

The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION Negotiated Land Sale to Knik Arm Bridge and Toll Authority

MHT 9200563
MH Parcel SM-1732-02

In accordance with AS 38.05.801 et seq. and the implementing regulations governing Alaska Mental Health Trust (“Trust”) land management (11 AAC 99), Trust land shall be managed consistently with the responsibilities accepted by the state under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)). This means that management shall be conducted solely in the best interest of the Trust and its beneficiaries.

In determining the best interest of the Trust and its beneficiaries, and in determining consistency between state law and the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)), the Executive Director of the Alaska Mental Health Trust Land Office (“TLO”) shall, at a minimum, consider the following interactive Trust management principles in accordance with 11 AAC 99.020:

- Maximization of long-term revenue from Trust land;
 - Protection of the corpus;
 - Protection and enhancement of the long-term productivity of Trust land;
 - Encouragement of a diversity of revenue-producing uses of Trust land; and
 - Management of Trust land prudently, efficiently, and with accountability to the Trust and its beneficiaries.
- I. Proposed Use of Trust Land.** Negotiate a sale of approximately 2.241 acres of Trust land near Point MacKenzie to the State of Alaska, Knik Arm Bridge and Toll Authority (See Attachment B – General Location Map).
- II. Applicant/File #.** State of Alaska, Knik Arm Bridge and Toll Authority (KABATA). MHT 9200563.
- III. Subject Property.**
- A. Legal Description.** Within Section 16, Township 14 North, Range 04 West, Seward Meridian, a portion of Tract D-2-3, Plat No. 84-176 recorded in the Palmer Recording District which lies within the right-of-way lines of Alaska Project No. HPRL-001 (431)/53735, Knik Arm Crossing P3-Segment 2, Port Mackenzie Industrial –North route, containing 2.241 acres more or less. See Attachment A for full legal description.

- B. Settlement Parcel Number(s).** A portion (2.241 acres) of SM-1732-02 which totals 156.89 acres.
- C. Site Characteristics/Primary Resource Values.** The subject parcel is located in the Point Mackenzie area, approximately three miles northwest of Port MacKenzie and 35 miles southwest from the city of Wasilla. The land includes typical, native mature forest with birch and spruce. A portion of the west half of the parcel was commercially logged in 2006. The 2.241 acre sale area is within the logged area and appears to have adequate soils for development. The primary resource values of the parcel are real estate, residential, and/or recreation.
- D. Historical and Existing Uses of the Property.** The Trust holds fee title to the parcel. In 2006, the west half of the parcel was commercially logged. The parcel was subject to an oil and gas lease which expired in 2010. The parcel is located outside of the Wasilla City limits and is not zoned. Currently, the parcel is vacant with no current use.
- E. Adjacent Land Use Trends.** Recent economic growth of the Point MacKenzie area has been spurred by government capital projects. These projects include the Goose Creek Correctional Facility (six miles northerly of the parcel) which opened in March 2012 and expansion of Port MacKenzie dock completed in 2011. Alaska Railroad Expansion from Port Mackenzie to Houston is expected to be completed by 2016. The Knik Arm Crossing Project which will construct a bridge across Knik Arm and connect the Municipality of Anchorage to the Mat-Su Borough is currently in the preconstruction phase with the bridge in operation sometime planned between 2016 and 2018. Home sales in the area declined in 2007 and 2008, and were mostly static in 2009 and 2010, and increased slightly in 2011.
- F. Previous State Plans/Classifications.** The parcel was previously classified by DNR as "Private Recreation" under CL-413 (1966), and then "Utility" under CL-516 (1968), both of which have been closed. The parcel was included in the Willow Sub-Basin Area Plan (1982) and superseded by the current Southeast Sustina Area Plan (adopted in 2008 and revised by DNR in 2009).
- G. Existing Plans Affecting Area.** The parcel is not located within the boundaries of any city and not zoned. Development restrictions are imposed by the Matanuska-Susitna Borough. Matanuska-Susitna Borough Ordinance Serial No. 12-013 re-classified all borough-owned land within the Port MacKenzie Special Use District as reserved use lands. The ordinance states "reserve use lands are those lands which have been transferred, assigned, or designated for present or future public use, or for use by a government or quasi-government agency, or for future development of new town sites, or for future expansion of existing public uses, or for development of Port MacKenzie". The parcel is within the Point MacKenzie Community Comprehensive Management Plan (adopted July 2011). This plan serves as an update to Point Mackenzie portion of the Matanuska-Susitna Borough Comprehensive Plan. The plan's Community Vision Statement states "Development of Point MacKenzie's infrastructure including major transportation routes, public utilities, and services is to

