

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale – Skagway – 75 Acres

MHT: 9101138
MH Parcel(s): C20450.003

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 #. Jeffery Hamilton / MHT 9101138.

III. Subject Property.

A. Legal Description. Copper River Meridian, Township 27 South, Range 60 East, Protracted Section 31: That portion of Lot 8 of U.S. Survey No. 5110 northwesterly of the Skagway River, containing 75.00 acres more or less. According to the supplemental plat for U.S. Survey No. 5110, accepted by the United States Department of the Interior, Bureau of Land Management in Anchorage, Alaska on August 12, 2005.

B. Settlement Parcel Number(s). C20450.003.

C. Site Characteristics/Primary Resource Values. Mental Health Parcel C20450.003 is a steeply sloping cliffside along the Klondike Highway in Skagway, Alaska. Due to the difficult terrain, it has minimal functional or economic utility, and its primary resource value is disposal through land sale.

D. Historical and Existing Uses of the Property. Purchaser and adjacent property owner Jeffery Hamilton constructed portions of a driveway, two-story residence, and a garage on the subject property. He has been paying the Municipality of

Skagway taxes on the infrastructure since 2011. There are no other known historical or existing uses of the property.

E. Adjacent Land Use Trends. The adjacent lot, owned by applicant Jeffrey Hamilton, has a developed rock quarry and is industrial property supporting his business Hamilton Construction, LLC.

F. Previous State Plans/Classifications. None.

G. Existing Plans Affecting the Subject Parcel. None.

H. Apparent Highest and Best Use. The apparent highest and best use is disposal through land sale.

IV. Proposal Background. In 2019 TLO staff hired a surveyor to complete an as-built (Exhibit B) of the infrastructure on the subject property. Exhibit B depicts a garage, two-story home, and paved driveway constructed on Mental Health Parcel C20450.003. TLO staff commenced communications with the applicant to rectify the trespass. In September of 2022, an application for negotiated sale was submitted to the TLO by Mr. Hamilton to purchase the affected Trust property.

V. Terms and Conditions. On May 31, 2023, the TLO and the applicant entered into a purchase and sale agreement outlining the process for purchasing the property through a negotiated sale at a price of \$61,535. A 10% downpayment has been received. Before proceeding with the sale, back fees were required for use of the land from 2011 through 2023 at \$4,500 per year, summing \$58,500. All back fees have been received. 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,” 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. Given the challenging topography, trespass on site, and adjacent land use, retaining this parcel would not enable the Trust to obtain a higher return at a later time. Thus, it is in the best interest of the Trust to dispose of this property at this time.

VII. Alternatives.

A. Do nothing or offer in the future. This alternative would result in a loss of revenue or delay receipt of revenues from a future sale. It would also delay receipt of revenue from interest associated with the sale. This alternative would also likely result in additional costs and risks to the Trust in curing the trespass on the property in an alternative way all the while without significant increases in value to the property.

B. Competitive Land Sale. This alternative wouldn’t be able to offer the parcel until the existing trespass was cured, further delaying receipt of revenues. Additionally, the topography of this parcel would make it a highly complex and extremely costly development project further reducing its competitiveness at auction.

C. Alternative Development. This alternative isn’t economically feasible due to the site characteristics. The parcel does not have legal developed access and its extremely steep topography makes it economically unfeasible to develop. There is not market demand for additional material or rock development adjacent to an existing quarry.

VIII. Risk Management Considerations.

- A. Performance Risks.** Performance risks are mitigated through the TLO Purchase and Sale Agreement, Land Sale Contract, and Quitclaim Deed. In present condition, the parcel is not generating revenue for the Trust and is therefore considered a nonperforming asset with risks and liabilities associated with the trespass infrastructure on site.
- B. Environmental Risks.** There are no known environmental risks associated with the proposed sale.
- C. Public Concerns.** Subject to comments resulting from the public notice, there are no known public concerns regarding the proposed action.
- D. Other.** The trespass infrastructure on site either needs to be removed or brought into legal compliance.

IX. Due Diligence.

- A. Site Inspection.** A site inspection using aerial drone photography was completed in July of 2023. No other trespass was observed except as depicted in Exhibit B.
- B. Valuation.** As appraisal of the subject parcel was completed on October 18, 2021, by Southeast Appraisal Services, LLC. The appraisal determined the highest and best use of the property to be for remote recreation or as a privacy buffer for adjacent properties. The appraised fair market value was determined to be \$45,000. To compensate for not selling the land competitively the TLO required a premium of 30%, or \$13,500, above the appraised fair market value, in addition to the \$3,035 appraisal fee, for a final negotiated sale price of \$61,535.
- C. Terms and Conditions Review.** On May 31, 2023, a purchase and sale agreement for the property was executed. The agreement outlines the terms and conditions of the sale. The standard TLO land sale documents have been reviewed by the Department of Law.
- D. Back Fees.** Public records from the Municipality of Skagway verified the trespass infrastructure on Trust land incurred local property taxes starting in 2011. Prior to processing a negotiated sale, the TLO required the applicant to pay back fees for the unauthorized use of Trust land in the amount of \$4,500 per year for 2011 through 2023, summing to \$58,500.

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 land 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).

