

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Ground Lease – Anchorage, AK
ADL 34810

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 25-year ground lease of certain Trust land to the Salvation Army. 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 Anchorage, AK and is more particularly described as: Tract 1-A, according to the plat of Tracts 1-A and 4-A, Community Park Alaska Subdivision, located in the NE ¼, SE ¼, Section 21, Township 13 North, Range 3 West, Seward Meridian. Containing 4.54 acres, more or less. (MH Parcel: SM-1520).

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, October 03, 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

8/31/2023

Date

Published Anchorage Daily News: 9/03/2023

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Salvation Army
Ground Lease – Anchorage, AK

ADL: 34810
MH Parcel: SM-1520

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. 25-year ground lease to the Salvation Army (SA) to support the behavioral health community-based services located on this parcel located on East 20th in Anchorage, AK. The target service population will be adult beneficiaries, ages 18 and over, experiencing drug/alcohol addiction, mental health issues, and older adults with cognitive disabilities. 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 #. Salvation Army / ADL 34810.

III. Subject Property.

A. Legal Description. Tract 1-A, according to the plat of Tracts 1-A and 4-A, Community Park Alaska Subdivision, located in the NE ¼, SE ¼, Section 21, Township 13 North, Range 3 West, Seward Meridian. Containing 4.54 acres, more or less.

B. Settlement Parcel Number. SM-1520

- C. Site Characteristics/Primary Resource Values.** The parcel is located at the southwest corner of E. 20th Avenue and Nichols Street, and the primary recorded street address by the Municipality of Anchorage (MOA) is 3550 E. 20th Avenue in Anchorage, AK. The parcel is currently a developed parcel containing three main separate wood framed single-story building that were constructed, and are owned, by the SA. Primary resource value is for maintaining current use for the SA.
- D. Historical and Existing Uses of the Property.** The parcel was originally leased for 55 years to the SA by the State of Alaska on October 2, 1968. The Trust acquired the parcel and subject lease in 1996 as part of the settlement agreement. The Community Park Loop (CPL) Master Plan and Assessment completed in 2021 examined the current uses of the Trust's ownership in the area, including the SA lease which has been active for the past 55 years. The CPL Master Plan recommended maintaining the current use for the SA leased area at a less than Fair Market Value lease. Existing uses shown in Attachment A – Map.
- E. Adjacent Land Use Trends.** Adjacent land use is residential subdivision to the north of the parcel and similarly focused social services organizations to the east, south, and west of the parcel. The Trust owns three other parcels in the adjacent vicinity that are leased to beneficiary serving organizations at less than fair market value.
- F. Previous State Plans/Classifications.** N/A.
- G. Existing Plans Affecting the Subject Parcel.** The parcel is currently zoned PLI – Public Lands and Institutions by the MOA, which is “intended to include major public and quasi-public civic, administrative, and institutional uses and activities”.
- H. Apparent Highest and Best Use.** Maintain current use by the SA. 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. SA is planning to continue offering behavioral health community-based services with a target population of individuals who are ages 18 and over and experiencing drug/alcohol addiction, mental health issues, and older adults with cognitive disabilities. The following services are currently being delivered at this location:

- A.** The Salvation Army Serendipity Adult Day Services program provides a safe and comforting environment with cognitive-enhancing social activities for older adults. Our staff recognizes that individuals are not defined by disease or disability but by their uniqueness as human beings. We value each person's abilities and acknowledge their contributions. As such, the need for love, comfort, inclusion, identity, occupation, and attachment are respected as universal needs throughout life. Serendipity incorporates these universal needs into everyday programming to ensure each guest has many successful daily interactions.
- B.** Clitheroe Outpatient services are designed for individuals with substance abuse issues that can be effectively addressed outside of a residential program or aftercare for those who have completed residential treatment. The Outpatient Program provides family services, counseling, and support for those who would benefit from outpatient

treatment, have completed inpatient treatment, need continuing care, or do not in need inpatient treatment.

- C. The Salvation Army Clitheroe Outpatient Services offer Moral Reconciliation Therapy (MRT) group meetings as a component of their community-based services.
- D. In FY 24, an expansion of transitional housing will be added to the East 20th campus, and it is projected to serve a minimum of sixty-four participants annually. With the engagement of family systems, and with an average family size of 3.28 individuals, the program would support and assist a total of 209 individuals annually in the Anchorage Borough.

The facility at 3600 20th Avenue will be a 3.1 level transitional housing program for those coming out of either the Clitheroe Center at Point Woronzof or 660 E. 48th Avenue. The individuals will have completed a 30-, 60- or 90-day drug and alcohol treatment program and will be looking to transition into a full or part-time position. Residents of 3600 will receive support through ongoing counseling at The Salvation Army's Clitheroe Outpatient program, which is on the same campus. The Army's treatment programs are open to those from throughout the state of Alaska, however, the primary referral areas are Anchorage and MatSu Boroughs.

The SA provided a request by email to Trust Authority Office staff for a long-term lease below market value under 20 AAC 40.710 to continue offering behavioral health community-based services. The SA services will continue to support Trust beneficiaries. It is expected that all patients are Trust beneficiaries, with the largest percentage experiencing mental illness, Alzheimer's and related dementia, 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 Mental Health and Addiction Intervention focus area to serve Trust beneficiaries. This project aligns with the Comprehensive Integrated Mental Health Program Plan, Goal 4: Prevention and treatment for drug and alcohol misuse, objective 4.3 which improves treatment and recovery support services. The Trust Authority Office made a formal request to the TLO to determine whether the Trust land on the proposed parcel (SM-1520) is suitable for the use proposed by the SA 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 \$1,188,000.00 with the estimated fair market lease rental to be \$95,040 annually.

- 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 August 29, 2023, this will be a ground lease for a 25-year term with a starting annual rent of \$15,701.48, with a 10% rent increase every 5 years. 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 the 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 Anchorage, due to the significant financial investment necessary to demolish aged structures, further subdivide, construct roads, install utilities, and market. Additionally, the Community Park Loop (CPL) Master Plan and Assessment completed in 2021 examined the current uses of the Trust's ownership in the area, including the SA lease which has been active for the past 55 years, and recommended maintaining the current use for the SA leased area at a less than Fair Market Value lease.

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 generating the same annual lease rental revenue for the Trust.
- 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 were no public comments received.

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 and touring the buildings in June of 2022.
- B. Valuation.** In June of 2023, the TLO had the land value of the parcel appraised by Black-Smith, Bethard & Carlson, LLC. 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 \$1,188,000.00.
- 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.)

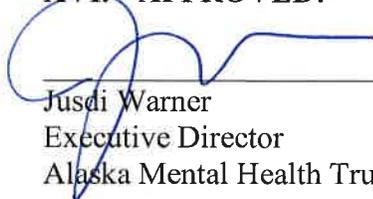
- XIV. Reconsideration.** To be eligible to file for reconsideration of this Best Interest Decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

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:



Jusdi Warner
Executive Director
Alaska Mental Health Trust Land Office

8/29/23
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.



Steve Williams
Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority

8/29/23
Date

Attachment A – Map



ADL 34810
Parcel No. SM-1520

-  ADL 34810
-  Mental Health Parcels