be achieved for both the betterment of the community, the region, and the state of Alaska.” The plan further states under Land Use Goals & Objectives, “Encourage development along the Point MacKenzie Road and major collectors/thoroughfares.” A transportation goal under the plan is to have a connection with the city of Anchorage. Given that the acquisition of the sale area is to KABATA for the Knik Arm Crossing Project connecting the Point MacKenzie Area to Anchorage, the proposed sale should not be in conflict with any of the provisions of this plan. The parcel is also located in the DNR Southeast Susitna Area Plan. There is limited state land in the vicinity of the sale with most of this land remote and inaccessible. Most of the state land in this region is managed for habitat resources and recreation.

H. Apparent Highest and Best Use. There are no feasible development options apparent for the parcel at this time, with the current highest and best use for either speculation or recreation. After the Knik Arm Crossing Project, the highest and best use may change since there will be physical access to the southwest corner of Trust parcel SM-1732-02, which will be an added benefit to the remainder of the parcel.

IV. Proposal Background. KABATA, through HDR Alaska, Inc. approached the TLO to acquire 2.241 acres of land within the larger Trust parcel SM-1732-02 as part of the right-of-way for the Port Mackenzie Industrial North Route. KABATA refers to this acquisition as Parcel No. 37, Knik Arm Crossing Project No. 53735 / AC-HPRL-0001(431). The Knik Arm Crossing Project is being developed to meet the current and projected transportation needs of the Municipality of Anchorage and the Matanuska-Susitna Borough. KABATA’s goal is to construct a cost-affordable, vehicular toll bridge of about 2.7 miles across Knik Arm to join the Port of Anchorage area and Port MacKenzie area, as well as 19 miles of road to support the bridge's accessibility. KABATA has received preliminary planning funds through Congressional appropriation. Future project funds are anticipated through federal, state and local grants, and public and private sector investment. As a public corporation, KABATA is empowered by the state to sell revenue bonds and establish user fees to fund and operate the project.

V. Terms and Conditions. KABATA has submitted an offer to purchase the 2.241 acres for the appraised value of \$6,800. This purchase offer is based on the appraisal completed by Vince Coan, Certified General Real Estate Appraiser, Statewide Appraisal Services, on September 25, 2012 for \$3,000/acre. This right-of-way acquisition is federal funded and is required by law to offer no less than the market value. The appraisal complies with USPAP and State of Alaska, Department of Transportation/Public Facilities, appraisal guidelines per memorandum dated October 4, 2012 from Mark D. Kasberg, Right of Way Review Appraiser.

VI. Asset Management Considerations. The Knik Arm Crossing Project is a federally aided and a state public works project. Under Alaska Statue 19.75.111 KABATA has the authority to exercise powers of eminent domain or file a declaration of taking. KABATA

may acquire the 2.241 acres of Trust land under this Statute at “fair market value”. Although, KABATA has the authority to take the property, the transaction is not inconsistent with the Asset Management Policy Statement.

VII. Alternatives. As stated above, KABATA has the authority to exercise powers of eminent domain or file a declaration of taking for the 2.241 acres. The only alternative is to challenge the condemnation through a legal action.

VIII. Risk Management Considerations.

- A. Performance Risks.** Performance risks will be minimized through a purchase and sales agreement and a quitclaim deed.
- B. Environmental Risks.** No known environmental risks have are associated with this sale.
- C. Public Concerns.** Subject to comments resulting from the public notice, no unusual public concerns are associated with this sale.

IX. Due Diligence.

- A. Site Inspections.** On September 25, 2012 a TLO Resource Manager walked the parcel with the appraiser.
- B. Valuation.** The sale value of \$3,000/acre was determined by the appraisal and an independent review of the appraisal completed by Mark D. Kasberg verified the \$3,000/acre in his Determination of Just Compensation report. The 2.241 acres will be sold for the negotiated price of \$6,800.00.
- C. Terms and Conditions Review.** Staff has determined additional legal review of the standard documents used in this transaction was not necessary since the documents have been used frequently by the TLO for similar transactions.