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 30% premium above the fair market value to compensate for not disposing of the land through a competitive process. Given the 30% premium on the sales price, the net present value of money, the development limitations of the topography, the negotiation of \$58,500 in back fees for the unauthorized use of the property, and this sale mitigating trespass on Trust lands and thereby reducing Trust risks and liabilities, a non-competitive disposal is in the best interest of the Trust. 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 \$61,535 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 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

10/4/2023

~~Jusdi Warner~~

Date

Executive Director
Alaska Mental Health Trust Land Office

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~~

10/6/2023

Date

Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority

Exhibit A – Parcel Location Map



MHT 9101138, Parcel C20450.003

- Roads
- ▭ MHT 9101138
- ▭ Mental Health Parcels

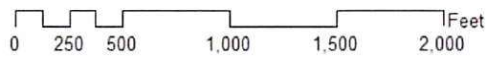
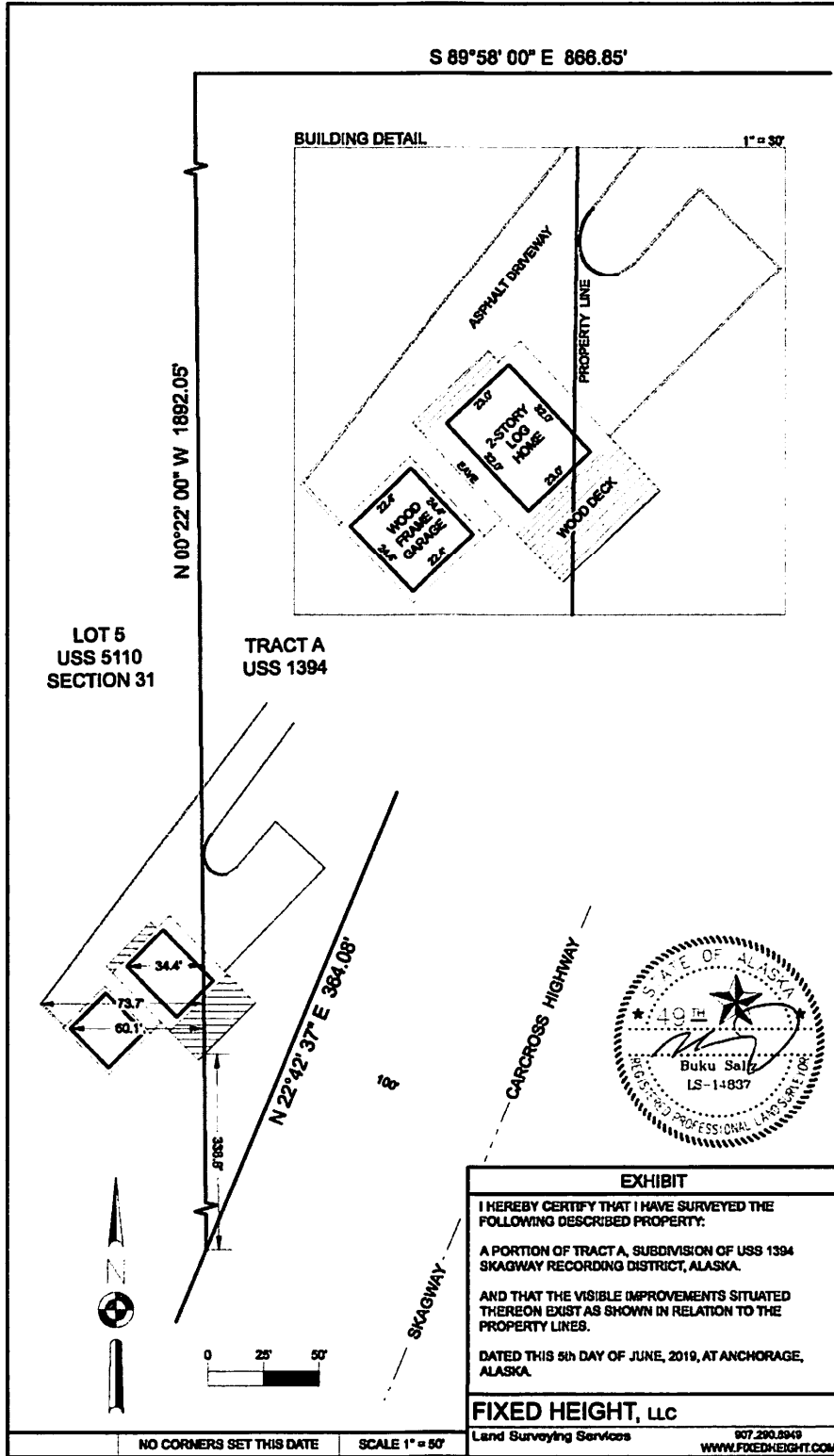


Exhibit B – As-Built Survey



EXHIBIT

I HEREBY CERTIFY THAT I HAVE SURVEYED THE FOLLOWING DESCRIBED PROPERTY:

A PORTION OF TRACT A, SUBDIVISION OF USS 1394 SKAGWAY RECORDING DISTRICT, ALASKA.

AND THAT THE VISIBLE IMPROVEMENTS SITUATED THEREON EXIST AS SHOWN IN RELATION TO THE PROPERTY LINES.

DATED THIS 5th DAY OF JUNE, 2019, AT ANCHORAGE, ALASKA.

FIXED HEIGHT, LLC

Land Surveying Services 907.290.8949
WWW.FIXEDHEIGHT.COM

NO CORNERS SET THIS DATE SCALE 1" = 50'

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to issue Negotiated Land Sale – Skagway
MHT 9101138

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 negotiated land sale of certain Trust land to Jeffery Hamilton. 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 within Skagway, AK, and is more particularly described as: That portion of Lot 8 of U.S. Survey No. 5110 northwesterly of the Skagway River, containing 75.00 acres more or less, located within protracted Section 31, Township 27 South, Range 60 East, Copper River Meridian, containing approximately 75.00 acres (MH Parcel C20450.005).

Persons who wish to submit a qualified competing offer as described in Section XIII of the best interest decision, 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, November 13, 2023**. **Qualified competing offers and/or 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

10/10/2023

Date

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