

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision for the Negotiated Sale of a Portion of Trust Land - Haines
MHT #9100985

Notice is hereby given that, pursuant to the provisions of AS 38.05.801 and 11 AAC 99, the Executive Director of the Alaska Mental Health Trust Land Office (TLO) has determined that it is in the best interest of the Alaska Mental Health Trust and its beneficiaries to complete a negotiated land sale of certain Trust land to the Alaska Department of Transportation and Public Facilities. The basis for this determination is explained in a written best interest decision prepared by the Executive Director pursuant to 11 AAC 99.040.

The Trust land affected by the decision is near the community of Haines, at Milepost 17 of the Haines Highway, and is more particularly described as: a portion of Lot 8 (approximately 13,862 sq. ft.), within Section 15, Township 29 South, Range 57 East, Copper River Meridian.


Persons who believe that the written decision should be altered because it is not in the best interests 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 on or before **4:30 PM, December 2, 2019**. Comments should be submitted to the TLO at 2600 Cordova Street, Suite 100, Anchorage, AK 99503, or by fax (907) 269-8905 or email mhtlo@alaska.gov. Following the comment deadline, the Executive Director will consider timely 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, and the best interest decision may be changed in response to such written comments or other information. Commenting parties will be provided a copy of the final best interest decision after the end of the notice period.

To be eligible to file for reconsideration of the best interest decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the notice period. Eligible persons will have twenty (20) calendar days after published notice of or receipt of the final written decision to request that the Executive Director reconsider the decision under 11 AAC 99.060(b).

Copies of the written decision are available at the Trust Land Office, or at <https://alaskamentalhealthtrust.org/trust-land-office/>. If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658.

In compliance with the Americans with Disabilities Act, the Alaska Mental Health Trust is prepared to accommodate individuals with disabilities. Please contact the Trust Land Office at (907) 269-8658 for assistance. Requests for assistance must be received at least 96 hours prior to the comment deadline in order to ensure that any necessary accommodations can be provided.

The Executive Director of the TLO reserves the right to waive technical defects in this notice or to amend, postpone, or vacate the best interest decision.


Wyn Menefee
Executive Director

10/23/19
Date

Published Chilkat Valley News: 10/31/2019

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
DOT Haines Highway Project
Decision for the Negotiated Sale of Trust Land - Haines

MHT: #9100985
MH Parcel: CRM-0386

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, 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. Negotiated land sale to the Alaska Department of Transportation and Public Facilities for highway improvements.

II. Applicant/File #. Alaska Department of Transportation and Public Facilities (ADOT&PF)/MHT 9100985.

III. Subject Property.

A. Legal Description. Approximately 13,862 sq. ft. within a portion of Section 15: Lot 8; T. 029 S., R. 057 E., Copper River Meridian, Alaska, of Trust parcel CRM-0386 which contains a total of 39.50 acres, more or less, according to the survey plat accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on August 6, 1953.

B. Settlement Parcel Number. A portion of parcel CRM-0386.

C. Site Characteristics/Primary Resource Values. The subject property is located approximately 17 miles north of the community of Haines, around Milepost 17, and situated along the east side of the Haines Highway. The land in this area is steep and lightly wooded. The primary resource value of the subject property is for disposal through a land sale, or development as a source for rock.

- D. Historical and Existing Uses of the Property.** The subject property is vacant and undeveloped and has no history of current or historical use.
- E. Adjacent Land Use Trends.** The parcel is in a remote and undeveloped area that's sparsely populated. The nearest residential subdivision is to the north at Milepost 18.
- F. Previous State Plans/Classifications.** Haines State Forest Management Plan (August 2002).
- G. Existing Plans Affecting the Subject Parcel.** Haines Borough 2025 Comprehensive Plan (September 2012).
- H. Apparent Highest and Best Use.** The applicant has proposed to purchase approximately 13,862 sq. ft. of land that will need to be subdivided from a larger parcel as part of a highway realignment and straightening project. The property is situated directly adjacent to the highway right-of-way along a section of the highway that does not meet current design specifications for safety which is the reason why the ADOT&PF is seeking to acquire the property. The highest and best use of the subject property is disposal through a negotiated sale.

- IV. Proposal Background.** On April 26, 2019 the TLO received an application packet and "Letter of Offer" from the ADOT&PF for the purchase of a portion of Trust property north of Haines for the Haines Highway Reconstruction Project. ADOT&PF plans to reconstruct portions of the Haines Highway between Mileposts 12.2 and 23. A portion of Trust property near Milepost 17 needs to be acquired in order to meet design standards for highway reconstruction. The subject property is part of a large parcel and will need to be surveyed, subdivided, and platted. The proposed subdivision would comprise land that is currently undeveloped and situated adjacent to the existing highway right-of-way.
- V. Terms and Conditions.** On August 27, 2019 the TLO and the ADOT&PF entered into a purchase and sale agreement outlining the process for purchasing the property through a negotiated sale at a price of \$7,000.00, plus any additional costs associated with the transaction such as appraisal, survey, survey review, and subdivision platting. Upon completion of all required transactions the ADOT&PF has the option to enter into a land sale contract or pay the entire sale price in one lump sum. When the purchase price is paid in full a Quit Claim Deed will be executed.
- VI. Resource Management Considerations.** The proposal is consistent with the "Resource Management Strategy for Trust Land" (RMS), which was adopted March 2016 in consultation with the Trust and provides for the TLO to maximize return at prudent levels of risk, prevent liabilities, and convert nonperforming assets into performing assets. Experience has demonstrated that it is unlikely that this property will appreciate at a rate that would justify holding for a later sale. It is also not cost effective for the TLO to hold this parcel for a long period of time and incur the associated management costs and liabilities.

