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Relations

For reading: _____

ANCHORAGE, ALASKA
AO No. 2013-37(S)

**AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.70,
EMPLOYEE RELATIONS, WITH COMPREHENSIVE UPDATES SECURING LONG
TERM VIABILITY AND FINANCIAL STABILITY OF EMPLOYEE AND LABOR
RELATIONS.**

WHEREAS, Anchorage Municipal Code chapter 3.70, Employee Relations, was last updated as a whole in 1989 and some provisions are out of date; and

WHEREAS, the Municipality and the labor organizations which represent municipal employees must negotiate collective bargaining agreements which secure the long term financial stability of the Municipality by allowing delivery of the highest value services at the lowest reasonable cost to the citizens of Anchorage; and

WHEREAS, the Municipality and the labor organizations which represent municipal employees must negotiate collective bargaining agreements which recognize and balance the legitimate employment interests of the municipal workforce and the legitimate interests of the citizens of Anchorage; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code chapter 3.70, with the exception of section 3.70.190 addressed in Section 2 of this ordinance, is hereby amended to read as follows (*some unaffected sections are included for context; the remainder of the chapter is not affected and therefore not set out*):

Chapter 3.70 EMPLOYEE RELATIONS*

***Cross references:** Personnel rules, Ch. 3.30; Anchorage police and fire retirement system, Ch. 3.85; exemptions from disclosure of certain public records, § 3.90.040; employee relations board, § 4.40.070.

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- 3.70.200 Severability.

3.70.010 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative agreement means a written document executed by the mayor's designee and an employee organization, which changes, modifies/alters, amends, clarifies or interprets an explicit term or any written provision of a labor agreement, which has any financial consequences and which must be approved by the employee organization and by the assembly in the manner provided in AMC Section 3.70.130.

Administrative letter means a written document, including, but not limited to, a memorandum or letter of understanding, a side letter or agreement, or a letter of agreement addressing the management of the labor force under the existing terms of the current labor agreement. Administrative letters may not be used to vary the explicit terms of a labor agreement and may not result in any financial consequences for the Municipality. An administrative letter shall be executed by a duly authorized representative[s] of an employee organization and shall be approved by the assembly in the manner provided in AMC Section 3.70.130 in order to become effective.

Bargaining representative means the organization, association or labor union recognized through certification by the board as the proper party to represent the bargaining unit in collective bargaining and processing of grievances with the municipality.

Bargaining unit means the collective group of employees to be represented in collective bargaining and processing of grievances by one bargaining representative.

Board means the employee relations board of the municipality.

1 *Classification plan* means a system of job titles, [AND] job classification
2 specifications and FLSA designations [DESCRIPTIONS] corresponding to
3 designated pay ranges and includes an orderly arrangement into classes of
4 employees and a list of class titles, class codes and ranges assigned to each
5 class.

6
7 *Collective bargaining* means the performance of the mutual obligations
8 of the municipality and the employee organization to meet at reasonable times
9 and negotiate in good faith with respect to wages, hours and other terms and
10 conditions of employment and the execution of a written contract incorporating
11 an agreement reached. These obligations do not compel either party to agree
12 to a proposal or require the making of a concession.

13
14 *Confidential employee* means an employee who, in the normal course
15 of the employee's [HIS] duties, has access to or assists in the preparation or
16 utilization of information used in collective bargaining negotiations, arbitrations,
17 grievances, employee relations board proceedings or labor-related litigation
18 and board hearings, or whose duties require direct and/or system access to
19 confidential information which contributes significantly to the deliberative
20 process and development of municipal labor, employee relations, benefits,
21 payroll or budgetary policy.

22
23 *Direct fire protection services* means all employees who perform direct
24 firefighting, **EMS, fire prevention and emergency dispatch operations.**

25
26 *Direct labor costs* means **total compensation including wages,**
27 **allowances, special pay and pay enhancements, employer paid contributions**
28 **to retirement programs, and the actual cost paid for taxes and to provide**
29 **benefits provided to municipal employees pursuant to a collective bargaining**
30 **agreement.**

31
32 *Direct law enforcement* means **all police officers under AS**
33 **18.65.290(7)(A), community service officers, and emergency dispatch**
34 **personnel** within the police department.

35
36 *Dues checkoff* means the obligation or practice of the government of
37 deduction from the salary of a public employee at the employee's [HIS] written
38 authorization of an amount for the payment of the employee's [HIS]
39 membership dues in an employee organization, and the obligation of the
40 municipality to transmit the sums so deducted to the employee organization.

41
42 *Election* means a proceeding conducted and supervised by the
43 employee relations board in which employees in a collective bargaining unit
44 cast secret written ballots for the purpose of determining a collective
45 bargaining representative or for any other purpose specified in this chapter.

46
47 *[ELECTRICAL GENERATION AND TRANSMISSION* MEANS THOSE EMPLOYEE
48 SERVICES, AS DETERMINED BY THE BOARD, WHICH ARE ESSENTIAL TO THE
49 UNINTERRUPTED GENERATION AND TRANSMISSION OF ELECTRICAL POWER TO THE
50 COMMUNITY.]

1 [EMERGENCY MEDICAL SERVICES MEANS ALL EMPLOYEES IN THE SECTION OF
2 EMERGENCY MEDICAL SERVICES.]

3
4 Emergency declaration means an emergency as declared by the mayor
5 as described in AMC section 3.80.010 et seq.

6
7 *Employee* means any person holding a position in the [ADMINISTRATIVE]
8 service of the municipality. Such term does not include members of citizen
9 commissions or advisory groups appointed under authority of article V of the
10 Charter or Assembly appointees to the municipal audit committee or board of
11 equalization. The term "employee" shall not include supervisory employees.

12
13 *Employee organization* means an organization of employees of any
14 kind, having as its purpose the representation [IMPROVEMENT OF TERMS AND
15 CONDITIONS OF EMPLOYMENT] of public employees through collective bargaining,
16 grievance and arbitration, or any other procedure where permitted under this
17 chapter.

18
19 *Employer* means the municipality. Such term does not include the
20 numerous citizen advisory boards and commissions which exist under the
21 authority of article V of the Charter.

22
23 *Fact-finding* means investigation of a dispute by a duly appointed
24 individual, panel or board, with the fact finder submitting a report to the parties
25 or the public describing the issues, and reporting the facts relating thereto.

26
27 [FIRE PROTECTION MEANS ALL EMPLOYEES WITHIN THE DIVISION OF FIRE
28 SERVICES]

29
30 Holiday means a holiday officially recognized by the municipality as
31 defined by AMC chapter 3.30.

32
33 *Labor agreement* means a collective bargaining agreement that is the
34 result of an exchange of mutual promises between the mayor of the
35 municipality and an employee organization, and which becomes a binding
36 contract for the period of time set forth therein. A labor agreement must be
37 approved by the employee organization and by the assembly.

38
39 Managed competition program means a program intended to procure
40 the delivery of the most reliable, efficient and effective municipal services to
41 the citizens of Anchorage, through municipal sponsorship of regulated
42 competition for the delivery of selected services.

43
44 *Mediation* means effort by an impartial third party to assist in reaching
45 an agreement or reconciling a dispute regarding wages, hours and other terms
46 and conditions of employment between representatives of the employer and
47 the exclusive bargaining representative through interpretation, suggestion and
48 advice. Mediation may include recommending to the assembly concerning the
49 terms of a collective bargaining agreement.

50
51 [PERSONAL STAFF MEANS THE AIDES, SECRETARIES AND CLERKS WORKING

DIRECTLY FOR AN OFFICIAL OR SUPERVISORY EMPLOYEE.]

[POLICE MEANS ALL EMPLOYEES WITHIN THE POLICE DEPARTMENT]

[PORT OPERATION MEANS THOSE EMPLOYEE SERVICES, AS DETERMINED BY THE BOARD, WHICH ARE ESSENTIAL TO THE CONTINUED TRANSSHIPMENT OF COMMODITIES THROUGH THE PORT OF ANCHORAGE.]

[SEWER TREATMENT MEANS THOSE EMPLOYEE SERVICES, AS DETERMINED BY THE BOARD, WHICH ARE ESSENTIAL TO CONTINUED OPERATION OF THE SEWER TREATMENT SYSTEM OF THE MUNICIPALITY.]

Staff means all employees within the department, division, section or office affected.

Supervisory employee means an individual having responsibility on behalf of the municipality regularly to supervise other employees and/or participate in the performance of some or all of the following functions with respect to other employees: to hire, transfer, suspend, lay off, recall, promote, discharge, assign, approve time and attendance, reward, discipline, direct or adjust grievances, or effectively to recommend such action, if, in connection with [THE] such functions, the exercise of such responsibility is not of a merely routine or clerical nature but requires the exercise of independent judgment.

[WATER TREATMENT MEANS THOSE EMPLOYEE SERVICES, AS DETERMINED BY THE BOARD, WHICH ARE ESSENTIAL TO CONTINUED OPERATION OF THE WATER TREATMENT SYSTEM OF THE MUNICIPALITY.]

