

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Negotiated Land Sale – Fairbanks
MHT 9400815

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 land sale of certain Trust land to the United States Army Corps of Engineers. 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 near Fairbanks, AK, and is more particularly described as: T. 002 N., R. 001 E., Fairbanks Meridian, Alaska, Section 31: Lot 17; Section 32: Lot 14; containing 57.94 acres, more or less. According to the survey plat accepted by the United States Department of Interior, Bureau of Land Management in Washington, D.C. on October 20, 1970; and T. 001 N., R. 001 E., Fairbanks Meridian, Alaska, Section 5: Lot 2, Lot 3, Lot 4, and S1/2N1/2; containing 280.16 acres, more or less. According to the survey plat approved by the U.S. Surveyor General's Office in Juneau, Alaska on January 16, 1914. (MH Parcels: F20303, Portion of F20304, FM-0043, FM-0044, FM-0045, and Portion of FM-0046).

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, September 3, 2024**. **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

8/2/2024

Date
Published Fairbanks Daily News-Miner: 8/04/2024

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale – Fairbanks

MHT: 9400815

MH Parcels: **F20303, Portion of F20304,
FM-0043, FM-0044, FM-0045,
and Portion of FM-0046**

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.** Disposal of Trust Parcels through a negotiated land sale in Fox, Alaska (See Exhibit A – Map) at a price of \$469,000.
- II. Applicant/File #.** United States Army Corps of Engineers (USACE) / MHT 9400815.
- III. Subject Property.**
- A. Legal Description.** T. 002 N., R. 001 E., Fairbanks Meridian, Alaska, Section 31: Lot 17; Section 32: Lot 14; containing 57.94 acres, more or less. According to the survey plat accepted by the United States Department of Interior, Bureau of Land Management in Washington, D.C. on October 20, 1970; and T. 001 N., R. 001 E., Fairbanks Meridian, Alaska, Section 5: Lot 2, Lot 3, Lot 4, and S1/2N1/2; containing 280.16 acres, more or less. According to the survey plat approved by the U.S. Surveyor General’s Office in Juneau, Alaska on January 16, 1914. Totaling 338.1 acres, more or less.
- B. Settlement Parcel Number(s).** F20303, Portion of F20304, FM-0043, FM-0044, FM-0045, and Portion of FM-0046.
- C. Site Characteristics/Primary Resource Values.** The overall contiguous parcel is comprised of 5 government lots and one parcel described by aliquot part that are

generally square or rectangularly shaped, with uneven rolling topography, and covered in vegetation typical of the area. The parcel is accessed via undeveloped section line easements and has no constructed physical access.

- D. Historical and Existing Uses of the Property.** The Trust received title to the parcels via quitclaim deed from the State of Alaska on September 20, 1996. During 2001-2002 the parcels were authorized for mineral and oil/gas exploration through a letter of authorization serialized as MHT 9400169. Again from 2008-2010 the parcels were authorized for mineral and oil/gas exploration through a letter of authorization serialized as MHT 9400406. No resources were identified and neither authorization was renewed. There are currently no existing uses of the parcels.
 - E. Adjacent Land Use Trends.** The overall contiguous parcel is in a rural area near Fox, Alaska. Adjacent land is all vacant, raw land and owned by the Alaska Mental Health Trust and State of Alaska.
 - F. Previous State Plans/Classifications.** None.
 - G. Existing Plans Affecting the Subject Parcel.** None.
 - H. Apparent Highest and Best Use.** Disposal through negotiated sale above fair market value.
- IV. Proposal Background.** On August 31, 2023, the applicant, USACE, applied to purchase the parcels, aggregating to 338.1 acres, through negotiated sale for the purpose of expanding the USACE Research and Development Center's Cold Regions Research & Engineering Laboratory Permafrost Tunnel Research Facility. On July 1, 2024, after further title research and certainty of funding the USACE formally offered to purchase the subject parcels and agreed to pay a premium of 231% above the appraised fair market value.
- V. Terms and Conditions.** The parcel will be sold via a warranty deed at the time of closing. The terms and conditions include the following:
- A.** Parcel will be sold "as is" and "where is" with no guarantees as to the suitability for any intended use.
 - B.** Purchaser agrees to pay for all escrow, title, and other closing costs including title insurance if title insurance is desired by the Purchaser.
 - C.** Purchaser agrees to reimburse the TLO for the cost of the appraisal totaling \$3,400.
 - D.** Limitations on Entry to the Surface Estate to Develop the Mineral Estate. Because USACE will use the surface estate for a scientific research tunnel, the USACE required language limiting entry to the surface estate to develop the mineral estate that the Trust is reserving under AS 38.05.125. This language restricts entry and development of the surface estate to develop the reserved mineral estate during the life of the permafrost research tunnel; thus, in many ways mirroring a Department of Natural Resources mineral closing order. When USACE's tunnel project ends -- or if the site is no longer used for scientific research -- the Trust regains the right to enter the surface estate to develop the mineral estate.
- 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.

VII. Alternatives.

- A. Do nothing or offer sometime in the future.** This alternative would delay receipt of revenues from sales, income from Trust principal interest, and could result in additional costs and risks to the Trust without significant increases in value.
- B. Leasing the parcel.** Management costs to the Trust will generally decrease on the properties through a sale.
- C. Alternate development.** No interest has been expressed in material or subsurface development for over 13 years. Experience has demonstrated that it is unlikely that this parcel will appreciate at a rate that would justify holding it for a later sale and development costs, due to local platting requirements and infrastructure (roadbuilding) standards, associated with subdividing the parcels would exceed returns from sales of the parcels. It is also not cost effective for the TLO to hold this parcel and incur the associated management costs and liabilities.

