.  
41

- 42 2. For contracts with an original award value greater than  
43 **\$10,000.00** up to **\$150,000.00**; a contract amendment or  
44 change order, or cumulative contract amendments or change  
45 orders, that will cause the total contract amount, as amended,  
46 to exceed 125 percent of the original contract award, or to  
47 increase the original contract by **\$30,000.00**, whichever is  
48 less.  
49

- 50 3. For contracts with an original award value greater than  
**\$150,000.00** up to **\$1,000,000.00**; a contract amendment or

- 1                   change order, or cumulative contract amendments or change  
2                   orders, that will cause the total contract amount, as amended,  
3                   to exceed 120 percent of the original contract award, or to  
4                   increase the original contract by **\$50,000.00**, whichever is  
5                   less.  
6                  4. For contracts with an original award value greater than  
7                   **\$1,000,000.00**; the department shall recommend, with  
8                   concurrence of the purchasing officer, the maximum contract  
9                   amendment or change order value that can be executed  
10                  without assembly approval **not to exceed 10 percent or**  
11                  **\$100,000.00**. This value shall be established and approved  
12                  concurrently with the contract award under section 7.15.040.  
13                 B. For contracts that contain one or more optional contract periods, and  
14                 where the municipality desires to exercise the option, a follow-on  
15                 period may be executed in an amount consistent with the original  
16                 contract terms, notwithstanding subsection A herein. The individual  
17                 option period is considered a separate action and not an amendment  
18                 or change order. However, a contract amendment or change order,  
19                 or cumulative contract amendments or change orders, issued within  
20                 the original or any optional contract period, shall be subject to  
21                 subsection A herein. If the original contract period or any optional  
22                 period is otherwise subject to section 7.15.040, such approval shall  
23                 be received prior to contract execution.  
24                 C. For construction contracts where the original contract value is greater  
25                 than \$500,000.00, the administering agency or department shall  
26                 submit informational memoranda to the assembly that, at a minimum,  
27                 lists the contractor name and project identity, the original contract  
28                 amount, and all contract amendments or change orders processed  
29                 against the contract. Informational memoranda shall be submitted no  
30                 later than 60 days after issuing the final pay estimate.  
31                 D. No contractor may provide supplies, services, professional services,  
32                 or construction provided to the municipality before the applicable  
33                 requirements of this section are first satisfied.

34  
35                 **7.20.090- Emergency procurements and waiver of formal procurement**  
36                 **procedures.**

- 37  
38                 A. The municipality may award a contract for supplies, services,  
39                 professional services or construction without competition, formal  
40                 advertising or other formal procedure if:  
41                 1. The mayor determines in writing that an emergency  
42                 threatening the public health, safety or welfare requires that a  
43                 contract be awarded without delay; or  
44                 2. The mayor determines, in writing, that waiver of the formal  
45                 procedures of this title is necessary because time is of the  
46                 essence, **meaning there is not sufficient time to bring the**  
47                 **request to a regular meeting of the Assembly,** and the best  
48                 interests of the municipality will be served by such action; **or**  
49                 3. The assembly authorizes by resolution the temporary  
50                 suspension of procurement rules in order to expend federal or

- state funds expeditiously in accordance with the funding intent and the assembly make a finding that formal procurement is reasonably likely to frustrate or delay the intent; or

4. The assembly authorizes by resolution the temporary suspension of procurement rules in order to expend federal or state funds prior to expiration of spending authority for said funds and the assembly makes a finding that formal procurement is reasonably unlikely to be completed in time to fully utilize the funds.

B. Contracts awarded under this section shall be reported to the assembly no later than the second regular meeting following award of the contract. The report shall include justification for the contract including under which subsection justification is claimed, stating with particularity the facts and circumstances relied upon for the justification, all costs of the contract, and identification of the persons or entity awarded the contract.

C. Waivers granted under subsection A.2. shall be reported in writing to the assembly within 24 hours of issuance including all the information that is required in subsection B and prior to the execution of any contract under the waiver. Execution of a contract under subsection A.2 may not occur until 48 hours after notice of the waiver is provided. The assembly may revoke a waiver by resolution.

**Section 3.** The following sections of Anchorage Municipal Code chapter 3.20 are repealed and replaced by the following for 60 days to read as follows (*text that is a substantive change from current Code is bolded and underlined for convenience of the reader, but current code that is deleted may not be shown*):

### **3.20.040 – Office of the Mayor.**

- A. The mayor may assign such personnel to the office of the mayor as are necessary to help the mayor carry out the duties of that office.
  - B. The mayor may designate one person to serve as chief of staff and assign to that person such administrative and managerial duties, including policy coordination and oversight of executive branch agencies, as the mayor determines appropriate.
  - C. Within the office of the mayor, and under the mayor's supervision, or supervision of designated subordinate officials, are those municipal departments described in section 3.20.070.
  - D. The mayor shall provide immediate written notice to the Clerk and the Chair of the Assembly when the mayor delegates authority pursuant to subsections A through C of this section or as provided under charter or other provisions of Municipal code, including but not limited to signatory authority on behalf of the

1                   **Municipality that expends the resources and/or transfers assets**  
2                   **of the Municipality.**

5                   **3.20.045 – Office of the Municipal Manager.**

- 7                   A. Municipal management activities for the municipality shall be  
8                   undertaken by the office of the municipal manager within the  
9                   executive branch.
- 10                  B. The office shall be administered by a manager who is appointed by  
11                  the mayor and confirmed by the assembly. The manager serves at  
12                  the pleasure of the mayor.
- 13                  C. The manager shall be responsible to the mayor for the  
14                  management and operation of those departments set forth in section  
15                  3.20.070.
- 16                  D. Generally, the office of the municipal manager is responsible to the  
17                  mayor for overall municipal administrative policy, public safety, and  
18                  operations of the municipality.
- 19                  E. **The Municipal Manager shall provide immediate written notice to**  
20                  **the Clerk and the Chair of the Assembly when the Municipal**  
21                  **Manager delegates authority held by the Municipal Manager**  
22                  **pursuant to subsections A-D of this section or as provided under**  
23                  **charter or other provisions of Municipal code.**

29                  **Section 5.** This Emergency Ordinance shall be effective immediately upon  
30                  passage and approval by the Assembly for sixty (60) days. Upon expiration of this  
31                  period or earlier termination by Assembly action, the Code text repealed by this  
32                  emergency ordinance is restored.

33                  PASSED AND APPROVED by the Anchorage Assembly this 20th day of  
34                  January, 2023.

40                  \_\_\_\_\_  
41                  Chair

42                  ATTEST:

43                  \_\_\_\_\_  
44                  Municipal Clerk  
45  
46