

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Ground Lease – Sitka, AK
MHT 9101102

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 30-year ground lease of certain Trust land to the Sitka Homeless Coalition. 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 located in Sitka, AK and is more particularly described as: Township 055 South, Range. 064 East, Copper River Meridian, Alaska Section 31: Lot 3 of US Survey 3695; Containing 16.300 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 June 2, 1960. (MH Parcel: CRM-1852).

Persons who believe that the written 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 on or before **4:30 PM, April 4, 2023. Comments should be submitted to the TLO at 2600 Cordova Street, Suite 201, 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.

DocuSigned by:

Jusdi Warner

Jusdi Warner
Executive Director

3/2/2023

Date

Published Daily Sitka Sentinel: 4/04/2023

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Sitka Homeless Coalition
Ground Lease – Sitka, AK

MHT: **9101102**
MH Parcel: **CRM-1852**

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. 30-year ground lease to the Sitka Homeless Coalition (SHC) for the *Hítx’i Sáani (Little Houses)* project to provide permanent supportive housing to Trust beneficiaries who are currently experiencing homelessness in Sitka, AK. This less than fair market value lease fee was recommended for approval by the Alaska Mental Health Trust Authority and brought to the Resource Management Committee where it was then recommended to the Alaska Mental Health Trust Authority Full Board of Trustees and subsequently approved.

II. Applicant/File #. Sitka Homeless Coalition / MHT 9101102.

III. Subject Property.

A. Legal Description. Township 055 South, Range. 064 East, Copper River Meridian, Alaska Section 31: Lot 3 of US Survey 3695; Containing 16.300 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 June 2, 1960.

B. Settlement Parcel Number. CRM-1852

- C. Site Characteristics/Primary Resource Values.** The parcel is located at the 90° intersection of Jarvis Street and Haley Way. The Indian River cuts through the parcel from north to south-southwest functionally creating 2 separate areas within the parcel, ±2 ac. on the northwest and ±11 ac. on the southeast sides of the river. The current main Indian River channel takes up the rest of the parcel. The majority of the parcel southeast of the current channel forms a narrow river basin that is fairly level, though heavily braided with significant old riverbed channels that now function as flood storage areas. Many of the old channels have slow running creeks or standing water and are part of the 100-year flood zone, while the somewhat level ground above the channels is in the 500-year flood plain. The parcel's southeast property line runs along the river basin's ±10 ft. bank. Therefore, most of the parcel southeast of Indian River is within the 500-year flood plain. There is approximately ½ - 1 acre within the parcel, on top of the bank and above the flood plain, located immediately adjacent to the Jarvis St./Haley Way intersection that is developable. Primary resource value, as vacant, is for small multifamily development. Any subdivision development requiring the extension of residential roads, water, sewer, and electric would be expensive and challenging to make profitable.
- D. Historical and Existing Uses of the Property.** The parcel has minor historical incidental use by residents for recreation as well as dedicated access in the form of MHT 9100320 (perpetual easement issued in 2012) to the City and Borough of Sitka on the west side of the Indian River serving as part of the Indian River Trail. This public access easement makes any development on the west side of the Indian River challenging due to the necessity to consider and likely develop alternate trail access, creating significant additional expense to any development project. There was also a small portion of the northwest corner of the parcel that was previously sold to the City and Borough of Sitka to facilitate an adjacent subdivision development and is serialized as MHT 9100220. Existing uses shown in Attachment A – Map.
- E. Adjacent Land Use Trends.** Adjacent land use is residential subdivision to the west of the parcel; vacant raw land to the north and south owned by the City and Borough of Sitka; vacant raw land to the east owned by the U.S. Forest Service; and light commercial business use on the opposite corner of Jarvis Street to the southeast of the parcel.
- F. Previous State Plans/Classifications.** N/A.
- G. Existing Plans Affecting the Subject Parcel.** The parcel is currently zoned C-1, General Commercial, by the City & Borough of Sitka, which allows for the provision of all commercial services, including personal services. In June of 2022, the TLO met with the City & Borough of Sitka Planning and Community Development Department, who are aware of and have been supportive of the proposed SHC project.
- H. Apparent Highest and Best Use.** Small, multifamily, style development in approximately 1 acre in southeast corner of the parcel. The proposed use is consistent with the highest and best use and has been approved by the Alaska Mental Health Trust Authority full board of Trustees through the use of Trust land at less than fair market value process outlined in 20 AAC 40.710.

