

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale – Hourglass Lake – 1 Acre

MHT 9200735
MH Parcel SM-2037

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 #. Insook Baik / MHT 9200735.

III. Subject Property.

A. Legal Description. Seward Meridian, Township 17 North, Range 4 West, Section 14: Lot 38; Containing 1.0 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 January 19, 1959.

B. Settlement Parcel Number. SM-2037.

C. Site Characteristics/Primary Resource Values. MH Parcel SM-2037 is a vacant parcel along the east shore of Hourglass Lake, in the Big Lake area. The portion of the parcel adjacent to the lake is classified as a freshwater emergent wetland by the U.S. Fish & Wildlife Service. There is no developed access. The Big Lake area is a submarket for recreational cabin sites. The primary resource value of this parcel is for disposal through land sale.

D. Historical and Existing Uses of the Property. None.

E. Adjacent Land Use Trends. The Big Lake area land use trends are primarily residential and recreational development. This includes waterfront homes, float plane lake access, off-road vehicle trail use, and recreational cabins. Hourglass Lake has

residential development along portions of the lake front that have developed access and drier upland topography.

F. Previous State Plans/Classifications. None.

G. Existing Plans Affecting the Subject Parcel. The subject property is located within the Matanuska-Susitna Borough's Big Lake Road Use Area and West Lakes Fire Service Area.

H. Apparent Highest and Best Use. In consideration of the site characteristics and adjacent land use trends, the highest and best use is a land sale for recreational property. A negotiated land sale with a 30% premium maximizes the return to the Trust and its beneficiaries, therefore is the highest and best use of the parcel.

IV. Proposal Background. On September 2, 2022, the applicant applied to purchase the subject property for the purpose of access and cabin development.

V. Terms and Conditions. On March 16, 2023, the TLO and the applicant entered in a purchase and sale agreement outlining the process for purchasing the property through a negotiated sale at a price of \$13,480.00. A 10% down payment has 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. Past experience has demonstrated that this parcel will not appreciate at a rate that would justify holding it for a later sale. 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 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 alternative wouldn't be able to offer this parcel until the Fall 2024 land sale, further delaying receipt of revenues. Historical revenue returns for this area have not met or exceeded the negotiated sale premium of 30% above the appraised fair market value.

C. Alternative Development. This alternative isn't feasible due to the site characteristics of the parcel. This parcel does not have road access and the lake frontage is classified wetland; therefore, is not conducive to further subdivision. These factors suggest that alternative development isn't economic or feasible, and the current proposal is the highest and best use of the property.

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.** A recent in person site inspection has not been completed. The site has been thoroughly evaluated using the latest imagery, wetland classification data, market and area data, and the USPAP national standards for U.S. appraisals.
- B. Valuation.** An appraisal of the subject parcel “as is” and “where is” was completed on January 3, 2023, by Black-Smith, Bethard & Carlson, LLC. The appraisal determined the highest and best use of the property to be for recreational use. The appraised fair market value of the property was determined by the sales comparison method. Several nearby recent sales were analyzed to determine \$9,600 as the market value of the subject property. To compensate for not selling the land competitively the TLO required a premium of 30%, or \$2,880 above the appraised fair market value, in addition to the \$1,000 appraisal fee, for a final negotiated sale price of \$13,480.
- C. Terms and Conditions Review.** On March 16, 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 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).
- C. Provisions of law applicable to other state land that are determined to apply to trust land by the executive director, on a case-by-case basis include:**
 - i. AS 38.05.035(i). persons eligible to file a request for reconsiderations.

- ii. 11 AAC 02.030 (a) and (e), filing request for reconsideration.
- iii. 11 AAC 02.040 timely filing.

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 appraised fair market value to compensate for not disposing of the land through a competitive sales process. This 30% premium offer exceeds the historical average of competitive sales in the immediate area. Given the 30% premium on the sales price, the lack of developed access, the wetland waterfront classification, and the net-present value of money, 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://alaskamentalthrust.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 \$13,480.00 for the parcel, and 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: www.mhtrustland.org

XVI. APPROVED:



Jusdi Warner
Executive Director
Alaska Mental Health Trust Land Office

4/18/23
Date/_____

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



4/18/2023

Date

Exhibit A – Parcel Map



Negotiated Sale
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-  MHT 9200735
-  Mental Health Parcels

