

ANCHORAGE, ALASKA
EO No. 2023-2, As Amended

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.**

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

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

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

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21 **WHEREAS**, although that improper signature authority was rescinded by the mayor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

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

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

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

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

45
46 **WHEREAS**, past and continued actions by the Bronson Administration that may be

1 in violation of current Anchorage Municipal Code Title 7 have resulted in in an
2 insufficiency of services or facilities substantial enough to endanger the public
3 health, safety or welfare; now, therefore

4
5 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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

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

17
18 **7.15.040 - Assembly approval of contracts.**

- 19
20 A. No contract for supplies, services, professional services or
21 construction whereby the municipality is obligated to pay more than
22 **\$10,000.00** pursuant to a contract awarded through competitive
23 procedures, which are described in sections 7.20.020 through
24 7.20.040(bids) and 7.20.060 (proposals), or more than **\$10,000.00**
25 including any amendment pursuant to contracts awarded under
26 section 7.20.080A.5, or more than **\$10,000.00** pursuant to contracts
27 awarded through other authorized procedures, may be executed
28 unless the assembly has approved a memorandum setting forth the
29 essential terms of the contract. To the extent applicable for particular
30 contracts, the following essential terms shall be set forth:
- 31 1. The identity of the contractor;
 - 32 2. The contract price;
 - 33 3. The nature and quantity of the performance that the
34 municipality shall receive under the contract;
 - 35 4. The using agency;
 - 36 5. The time for performance under the contract;
 - 37 **6. Any terms that allow for supplies, services, professional**
38 **services or construction not contemplated within the**
39 **subject of the memorandum submitted for assembly**
40 **approval.**

41
42 **For all contracts awarded through the competitive process described**
43 **in subsection A of this section, a monthly report of contracts awarded**
44 **during the current month shall be provided to the Assembly by the 15th**
45 **of the following month and contain the information described in**
46 **subsections 1. through 6. of this subsection and include information**

1 **for any payments made under such contracts, including the fund**
2 **source for payment and the amount paid.**
3

4 B. If contracts are awarded to more than one bidder pursuant to an
5 invitation for bids, contracts with different bidders shall be considered
6 separately for purposes of determining the application of subsection
7 A. of this section. If any contract to be awarded under a given bid is
8 subject to assembly approval, the award of other contracts pursuant
9 to the same invitation for bids may, at the discretion of the purchasing
10 officer, be delayed pending assembly approval.

11
12 C. No grant to a governmental or quasi-governmental agency or to a
13 private nonprofit corporation under the provisions of Chapter 7.70 for
14 **\$10,000.00 or more** may be issued unless the assembly has
15 approved a memorandum setting forth:

- 16 1. The identity of the grantee;
- 17 2. The grant amount;
- 18 3. The purpose to which grant funds are to be devoted; and
- 19 4. The agency charged with administration of the grant.

20
21
22 D. No contractor may provide supplies, services, professional services,
23 or construction provided to the municipality before the applicable
24 requirements of this section are first satisfied. No contract for
25 construction which exceeds \$3,500,000.00 may be executed unless
26 it has first been reviewed for a community workforce agreement as
27 required by section 7.15.045.

28
29 E. Regardless of the amount involved, all contracts for professional
30 lobbying services and **monetary legal settlements over \$10,000**
31 **for claims asserted by an employee under Chapter 3.75 –**
32 **Protection for Whistleblowers, for discrimination based on sex**
33 **or sexual harassment, for retaliation under federal, state or local**
34 **law, or any other claims alleging or concerning wrongful**
35 **termination claims that arose between July 1, 2021 and the**
36 **present** must be approved in advance by the assembly.

