

The Alaska Mental Health Trust Authority
Trust Land Office
Negotiated Land Sale - Sitka

MHT: 9101115

MH Parcels: **CRM-1618 & CRM-7006**

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.

II. Applicant/File #. Catherine Anne Schirber / MHT 9101115.

III. Subject Property.

A. Legal Description. Located in Section 2, Township 56 South, Range 63 East, Copper River Meridian, Alaska, and more particularly described as: CRM-7006, Lot 97 of U.S. Survey No. 3926, Alaska (Situated within U.S. Survey No. 1763, Sitka Elimination), containing 2.72 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 October 5, 1965; and, CRM-1618, Lot 98 of U.S. Survey No. 3926, Alaska (Situated within U.S. Survey No. 1763, Sitka Elimination), containing 0.70 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 October 5, 1965.

B. Settlement Parcel Number. CRM-7006 & CRM-1618.

C. Site Characteristics/Primary Resource Values. The subject parcels are located immediately west of downtown Sitka at the base of the John O’Connell Bridge western abutment. The two original Trust parcels now consist of five remnants as a result of developing the bridge abutment, and associated highway ROW. Of the five

remnants, only one is feasible for any type of commercial or residential development. Based on site visits and research, the parcels receive a significant amount of public use by adjacent property owners using the remnant parcels to access the water. One of the remnant parcels on the north side of bridge provides access to the City of Sitka work dock; this remnant is within a paved parking lot. There is also some evidence of homeless camps under the bridge. Although there is a road adjacent to the parcels, the road does not provide drivable access to the parcels. There is electric in the area. The primary resource value of the subject parcels is for disposal through a land sale.

- D. Historical and Existing Uses of the Property.** Trust parcels CRM-7006 and CRM-1618 were originally two separate islands. Construction of the bridge in 1971 involved filling tidelands between the two small islands, and Japonski Island, for the establishment of the bridge abutment. Additionally, the highway ROW cut a large swath through both parcels, in effect making them unusable. Parcel CRM-7006 was divided into two remnants with a larger, vacant 29,660 square foot piece to the south of the ROW, and a 3,664 square foot piece to the north which includes a portion of paved parking lot access linking to the City of Sitka work float gangway. Parcel CRM-1618 includes three small triangular shaped remnants, two to the north of the ROW and one immediately to the south ranging in size of 775 square feet, to 1,209 square feet. All combined, the five remnant parcels form a larger parcel due to common ownership, integrated highest and best use, and proximity to each other. While all five remnants front on the water and have marine access, the road access is less straightforward due to the ROW of which is managed by the Alaska Department of Transportation. When discussing road access with DOT they emphasized that any connections to the subject parcels would likely not be permitted due to safety concerns; they did say that there may be a possibility of tying into the access road which comes off Seward Avenue and provides access to the City of Sitka's work float which is part of a 50-year easement granted to the City of Sitka by the Bureau of Land Management.
- E. Adjacent Land Use Trends.** The economy of Sitka is primarily dependent on fishing, seafood processing, and tourism related activities. Land use trends in the area consist primarily of single-family residences, commercial activity, and outdoor recreation. The parcels make up the bridge abutment on the west side of the John O'Connell Bridge and are subject to high volumes of vehicle traffic between the airport located on Japonski Island, and the business district and marinas located near downtown Sitka. The area also sees regular public use by pedestrians, dog walkers, and site seers.
- F. Previous State Plans/Classifications.** Northern Southeast Area Plan – Baranof Island Area. Sitka; adopted June 2002.
- G. Existing Plans Affecting the Subject Parcel.** Sitka Comprehensive Plan 2030; adopted May 22, 2018.
- H. Apparent Highest and Best Use.** The two subject parcels consist of five subdivided remnants of which only one remnant is conducive to any sort of commercial or residential development; there are other similar sized parcels around Sitka that have been developed for residences. The highest and best use of the subject property is for commercial or residential development, and disposal through a negotiated sale.