X. Authorities.

- A. Applicable Authority.** Alaska Statutes 37.14.009(a) and 38.05.801, and 11 AAC 99 (key statutes and regulations applicable to Trust Land management and disposal).
- B. Inconsistency Determination.** As the proposed sale is specifically authorized under 11 AAC 99, any relevant provision of law applicable to other state lands is inapplicable to this action if it is inconsistent with Trust responsibilities accepted by the state under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)) as clarified by AS 38.05.801 and Alaska Mental Health Trust land regulations (11 AAC 99). 11 AAC 99 includes determinations that certain state statutes applicable to other state land do not apply to trust land unless determined by the executive director, on a case-by-case basis, to be consistent with 11 AAC 99.020. The state statutes deemed inconsistent with trust management principles and inapplicable to trust land by these regulations have not been applied to this decision or this action, including, but not limited to, AS 38.04 (Policy for Use and Classification of State Land Surface), AS 38.05.035 (Powers and duties of the

director), AS 38.05.300 (Classification of land), AS 38.05.945 (Notice), AS 38.05.946 (Hearings), and 11 AAC 02 (Appeals).

- XI. Trust Authority Consultation.** The Trust Authority consultation for disposal transaction of less than \$50,000 has been delegated by Resolution 02-01 of the Board of Trustees to the Trust Authority Chief Executive Officer, who has approved this decision as of the date listed in Section XVI of this Best Interest Decision.
- XII. Best Interest Decision.** Given the information above and the information contained in the complete record, the Executive Director finds that the proposed transaction is in the best interest of the Trust, subject to the terms and conditions addressed in this decision. The decision is based upon the consideration of the five Trust management principles set out in 11 AAC 99.020 and is in full compliance with 11 AAC 99. This decision does not preclude the TLO from determining that an alternative proposal will serve the best interest of the Trust. A future determination of that nature will require a best interest decision specific to the proposal.
- XIII. Opportunity for Comment.** Notice of this best interest decision will take place as provided under 11 AAC 99.050. Persons who believe that the decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020 or any other provision of 11 AAC 99, must provide written comments to the TLO during the notice period. Following the comment deadline, the Executive Director will consider timely written comments that question the decision on the basis of the best interest of the Alaska Mental Health Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director will then, in his or her discretion, modify the decision in whole or in part in response to such comments or other pertinent information, or affirm the best interest decision without changes. The best interest decision as modified or affirmed will become the final agency action, subject to reconsideration procedures under 11 AAC 99.060. Additional notice will be provided for a substantially modified decision. If no comments are received by the end of the notice period, this best interest decision will be affirmed and the proposed action taken. (See public notice for specific dates.)
- XIV. Reconsideration.** To be eligible to file for reconsideration of this best interest decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

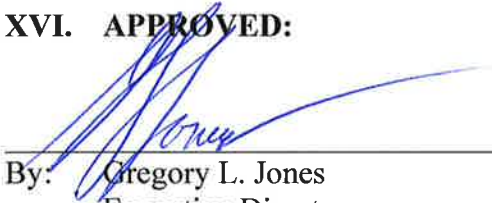
Persons who submit timely written comments will be provided with a copy of the final written decision, and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the request for reconsideration. If the Executive Director

takes no action during the 20-day period following the request, the request is considered denied. Denial of a request for reconsideration is the final administrative decision for purposes of appeal to the superior court under AS 44.62.560.

XV. Available Documents. Background documents and information cited herein is on file and available for review at the Trust Land Office, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska 99503. Phone (907) 269-8658. Email: mhtlo@alaska.gov.

The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the Trust Land Office administrative process. For specific dates or further information about the disposal, interested parties should contact the Trust Land Office at the above address, or visit the TLO website at: www.mhtrustland.org.

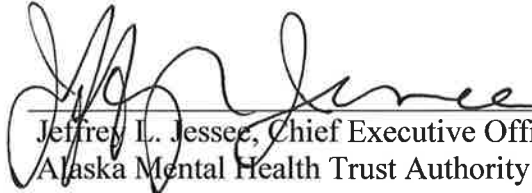
XVI. APPROVED:


By: Gregory L. Jones
Executive Director

Date

4/1/13

In accordance with 11 AAC 99.030(d) and the policies of the Alaska Mental Health Trust Authority, the Trust Land Office has consulted with me, and received concurrence to proceed with the above transaction pursuant to Alaska Mental Health Trust Authority Resolution 02-01.


