

Submitted by: Chair of the Assembly at the Request of the Mayor

Prepared by: Employee Relations

For Reading: February 16, 2010

CLERK'S OFFICE

APPROVED

ANCHORAGE, ALASKA

Date: 3-23-10 AR NO. 2010-46

1 **A RESOLUTION OF THE ANCHORAGE ASSEMBLY RATIFYING A LETTER OF**
2 **AGREEMENT (IAFF – 003) BETWEEN THE MUNICIPALITY OF ANCHORAGE**
3 **AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 1264,**
4 **REGARDING SENIOR CAPTAIN DOWNGRADED TO CAPTAINS.**

5
6 **WHEREAS**, a collective bargaining agreement (CBA) between the Municipality of
7 Anchorage (MOA) and the International Association of Fire Fighters, Local 1264
8 (IAFF) was approved by the Assembly on December 17, 2008 (AR 2008-306); and
9

10 **WHEREAS**, in response to budgetary problems, the MOA downgraded twelve (12)
11 Senior Fire Captains to Fire Captains as a cost saving measure; and
12

13 **WHEREAS**, the MOA and IAFF prepared a Letter of Agreement (IAFF-003) which
14 allows for the twelve (12) individuals who were re-classed to serve in acting
15 assignments, pursuant to CBA Article 22.2.A, for a three (3) year period thus
16 reducing overtime costs; and
17

18 **WHEREAS**, the Letter of Agreement (LOA) adds language to the CBA to cover
19 employees who have elected the retire/rehire option to establish seniority in the
20 Firefighter rank effective the date of rehire; and
21

22 **WHEREAS**, the LOA provides for an arbitration option for IAFF members who may
23 believe their rights under the CBA have been negatively impacted by this agreement.
24 Should any IAFF members exercise this option, all costs of the arbitrator and hearing
25 are at IAFF expense; and
26

27 **WHEREAS**, the LOA is attached hereto as **Exhibit A**; and
28

29 **WHEREAS**, Anchorage Municipal Code section 3.70.130 requires Assembly to ratify
30 amendments, including this LOA, to a CBA; and
31

32 **WHEREAS**, it is in the best interest of the MOA and IAFF for this LOA to be subject
33 to the public review and approval process in order to foster good labor-management
34 relationships; and
35


36 **WHEREAS**, the Administration recommends the ratification of this LOA, as detailed
37 in the accompanying Assembly Memorandum; now, therefore,
38

39 **THE ANCHORAGE MUNICIPAL ASSEMBLY RESOLVES:**
40

41 **Section 1.** The Letter of Agreement, attached hereto as **Exhibit A**, amending the
42 IAFF CBA between the Municipality of Anchorage and the International Association of
43 Fire Fighters, Local Union 1264, is hereby approved by the Assembly.

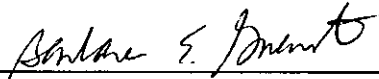
Section 2. This resolution shall become effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 23rd day of March, 2010.



Chair

ATTEST:



Municipal Clerk



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 90-2010

Meeting Date: February 16, 2010

1 **FROM: MAYOR**

2
3 **SUBJECT: A RESOLUTION OF THE ANCHORAGE ASSEMBLY**
4 **RATIFYING A LETTER OF AGREEMENT (IAFF – 003)**
5 **BETWEEN THE MUNICIPALITY OF ANCHORAGE AND**
6 **THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,**
7 **LOCAL 1264, REGARDING SENIOR CAPTAINS**
8 **DOWNGRADED TO CAPTAINS.**
9

10
11 The Municipality of Anchorage (MOA) and the International Association of Fire
12 Fighters, Local 1264 (IAFF) entered into a Letter of Agreement (LOA) (# IAFF –
13 003). The LOA is attached as Exhibit A and becomes effective immediately upon
14 Assembly approval.
15

16 The key elements of the IAFF-003 are:
17

- 18 • Section A: Senior Captains downgraded to Captains:
 - 19 ○ Twelve (12) Senior Fire Captains were downgraded to Fire Captains
 - 20 December 28, 2009. These twelve (12) employees will be required
 - 21 when needed to work in acting assignments pursuant to the CBA
 - 22 Article 22.2.A for a three (3) year period thereby reducing overtime
 - 23 costs.
 - 24
- 25 • Firefighter Seniority for Retire/Rehire Employees:
 - 26 ○ Adds language to the CBA Article 20.3.1 to cover employees who
 - 27 have elected to retire/rehire to receive seniority in the Firefighter rank
 - 28 effective the date of rehire.
 - 29
- 30 • The Arbitration Option:
 - 31 ○ IAFF members who believe their rights under the CBA may have
 - 32 been adversely affected by this agreement may seek arbitration,
 - 33 pursuant to the terms of the CBA. Arbitration will be the sole and
 - 34 exclusive remedy and all costs of the arbitrator and hearing are at
 - 35 IAFFs expense.
 - 36
 - 37