37
38 **F. No services may be authorized under contracts under this**
39 **section unless such services described in the memorandum are**
40 **approved by the Assembly.**
41

42 **7.15.080 - Contract amendments – Assembly amendments.**
43

44 A. No contract amendment or change order that will cause the total
45 value of the contract to exceed the limits specified below may be

1 executed unless the assembly has approved a memorandum setting
2 forth the essential terms of the amendment or change order request:

- 3 1. For contracts with an original award value of **\$10,000.00** or
4 less excluding contracts awarded under section 7.20.080A.5.;
5 a contract amendment or change order, or cumulative contract
6 amendments or change orders, that will cause the total
7 contract amount, as amended, to exceed **\$12,500.00** or 125
8 percent of the original contract award, whichever is greater.
9 For contracts awarded under section 7.20.080A.5.; any
10 contract amendment or change order, or cumulative or
11 successive contract amendments or change orders, that will
12 cause the total contract amount to exceed **\$10,000.00**, or
13 continue to exceed **\$10,000.00**, as amended.
- 14 2. For contracts with an original award value greater than
15 **\$10,000.00** up to **\$150,000.00**; a contract amendment or
16 change order, or cumulative contract amendments or change
17 orders, that will cause the total contract amount, as amended,
18 to exceed 125 percent of the original contract award, or to
19 increase the original contract by **\$30,000.00**, whichever is
20 less.
- 21 3. For contracts with an original award value greater than
22 **\$150,000.00** up to **\$1,000,000.00**; a contract amendment or
23 change order, or cumulative contract amendments or change
24 orders, that will cause the total contract amount, as amended,
25 to exceed 120 percent of the original contract award, or to
26 increase the original contract by **\$50,000.00**, whichever is
27 less.
- 28 4. For contracts with an original award value greater than
29 **\$1,000,000.00**; the department shall recommend, with
30 concurrence of the purchasing officer, the maximum contract
31 amendment or change order value that can be executed
32 without assembly approval **not to exceed 10 percent or**
33 **\$100,000.00**. This value shall be established and approved
34 concurrently with the contract award under section 7.15.040.
- 35 B. For contracts that contain one or more optional contract periods, and
36 where the municipality desires to exercise the option, a follow-on
37 period may be executed in an amount consistent with the original
38 contract terms, notwithstanding subsection A herein. The individual
39 option period is considered a separate action and not an amendment
40 or change order. However, a contract amendment or change order,
41 or cumulative contract amendments or change orders, issued within
42 the original or any optional contract period, shall be subject to
43 subsection A herein. If the original contract period or any optional
44 period is otherwise subject to section 7.15.040, such approval shall
45 be received prior to contract execution.

- 1 C. For construction contracts where the original contract value is greater
2 than \$500,000.00, the administering agency or department shall
3 submit informational memoranda to the assembly that, at a minimum,
4 lists the contractor name and project identity, the original contract
5 amount, and all contract amendments or change orders processed
6 against the contract. Informational memoranda shall be submitted no
7 later than 60 days after issuing the final pay estimate.
- 8 D. No contractor may provide supplies, services, professional services,
9 or construction provided to the municipality before the applicable
10 requirements of this section are first satisfied.
- 11 **E. No services may be authorized under contract amendments**
12 **under this section unless such services described in the**
13 **memorandum are approved by the Assembly.**

14
15 **7.20.090- Emergency procurements and waiver of formal procurement**
16 **procedures.**

- 17
18 A. The municipality may award a contract for supplies, services,
19 professional services or construction without competition, formal
20 advertising or other formal procedure if:
- 21 1. The mayor determines in writing that an emergency
22 threatening the public health, safety or welfare requires that a
23 contract be awarded without delay; or
 - 24 2. The mayor determines, in writing, that waiver of the formal
25 procedures of this title is necessary because time is of the
26 essence, **meaning there is not sufficient time to bring the**
27 **request to a regular meeting of the Assembly,** and the best
28 interests of the municipality will be served by such action; **or**
 - 29 3. The assembly authorizes by resolution the temporary
30 suspension of procurement rules in order to expend federal or
31 state funds expeditiously in accordance with the funding intent
32 and the assembly make a finding that formal procurement is
33 reasonably likely to frustrate or delay the intent; or
 - 34 4. The assembly authorizes by resolution the temporary
35 suspension of procurement rules in order to expend federal or
36 state funds prior to expiration of spending authority for said
37 funds and the assembly makes a finding that formal
38 procurement is reasonably unlikely to be completed in time to
39 fully utilize the funds.
- 40
41 B. Contracts awarded under this section shall be reported to the
42 assembly no later than the second regular meeting following award of
43 the contract. The report shall include justification for the contract
44 **including under which subsection justification is claimed,**
45 **stating with particularity the facts and circumstances relied upon**

1 **for the justification**, all costs of the contract, and identification of the
 2 persons or entity awarded the contract.