Jeffrey L. Jesse, Chief Executive Officer
Alaska Mental Health Trust Authority

Date

4/1/13

Attachments: Attachment A – Legal Description
Attachment B – General Location Map

**ATTACHMENT A
PARCEL LEGAL DESCRIPTION
BEST INTEREST DECISION
MHT 9200563**

A parcel of land lying within a portion of Tract D-2-3, Section 16, Township 14 North, Range 4 West, Seward Meridian, Alaska, according to the State of Alaska Supplemental Cadastral Plat recorded August 22, 1984 as Plat No. 84-176, as described in that Quitclaim Deed recorded September 25, 1996 at Book 866, Page 740, records of the Palmer Recording District, Third Judicial District, State of Alaska, which lies within the right-of-way lines of Alaska Project No. HPR-0001 (431)/53735, Knik Arm Crossing P3-Segment 2, Port Mackenzie Industrial-North Route, being particularly described as follows:

Beginning at the quarter corner common to Sections 16 and 21, Township 14 North, Range 4 West, marked by an Alaska Division of Land (ADL) monument with 3-1/4" aluminum cap dated 1979, said point being the True Point of Beginning of this description;

Thence North 00°09'04" West, along the west line of said Tract D-2-3, which is also the center quarter line of Section 16, a distance of 252.66 feet to a point;

Thence South 88°05'48" East, a distance of 50.03 feet to a non-tangent point of curvature, from which the radius point bears North 89°50'56" East, a distance of 50.00 feet;

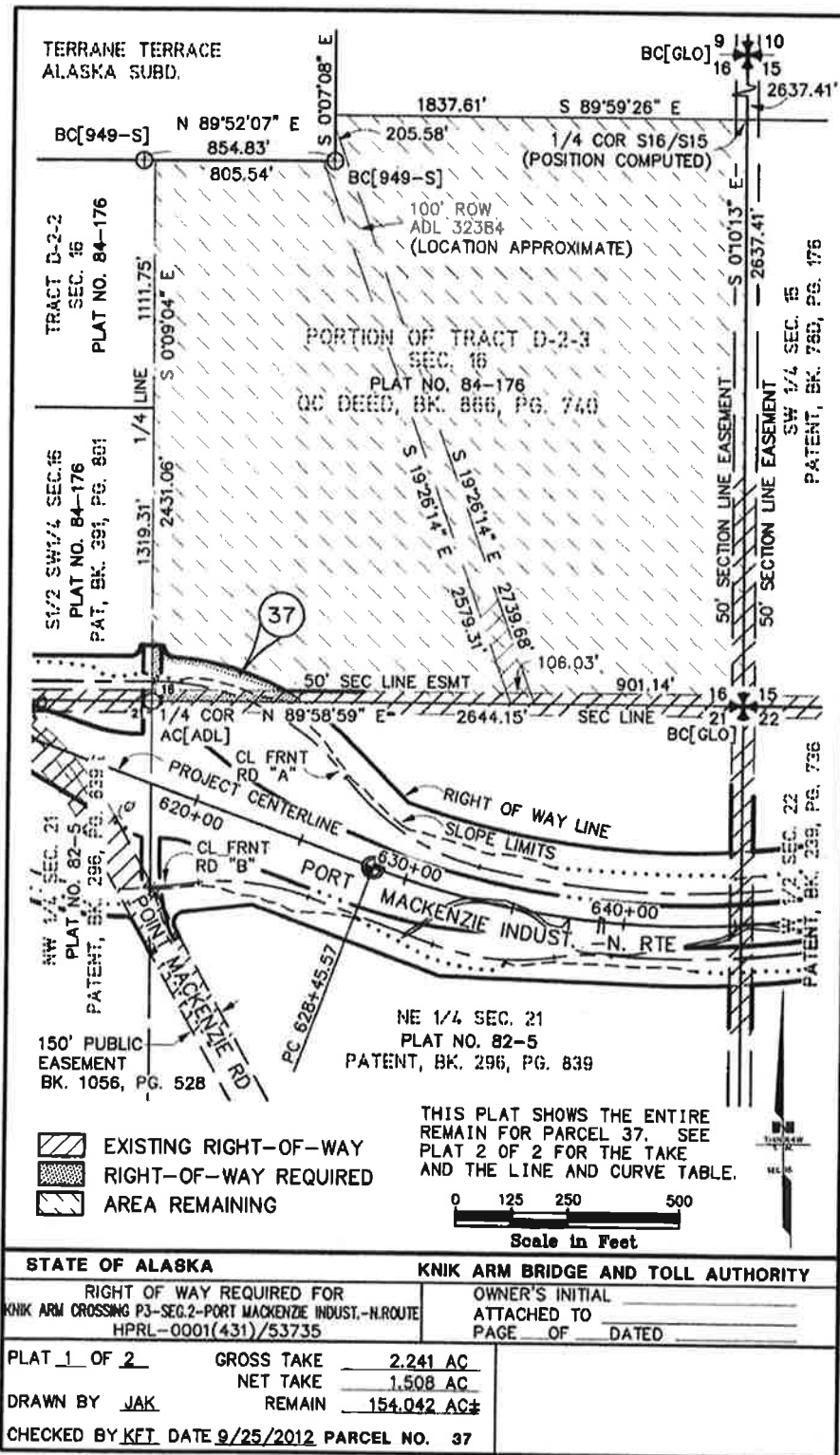
Thence in a generally southeast direction on a curve to the left with radius of 50.00 feet and central angle of 85°48'25", an arc length of 74.88 feet (chord bears South 43°03'17" East, 68.08 feet) to a point of reverse curve;

