

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Negotiated Land Sale – Juneau
MHT 9101134

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 negotiated sale of certain Trust land to Glacier Property Development LLC. 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 north of Tee Harbor, within the community of Juneau, and is more particularly described as: that portion of Lot 2, U.S. Survey No. 3764 lying south of the N1/2 of Section 25, Township 39 South, Range 64 East, Copper River Meridian, and east of the western boundary of the Glacier Highway right-of-way, located within Sections 25 and 36, Township 39 South, Range 64 East, Copper River Meridian, and Section 31, Township 39 South, Range 65 East, Copper River Meridian, and Section 1, Township 40 South, Range 65 East, Copper River Meridian, and Section 6, Township 40 South, Range 65 East, Copper River Meridian; containing approximately 386.2 acres (MH Parcel CRM-0923).

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, December 18, 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

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Executive Director

11/13/2023

Date

Published Juneau Empire: 11/18/2023

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale – Juneau – 386 Acres

MHT: 9101134
MH Parcel: CRM-0923

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 #. Glacier Property Development LLC / MHT 9101134.

III. Subject Property.

A. Legal Description.

T. 039 S., R. 064 E., COPPER RIVER MERIDIAN, ALASKA SECTIONS 25 AND 36: AND T. 039 S., R. 065 E., COPPER RIVER MERIDIAN, ALASKA SECTION 31: AND T. 040 S., R. 064 E., COPPER RIVER MERIDIAN, ALASKA SECTION 1: AND T. 040 S., R. 065 E., COPPER RIVER MERIDIAN, ALASKA SECTION 6: THAT PORTION OF LOT 2, U.S. SURVEY NO. 3764 LYING SOUTH OF THE N1/2 OF SECTION 25, T. 039 S., R. 064 E., COPPER RIVER MERIDIAN, AND EAST OF THE WESTERN BOUNDARY OF THE GLACIER HIGHWAY R/W; CONTAINING 386.20 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 APRIL 17, 1962.

B. Settlement Parcel Number(s). CRM-0923

- C. Site Characteristics/Primary Resource Values.** Mental Health Parcel CRM-0923 is an undeveloped parcel composed of Western Hemlock dominate forest vegetation type. The larger than typical parcel is on the upland side of the Glacier Highway with over two miles of road frontage. Access from the highway is developable in certain areas, power exists within the highway right-of-way, and city water is accessible from the southern third of the parcel. The terrain varies from accessible to steeply sloping and mountainous. The primary resource value is for disposal through land sale.
- D. Historical and Existing Uses of the Property.** A revocable at will Letter of Non-Objection, serialized as MHT 9101127, is active permitting the U.S. Forest Service to evaluate forest study plots on the parcel. A closed easement expired in 2020 for a 30-foot, 0.137-acre, private non-exclusive access. This access was originally issued by the State of Alaska in 1984, serialized as ADL 103264, and later by the Trust Land Office, serialized as MHT 9100219, and expired on its own terms in 2020.
- E. Adjacent Land Use Trends.** The subject property is surrounded by lots zoned for residential use.
- F. Previous State Plans/Classifications.** None.
- G. Existing Plans Affecting the Subject Parcel.** The subject property is within the City and Borough of Juneau and is zoned D1 single family and duplex dwellings for the purpose of residential use.
- H. Apparent Highest and Best Use.** In consideration of the sloping and mountainous terrain, the existing zoning, and the costs and requirements of development within Juneau, the highest and best use of this property is for disposal through land sale.

IV. Proposal Background. An application for a negotiated land sale was received in August of 2022. After a thorough analysis of the proposed use and evaluation of potential returns to the Trust, the Trust Land Office determined that the highest and best use was for disposal through negotiated land sale. The Trust Land Office consulted with the Resource Management Committee in April of 2023 and full Board of Trustees in May of 2023. The applicant and the Trust Land Office entered into a purchase and sale agreement for the property in April of 2023. In September of 2023 the downpayment was received.

V. Terms and Conditions. On April 20, 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 \$3,900,000. A 10% down payment in the amount of \$390,000 has been received. If the applicant finances with the TLO, a land sale contract will be executed. The standard land sale contracts have been reviewed by the Department of Law. 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 in 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 by turning this parcel into a performing asset and returning the funds generated into interest producing investments, the highest and best use of the property is achieved. It is not cost effective for the TLO to hold the parcel and incur the associated management costs and potential future liabilities.

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 may miss the current high market for land. It would also delay receipt of income revenue from interest associated with the sale. Lastly it could result in additional costs and risks to the Trust without significant increases in value.
- B. **Competitive Land Sale.** This parcel is a unique piece of property that does not lend itself to competitive land sale. The competitive land sale offered each fall by the Trust Land Office typically sells small lots for primarily residential purposes. The subject property is a large property requiring a development plan.
- C. **Alternative Development.** This alternative involves high cost and risk to the Trust without a guarantee of a higher return. Developing the parcel into residential lots or another form of development is a multi-year and multi-million-dollar project without a guaranteed return on investment greater than the current negotiated sales price.

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 non-performing asset.
- B. **Environmental Risks.** There are no known environmental risks associated with the proposed sale.
- C. **Public Concerns.** Subject to the comments resulting from the public notice, there are no known public concerns regarding the proposed action.

IX. Due Diligence.

- A. **Site Inspection.** On March 2, 2023 TLO staff inspected the property, traversing the site from the Glacier Highway right-of-way and found abandoned and derelict vehicles next to highway pull-outs and adjacent to the property. It was noted that the terrain ranges from sloping to steep and mountainous, however there may be suitable acreage for development on a portion of the property with some portions of the property being developable and some portions found to be too steep for conventional developments.
- B. **Valuation.** On November 1, 2022, an appraisal was completed by Southeast Appraisal Services, LLC. The appraisal concluded that based on the legally permissible, physically possible, financially feasible, and maximally productive criterion, the highest and best use of the subject property would be for residential use. The opinion of market value of the property was \$2,700,000. To compensate for not selling the land competitively, the TLO required a premium of 44%, or \$1,200,000 above the appraised fair market value, for a final negotiated sale price of \$3,900,000.
- C. **Terms and Conditions Review.** On April 20, 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.

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. The Alaska Mental Health Trust Resource Management Committee was consulted on April 19, 2023. The Committee recommended that the proposed transaction be forwarded to the Alaska Mental Health Trust Board of Trustees. The Board of Trustees was consulted on May 23, 2023 and the Board of Trustees concurred with the Executive Director of the Trust Land Office's (TLO) decision to dispose of Trust parcel CRM-0923 through a negotiated sale or subsequent disposal.

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 44% premium above the appraised fair market value to compensate for not disposing of the land through a competitive land sales process. This 44% premium offer exceeds the average of competitive sales in the region. Given the 44% premium on the sales price, the steep and mountainous terrain, and high cost & risks of TLO initiated development, 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 \$3,900,000 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

11/8/2023

Jusdi Warner

Date

Executive Director

Alaska Mental Health Trust Land Office

Exhibit A – Parcel Location Map