VII. Alternatives.

- A.** Do nothing or offer for sale sometime in the future.
- B.** Retain the subject property for residential or commercial leasing. There is currently no interest.
- C.** Retain the subject property for future timber sale or rock quarry. There is currently no interest.
- D.** Retain the subject property for potential conservation or environmental mitigation purposes. There is currently no interest.

VIII. Risk Management Considerations.

- A. Performance Risks.** In present condition, the subject property is not generating any revenue for the Trust. The parcel is considered a non-performing asset.
- B. Environmental Risks.** There are no known risks associated with the proposed sale, and there is no history of the TLO authorizing any use on the subject property.
- C. Public Concerns.** Subject to comments resulting from the public notice, there are no known public concerns regarding the proposed action.

IX. Due Diligence.

- A. Site Inspection.** TLO staff have not been on site to perform a site inspection. The subject property was appraised by Brian Bethard, of Black-Smith, Bethard & Carlson, LLC, on February 11, 2019.
- B. Valuation.** An appraisal was performed on February 11, 2019 using a sales comparison approach of similar properties within the region that recently sold. Based on information gathered in the report the fair market value of the hypothetical subdivided 13,862 sq. ft. property was \$3,600.00. To compensate for not selling the land competitively the TLO seeks a premium of 95% or \$7,000.00.
- C. Terms and Conditions Review.** An agreement for the purchase and sale of the property was completed on August 27, 2019. The agreement outlines the terms and conditions of the sale.

X. Authorities.

- A. Applicable Authority.** AS 37.14.009(a), AS 38.05.801, and 11 AAC 99 (key statutes and regulations applicable to Trust land management and disposal).
- B. Inconsistency Determination.** As the proposed negotiated 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). Other provisions of law the TLO deems inconsistent with Trust responsibilities include:

1. AS 38.05.055, Alaska Residency required for purchase of State land, and AS 38.05.940, Veteran's discounts allowed on purchase price of State land. Preferences or discounts provided to Alaska residents or veterans would be granted at a cost to the Trust, hereby violating key Trust management principles.
2. AS 38.05.127, Access to navigable or public water and requiring "to and along" easements on Trust properties diminishes the sale value of Trust lands and therefore is inconsistent with Trust management principles.

XI. Trust Authority Consultation. TLO consultation is defined in statute and regulation under AS 37.14.009(a)(2)(C) and 11 AAC 99.050 and clarified under 11 AAC 99.030(d) which requires the executive director to consult before issuing a public notice of a written decision of best interest.

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.

A. Non-competitive Disposal Determination. 11 AAC 99.020 (d) allows for the disposal of Trust land through a competitive basis, unless the Executive Director in consultation with the Trust Authority, determines in a written decision required by 11 AAC 99.040 that a non-competitive disposal is in the best interest of the Trust and its beneficiaries. If another party submits a qualified offer as explained in Section XIII, the Executive Director may consider a competitive sale under the authority of this decision. The proposed subdivision is approximately 13,862 sq. ft. given the price agreed upon, and the use of the property to enhance highway safety, a non-competitive disposal is in the interest of the Trust and its beneficiaries.

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. Other persons who may be interested in purchasing the Property must

submit their proposals during the 30-day public notice period. Instructions to apply can be found online at <https://alaskamentalthtrust.org/trust-land-office/land-sales/land-use-application/>. To be considered a qualified competing interest, applications must include the application fee, a formal Letter of Intent to include an offer price that matches or exceeds the current offer of \$7,000.00 for the parcel, a deposit of 10% of the offered price in certified funds. In the event that there is competing interest, all qualified interested parties will be notified by phone, fax, or e-mail how they may participate in the alternative sale process. 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 Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director may 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 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). This request must be accompanied by the fee established by the Executive Director under 11 AAC 99.130, which has been set at \$500, to be eligible for reconsideration. 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 for reconsideration, 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 TLO, 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 TLO administrative process. For specific dates or further information about the disposal, interested parties should contact the TLO at the above address, or visit the website at: <https://alaskamentalthtrust.org/trust-land-office/>.

XVI. APPROVED:



Wyn Meneffee
Executive Director
Alaska Mental Health Trust Land Office

10/21/19

Date

XVII. CONSULTATION CONCURRENCE:

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.



Michael K. Abbott
Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority



10/23/19

Date

Exhibit A - Location Map



Negotiated Sale, MHT 9100985
A portion of Trust Parcel CRM-0386
Approximately 13,862 sq. ft.

-  MHT-9100985
-  Mental Health Trust Land

0 250 500 750 1,000 Feet



Date Printed: 7/11/2019