(AO No. 69-75; AO No. 88-76; AO No. 77-376; AO No. 84-221(S); AO No. 88-131(S); AO No. 89-46(S-1); AO No. 2008-135(S), § 1, 9-29-09)

Cross references: Definitions and rules of construction generally, § 1.05.020.

3.70.020 Declaration of policy.

A. *Generally.* While retaining the management rights enumerated at section 3.70.040, the municipality declares that it is its policy to promote harmonious and cooperative relations between the municipality and its employees and to protect the public by ensuring orderly and effective operations of government, while maintaining financially sound principles. These policies are to be effectuated by good faith discussions between the municipality and employee organizations recognizing the right of employees to organize for the purpose of collective bargaining; by negotiating with and entering into written agreements with employee organizations on matters of wages, hours and other terms and conditions of employment; by using mediation as a means to resolve disputes in accordance with the provisions of this chapter or whenever both parties choose to do so; and by maintaining merit system principles among municipal employees.

1 B. *Communications policy.* It is also the policy of the municipality that
2 continuing communications shall be promoted between the municipality
3 and employee representatives and that no collective bargaining
4 agreement will be ratified by the assembly unless it contains, as a part
5 of the agreement, the following: "The parties agree that they will meet
6 and confer in good faith at reasonable times and places concerning this
7 agreement, and its interpretation or any other matter of mutual concern
8 to employee representatives and the municipality. The parties further
9 agree that either party may request in writing, that the parties confer
10 within 14 days after the date of delivery of the request, in regard to
11 specific matters. An unexcusable refusal to meet and confer in
12 response to such request shall be a violation of this agreement. There
13 shall be no obligation on the part of either party to reopen, modify,
14 amend or otherwise alter the terminology or interpretation of this
15 agreement or to make any other agreement as a result of any such
16 conferences nor shall the requirement for such conferences alter the
17 rights or obligations of the parties under this agreement."
18

19 C. *Managed competition program.*
20

21 1. **Purpose.** Managed competition provides a structured,
22 transparent process that allows an open and fair comparison of
23 public sector employees and independent contractors in their
24 ability to deliver services to our citizens. This strategy recognizes
25 the high quality and potential of public sector employees, and
26 seeks to tap their creativity, experience and resourcefulness by
27 giving them the opportunity to structure organizations and
28 processes in ways similar to best practices in competitive
29 businesses. The benefit of the competitive process is the ability of
30 the public agency to positively influence expectations about local
31 government and gain public support. A properly designed
32 competitive process can enable the public agency to deliver
33 services as capably and efficiently as any private vendor.
34

35 2. **Policy.** It is the policy of the municipality that the assembly
36 will not approve a collective bargaining agreement unless it
37 contains, as part of the agreement, collective bargaining
38 agreements shall not contain provisions which prevent allow the
39 municipality from implementing and practicing the principles,
40 strategies and tactics of a managed competition program, while
41 recognizing and balancing the legitimate employment interests of
42 municipal employees, and management's rights, as provided in
43 3.70.040 of this chapter. A managed competition program shall not be
44 used to compete or contract for the delivery of direct law enforcement
45 or direct fire protection services to the municipality.
46

47 D. **Limitation on direct labor costs increases.** It is the policy of the
48 municipality that the assembly shall not approve a collective
49 bargaining agreement no collective bargaining agreement will be
50 ratified by the assembly, if the percentage increase in direct labor costs

associated with the agreement on a per employee basis in any coming calendar year will exceed the average percentage change in the CPI-U for Anchorage, Alaska, in the preceding five calendar year period on an average annual basis, plus one percent. The CPI-U is the United States Department of Labor, Bureau of Labor Statistics annual average for all items for all urban consumers published for Anchorage, Alaska. The CPI-U is the year end index provided by the State of Alaska, Department of Labor.

E. *Employee benefits.* It is the policy of the municipality that benefits and eligibility criteria offered to municipal employees pursuant to a benefit program sponsored and defined by the municipality shall be the same for all eligible employees. Expenditures by the municipality for employee benefits provided under a plan other than a municipal sponsored plan shall not exceed the actual cost of providing the benefits under the alternate plan, or the cost of providing the equivalent benefit through a plan sponsored by the municipality, whichever cost is lower. The municipality shall not sponsor or participate in any plan, which offers benefits or requires expenditures that would cause the municipality to incur any penalty, by special tax or otherwise, under federal or state law or regulation unless such a tax or fee was agreed to in advance by the municipality. For purposes of this subsection, benefit programs for standardization include health or dental plans, life, disability, or dependent life insurance plans, and optional retirement savings plans, but not retirement or existing pension plans.

F. *Payments for services to union.* It is the policy of the municipality that ~~no collective bargaining agreements will be ratified by the assembly unless it contains, as part of the agreement, collective bargaining agreements shall contain~~ a provision requiring the union to reimburse the municipality for any payments made by the municipality to a municipal employee for time spent performing services or the union and that union representatives employed by the municipality maintain accurate time records which reflect the performance of such services.

G. *Uniform holidays.* It is the policy of the municipality that all holidays recognized by the municipality shall be uniform for all municipal employees. The assembly will not approve a collective bargaining agreement if it contains any provision establishing a holiday other than the holidays recognized by the municipality in AMC chapter 3.30.

H. *Pay enhancements limited.* It is the policy of the municipality that employee pay rates, payable pursuant to the terms of a collective bargaining agreement, shall be based only upon bona-fide position requirements and enhanced qualifications which directly affect employee performance in a classification. All wage rates shall be readily ascertainable and consistent with the municipal classification schedule. All extra regular pay based on performance or longevity, by

whatever name, including, but not limited to, performance based incentive pay, performance step programs, and pay increases based on longevity or service recognition, shall be eliminated, with the following exceptions:

1. Longevity Pay under section 3.30.127D. and its equivalent in collective bargaining agreements shall continue for eligible employees as defined and determined under section 3.30.127 or the respective collective bargaining agreement. Future collective bargaining agreements shall not contain independent longevity pay provisions, but may incorporate chapter 3.30 by reference.
2. Service Recognition under section 3.30.127E. and its equivalent in collective bargaining agreements shall continue for eligible employees as defined and determined under 3.30.127 or the respective collective bargaining agreement. Future collective bargaining agreements shall not contain independent service recognition pay provisions, but may incorporate chapter 3.30 by reference.
3. Performance Incentive programs. Programs such as the Performance Incentive Program (AMEA), Performance Pay Incentive (APDEA), Performance Incentive Pay (IAFF), Performance Step Program (IUOE Local 302), and similar education and performance programs shall not be offered in contracts negotiated after [effective date of this ordinance]. Pay under these programs shall be maintained for employees on the payroll as of the effective date of this ordinance at levels earned by the employee at the expiration of the applicable existing contract, except incentive pay requiring periodic renewal shall end with the expiration of the applicable contract. Educational incentives, if offered, shall be as provided in chapter 3.30.

(AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1))

3.70.030 Rights of employees.

Employees shall have the right to organize and to be represented by employee organizations for the purpose of collective bargaining with the municipality concerning the terms and conditions of their employment and for the purpose of resolving grievances arising under collective bargaining agreements, both as provided in this chapter.

(AO No. 69-75; AO No. 89-46(S-1))

3.70.040 Management rights.

- 1 A. It is the right of the municipality acting through its agencies to:
- 2
- 3 1. Determine the standards of service to be offered by its agencies;
- 4
- 5 2. Determine the standards of selection for employment;
- 6
- 7 3. Direct and supervise its employees;
- 8
- 9 4. Take disciplinary action;
- 10
- 11 5. Relieve its employees from duty because of lack of work or for
- 12 other legitimate reasons;
- 13
- 14 6. Maintain the efficiency of governmental operations;
- 15
- 16 7. Determine the methods, means, equipment and personnel by
- 17 which government operations are to be conducted including
- 18 staffing and scheduling, and overtime;
- 19
- 20 8. Adopt and amend a classification plan and allocate and
- 21 reallocate employees to positions within the plan;
- 22
- 23 9. Take all necessary actions to carry out its mission in
- 24 emergencies; [AND]
- 25
- 26 10. Exercise complete control and discretion over scheduling its
- 27 employees and its organization and the technology and/or
- 28 equipment of performing its work;
- 29
- 30 11. Determine key and essential personnel and necessary
- 31 equipment and supplies in the event of an emergency
- 32 declaration.
- 33
- 34
- 35 B. The municipality declares that there is nothing incompatible with the
- 36 maintenance of these rights and collective bargaining as to the method
- 37 of application of these rights on matters of wages, hours and other
- 38 terms and conditions of employment. In exercising management rights,
- 39 the municipality shall ensure that, where matters of wages, hours and
- 40 other terms and conditions of employment are involved, all written
- 41 agreements are observed unless contrary to law. Units appropriate for
- 42 collective bargaining shall be determined by the employee relations
- 43 board in accordance with criteria established by the assembly in this
- 44 chapter.
- 45

46 (AO No. 69-75; AO No. 77-376; AO No. 89-46(S-1))

47

48 **3.70.050 Employee relations board.**

49

- 50 A. *Established; membership.* There is established an impartial body, the
- 51 employee relations board of the municipality. The board is made up of

three impartial members appointed by the mayor and confirmed by the assembly in public hearing. The board must include a member with a background in management (**seat A**), a member with a background in labor (**seat B**), and a member from the general public (**seat C**). **Unions in collective bargaining agreements with the municipality may, collectively, present a list of 5 names to the Mayor for selection of seat B. Names shall be submitted 45 days prior to expiration of seat B's term or within 30 days of seat B's vacancy; otherwise the Mayor may select someone of his own choosing.** The board shall annually select a chair from among its members to serve a term of one year. Confirmation hearings shall be preceded by at least two weeks' notice to representatives of each municipal bargaining unit of the proposed appointment. The employee relations board reports jointly to the mayor and the assembly.