Thence along said reverse curve to the right with radius of 1187.00 feet and central angle of 30°03'04", an arc length of 622.57 feet (chord bears South 70°55'57" East, 615.46 feet), to a point on the south line of said Tract D-2-3, which is also the section line common to Sections 16 and 21;

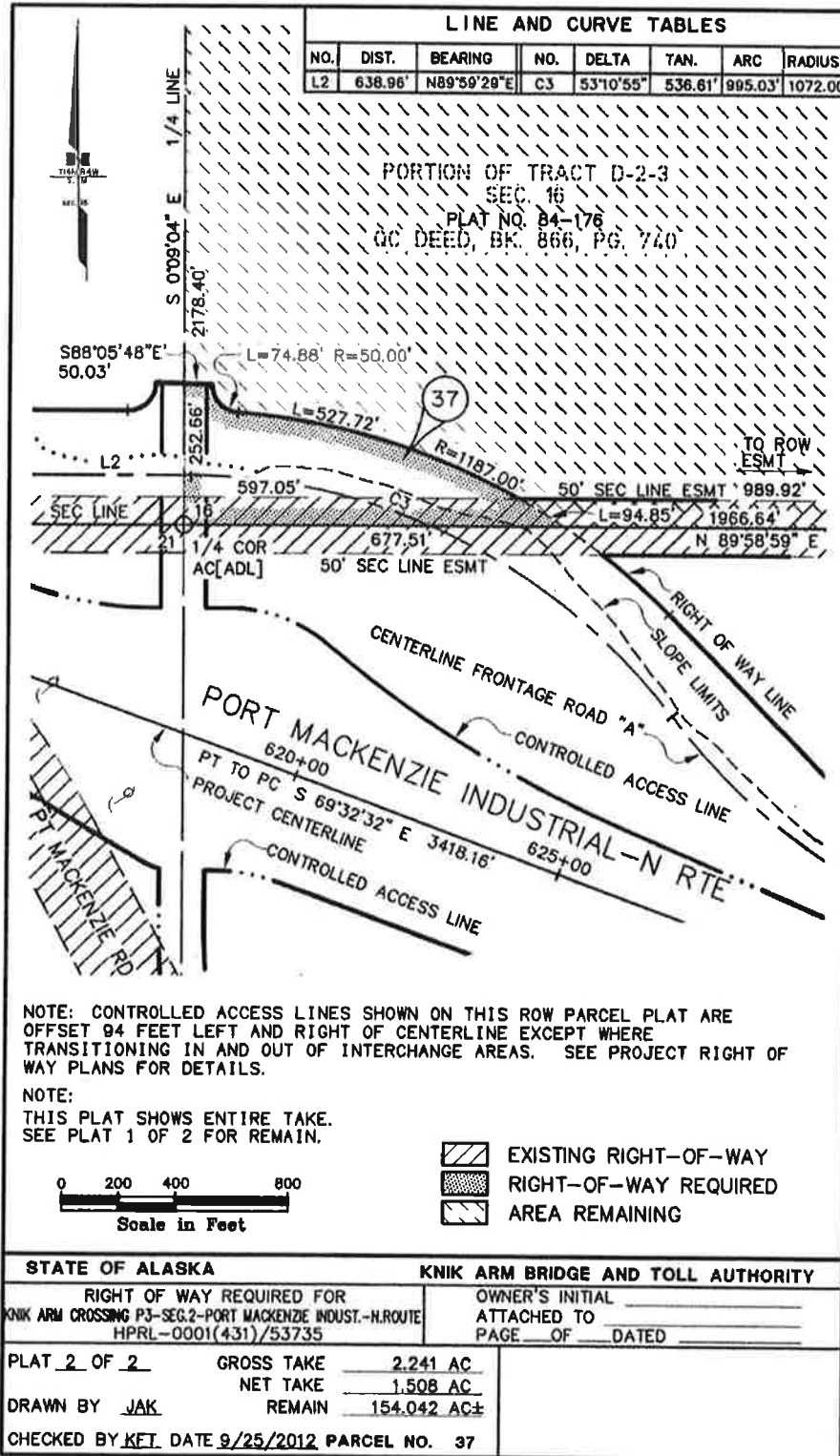
Thence South 89°58'59" West along said south line of Tract D-2-3, a distance of 677.51 feet to the True Point of Beginning.