- 3
 4 C. Waivers granted under subsection A.2. shall be reported in writing to
 5 the assembly within 24 hours of issuance **including all the**
 6 **information that is required in subsection B and prior to the**
 7 **execution of any contract under the waiver. Execution of a**
 8 **contract under subsection A.2 may not occur until 48 hours after**
 9 **notice of the waiver is provided.** The assembly may revoke a waiver
 10 by resolution.

11
 12 **Section 3.** The following sections of Anchorage Municipal Code chapter 3.20 are
 13 repealed and replaced by the following for 60 days to read as follows (*text that is a*
 14 *substantive change from current Code is bolded and underlined for convenience of*
 15 *the reader, but current code that is deleted may not be shown):*

16
 17 **3.20.040 – Office of the Mayor.**

- 18
 19 A. The mayor may assign such personnel to the office of the mayor as
 20 are necessary to help the mayor carry out the duties of that office.
 21
 22 B. The mayor may designate one person to serve as chief of staff and
 23 assign to that person such administrative and managerial duties,
 24 including policy coordination and oversight of executive branch
 25 agencies, as the mayor determines appropriate.
 26
 27 C. Within the office of the mayor, and under the mayor's supervision,
 28 or supervision of designated subordinate officials, are those
 29 municipal departments described in section 3.20.070.
 30
 31 **D. The mayor shall provide immediate written notice to the Clerk**
 32 **and the Chair of the Assembly when the mayor delegates**
 33 **authority pursuant to subsections A through C of this section or**
 34 **as provided under charter or other provisions of Municipal code,**
 35 **including but not limited to signatory authority on behalf of the**
 36 **Municipality that expends the resources and/or transfers assets**
 37 **of the Municipality.**

38
 39
 40 **3.20.045 – Office of the Municipal Manager.**

- 41
 42 A. Municipal management activities for the municipality shall be
 43 undertaken by the office of the municipal manager within the
 44 executive branch.
 45

- 1 B. The office shall be administered by a manager who is appointed by
2 the mayor and confirmed by the assembly. The manager serves at
3 the pleasure of the mayor.
4
- 5 C. The manager shall be responsible to the mayor for the
6 management and operation of those departments set forth in section
7 3.20.070.
8
- 9 D. Generally, the office of the municipal manager is responsible to the
10 mayor for overall municipal administrative policy, public safety, and
11 operations of the municipality.
12
- 13 **E. The Municipal Manager shall provide immediate written notice to**
14 **the Clerk and the Chair of the Assembly when the Municipal**
15 **Manager delegates authority held by the Municipal Manager**
16 **pursuant to subsections A-D of this section or as provided under**
17 **charter or other provisions of Municipal code.**
18

19 **Section 5.** This Emergency Ordinance shall be effective immediately upon
20 passage and approval by the Assembly for sixty (60) days. Upon expiration of this
21 period or earlier termination by Assembly action, the Code text repealed by this
22 emergency ordinance is restored.
23

24 **Section 6.** The following sections of Anchorage Municipal Code Chapter 7.10 are
25 repealed and replaced by the following for 60 days (*text that is a substantive change*
26 *from current Code is bolded and underlined for convenience of the reader, but*
27 *current code that is deleted may not be shown*):
28

29 **7.10.050 - Standard specifications.**
30

- 31 A. Every using agency shall propose, insofar as practicable, standard
32 specifications for the supplies, services, professional services and
33 construction that it requires.
34
- 35 B. The purchasing officer shall adopt standard specifications for supplies,
36 services and construction wherever practicable. The standard
37 specifications adopted by the purchasing officer shall be based upon
38 those proposed by using agencies, modified as necessary to
39 maximize clarity, uniformity and open competition, while effectively
40 serving the needs of the using agencies and the efficient operation of
41 the municipal government.
42
- 43 **C. All procurement cards issued by the Municipality of Anchorage**
44 **shall have a monthly spending limit not to exceed \$5,000.00**
45 **except as authorized by the Municipal Manager in writing. This**
46 **provision shall override any spending limits otherwise contained**

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in existing policies and procedures in place for procurement cards.

(AO No. 79-203, 1-1-80)

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

Suzanne LaFrance

Chair

ATTEST:

Barbara A. Jones

Municipal Clerk