B. *Compensation of members; other employment.* None of the members of the board shall be employed by the municipality or by any of the groups covered by this chapter. [MEMBERS OF THE BOARD SHALL BE PAID \$50.00 PER DAY OR PORTION THEREOF WHEN SITTING AS THE BOARD.]

C. *Staff.* All staff costs for the board shall be borne by the municipality. For purposes of this section, staff costs are those costs necessary to pay the salaries of those municipal employees who normally serve as staff to the board, and to provide those employees with day-to-day office supplies. The municipality shall assume all costs incurred in connection with the official activities of the board unless specified differently elsewhere in this chapter. The board shall determine its staff needs and report such to the mayor and the assembly for approval and inclusion in the annual budget.

D. *Powers and duties.* The board shall administer the policies established by this chapter. Its duties shall include but are not limited to:

1. Determining in each case the unit appropriate for the purposes of collective bargaining, taking care to avoid unnecessary fragmentation of homogenous groups.
2. Conduct of representation elections.
3. Certification or decertification of employee organizations as exclusive representatives.
4. [RESOLUTION OF DISPUTES, INCLUDING] Administrative oversight of mediation[, **and** fact-finding **and arbitration** [AND ARBITRATION] activities.
5. Determination of the occurrence of and remedy for unfair labor practices.
6. **Final determination regarding disputes between management and the unions regarding positions exempted from collective**

bargaining as identified in section 3.70.060C. [DESIGNATION, IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, OF THOSE PERSONNEL WITHIN THE SUPERVISORY AND CONFIDENTIAL CATEGORIES.]

7. Conduct of such hearings and inquiries as are necessary to carry out the functions of the board.

8. Exercise of the power to administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence[, AND COMPEL BY THE ISSUANCE OF SUBPOENAS THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF RELEVANT DOCUMENTS. THE BOARD MAY DELEGATE SUCH POWERS TO ANY MEMBER OF THE BOARD OR ANY PERSON APPOINTED BY THE BOARD FOR THE PERFORMANCE OF ITS FUNCTION, AS AUTHORIZED BY THIS SECTION].

E. All parties shall have the right to subpoena witnesses and documents using a form provided by the municipal clerk and submitted to the clerk for issuance at least five working days before the date of the hearing.

F. *Implementation of chapter.* The board shall conduct hearings, issue cease and desist orders, require appropriate remedies for unfair labor practices, conduct elections and take affirmative action to effectuate the policies of this chapter.

G [F]. *Authority to prescribe additional regulations.* The board shall recommend to the assembly [PROMULGATE] rules and regulations necessary to perform its duties to effectuate the purposes of this chapter.

H [G]. *Effect of decisions.* Decisions of the board shall be binding upon all parties to a proceeding unless stayed by order of the superior court pursuant to the filing of an appeal. Any party to a proceeding before the board may petition the superior court to enforce an order of the board.

I [H]. *Removal of members.* Board members may be removed from office in accordance with section 4.05.060

(AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1); AO No. 2005-113, § 1, 9-27-05)

Cross references: Code of ethics, ch. 1.15; public meetings, ch. 1.25; boards and commissions, tit. 4.

3.70.060 Collective bargaining units.

A. *Generally.* The employee relations board shall decide in each case the unit appropriate for the purpose of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective

bargaining and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided. Supervisory and confidential employees shall not be members of a bargaining unit.

B. *School district.* School district employees' bargaining units shall be as determined by the school board and all responsibility for collective bargaining shall be that of the school board.

C. *Exempt employees.* The following employees shall be exempt from collective bargaining:

1. All executive employees and those appointed employees as identified in section 3.30.012[.]A₂;
2. All supervisory employees no matter where located [AS DESIGNATED BY THE BOARD UPON PETITION OF THE MUNICIPALITY];
3. The office of the mayor[, EXCEPT THAT EMPLOYEES CURRENTLY ELIGIBLE FOR COLLECTIVE BARGAINING OR BARGAINING UNIT MEMBERS WHOSE POSITIONS ARE REASSIGNED TO THAT OFFICE SHALL ONLY BE EXCLUDED FROM BARGAINING UNIT MEMBERSHIP WITH THE APPROVAL OF THE BOARD];
4. The staffs of the municipal manager, the executive manager, and the office of emergency management[, EXCEPT EMPLOYEES CURRENTLY ELIGIBLE FOR COLLECTIVE BARGAINING OR BARGAINING UNIT MEMBERS WHOSE POSITIONS ARE REASSIGNED TO THOSE OFFICES SHALL ONLY BE EXCLUDED FROM BARGAINING UNIT MEMBERSHIP WITH THE APPROVAL OF THE BOARD];
5. The staff of the municipal attorney;
6. The staff of the internal auditor;
7. The [PORTION OF THE] treasurer's staff [CHARGED WITH BILLING AND COLLECTING PROPERTY TAXES, COLLECTIONS ADMINISTRATION, AND DIRECT ADMINISTRATIVE ASSISTANCE];
8. The ombudsman, the staff of the office of the ombudsman, the municipal clerk and the staff of the municipal clerk, and the staff of the equal rights commission;
9. The staff of the department of employee relations;
10. Confidential employees no matter where located [WHO IN THE NORMAL COURSE OF THEIR DUTIES HAVE ACCESS TO OR ASSIST IN THE PREPARATION OF LABOR RELATIONS MATERIALS USED IN NEGOTIATIONS, ARBITRATIONS, GRIEVANCES AND BOARD MEETINGS];
11. The staff of any municipal information technology department or

division, no matter where located [INCLUDING: A. THE STAFF OF THE MUNICIPALITY], except for the reprographics section;
 [B. THE STAFF OF THE ANCHORAGE WATER AND WASTEWATER UTILITY INFORMATION TECHNOLOGY DIVISION; AND
 C. THE STAFF OF THE MUNICIPAL LIGHT AND POWER UTILITY SYSTEMS DIVISION EXCEPT FOR THE RADIO SHOP.]

12. The staff of the assembly;

13. The staff of the police and fire retirement board;

14. The staff of [THE HERITAGE LAND BANK AND] Real Estate Services;
 [AND]

15. The staff of the office of management and budget; and

16. The staff of the central payroll office within the finance department, no matter where located.

(AO No. 69-75; AO No. 77-94; AO No. 247-76; AO No. 78-82; AO No. 78-113; AO No. 78-166; AO No. 79-27; AO No. 81-82; AO No. 82-49; AO No. 85-8; AO No. 88-47(S); AO No. 88-82; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1); AO No. 89-125; AO No. 98-115(S), § 5, 7-1-98; AO No. 2002-69, § 4, 5-14-02; AO No. 2003-61, § 1, 1-1-03; AO No. 2004-138, § 1, 10-26-04; AO No. 2007-45, § 1, 4-10-07; AO No. 2008-90(S), § 3, 1-1-09)

3.70.070 Recognition and certification of employee organizations.

- A. The municipality shall recognize and bargain with certified bargaining representatives selected according to the procedures set out in this chapter.
- B. Certification by the board shall conclusively establish that the certified organization is the proper bargaining representative for the bargaining unit. The municipality and the certified bargaining representatives shall bargain in good faith for the purpose of entering into written agreements with respect to wages, hours and other terms and conditions of employment, as provided in this chapter.
- C. If a change of certification occurs before the expiration of a current bargaining agreement, the municipality shall bargain with the newly certified bargaining representative for purposes of reaching a new agreement.

(AO No. 69-75; AO No. 89-46(S-1))

3.70.080 Certification of bargaining representative.

- A. *Generally.* The board shall determine the bargaining representative according to the procedures set out in this section. Upon such determination, the board shall certify the bargaining representative. As

a condition of certification, the bargaining representative shall represent all employees within the unit without regard to membership in the organization. No closed shop shall be allowed. Nothing in this section bars inclusion in a collective bargaining agreement of a requirement that all members of the unit affiliate with the bargaining representative within 30 days after the date of their employment, or the date of certification, whichever is later.

B. *Initiation of election.* Bargaining representatives shall be determined by election by employees within the bargaining unit by secret written ballot or by consent of the parties and approval by the board. An election on representation may be initiated by presentation to the board of authorization cards dated no more than one hundred and eighty (180) days before the date of presentation, containing the signatures of at least 30 percent of the employees within the bargaining unit requesting that the applicant be certified to represent the members of the bargaining unit. No petition shall be entertained by the board if there has been an election in the unit during the preceding 12 months. No election may be directed by the employee relations board in a bargaining unit in which there is in force and effect a valid collective bargaining agreement, except during a 180-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of persons in the bargaining unit, if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

C. *Time for presentation of petition for election.* A petition based on authorization cards must be presented to the board not more than 180 days or not less than 150 days before the expiration of the current agreement.