- IV. Proposal Background.** SHC is planning the construction of a Cabin Community, named Hítx'i Sáani (Little Houses), which will consist of 12 individual units, a caretaker cabin, and a community building. This housing will provide permanent supportive housing to Trust beneficiaries who are currently chronically homeless in Sitka. The SHC has formalized substantially over the past two years from a grassroots volunteer based 501(c)(3) with an income of less than \$50,000 annually to hiring a full-time executive director, increasing board engagement, growing the number of partner agencies involved in the work, especially the Little Houses project, and raising over a million dollars in one calendar year. This formalization of the SHC was intentional to dedicate adequate resources and structure to operate the Little Houses project. The SHC provided a request by email to Trust Authority Office staff for a long-term lease below market value under 20 AAC 40.710 to build and operate permanent supportive housing for Trust beneficiaries. This permanent supportive housing project will house homeless Trust beneficiaries and offer optional services through community provider agencies. It is expected that all residents prioritized for housing are Trust beneficiaries, with the largest percentage experiencing mental illness and addiction, Trust Authority Office staff determined sufficient information was provided by the organization as guided by 20 AAC 40.710 and that the project aligns with the Housing & Home and Community Based Services focus area to serve Trust beneficiaries. This project aligns with the Comprehensive Integrated Mental Health Program Plan, Goal 3: Economic and Social Well Being, Objective 3.1: Alaskans have stable, safe housing with appropriate, community-based social supports to maintain tenancy. The Trust Authority Office made a formal request to the TLO to determine whether the Trust land USS 3695 Lot 3 in Sitka (Parcel CRM-1852) is suitable for the use proposed by the SHC and the estimated fair market value of that use. The TLO determined that the parcel is suitable for the proposed use and provided fair market value of the parcel to be \$390,000 with the estimated fair market lease rental to be a maximum of \$31,200 annually. Prior to the inquiry by the SHC, no other offers had been made for the use, lease, or purchase of this parcel.
- V. Terms and Conditions.** As approved by the Alaska Mental Health Trust full Board of Trustees, through the process outlined in 20 AAC 40.710 for use of Trust land at less than fair market value, at their regularly scheduled full board of trustees meeting on January 24, 2023, this will be a ground lease for a 30-year term with an annual rent of \$3,900 or 1% of the appraised fair market value. Standard commercial ground lease terms and conditions used by the TLO to protect the Trust's interests will apply.
- VI. Resource Management Considerations.** The proposal is consistent with the "Resource Management Strategy for Trust Land" which was adopted October 2021 in consultation with the Trust and provides for the TLO to manage Trust land for Program-Related Real Estate by assuring the real estate needs of mental health programs sponsored by the Alaska Mental Health Trust Authority are met as appropriate and support and enhance the Trust's mission to promote a comprehensive integrated mental health program.

VII. Alternatives.

- A. Do nothing or offer sometime in the future.** This alternative would delay receipt of revenues from lease and fail to promote a comprehensive integrated mental health program.
- B. Alternate development.** Any type of subdivision for residential or commercial use would likely be uneconomic, even with the high cost of housing in Sitka, due to the significant financial investment necessary to further subdivide, construct roads, install utilities, and market. Additionally, the topographic constraints caused by the Indian River 100- and 500-year flood plains, along with the uneven terrain and existing Indian River Trail easement, severely limits the developable portion of the parcel to an amount that likely makes the scale uneconomic. No interest has been expressed for material or mineral development, or for timber extraction.

VIII. Risk Management Considerations.

- A. Performance Risks.** Performance risks will be mitigated through the TLO's standard Letter of Intent agreement and Ground Lease Agreement. 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 ground lease.
- C. Public Concerns.** Subject to comments resulting from the public notice period, there are no known public concerns. This project has already been public noticed through the Trust Authority's use of Trust land at less than fair market value process and there was one public comment concerning the use of the entire parcel without developing other unused areas for residential lots. The development of other areas was considered but would be very costly at this time, likely without the return to justify it; the lease structure will allow for future development in case a time arises when that is in the Trust's best interest. Additionally, the project received many letters of support from the local community during its fundraising efforts.

IX. Due Diligence.

- A. Site Inspection.** The TLO and its contractors have inspected the parcel multiple times over the last 2 years, with TLO staff visiting the parcel with its contracted surveyor in February of 2021 and with the City and Borough of Sitka Planning Department in June of 2022.
- B. Valuation.** In June of 2021, the TLO had the parcel appraised "as is" and "where is" by Ramsey Appraisal Resource. The appraisal used a sales comparison approach of similar properties within the region that recently sold and determined the fair market value of the parcel to be \$390,000.00.
- C. Terms and Conditions Review.** The standard TLO commercial ground lease agreement will be used for this authorization and will be reviewed by the Department of Law and/or outside Counsel prior to the execution of the Ground Lease Agreement.

X. Authorities.

A. Applicable Authority. AS 37.14.009(a), AS 38.05.801, 20 AAC 40.710, and 11 AAC 99 (key statutes and regulations applicable to Trust land management and use of Trust land at less than fair market value).