VIII. Risk Management Considerations.

- A. Performance Risks.** Performance risks will be mitigated through the TLO's Warranty Deed and associated conveyance documents reviewed by the Department of Law.
- 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.

IX. Due Diligence.

- A. Site Inspection.** TLO staff inspected the parcels in January 2024. In addition, a detailed examination was done by the appraiser of all available data pertaining to the parcels when the valuation was completed in December of 2023.
- B. Valuation.** An appraisal was completed on December 2, 2023, by Axelsson & Associates, Inc., and determined the fair market value to be \$203,000.
- C. Terms and Conditions Review.** The TLO conveyance 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, and thus apply here, include:
- i. AS 38.05.125 (mineral estate reservations);
 - ii. AS 38.05.035(i). persons eligible to file a request for reconsiderations;
 - iii. 11 AAC 02.030 (a) and (e), filing request for reconsideration; and
 - iv. 11 AAC 02.040 timely filing.

XI. Trust Authority Consultation. The Alaska Mental Health Trust Board of Trustees was consulted on July 31, 2024, and the Alaska Mental Health Trust Board of Trustees adopted the motion stating, *“The Alaska Mental Health Trust Authority board of trustees concur with the Executive Director of the Trust Land Office’s (TLO) decision to dispose of Trust parcels F20303, a Portion of F20304, FM-0043, FM-0044, FM-0045, and a Portion of FM-0046 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 property is being sold at a premium of 231% of the appraised value to compensate for not selling the land through a competitive process and temporary restriction on the mineral estate development until such time the Permafrost Research Tunnel is no longer in use. Given the 231% premium price offered, 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 \$469,000, 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 will then, in her or his 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:

DocuSigned by:

Jusdi Warner

Jusdi Warner

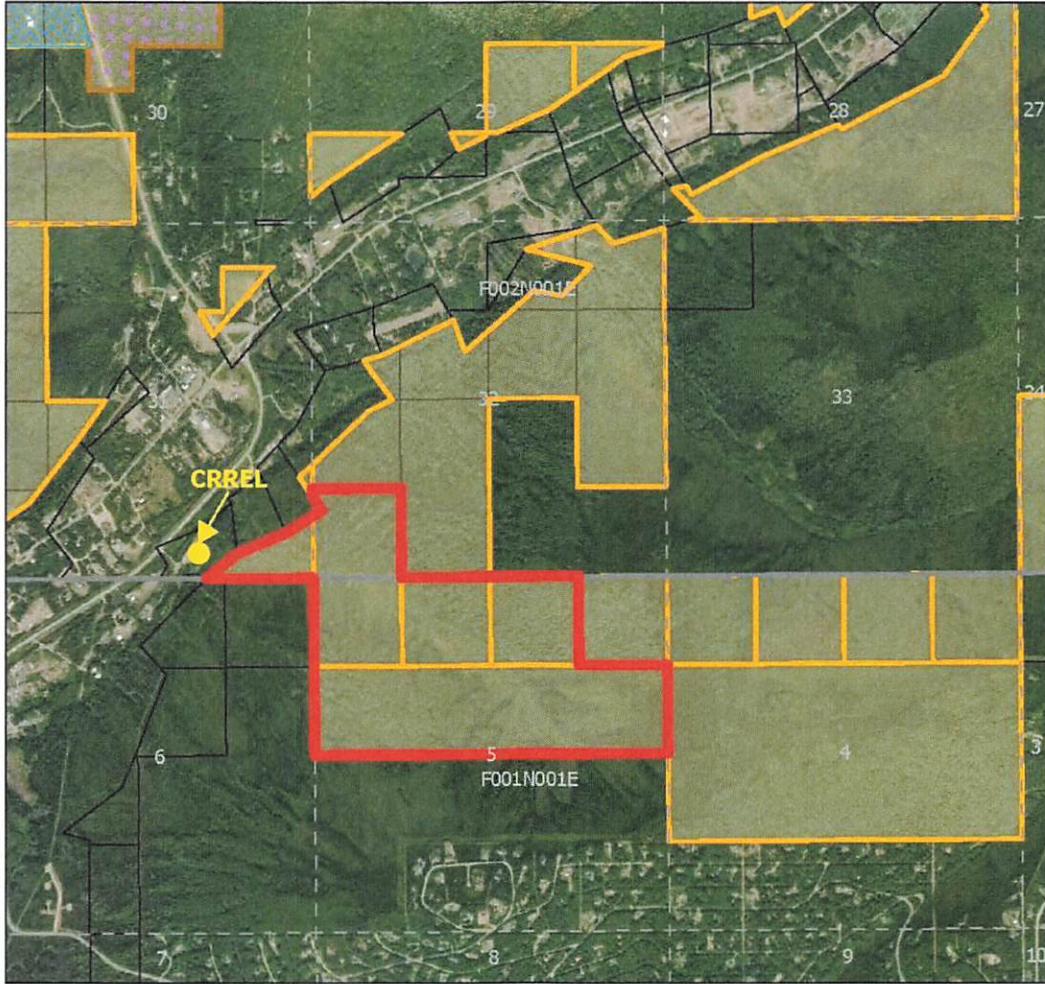
Executive Director

Alaska Mental Health Trust Land Office

8/2/2024

Date

**Exhibit A – Map
MHT 9400815**



MHT 9400815

Negotiated Sale

-  MHT 9400815
-  PLSS Township
-  PLSS Section
-  Mental Health Parcels (Land & Fee)