D. *Verification of petition for election.* Upon timely receipt of authorization cards requesting a representation election, the board shall examine the cards and other evidence to ensure that the signatures contained thereon are genuine and that they represent signatures of members of the bargaining unit entitled to vote. Upon verification, the board shall post immediate notice that authorization cards have been received requesting a representation election and that other prospective bargaining representatives desiring their names be placed upon the ballot have an additional period of 15 days in which to present authorization cards reflecting the desires of ten percent of the employees within the bargaining unit that such prospective bargaining representative be certified as the bargaining representative. If the board finds the same signatures on more than one authorization card, it shall reject all cards on which the signature appears.

E. *Pre-election hearing.* No election may be held without first conducting a pre-election hearing to determine the validity of all requests for certification, the time and procedures for the election, and the contents of the ballot. The pre-election hearing shall be conducted within one week after the expiration of time for submission of authorization cards

for intervention of an additional party in the election. All parties which have petitioned for certification, as well as the employer, shall have the opportunity to appear and participate at pre-election hearings.

F. *Election ballot.* The ballot shall contain the name of each proposed bargaining representative which has been presented to the board in accordance with this section, as well as the name of the currently certified bargaining representative. The ballot shall also contain a choice for any employee to designate that the employee [HE] does not desire to be represented by any bargaining representative.

G. *Notice of election.* Upon conclusion of the pre-election hearing, the board shall notify all employees within the bargaining unit of an election to be held on the question of representation within the bargaining unit. Notice shall be given to each employee at least seven days prior to the election. Additionally, notice shall be posted on municipal bulletin boards in the areas in which employees of the bargaining unit work. The notification shall specify each of the choices contained on the ballot, that the ballot is to be a secret ballot, and the time, date and place of the election. Defects of notice shall not invalidate an election so long as there has been substantial compliance with the requirements of this subsection.

H. *Date of election.* Representation elections shall be conducted so that employees have reasonable opportunities to vote during normal working hours. The election shall be held at least 120 days prior to the expiration of a current bargaining agreement affecting the bargaining unit.

I. *Supervision of elections.* All representation elections shall be supervised by the board. An observer from each prospective bargaining representative appearing on the ballot and a representative of the employer may be present at each polling place. The board shall establish the time, date and place for the election.

J. *Result of elections.* Certification shall require a majority of the valid ballots cast. Where more than one organization is on the ballot and none of the three or more choices receives a majority vote of the valid ballots cast, a runoff election shall be held. The runoff ballot shall contain the two choices which received the largest and second largest number of valid ballots cast. The runoff election shall be conducted within 14 days of the initial election. Notice and posting for the runoff election shall be the same as for the regular election. If the votes for three or more choices are equal, the runoff shall be between the prospective bargaining representatives.

K. *Consent recognition.* The employer and a prospective bargaining representative may consent to recognition of the bargaining representative in the case of a bargaining unit which is not currently represented. In such case, the parties shall petition the board for certification. The petition shall include authorization cards having the

signatures of more than 50 percent of the members of the proposed bargaining unit, dated no more than one hundred and eighty (180) days before the date the petition is presented. The board shall determine whether the prospective bargaining representative represents a majority of the employees within the bargaining unit. If the board determines that the bargaining unit is appropriate and the bargaining representative represents a majority of the employees within the bargaining unit, the board shall certify the prospective bargaining representative as the certified bargaining representative for purposes of collective bargaining. If the board determines that the applicant does not represent a majority of the employees within the bargaining unit, an election shall be held in the manner provided in this chapter, if the election provisions of this chapter have been met.

(AO No. 69-75; AO No. 89-46(S-1))

3.70.090 Collective bargaining.

- A. After determination of the appropriate bargaining unit and bargaining representative in accordance with the provisions of this chapter and subject to the other provisions of this chapter, the mayor's authorized negotiation team shall enter into negotiations with the bargaining representative of the employee unit in a timely fashion, not to exceed 30 days after certification by the board, concerning the wages, hours and other terms and conditions of employment.
1. Notwithstanding anything to the contrary contained in this title, substance abuse testing and all issues and other matters related to or affecting such testing shall not be subject to collective bargaining under this chapter, provided however, nothing in this subsection shall prohibit employee grievance and arbitration of discipline and/or discharge pursuant to substance abuse testing policy and procedures.
 2. The right of the municipality to contract with other entities for the performance of its work shall not be encumbered by a requirement that any such entity be signatory to an agreement with any labor organization.
 3. No collective bargaining agreement may exceed a term of three years from its effective date.
 4. In all collective bargaining, the team of representatives authorized to negotiate on behalf of the municipality shall include an attorney and a representative of the chief fiscal officer.
- B. Negotiating sessions shall be private unless otherwise agreed to by the parties; however, the parties to the negotiations shall periodically and jointly report to the assembly as specified by the assembly but not less than once every 30 days. The joint report shall be made in the form of an Assembly Information Memorandum, and shall state either that

1 negotiations are currently proceeding and the parties are not at
2 impasse, or that the parties are not making progress. If the parties are
3 not making progress, the report shall state what steps are being taken
4 to move the progress forward, such as mediation and fact-finding. The
5 report shall not include information about the substance of the
6 negotiations, unless the parties agree to include that information in the
7 report. The assembly may, on its own motion, make these reports
8 public. [SUCH REPORTS MAY BE MADE PUBLIC BY THE ASSEMBLY WHEN
9 DEEMED APPROPRIATE.]

10
11 C. Collective bargaining shall commence at least 120 [90] days prior to the
12 contract expiration date. If neither party initiates collective bargaining
13 prior to that time, the current contract shall be extended for an
14 additional year.

15
16 D. The assembly shall set general labor relations policy and direction for
17 contract negotiations.

18
19 1. For contracts being reopened or expiring, the office of the mayor
20 shall notify the assembly of impending collective bargaining at
21 least 30 to 45 days before the commencement of collective
22 bargaining in order to allow assembly action on policy and
23 directions for contract negotiations.

24
25 2. The assembly shall be notified by the office of the mayor when
26 negotiations commence.

27
28 a. The mayor and the affected labor organization or
29 employee group shall both keep the assembly apprised of
30 the course of negotiations as set forth in subsection B of
31 this section.

32
33 b. After negotiations commence, neither party to the
34 negotiations shall communicate with the assembly or any
35 of its members concerning the negotiations except
36 through the periodic reporting process described in this
37 section.

38
39 3. When collective bargaining results in an agreement requiring
40 assembly approval under 3.70.130:

41
42 a. An Assembly Memorandum summarizing the contract
43 changes shall accompany the proposed agreement.

44
45 b. A summary of economic effects, including wages and
46 benefits cost (example: health, retirement) and private
47 sector impact, substantiated by financial reviews
48 prepared by the CFO and the internal auditor shall
49 accompany the proposed agreement. This summary
50 shall include a three year projection of total operating
51 budget, including the impact of the percentage change in

direct labor costs under the proposed agreement compared to the projected percentage change in total revenue for the same three year period.

- c. The Assembly shall have a 30-day period for public review and comment on the labor agreement terms and conditions, summary of economic effects, and contract changes, before action by the assembly.

E. Upon agreement of both parties, collective bargaining may be undertaken at any time.

F. Subsections A through E of this section are subject to the limitations of section 3.70.140.

(AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1); AO No. 98-5(S), § 1, 2-10-98; AO No. 2009-27(S), § 1, 4-14-09)

3.70.100 Mediation and fact-finding.

A. If, ~~120~~ ~~90~~ [60] days prior to the contract expiration date, the parties have not agreed to a collective bargaining agreement, the board shall select and assign a neutral mediator who shall mediate all further negotiation sessions between the parties until directed otherwise by the board. The board may assign a mediator to assist the parties sooner at the request of both parties. A mediator's function shall be to bring the parties together under such circumstances as will tend to effectuate settlement of the dispute, but neither the mediator nor the board has any power of compulsion in mediation proceedings. The cost of mediation shall be borne 50% by the municipality and 50% by union. The parties may collectively agree to a mediator without input from the board.

B. If, on the ~~90~~ ~~60~~ [30]th day prior to the contract expiration date, a collective bargaining agreement has not been executed between the parties, the parties shall select a fact finder from a list of nine names, three names from within the state and six names from outside the state, submitted by the American Arbitration Association unless otherwise mutually agreed to by the parties, to conduct a hearing and return findings of fact concerning the specific issue in question. The fact finder shall have the power to determine all relevant facts including but not limited to workload, productivity, economic feasibility, cost of living, the parties' bargaining history, relevant market comparisons in the public sector and relevant market comparisons in the private sector taking into account the cost of living in the markets compared[, THE EMPLOYER'S PAST PRACTICE] and impact on personnel [OR WORKPLACE MORALE]. The cost of the fact finder shall be shared equally by the parties. The fact finder shall within seven days of appointment conduct informal hearings and return [HIS] findings to the employer and bargaining representative. The fact finder shall submit a written report recommending terms and conditions to settle the dispute within 30 days following the fact-finding

hearing. ~~This report shall be the basis for post-fact-finding negotiation or mediation between the parties. If no settlement is reached, the fact-finding report shall become a public document 15 days after the first post-fact-finding negotiation or mediation meeting. [If, within 14 days after transmission of the findings of fact to the parties, an agreement has not been reached, the parties shall submit all unresolved matters to arbitration. Findings shall be made public upon delivery to the employer and bargaining representative.]~~

C. The deadlines in subsections A and B of this section may be extended up to 150 days by the parties by mutual consent as long as good faith bargaining continues.

(AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1))

3.70.110 Impasse resolutions.

~~If, five (5) days after public release of the fact-finding report, no agreement has been reached, the "last best offers" of the parties presented at fact-finding will be sent to the assembly for consideration. The assembly, following public hearing, must impose either one of the parties' last best offers in its entirety with no alterations as one final contract binding upon both parties. At any time prior to assembly approval of a final contract, the parties may reach agreement on specific terms or the entire contract, subject to approval pursuant AMC section 3.70.130.~~

A. No collective bargaining agreement may be extended more than 180 days without assembly approval. If 150 days after the expiration date of an agreement, if no new agreement has been reached, the assembly must impose the last best offer of one of the parties.

[A. *SERVICE CLASSES.* FOR PURPOSES OF THIS SECTION, EMPLOYEES PERFORM SERVICES IN ONE OF THE FOLLOWING THREE CLASSES:

1. SERVICES WHICH MAY NOT BE GIVEN UP FOR EVEN THE SHORTEST PERIOD OF TIME;
2. SERVICES WHICH MAY BE INTERRUPTED FOR A LIMITED PERIOD BUT NOT FOR AN INDEFINITE PERIOD OF TIME; AND
3. SERVICES IN WHICH ABSENT EXTRAORDINARY CIRCUMSTANCES, WORK STOPPAGES MAY BE SUSTAINED FOR EXTENDED PERIODS WITHOUT SERIOUS EFFECTS ON THE PUBLIC.]

[B. *LIMITATIONS ON ENGAGING IN STRIKE.* THE CLASS DESCRIBED IN SUBSECTION A.1 OF THIS SECTION IS COMPOSED OF POLICE, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES. THE CLASS DESCRIBED IN SUBSECTION A.2 OF THIS SECTION IS COMPOSED OF SEWER AND WATER TREATMENT, ELECTRICAL GENERATION AND TRANSMISSION AND PORT OPERATION. EMPLOYEES IN THIS CLASS FOR A LIMITED TIME MAY ENGAGE IN A STRIKE PURSUANT TO SUBSECTION C.9 OF THIS SECTION. THE LIMIT IS DETERMINED BY THE INTERESTS OF THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC.

THE BOARD MAY APPLY TO THE SUPERIOR COURT FOR AN ORDER ENJOINING THE STRIKE. A STRIKE MAY NOT BE ENJOINED UNLESS IT CAN BE SHOWN THAT IT HAS BEGUN TO THREATEN THE HEALTH, SAFETY OR WELFARE OF THE PUBLIC. A COURT IN DECIDING WHETHER OR NOT TO ENJOIN THE STRIKE SHALL CONSIDER THE TOTAL EQUITIES IN THE PARTICULAR CLASS. FOR PURPOSES OF THIS SECTION, THE TERM "TOTAL EQUITIES" INCLUDES NOT ONLY THE IMPACT OF THE STRIKE ON THE PUBLIC BUT ALSO THE EXTENT TO WHICH EMPLOYEE ORGANIZATIONS AND PUBLIC EMPLOYERS HAVE MET THEIR OBLIGATIONS UNDER THIS CHAPTER. ALL OTHER EMPLOYEES FALL WITHIN THE CATEGORY DESCRIBED IN SUBSECTION A.3 OF THIS SECTION. IF THERE ARE EXTRAORDINARY CIRCUMSTANCES UNDER WHICH THE HEALTH, SAFETY OR WELFARE OF THE PUBLIC IS THREATENED, THE BOARD MAY ALSO APPLY TO THE SUPERIOR COURT FOR AN ORDER ENJOINING A STRIKE BY THIS CLASS.]

B.[C.] Submission of issues to arbitration.

1. ***Prior to expiration of contract.*** [FOR BARGAINING UNITS OR PORTIONS OF BARGAINING UNITS WITHIN THE CATEGORY DESCRIBED IN SUBSECTION A.1 OF THIS SECTION, IF] If the parties have not reached agreement seven days prior to expiration of the contract, the issue in dispute shall be submitted to arbitration before the party selected as factfinder in accordance with section 3.70.100.B.
2. ***Completion of mediation and factfinding.*** For bargaining units or portions of bargaining units [WITHIN THE CATEGORIES DESCRIBED IN SUBSECTION A.2 OR A.3 OF THIS SECTION] who have completed mediation and factfinding under section 3.70.100, the issues in dispute shall immediately be submitted to arbitration.
3. ***Agreement prior to arbitrator's award.*** The parties may continue collective bargaining and reach an agreement at any time prior to the issuance of the arbitrator's award.
4. ***Time limit for arbitration decision.*** Hearings shall be concluded and the arbitrator shall forward his decision to both parties not later than 60 days after the factfinder's report [EXPIRATION DATE OF THE COLLECTIVE BARGAINING AGREEMENT].
5. ***Selection of factfinder/arbitrator.*** The factfinder/arbitrator shall be selected in accordance with section 3.70.100B by each party exercising its preemptory challenge in turn until only one factfinder/arbitrator remains.
6. ***Arbitration procedure.*** The arbitrator shall conduct the arbitration according to the rules of Voluntary Rules of Labor Arbitration published by the American Arbitration Association, as may be modified by agreement between the parties at the first day of hearing.
7. ***Scope of arbitrator's authority.*** The arbitrator shall be limited in his authority to selection of one [ON A SUBJECT-BY-SUBJECT BASIS FROM EACH] of the parties' last best

offer in its entirety. [ON EACH SUBJECT, THE ARBITRATOR SHALL SELECT ONE PARTY'S PROPOSAL IN ITS ENTIRETY.] The arbitrator shall not have the authority to select or prepare his own offer nor select or combine portions of either parties' last best offers on a given subject. In exercising his or her discretion to select between competing proposals [BY SUBJECT], the arbitrator shall base his or her decisions solely on the facts determined in accordance with sections 3.70.100B. and applicable law.

[8. *SUBJECT DEFINITION.* FOR BARGAINING UNITS OR PORTIONS OF BARGAINING UNITS WITHIN THE CATEGORY DESCRIBED IN SUBSECTION A.1. OF THIS SECTION, THE FOLLOWING ADDITIONAL PROVISIONS REGARDING SELECTION OF SUBJECTS APPLIES AS FOLLOWS:

A. UNLESS OTHERWISE AGREED BY THE PARTIES TO THE COLLECTIVE BARGAINING PROCESS, THE FOLLOWING SHALL CONSTITUTE SEPARATE SUBJECTS FOR PURPOSE OF INTEREST ARBITRATION:

- (1) SCOPE OF THE BARGAINING UNIT AND THE DEFINITION OF BARGAINING UNIT WORK;
- (2) THE AMOUNT AND EFFECTIVE DATE OF ACROSS-THE-BOARD WAGE CHANGES WHICH BECOME EFFECTIVE DURING THE CONTRACT PERIOD EITHER EXPRESSED AS A LUMP SUM, FIXED PERCENTAGE, COST OF LIVING ADJUSTMENT OR AN ADJUSTABLE PERCENTAGE CHANGE, INCLUDING ANY RETROACTIVE PAY;
- (3) THE AMOUNT AND EFFECTIVE DATE OF WAGE CHANGES NOT APPLICABLE ACROSS-THE-BOARD;
- (4) HOURS OF WORK, WORK DAY, WORK WEEK AND SHIFT SCHEDULES;
- (5) OVERTIME;
- (6) MEDICAL AND DENTAL INSURANCE COVERAGE;
- (7) DISABILITY, LIFE AND OTHER INSURANCE COVERAGES;
- (8) HOLIDAYS, INCLUDING ANY PREMIUM PAY FOR HOLIDAYS WORKED;
- (9) PROMOTIONS, TRANSFERS AND DEMOTIONS;
- (10) LEAVE, INCLUDING ANNUAL, SICK AND OTHER PAID AND UNPAID LEAVE;
- (11) GRIEVANCE AND ARBITRATION PROCEDURES;
- (12) PREMIUM, SPECIALTY, SHIFT DIFFERENTIAL AND INCENTIVE PAY;
- (13) LAYOFF AND RECALL PROCEDURES;
- (14) UNION RECOGNITION, SECURITY, DUES AND OTHER UNION BUSINESS;
- (15) SENIORITY;
- (16) CLOTHING, TOOLS, AND EQUIPMENT;
- (17) SAFETY.]

[B. ALL SUBJECTS NOT LISTED IN SUBSECTION C.8.A. OF THIS SECTION SHALL BE GROUPED ON A SUBJECT-BY-SUBJECT BASIS AS MUTUALLY AGREED BY THE PARTIES.]

