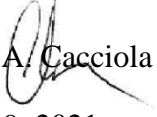


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MEMORANDUM

To: Common Council
City of Nome

From: Charles A. Cacciola 

Date: March 19, 2021

Re: Ordinance No. O-21-03-01 and Substitute; Real Property Disposal

Ordinance No. O-21-03-01 was recommended by the Planning Commission on March 2, 2021 and introduced at March 8, 2021 council meeting. The ordinance would amend the code procedure for selling real property not required for city use. The amendments serve two purposes, to authorize “over the counter” sales following a sealed bid auction where no bid for the minimum sale price is received, and to clarify and simplify the sealed bid procedure.

Under the existing code, strict compliance with all timing requirements, which are spread out among several code sections, presents challenges to the clerk and bidders. The amendments to § 2.10.040(a) and § 2.10.050(b) and (c) serve to streamline and clarify notice and bid submission timing.

Over the counter sale authorization is accomplished by the amendments to § 2.10.030(a) and the new § 2.10.050(e). Property not successfully sold by sealed bid auction may be purchased for the minimum bid price for 90 days following bid opening.

Additional amendments are set forth in the proposed substitute ordinance, Ordinance No. O-21-03-01(s). Specifically, amendment to § 2.10.040(b) and § 2.10.050(a) is proposed. These amendments *were not* included in the draft ordinance recommended by the Planning Commission or Ordinance No. O-21-03-01 as introduced

on March 8, 2021. The amendments arose out of discussion between my office and the city clerk's office following the planning commission meeting.

The purpose of the amendments is to codify the clerk's authority to place reasonable terms and conditions on a sealed bid disposal (§ 2.10.050(a)) and require that the clerk identify those terms in the sale notice (§ 2.10.040(b)(7)). There is a wide variety of real property the city could dispose of. Accordingly, sales can be effected most efficiently if the clerk has discretion to tailor certain terms of the auction in light of the property that is to be sold. For example, the clerk could require that bidders submit a bid deposit to secure the highest bidder's closing the sale. In some instances, such as when the minimum price is low, the clerk may determine that it is best to require a flat \$500 deposit and specify that non-prevailing bidders will have their deposit returned within 1 week of bid opening. For larger sales, a larger deposit — and potentially a deposit equal to the difference between the minimum sale price and the bid to avoid the risk of efficient breach — may be prudent. So too may be providing the successful bidder a longer window to close on sale. These amendments clarify that the clerk may tailor the details of a particular sealed bid auction to accommodate the practical realities of the particular sale.

Please let us know if you have any further questions regarding this matter.