- IV. Proposal Background.** In March of 2022, the TLO received an application from Catherine Schirber, seeking to purchase the subject parcels.
- V. Terms and Conditions.** On April 12, 2022, the TLO and the applicant (Catherine Schirber) entered into a purchase and sale agreement outlining the process for purchasing the property through a negotiated sale at a price of \$156,000.00. 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 October 2021 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 sometime in the future.** This alternative would delay receipt of revenues from sales, income from land sale contract interest, income from Trust principal interest, and could result in additional costs and risks to the Trust without significant increases in value.
 - B. Leasing the parcel.** Management costs to the Trust will generally decrease on the properties through a sale and there is currently no expressed interest for recreational or commercial lease.
 - C. Alternate development.** The parcels are not well suited to subdivide due to the topographic characteristics and small size of the remnants. Additionally, local ordinances and zoning restrictions to plat, subdivide, develop access, and construct infrastructure makes development of subdivision cost prohibitive. No interest has been expressed for commercial development or material/mineral development.
- VIII. Risk Management Considerations.**
- A. Performance Risks.** Performance risks will be mitigated through the TLO’s Purchase and Sale Agreement, Land Sale Contract, and Quitclaim Deed. In present condition, the parcel is not generating any revenue for the Trust. The parcel is considered a non-performing asset.
 - B. Environmental Risks.** There are no known environmental risks associated with the proposed sale, and there is no history of the TLO authorizing any use on the parcel.
 - C. Public Concerns.** Subject to comments resulting from the public notice, there are no known public concerns regarding the proposed action.
 - D. Other.** The City of Sitka has expressed interests in the subject parcels but has not submitted a land use application to purchase or lease. Based on discussions, it appears that their primary concern is retaining access across the small remnant that leads to the city work dock. This concern was relayed to the applicant, and they stated that they would allow access to the City of Sitka without any conditions if the parcel is purchased.

IX. Due Diligence.

- A. Site Inspection.** An appraiser hired by TLO visited the parcel in June of 2021, and TLO staff were on site in March 2022.
- B. Valuation.** An appraisal of the subject parcel was completed in June of 2021, using a sales comparison approach of similar properties within the region that recently sold and determined the fair market value of the combined parcels to be \$120,000.00. To compensate for not selling the land competitively the TLO required a premium of 30% or \$36,000.00 above the appraised fair market value, for a final negotiated sale price of \$156,000.00 for the parcel.
- C. Terms and Conditions Review.** An agreement for the purchase and sale of the property was completed on April 12, 2022. The agreement outlines the terms and conditions of the sale. The standard TLO land sale documents have been reviewed by the Department of Law.

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).
- C. Provisions of law applicable to other state land that are determined to apply to trust land by the executive director, on a case-by-case basis include:**
 - i. AS 38.05.035(i). persons eligible to file a request for reconsiderations
 - ii. 11 AAC 02.030 (a) and (e), filing request for reconsideration
 - iii. 11 AAC 02.040 timely filing
- D. 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. This parcel is being sold at a premium of 30% above the appraised value to compensate for not selling or leasing the land through a competitive process. This 30% premium offer exceeds the historical average of competitive sales in the immediate area. Given the 30% premium price offered, the development constraints, limited access, and historical sales comparisons, a non-competitive disposal is in the best interests 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.

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://alaskamentalhealthtrust.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 exceeds the current offer of \$156,000.00 for the parcel, and a deposit of 10% of the offered price in certified funds. If 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 based on 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 201, 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: www.mhtrustland.org

XVI. APPROVED:

DocuSigned by:

Jusdi Warner

Jusdi Warner

Executive Director


Alaska Mental Health Trust Land Office

5/5/2022

Date

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.

DocuSigned by:


Steve Williams

Chief Executive Officer (CEO)



Alaska Mental Health Trust Authority

5/5/2022

Date



Negotiated Sale
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-  MHT 9101115
-  Mental Health Parcels

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