[C. ANY DISPUTE BETWEEN THE PARTIES REGARDING THE INCLUSION OR EXCLUSION OF ANY GIVEN ISSUE OR ISSUES IN ANY SUBJECT CATEGORY PROVIDED FOR IN SUBSECTIONS C.8.A. AND C.8.B. OF THIS SECTION SHALL FIRST BE REFERRED TO AND DECIDED BY THE ARBITRATOR NO LATER THAN 30 DAYS IN ADVANCE OF THE FIRST FACT FINDING HEARING BEFORE THE ARBITRATOR UNDER SECTION 3.70.100.B. AND SHALL BE DECIDED BY THE ARBITRATOR WITHIN SEVEN DAYS. IN MAKING HIS/HER DECISION, THE ARBITRATOR SHALL AVOID MINUTE DISSECTION OF ISSUES THAT WOULD THWART OR PROLONG ARBITRAL RESOLUTION.]

[D. ANY PARTY MAY APPEAL AN ADVERSE ARBITRATOR'S DECISION UNDER SUBSECTION C.8.C. OF THIS SECTION TO THE EMPLOYEES RELATIONS BOARD WITHIN FIVE DAYS OF THE ARBITRATOR'S DECISION. THE EMPLOYEE RELATIONS BOARD SHALL RENDER A DECISION ON SUCH AN APPEAL AT LEAST SEVEN DAYS BEFORE THE FACT FINDING HEARING.]

9. ***Payment of costs of arbitration. Cost of the arbitrator shall be borne equally by both parties.***

10. ***Decision by arbitrator. The decision of the arbitrator shall be reduced to writing. The collective bargaining agreement, in compliance with the arbitrator's decision, shall be prepared and presented to the assembly for approval. The internal auditor or its contractor shall review and express an opinion on the financial analysis prepared by the affected parties of the projected costs and savings from the contract to be replaced resulting from the arbitrator's recommendation and the municipality's last best offer. The decision of the arbitrator [FOR BARGAINING UNITS OR PORTIONS OF BARGAINING UNITS] shall be final and binding upon the parties only after approval by eight votes of the assembly. If the arbitrator's decision is not approved by the assembly by the later of:***

A. 21 days after delivery to the municipal clerk,

B. seven days following receipt of the municipality's financial analysis, or

C. within 21 days after a mayoral veto,

then the parties shall be considered at impasse. The municipality may then implement its last best offer.

[A. THE DECISION OF THE ARBITRATOR FOR BARGAINING UNITS OR PORTIONS OF BARGAINING UNITS WITHIN THE CATEGORY DESCRIBED IN SUBSECTION A.1 OF THIS SECTION SHALL BE REDUCED TO WRITING AND SHALL BE FINAL AND BINDING UPON THE PARTIES. THE COLLECTIVE BARGAINING AGREEMENT, IN COMPLIANCE WITH THE ARBITRATOR'S DECISION, SHALL BE PREPARED AND EXECUTED BY THE PARTIES. COLLECTIVE BARGAINING AGREEMENTS AWARDED THROUGH BINDING INTEREST ARBITRATION MAY NOT EXCEED TWO YEARS IN

DURATION FROM THE DATE OF THE ARBITRATOR'S AWARD. DECISIONS OF THE ARBITRATOR MAY BE APPEALED TO THE SUPERIOR COURT FOR THE STATE ONLY FOR ABUSE OF DISCRETION, FRAUD OR MISCONDUCT ON THE PART OF THE ARBITRATOR. ON APPEAL TO THE SUPERIOR COURT, LEGAL DETERMINATIONS OF THE EMPLOYEE RELATIONS BOARD SHALL BE REVIEWED DE NOVO BY THE SUPERIOR COURT.]

[B. THE DECISION OF THE ARBITRATOR FOR BARGAINING UNITS OR PORTIONS OF BARGAINING UNITS WITHIN THE CATEGORIES DESCRIBED IN SUBSECTION A.2 OR A.3 OF THIS SECTION SHALL BE FINAL AND BINDING UPON THE PARTIES AFTER APPROVAL BY EIGHT VOTES OF THE ASSEMBLY, OR IN THE CASE OF THE ANCHORAGE TELEPHONE UTILITY AFTER APPROVAL BY THREE VOTES OF THE DIRECTORS OF THE UTILITY. THE INTERNAL AUDITOR OR ITS CONTRACTOR SHALL REVIEW AND EXPRESS AN OPINION ON THE FINANCIAL ANALYSIS PREPARED BY THE AFFECTED PARTIES OF THE PROJECTED COSTS AND SAVINGS FROM THE CONTRACT TO BE REPLACED RESULTING FROM THE ARBITRATOR'S RECOMMENDATION AND THE MUNICIPALITY'S LAST BEST OFFER. IF THE ARBITRATOR'S DECISION IS NOT APPROVED BY THE ASSEMBLY WITHIN 21 DAYS AFTER DELIVERY TO THE MUNICIPAL CLERK, OR SEVEN DAYS FOLLOWING RECEIPT OF THE MUNICIPALITY'S FINANCIAL ANALYSIS, WHICHEVER IS LATER, THE PARTIES SHALL BE CONSIDERED AT IMPASSE. THE MUNICIPALITY MAY THEN IMPLEMENT ITS LAST BEST OFFER AND THE AFFECTED BARGAINING UNIT MAY EXERCISE ITS RIGHT TO STRIKE.]

[11. *APPEAL.* THE PARTIES TO ARBITRATION MAY APPEAL TO THE EMPLOYEE RELATIONS BOARD AN ARBITRATOR'S DECISION IF THE ARBITRATOR HAS EXCEEDED HIS JURISDICTION AND/OR AUTHORITY UNDER THE APPLICABLE LABOR AGREEMENT OR THE PROVISIONS OF CHAPTER 3.70 OR THE ARBITRATOR'S FAILURE TO RENDER A DECISION. SAID APPEAL MUST BE FILED WITHIN 14 DAYS OF THE ARBITRATOR'S DECISION OR FAILURE TO RENDER A DECISION. IF THE EMPLOYEE RELATIONS BOARD DOES NOT RENDER A DECISION WITHIN 30 DAYS AFTER RECEIPT OF AN APPEAL THEN THE ARBITRATOR'S DECISION SHALL REMAIN UNDISTURBED. THE EMPLOYEE RELATIONS BOARD'S DECISION ON SUCH AN APPEAL SHALL BE LIMITED TO REMAND OF THE MATTER BACK TO THE ARBITRATOR FOR REMEDY CONSISTENT WITH THE EMPLOYEE RELATIONS BOARD'S PREVIOUS OPINIONS.]

(AO No. 69-75; AO No. 81-70; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1); AO No. 90-159; AO No. 91-29; AO No. 91-43(S-2); AO No. 91-173(S); AO No. 97-143(S-1), § 1, 12-9-97)

3.70.120 Work stoppage prohibited [STRIKES].

A. Employees may not engage in strikes, slow downs or intentional work disruptions. Upon a finding by the mayor that employees are engaging or about to engage in a strike or other activity prohibited by this chapter, the municipal attorney may petition to the Superior Court for an

injunction, restraining order, or such other order as may be appropriate.

B. *Prohibited acts by employees and employee representatives.* No employee, employee organization, bargaining representative, labor union, association or officer thereof shall engage in, cause, instigate, encourage or condone a strike, slowdown, walkout or other form of voluntary unauthorized work disruption [COLLECTIVE WORK ACTION] against the municipality. [REGARDING ANY SERVICE SPECIFIED IN SECTION 3.70.110.A.1. NO SUCH PERSON OR ORGANIZATION SHALL TAKE SUCH ACTION WITH RESPECT TO SERVICES SPECIFIED IN SECTION 3.70.110.A.2 OR A.3 PRIOR TO COMPLETION OF THE PROCESS DESCRIBED IN SECTION 3.70.110.C OR THEREAFTER, IF THE COURT DETERMINES THAT SUCH ACTION HAS BEGUN TO THREATEN THE HEALTH, SAFETY OR WELFARE OF THE PUBLIC.] The municipality shall not engage in a lockout or other procedure designed to prevent willing employees from working. No party shall cause, instigate or encourage a strike by refusing to bargain in good faith over mandatory subjects as defined in this Code.

C. [B] *Prohibited acts by supervisory personnel.* No person exercising on behalf of the municipality any authority, supervision or direction over an employee may authorize, approve, condone or consent to a strike, slowdown, walkout or other form of voluntary unauthorized work disruption by employees.

[C.] *BOARD DETERMINATION REGARDING ILLEGAL STRIKES.* AT ANY TIME THAT THE BOARD IS NOTIFIED OF AN ILLEGAL STRIKE, THE BOARD SHALL CONVENE AS SOON AS POSSIBLE TO DETERMINE THE EXISTENCE OF SUCH STRIKE. THE BOARD SHALL GIVE NOTICE TO THE EMPLOYER AND THE BARGAINING REPRESENTATIVE FOR THE BARGAINING UNIT OF THEIR RIGHT TO APPEAR AND BE HEARD IN THE COURSE OF THE BOARD'S DETERMINATION. IF THE BOARD DETERMINES THAT AN ILLEGAL STRIKE IS OR HAS OCCURRED THE BOARD MAY APPLY TO THE SUPERIOR COURT FOR AN ORDER ENJOINING THE STRIKE.]