38 **THE ADMINISTRATION RECOMMENDS APPROVAL OF A RESOLUTION**
39 **OF THE ANCHORAGE ASSEMBLY RATIFYING THE LETTER OF**
40 **AGREEMENT (IAFF – 003) BETWEEN THE MUNICIPALITY OF**

1 **ANCHORAGE AND THE INTERNATIONAL ASSOCIATION OF FIRE**
2 **FIGHTERS, LOCAL 1264, REGARDING SENIOR CAPTAIN**
3 **DOWNGRADED TO CAPTAINS.**
4
5

6 Prepared by: Employee Relations Department
7 Approved by: Nancy Bear Usera, Employee Relations Director
8 Concur: Dennis A. Wheeler, Municipal Attorney
9 Concur: George J. Vakalis, Municipal Manager
10 Respectfully submitted, Daniel A. Sullivan, Mayor
11
12
13

LETTER OF AGREEMENT

By and Between

MUNICIPALITY OF ANCHORAGE (MOA)

and the

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS (IAFF)

Number: IAFF - 003

Pursuant to Section 6.2 of the CBA, the parties reserved broad rights to address issues arising during the term of the contract. The parties are moving forward with current and possible future layoffs, while the Fire Department is facing possible reorganizations. Since these factors will result in issues that were not anticipated when the Collective Bargaining Agreement was negotiated, the provisions of Section 6.2 are especially relevant now. Therefore, the parties have entered into the following Agreement:

Section A: Senior Captain (12 positions) Reclassified (downgraded) to Captain

January 1, 2009 as part of a plan to expand the role of the Senior Captain in the multi-company stations the Anchorage Fire Department (AFD) reclassified 12 positions to Senior Captain. Due to budget reductions the AFD will be reclassifying (downgrading) the 12 Senior Captain PCNs to Captains effective no later than December 31, 2009. The positions and incumbents to be reclassified from Senior Captain to Captain are:

<u>PCN</u>	<u>Incumbent</u>
2875	Provencio
2917	Clark
2894	Oxnam
3008	Lively
2906	Keene
6083	Fussell III
2893	Murphy
5771	Schwamm
2876	Boyd
2910	Ascone
2902	Hanson
2991	Stumbaugh

Robert St. Clair was bumped out of the Senior Captain position, was laid off through the layoff procedures outlined in Article 20, and has recall rights to the Senior Captain position until September 13, 2012. St. Clair has the least Senior Captain position seniority.

The IAFF and the MOA have agreed to the following under Section A regarding the Senior Captain Reclassification:

The 12 individuals listed above will be on the Senior Captain Promotion List for three (3) years from their reclassification date (December 28, 2009) in the order listed above. Robert St. Clair will be placed below these 12 individuals on the list until September 13, 2012.

These 13 individuals will be eligible for promotion during their time on the promotional list in the order they are on the list.

The 13 individuals (along with any others) who are on the Senior Captain Promotional list shall be required to act in accordance with the CBA article 22.2.A.

The parties agree this agreement is non-precedent setting.

The parties agree this agreement cannot be introduced nor have any evidentiary value in any grievance, ULP, hearing, or legal matter between the parties except to enforce its terms.

The parties agree this agreement in no way modifies, substitutes, or changes any of the provisions of the past or current collective bargaining agreement between the parties.

The parties agree this agreement is solely for this case.

Section B: Firefighter Seniority for Retire/Rehire Employees

When the layoff, bumping, and recall provisions were developed the parties did not take into consideration the effects of retired and rehired employees. The parties now wish to clarify their intent regarding retire and rehire employees as it pertains to seniority rights.

The IAFF and the MOA have agreed to the following under Section B regarding the retire/rehire seniority:

The following language shall be added as a new paragraph to the collective bargaining agreement in Article 20.3.1:

For employees who have elected the retire/rehire option and have been rehired into the ranks of Engineer, Captain, Senior Captain, or Safety Officer, their Municipal, Department and specific position seniority date will be the date of rehire. In addition, they will have seniority in the Firefighter rank effective the date of their rehire.

The parties agree this agreement modifies the provisions of the current collective bargaining agreement between the parties.

Section C: The Arbitration Option

If any IAFF member believes their rights under the IAFF/MOA Collective Bargaining Agreement have been affected by this agreement, they may seek arbitration as outlined below. Arbitration as specified herein is intended to be the sole and exclusive remedy for claims that this agreement violates any individuals' rights. The IAFF and MOA will appear and defend this Letter of Agreement. The IAFF believes it is reasonable and fully consistent with its duty of fair representation to the IAFF Bargaining Unit.

- a. No later than 15 calendar days following Assembly approval of this Letter of Agreement, the grievant(s) may elect (in writing to Employee Relations Employment & Classification Manager) to exercise their arbitration option. Any reasonable written communication shall be sufficient to initiate this process. Failure to file shall foreclose further remedies against either the Municipality of Anchorage or the International Association of Firefighters Local 1264, arising from this Letter of Agreement. All properly filed claims shall be consolidated into a single hearing.

