

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Fair Market Sale or Lease – Anchorage

MHT: 9200796
MH Parcel: SM-1479

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. This proposal is for the disposal, in whole or part, of the subject property through negotiated or competitive sale(s) or negotiated or competitive lease(s), at or above, fair market value to tenants or purchasers consistent with the TLO’s Resource Management Strategy (“RMS”) and all applicable regulations and laws.

II. Applicant/File No. MHT 9200796

III. Subject Property.

- A. Legal Description.** T. 011 N., R. 003 W., Seward Meridian, Alaska Section 14: W1/2NE1/4NE1/4SE1/4, SE1/4NE1/4NE1/4SE1/4, W1/2NE1/4SE1/4, SE1/4NE1/4SE1/4; containing 37.50 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 February 26, 1957.
- B. Trust Parcel Numbers.** SM-1479.
- C. Site Characteristics/Primary Resource Values.** The subject parcel is located off the upper area of Potter Heights Drive in South Anchorage and is an interior upland parcel. The parcel has a mostly level area in its center with sloping topography to its exterior lot lines. The primary resource value of the subject parcel is for development and disposal through land sale.

- D. Historical and Existing Uses of the Property.** Presently SM-1479 has no development and there are no known historical or authorized uses.
- E. Adjacent Land Use Trends.** The broader area is predominantly newer construction residential with vacant/raw land directly adjacent on all sides of the parcel. There are two residences nearby off the northeast corner of the parcel.
- F. Previous State Plans/Classifications.** None known.
- G. Existing Plans Affecting the Subject Parcel.** The parcel is zoned Public Lands and Institutions. Any residential development will require the parcel to be rezoned.
- H. Apparent Highest and Best Use.** The highest and best use of this parcel is most likely residential development following a planning, rezoning, and subdivision process.
- IV. Proposal Background.** The parcel has not been formally marketed with no meaningful inquiries received. In situations where market dynamics include limited deal velocities, and when standardized deal structures create misalignments with prospective tenant or purchaser requirements, the TLO may determine non-competitive sales or leases to be more appropriate due to the ability to manage and mitigate transaction obstacles and risks, thereby enhancing Trust revenue returns and cumulative revenues over time. The TLO will ensure all offerings, whether competitive or negotiated, receive prudent market exposure to ensure the Trust receives maximal sale prices and lease rates, as well as confirming the offerings are compatible with the current uses by on-site and adjacent beneficiary serving organizations. Any sale or lease will be proceeded by a rezoning, planning, and subdivision effort in coordination with the local planning and platting authority.
- V. Terms and Conditions.** Final terms and conditions to be negotiated through execution of a commercial lease or purchase and sale agreement, as appropriate. Ground leases may range in length from ten to 55 years, depending on the nature of the proposed development. Subject to the use, creditworthiness, and other factors, the TLO may consider granting contingency periods, abated rent, landlord contributions or other common commercial real estate development terms in negotiations.
- 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, which provides for negotiated land sales and land leases, but indicates that competitive land sales or leases shall be utilized when viable; thus, the TLO will maximize return at prudent levels of risk, prevent liabilities, and convert nonperforming assets into performing assets.
- VII. Alternatives.** The alternatives evaluated for this proposal are:
- A. TLO Development of the Parcel.** The parcel may be developed now, or at a later date, through a planning effort with rezoning, subdivision, and platting process. Moving forward with a development now would be speculative in nature with increased risk to the option of lease or sale. Further, finding tenants that could partner in a development of this magnitude and recognizing revenue from a completed development has no definitive timeline.

- B. Do Nothing.** The TLO may decide to do nothing now in anticipation of receiving a specific offer at some point in the future. This alternative would place the Trust and TLO at a strategic disadvantage to negotiate sales or leases in a competitive market as it would inappropriately extend transaction time in an industry for which aggressive timelines are the norm.

VIII. Risk Management Considerations.

- A. Performance Risks.** Approval of the rezone and subdivision by the local platting authority is of concern; however, the TLO will mitigate this risk with use of experienced term contractors and coordination with the local platting authority. Leases of the parcels are subject to defaults by obligors and could result in loss of Trust funds invested through landlord contributions or other lease incentives; such losses, however, can be mitigated through deposits, guarantees, and other common leases terms. Sales will be upon either cash terms or land sale contract terms with little to no risk to Trust principal. Subdivision of the subject property resulting in retained interests by the Trust may result in risks to retained interest by deleterious adjacent uses, but these concerns may be mitigated by development restrictions such as restrictive covenants. Current market conditions, including short/long-term downward pressure on market values, due to impacts in multiple economic sectors from increased rates will be evaluated and considered prior to any type of sale or lease. 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 lease or sale.
- C. Public Concerns.** Subject to comments resulting from the public notice period, there are no known public concerns.

IX. Due Diligence.

- A. Site Inspection.** The site has been inspected on various occasions by TLO staff. Additional inspections as required to confirm suitability of the land for the offeror's intended use will be the responsibility of the offeror, and all contemplated transactions shall require the offeror to complete whatever due diligence necessary for them to accept the site in its as-is condition.
- B. Valuation.** Sale prices and lease rates will be based upon appraisal, broker's opinion of value, and review of comparable sales or leases from the marketplace.
- C. Terms and Conditions Review.** Final terms and conditions will be established through the completion of a purchase and sale agreement or negotiated lease as approved by the Executive Director. The TLO has authored and executed similar agreements in the past. Outside and internal legal counsel will be consulted if necessary.

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 a proposed sale or lease at fair market value 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 Alaska Mental Health Trust Resource Management Committee was consulted on January 5, 2022. The Committee concurred with the Executive Director's recommendation to negotiate disposal of Trust parcel SM-1479 through sale or lease.

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 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.)

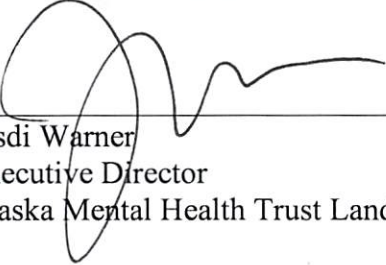
XIV. Reconsideration. To be eligible to file for reconsideration of this Best Interest Decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

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). 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.alaskamentalhealthtrust.org.

XVI. APPROVED:





Jusdi Warner
Executive Director
Alaska Mental Health Trust Land Office

8/12/22

Date



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