D. *Violations.* An employee who violates the prohibitions contained in this section shall be subject to appropriate disciplinary action, which may include immediate discharge from employment.

E. *Loss of pay.* No compensation shall be paid by the municipality to any employee with respect to any day or part thereof when such employee was engaged in a strike or other work action prohibited under this chapter.

(AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1))

3.70.130 Agreements.

A. *Labor agreements.* Upon completion of negotiations between the municipality and the bargaining representative over a labor agreement, all of the terms and conditions shall be reduced to writing in a single agreement. The agreement shall then be presented to the appropriate employee unit for ratification and to the assembly for ratification in the

1 same manner as a municipal ordinance. No provision of a contract may
2 violate a municipal ordinance or the Charter or state or federal law
3 except as authorized in Section 3.70.170.

4
5 B. *Administrative agreements.* All administrative agreements shall be
6 submitted to the assembly for review and approval within 30 days of
7 execution by a duly authorized representative of an employee
8 organization and the Mayor's Designee. Assembly approval of
9 administrative agreements shall be in the same manner as a municipal
10 ordinance. No administrative agreement may extend beyond the term of
11 the collective bargaining agreement in effect at the time of the
12 agreement.

13
14 C. *Administrative letters.* All administrative letters shall be summarized
15 periodically by the department and submitted to the assembly for review
16 and acceptance in the form of an Assembly Information Memorandum
17 prior to the effective date of the administrative letter rules. No
18 administrative letter may extend beyond the term of the collective
19 bargaining agreement in effect at the time of the letter.

20
21 D. *Required acknowledgement and certification provisions:* To ensure that
22 the requirement for Assembly ratification and approval under this
23 Section 3.70.130 is acknowledged and understood, every collective
24 bargaining contract agreement modification, written interpretation, or
25 other change, alteration or amendment, no matter how denominated,
26 shall include in the body of the document a provision that explicitly
27 summarizes the requirements and remedial provisions of Section
28 3.70.130. and a certification under oath or affirmation by each duly
29 authorized representative who signs on behalf of a party.

30
31 1. The certification shall in substance state that in executing the
32 agreement the duly authorized representative, on behalf of the
33 party to the agreement understands and acknowledges that the
34 agreement must comply with Anchorage Municipal Code (AMC).
35 The authorized representative acknowledges and agrees that
36 AMC 3.70.130 requires Assembly approval of all modifications
37 and amendments, no matter how denominated. The authorized
38 representative acknowledges that absent Assembly approval,
39 any modification or amendment no matter how denominated,
40 shall be deemed null and void, and any payments made shall be
41 recoverable by the Municipality. Absent Assembly approval
42 required by AMC 3.70.130, written clarifications and
43 interpretations within the definition of "administrative letter"
44 under AMC 3.70.010 are invalid. AMC 3.70.010 prohibits the use
45 of administrative letters to vary the explicit terms of a labor
46 agreement. Intentional actions in violation of this Section
47 3.70.130 are subject to fines and penalties under AMC Section
48 1.45.010 and implementation without Assembly approval is
49 prohibited under the municipal penal code, Title 8.

50
51 2. No labor contract, agreement, modification, written

1 interpretation, or other change, alteration or amendment, no
2 matter how denominated, shall be ratified or approved by the
3 Assembly unless the agreement includes the required
4 acknowledgement provision and certifications.

- 5
6 3. Implementation of any labor agreement or administrative
7 agreement, no[T] matter how denominated, without prior
8 Assembly ratification, is prohibited.

9
10 E. *Remedial actions:* In the event that the provisions of this section are
11 violated by administrative action, any labor agreement, agreement,
12 modification, written interpretation, or other change, alteration or
13 amendment, no matter how denominated, shall be null and void, with
14 no[T] force or effect.

15
16 F. *Grievances.* Notwithstanding the requirements in subsections A.—C.
17 above, grievance settlements, including arbitration decisions, pertaining
18 to specific employees shall not be submitted to the assembly, except
19 where the grievance settlement requires an appropriation to a
20 department budget.

- 21
22 1. A proposed grievance settlement requiring an appropriation shall
23 be submitted for assembly review and approval by resolution in
24 accordance with assembly rules.

25
26 (AO No. 69-75; AO No. 84-221(S); AO No. 89-46(S-1); AO No. 2008-135(S), §
27 2, 9-29-09)

28
29 **3.70.140 Unfair labor practices.**

30
31 A. *Prohibited acts by municipality.* The municipality or its agents may not:

- 32
33 1. Interfere, restrain or coerce an employee in the exercise of the
34 employee's [HIS] rights guaranteed under this chapter.
35
36 2. Dominate or interfere with the formation, existence or
37 administration of an organization.
38
39 3. Discriminate in regard to hire, tenure, employment or a term or
40 condition of employment for the purpose of encouraging or
41 discouraging membership in an organization.
42
43 4. Discharge or discriminate against an employee because the
44 employee [HE] has signed or filed an affidavit, petition or
45 complaint, or given testimony under the provisions of this
46 chapter.
47
48 5. Refuse to bargain collectively in good faith over wages, hours
49 and other terms and conditions of employment with an
50 organization which is the exclusive representative of employees
51 in an appropriate unit, including but not limited to the discussion

of grievances with the exclusive representative.

B. *Prohibited acts by employees and employee representatives.* An employee organization or bargaining representative or its agents or employees may not:

1. Restrain or coerce:

a. An employee in the exercise of the rights guaranteed under this chapter.

b. The municipality in the selection of its representative for the purpose of collective bargaining or the adjustment of grievances.

2. Refuse to bargain collectively in good faith over wages, hours and other terms and conditions of employment with the public employer if the bargaining representative has been designated in accordance with the provisions of this chapter as the exclusive representative of employees in the bargaining unit.

3. Authorize or engage in a strike, slow down, work stoppage or other activity prohibited under this chapter.

4. Hinder or prevent, by threats, intimidations, force or coercion of any kind, the pursuit of any lawful work or employment of the municipality.

5. Engage in a secondary boycott or hinder or prevent by threat, intimidation, force, coercion or sabotage, the obtaining, use or disposition of materials, supplies, equipment or services.

6. Engage in any illegal effort to interfere with productions, functions or services of the public employer.

C. *Complaints; informal conciliation.* If the municipality or an employee or prospective or current bargaining representative believes that an unfair labor practice has been committed, it may, within 30 days from occurrence of the alleged unfair labor practice, file with the employee relations board a verified written complaint stating the nature of the violation and requesting that the board investigate the complaint. The board shall, upon receipt of such a complaint, conduct a preliminary investigation to determine whether probable cause exists in support of the complaint or accusation. If the board determines, after an informal investigation, that probable cause exists to support the complaint, it shall try to eliminate the unfair labor practice by informal methods of conference, conciliation and persuasion. Nothing said or done during such settlement attempts may be used as evidence in subsequent proceedings. If, after its informal inquiry, the board concludes that the complaint is unfounded, the board shall dismiss the complaint forthwith.

- 1 D. *Hearing.* If the board fails to eliminate a prohibited unfair labor practice
2 through informal conciliation and conference attempts, the board shall,
3 within 14 days [TWO WEEKS] of receipt of the complaint, serve formal
4 notice of the complaint upon the respondent. Within two weeks after
5 service of notice, a hearing shall be conducted to determine the validity
6 of the complaint in accordance with administrative procedures adopted
7 by the board. The parties and the public shall have reasonable notice of
8 the time, date and place of the hearing. Each party shall have the
9 opportunity to be heard and to cross examine all witnesses. Testimony
10 shall be taken under oath and recorded electronically.
11
- 12 E. *Board order.* If, upon completion of the formal hearing of a complaint of
13 unfair labor practice, a majority of the board determines that the person
14 or party named in the written complaint has engaged in a prohibited
15 practice, the board shall issue and serve on the person an order or
16 decision requiring that party to cease and desist from the prohibited
17 practice and to take affirmative actions which will carry out the
18 provisions of this chapter. If the board finds that the complaint is not
19 supported, the board shall state its findings of fact and issue an order
20 dismissing the complaint or accusation.
21
- 22 F. *Enforcement by injunction.* The board may apply to the superior court
23 for an order enjoining the prohibited acts specified in its order or
24 decision.
25
- 26 G. *Other relief.* In addition to the other forms of relief for an unfair labor
27 practice mentioned in this section, the board may order reinstatement
28 of public employees, order payment of back pay and lost benefits,
29 award reasonable costs and attorney fees, or take other appropriate
30 action as will effectuate the policies and purposes of this chapter.
31 Where the board finds the commission of a purposeful and flagrant
32 unfair labor practice by an employee representative, it may petition to
33 the superior court to decertify the exclusive bargaining representative.
34
- 35 H. *Intervention.* The board may, at its discretion, permit intervention in
36 unfair labor practice hearings by other interested parties upon a
37 showing by such parties that they are directly affected by the
38 proceeding. Once the board has permitted intervention, such party may
39 appear, present evidence and cross examine witnesses at the hearing.
40
- 41 I. *Payment of costs of hearings.* All costs associated with unfair labor
42 practice hearings shall be borne by the party against which the board
43 rules. If the board takes no specific action or makes no decision, the
44 costs shall be shared equally. The board may, in its discretion, award
45 reasonable costs and attorneys' fees to the prevailing party in matters
46 involving unfair labor practice.
47
- 48 J. *Evidence.* The board shall apply the relaxed [NOT BE BOUND BY THE
49 TECHNICAL] rules of evidence in its conduct of the hearing but shall
50 conduct all such hearings in a manner that comports with due process.
51