Said parcel is delineated on the plats attached hereto on pages 2 and 3 of Attachment A and designated as Parcel No. 37, containing 2.241 acres, more or less, including existing easements, if any.

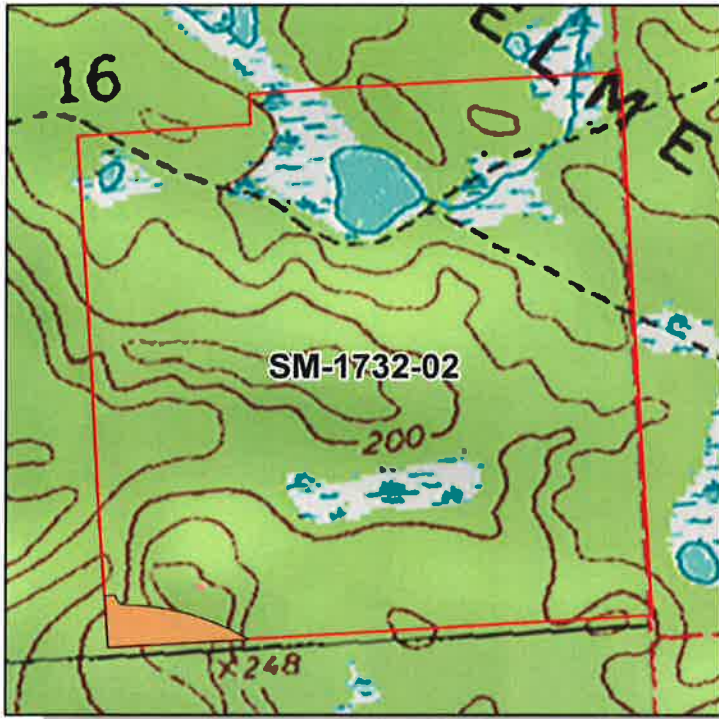
**ATTACHMENT A
PARCEL LEGAL DESCRIPTION
BEST INTEREST DECISION
MHT 9200563**



**ATTACHMENT A
PARCEL LEGAL DESCRIPTION
BEST INTEREST DECISION
MHT 9200563**



**ATTACHMENT B
GENERAL LOCATION MAP
BEST INTEREST DECISION
MHT 9200563**



***Negotiated Sale
MHT 9200563***

 **MHT 9200563**

 **AMHTA Parcel Boundary**

Subject Parcel Location

 **AMHTA
Parcel FM-1732-02**