- b. A retired superior court judge shall be retained by the IAFF Union to resolve the dispute. All costs of the arbitrator and the hearing shall be born by the IAFF Union.
- c. Within 45 days of appointment, the arbitrator shall convene a hearing. The formal rules of evidence will not apply. The parties may file pre-hearing briefs. Unless otherwise agreed or ordered at the hearing, each party shall have two hours to present its case to the arbitrator after which the arbitrator will recess. The arbitrator shall issue his/her decision within 24 hours.
- d. If the needs of justice, due process, or fairness require, the parties may mutually agree to vary these procedures, and the arbitrator has the authority to make such orders and variances in these proceedings as the needs of justice, due process, and fairness may require.
- e. Grievants may be represented at the hearing by any representative of their choice, including the attorney of their choice, but the representation costs, including legal fees, will be born by the Grievants. All other costs of the hearing will be born by the IAFF Union. Regardless of the outcome of the hearing, neither the IAFF Union nor the Municipality of Anchorage shall be liable for the legal fess of any grievant.
- f. The decision of the arbitrator shall be final and binding on all parties. If the decision is appealed by any party, it is intended the arbitrator's decision be sustained in the absence of gross error.

This letter of agreement represents the entire agreement between the parties. Any other written or oral promise, agreement or representation not specifically included herein shall be null and void, and without effect.

Pursuant to Anchorage Municipal Code section 3.70.130 D., each and every collective bargaining contract, agreement, modification, written interpretation, or other change, alteration or amendment, no matter how denominated, shall include a summary of requirements and remedial provisions, and the certification under oath or affirmation by each duly authorized representative signing on behalf of a party.

The undersigned duly authorized representatives, on behalf of the parties to this agreement, hereby affirm and certify as follows:

- A. This agreement complies with Anchorage Municipal Code section 3.70.130.
- B. Section 3.70.130 requires Assembly approval of all modifications and amendments, no matter how denominated.
- C. Absent Assembly approval as required by section 3.70.130, any modification or amendment, no matter how denominated, shall be deemed null and void, and any payments made shall be recoverable by the Municipality.
- D. Absent Assembly approval as required by section 3.70.130, written clarifications and interpretations within the definition of "administrative letter" are invalid.
- E. Section 3.70.010 prohibits the use of administrative letters to vary the explicit terms of a labor agreement.
- F. Intentional actions in violation of section 3.70.130 are subject to fines and penalties under section 1.45.010.

- G. Remedial actions: In the event the provisions of section 3.70.130 are violated by administrative action, any labor agreement, agreement, modification, written interpretation, or other change, alteration or amendment, no matter how denominated, shall be null and void with no force or effect.

IN WITNESS WHEREOF, this Agreement is entered into freely and voluntarily by the signatures of the parties below.

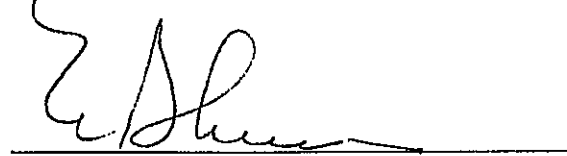
FOR:
International Association of Fire Fighters



Tom Wescott, IAFF President

Date: 1-20-10

FOR:
Municipality of Anchorage



Nancy Bear Usera, Employee Relations Director

Date: 1-30-10

Content ID: 008686

Type: AR_AllOther - All Other Resolutions

Title: A RESOLUTION OF THE ANCHORAGE ASSEMBLY RATIFYING A LETTER OF AGREEMENT (IAFF – 003) BETWEEN THE MUNICIPALITY OF ANCHORAGE AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 1264, REGARDING SENIOR CAPTAIN DOWNGRADED TO CAPTAINS.

Author: cayouettejm

Initiating Dept: ER

Date Prepared: 2/3/10 4:48 PM

Director Name: Nancy B. Usera, ER Director

Assembly Meeting Date: 2/16/10

Public Hearing Date: 3/2/10

Workflow Name	Action Date	Action	User	Security Group	Content ID
Clerk_Admin_SubWorkflow	2/5/10 11:57 AM	Exit	Joy Maglaqui	Public	008686
MuniManager_SubWorkflow	2/5/10 11:57 AM	Approve	Joy Maglaqui	Public	008686
CFO_SubWorkflow	2/5/10 11:26 AM	Approve	Lucinda Mahoney	Public	008686
Legal_SubWorkflow	2/3/10 6:09 PM	Approve	Rhonda Westover	Public	008686
ER_SubWorkflow	2/3/10 4:53 PM	Approve	Nancy Usera	Public	008686
AllOtherARWorkflow	2/3/10 4:51 PM	Checkin	Julie Cayouette	Public	008686