B. Inconsistency Determination. As the proposed 30-year ground lease was approved under the process for use of Trust land at less than fair market value in 20 AAC 40.710 and 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. 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 approval of the Alaska Mental Health Trust Authority Board of Trustees, through the approval process outlined in 20 AAC 40.710 for a less than fair market value use, 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). 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: <https://alaskamentalhealthtrust.org/trust-land-office/>.

XVI. APPROVED:

DocuSigned by:

Jusdi Warner

Jusdi Warner

Executive Director

Alaska Mental Health Trust Land Office

3/1/2023

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.

DocuSigned by:



Steve Williams

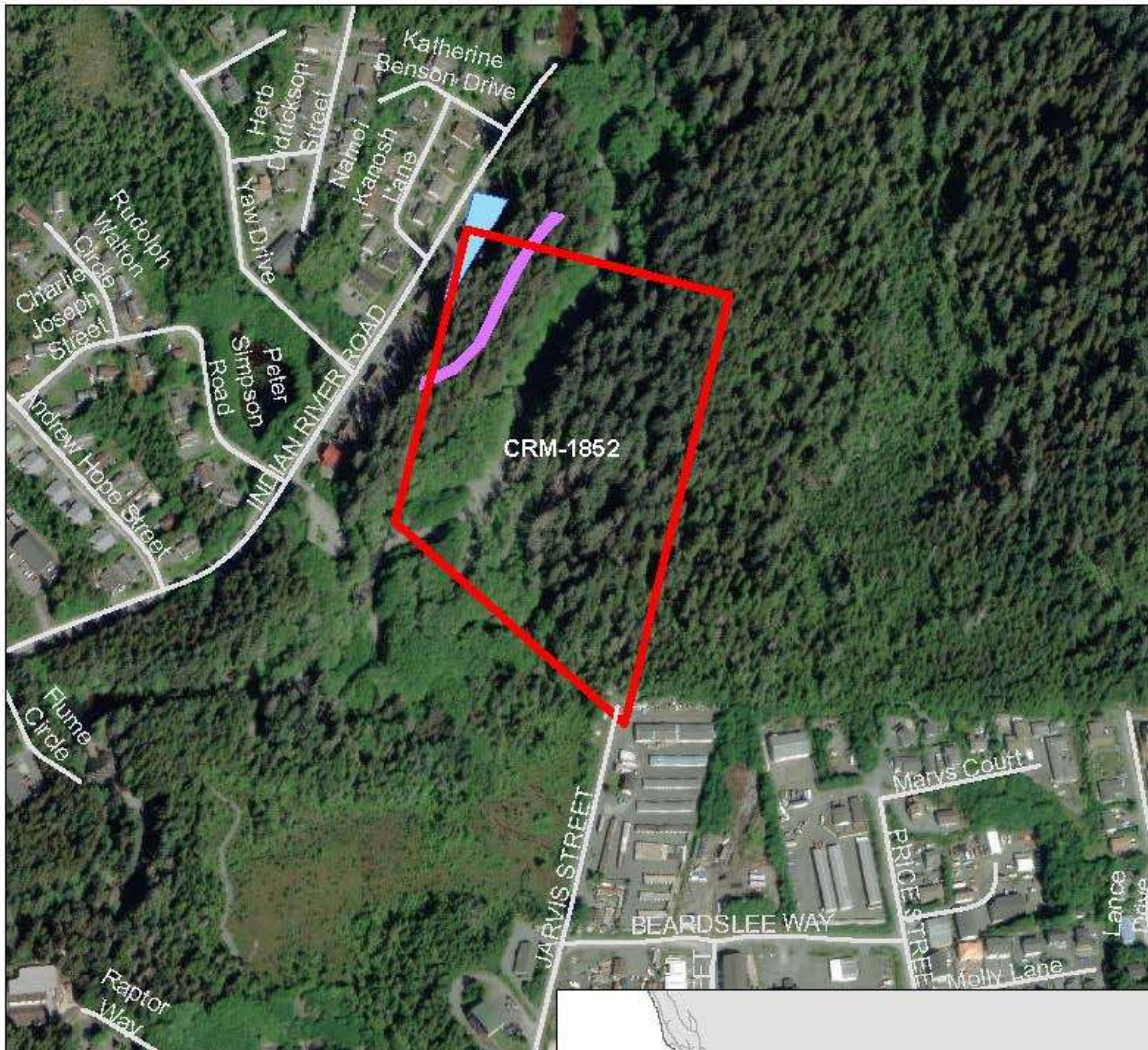
Chief Executive Officer (CEO)

Alaska Mental Health Trust Authority

3/1/2023

Date


Attachment A – Map




MHT 9101102, Parcel CRM-1852

— Roads

 MHT 9101102

 MHT 9100320, Easement

 MHT 9100220, Land Sale

0 125 250 500 750 1,000 Feet