- 1 K. *Appeals.* Decisions of the board may be appealed directly to the
2 superior court for the state to be reviewed only for gross error.
3
4 L. *Expedited proceedings.* The board may conduct expedited unfair labor
5 practice proceedings in cases where it deems it appropriate to do so.
6

7 (AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1))
8

9 **3.70.150 Dues checkoff.**

10
11 Upon written authorization of an employee within a bargaining unit, a copy of
12 which shall be provided to the employer, the municipality may deduct monthly
13 from the payroll of the employee the amount of dues and other fees as
14 certified by the secretary of the exclusive bargaining representative and
15 authorized by the employee, and deliver that amount to the chief fiscal officer
16 of the exclusive bargaining representative. Dues checkoff may be revoked
17 upon failure by the certified bargaining representative to pay, within a
18 reasonable time specified by the board, cost allocations arising out of any
19 proceeding conducted by the board in accordance with this chapter.
20

21 (AO No. 69-75; AO No. 89-46(S-1))
22

23 **3.70.160 Binding arbitration.**

24
25 Binding arbitration of disputes which arise under a collective bargaining
26 agreement during the term of any collective bargaining agreement will be
27 permitted if the parties have agreed to that procedure for dispute resolution
28 and have included within the agreement a clause providing for that procedure.
29 The decision of the arbitrator shall be reduced to writing unless waived by the
30 parties and shall be final and binding upon the parties. Past practices of the
31 parties may be considered by the arbitrator in interpreting ambiguous contract
32 language. In no case shall past practices be relied upon by the arbitrator to
33 add a new provision to, or alter an unambiguous provision of a collective
34 bargaining agreement. In accordance with the provisions of AMC section
35 3.70.040, past practice shall not be relied upon by an arbitrator to prohibit a
36 workplace practice or procedure otherwise allowed by a collective bargaining
37 agreement. If an unfair labor practice charge addressing the same or related
38 matters is filed with the employee relations board and was deferred to
39 arbitration by the board, the board shall retain jurisdiction to hear any
40 outstanding issues not resolved by the arbitrator.
41

42 (AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1))
43

44 **3.70.170 Applicability of personnel regulations.**

45
46 Each collective bargaining agreement made after the effective date of the
47 ordinance from which this chapter is derived shall incorporate by reference the
48 then current personnel regulations of the municipality. The provisions of the
49 personnel regulations may only be substituted by negotiated agreements upon
50 specific approval of the assembly. In the case of any changes made to the
51 personnel regulations during the term of any collective bargaining agreement

which conflict with the terms of any collective bargaining agreement, such personnel regulations shall not be applicable to that agreement.

No collective bargaining agreement may vary from the federal Fair Labor Standards Act (FLSA) definitions and calculation for overtime compensation. Overtime compensation will be paid at a rate of one and one-half times the employees' regular rate of pay. Overtime compensation eligibility is defined in AMC chapter 3.30 *et seq.*

Terms and eligibility criteria of the municipal sponsored benefit programs, including available premiums, deductibles and coverages, shall be offered annually on a uniform basis to all eligible employees. All municipal employees shall be subject to the municipal leave policies and benefit programs as defined in AMC chapter 3.30 *et seq.*

[ANY PROVISIONS OF THIS SECTION NOTWITHSTANDING, AN EMPLOYEE WHO BELIEVES THAT HE CONSISTENTLY PERFORMS WORK OF A HIGHER ORDER THAN STATED IN HIS JOB DESCRIPTION MAY, AFTER EXHAUSTION OF ADMINISTRATIVE REMEDIES, SEEK REALLOCATION WITHIN THE CLASSIFICATION PLAN AS PROVIDED BY APPLICABLE GRIEVANCE PROCEDURES.]

(AO No. 69-75; AO No. 77-376; AO No. 82-56; AO No. 89-46(S-1))

Cross reference— Personnel rules, ch. 3.30.

3.70.180 Transition measures; effective date.

This chapter applies to negotiations in progress on the effective date of the ordinance from which this chapter is derived and to negotiations commenced thereafter less than 120 days prior to expiration of the current contract between the parties, or where there is no current contract between the parties. With respect to such negotiations, the effective date of this chapter, or the date of commencement of negotiations, whichever is later, shall be deemed the 120th day prior to contract expiration for purposes of the negotiation process as provided in this chapter.

(AO No. 69-75; AO No. 89-46(S-1))

3.70.185 EMS integration plan. (Repealed.)

[A. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, THE EMS INTEGRATION PLAN IDENTIFIED AS PLAN B-110 AND PRESENTED TO THE ASSEMBLY IN PUBLIC SESSION ON NOVEMBER 23, 1993, SHALL NOT BE A SUBJECT OF BARGAINING. IMPLEMENTATION OF THAT PLAN SHALL NOT BE MODIFIED OR LIMITED IN ANY MANNER BY APPLICATION OF THIS CHAPTER. IN THE EVENT OF CONFLICT BETWEEN PROVISIONS OF PLAN B-110 AND THE FIRE AND EMERGENCY MEDICAL SERVICES BARGAINING UNIT COLLECTIVE BARGAINING AGREEMENT, THE PROVISIONS OF PLAN B-110 SHALL PREVAIL. SHOULD EITHER THE MUNICIPALITY OR IAFF LOCAL 1264 QUESTION THE EXISTENCE OF A CONFLICT BETWEEN PLAN B-110 AND THE COLLECTIVE BARGAINING AGREEMENT, THE QUESTION SHALL BE REFERRED TO A THREE-

MEMBER PANEL CONSISTING OF TWO MEMBERS OF THE EMS BOARD, AS DESIGNATED BY THE BOARD CHAIRPERSON, AND THE ASSEMBLY'S FIRE/EMS CONSULTANT. THE PANEL SHALL ADVISE THE PARTIES IN WRITING IN A TIMELY MANNER WHETHER OR NOT A CONFLICT EXISTS. DECISIONS OF THE PANEL MAY BE APPEALED TO THE SUPERIOR COURT OF STATE.]

[B. NOTWITHSTANDING ANYTHING TO THE CONTRARY, CONTRACTUAL ISSUES RAISED BY PLAN B-110, RELATED TO COMPENSATION FOR EMS SERVICES, MAY BE OPENED FOR NEGOTIATIONS AFTER JULY 17, 1995, AT THE REQUEST OF THE CITY OR THE IAFF. THIS IS NOT A GENERAL OPENER BUT IS LIMITED TO COMPENSATION ISSUES ARISING AS A RESULT OF PLAN B-110.]

(AO No. 93-212(S-1), § 1, 12-14-93)

* * * * *

Section 2. Anchorage Municipal Code section 3.70.190 is repealed and reenacted to read as follows (in accordance with AMC 1.05.050B., the full text of the repealed section 3.70.190 is attached as Exhibit A):

3.70.190 Bargaining units established; description.

A. Bargaining units as established in section 3.70.080 will have classification titles established through either the collective bargaining process, section 3.70.090, or through administrative agreements, section 3.70.130, as needed for efficiency of government operations.

B. When the municipality evaluates a position through the classification process and determines the position should move out of the current bargaining unit to either non-represented or to a different bargaining unit, the municipality shall meet and confer with the bargaining unit. If the municipality and the current bargaining unit are unable to come to an agreement, the position shall be forwarded to the Employee Relations Board for final determination. ~~The employer reserves the right of its supervisory employees to temporarily reassign union job duties and responsibilities to improve efficiencies or cover operational problems.~~

(AO No. 88-76; AO No. 142-76; AO No. 84-207; AO No. 86-7; AO No. 86-55; AO No. 88-131(S); AO No. 88-62; AO No. 89-46(S-1); AO No. 94-100, § 1, 1-24-94; AO No. 95-152, § 1, 7-7-95; AO No. 2001-170, § 2, 10-30-01; AO No. 2002-76, §§ 1, 2, 7-16-02)

Section 3. This ordinance does not amend alter or void any of the negotiated terms of existing collective bargaining agreements for the current terms of said agreements. This ordinance applies to all such agreements negotiated in the future. **The time limits of sections 3.70.090, .100, and .110 will be extended appropriately for current collective bargaining agreements expiring in 2013.**

Section 4. **A managed competition program consistent with the policies and**

purposes in section 3.70.020C will be developed by the administration within 180 days of approval of this ordinance and presented to the assembly.

Section 5[4]. If any section of this ordinance, or portion thereof, or any section of the code adopted by this ordinance, or portion thereof, is deemed contrary to law, that portion shall be severable and the remainder shall continue in full force and effect.

Section 6[5]. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2013.

Chair of the Assembly

ATTEST:

Municipal Clerk