

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Proceed with Disposal through Negotiated Sale of Lot C2 at Juneau Subport Subdivision
MHT #9100859

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 the **Develop Juneau Now, 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 adjacent or near to downtown Juneau, Alaska, and is more particularly described as: A portion of Lot C2 of the Juneau Subport Subdivision, located within Section 23, Township 41 South, Range 67 East, Meridian Copper Meridian, containing approximately 2.1 acres (MH Parcel(s) **C20499**).

Persons who believe that the written decision should be altered because it is not in the best interests 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, January 16, 2017. Comments should be submitted to the TLO at 2600 Cordova Street, Suite 100, 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 www.mhtrustland.org. If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658. Parties interested in making an alternate offer shall follow the instructions in the written decision.

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.



John Morrison
Executive Director

12-15-16

Date

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The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION JUNEAU SUBPORT SUBDIVISION LOT C2 – NEGOTIATED SALE

MHT #9100859
MH Parcel(s) C20499

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.** This best interest decision is for disposal through negotiated sale. The intended use of the land as indicated by the Offeror in the application is a combination of commercial and residential development, with the potential inclusion of a heat plant utility to service downtown Juneau dwellings through a proposed heating loop. The Offeror seeks to acquire a portion of Lot C2 located at the Juneau Subport Subdivision existing within Mental Health Trust (MHT) Parcel C20499. Lot C2 was created by the subdivision of Lot C occurring in calendar year 2009 through the dedication of Plat #2009-37 as recorded by the Juneau Recording District. For purposes of reference, Plat #2009-37 has been included as Exhibit 1. More specifically, the Offeror seeks to acquire a portion of Lot C2 anticipated to include 0.98 acre, more or less, and as further depicted in Exhibit 2.
- II. **Applicant/File #.** Develop Juneau Now, LLC, an Alaskan limited liability company, under MHT #9100859
- III. **Subject Property.**
 - A. **Legal Description.** A portion of Trust Parcel C20499, as shown on Exhibit 1 with the legal description included as follows. Lot C2 of the Juneau Subport Subdivision

located within Section 23, Township 41 South, Range 67 East, Copper Meridian, containing 2.1 acres more or less. To reiterate, the area considered for sale is a portion of the above. The sale is contingent on the completion of a subdivision, which will create new extents for Lot C2 anticipated to include approximately 0.98 acres more or less.

- B. Settlement Parcel Number(s).** C20499.
- C. Site Characteristics/Primary Resource Values.** The parcel is located on the perimeter of the current downtown business and tourist district, and is zoned as Mixed Use 2 (MU2). The parcel is improved with all major utilities (water, sewer, electrical and data/communications) existing on, or in close proximity to the parcel. Additional improvements include asphalt pavement and chain link fence around the perimeter. The primary resource value is as real estate.
- D. Historical and Existing Uses of the Property.** Parcel C20499 was received by Quitclaim Deed No. 8000004 from the State of Alaska Department of Natural Resources in September of 1996. Lot C1 and C2 have not been recently marketed as both lots were under license (reference MHT #9100721) to Alaska Department of Transportation (AKDOT) for construction staging and parking in support of the recently completed State Library Archives Museum (SLAM) project. The license commenced on November 8, 2012 and expired June 30, 2016. The area now defined as Lot C2 has been vacant of any permanent building since the time it was conveyed to the Trust.
- E. Adjacent Land Use Trends.** The parcel resides on the perimeter of the Willoughby District, and is bordered by Egan Drive to the north, and right-of-way (ROW) on all other sides. Across the ROW to the west is the vacant Lot C1 also owned by the Trust and including 2.9 acres, more or less. To the south, and southeast, respectively are the United States Coast Guard (USCG) headquarters and a National Oceanic and Atmosphere Association (NOAA) facility, both situated on Gastineau Channel. Additional uses in close proximity to the site include the Juneau Centennial Hall Convention Center, the Juneau Arts and Humanities Council, Capitol Community Broadcasting (KTOO), the Prospector Hotel and the State Library and Archives Museum (S.L.A.M.).
- F. Previous State Plans/Classifications.** None known.
- G. Existing Plans Affecting the Subject Parcel.** The subject parcel is zoned as Mixed Use 2 (MU2). Per review of the City and Borough of Juneau (CBJ) land use designation in the CBJ Code of Ordinances, this zoning designation is established to accommodate a mix of appropriate commercial and residential uses. The MU2, mixed use 2 district is intended to place a greater emphasis on residential development than is the case in the MU district. A range of residential development types is allowed. Multifamily residential uses are allowed at a density of up to 80 units per acre. No other plans are known that would designate use at this site.
- H. Apparent Highest and Best Use.** The primary resource value is as real estate with the “highest and best use” indicated as a mixed use development to include residential and commercial uses.

IV. Proposal Background. The offer to purchase includes receipt of an earnest money deposit of \$65,000 (sixty-five thousand) with a purchase price of \$1,300,000 (one million three hundred thousand) to be paid in cash.

V. Terms and Conditions. Final terms and conditions remain to be negotiated through the execution of a Purchase and Sale Agreement (PSA).

VI. Resource Management Considerations. The proposal is consistent with the "Resource Management Strategy for Trust Land" (RMS), which was adopted January 2016 in consultation with the Trust.

VII. Alternatives. The alternatives to this proposal are:

- Offer the parcel for lease now, or at a later date. Current market conditions make leasing a parcel of this size and value difficult. This scenario offers no definitive timeline for revenue generation. Redirecting this principal to another resource or market may be appealing for purposes of diversification.
- Develop this parcel now, or at a later date. The TLO is not currently able to undertake a project of this magnitude, and even if so, moving forward with a development at this time would be speculative in nature, with increased risk to the option of disposal. Identifying an end user that could partner in a development of this magnitude and recognizing revenue from a completed development has no definitive timeline.
- Offer the parcel through competitive sale now, or at a later date. The property is being actively marketed through the presence of "For Sale" signs posted at the property as well as marketing through the TLO's website (<http://mhtrustland.org/index.php/real-estate/>). The offer was unsolicited beyond these marketing efforts. Otherwise stated, there has been nothing precluding others from making an offer at any point since the asset has been in the Trust's ownership, and in particular, since it has been actively marketed through the methods outlined above. Issuance of a formal request for bid offers no definitive timeline or guarantee for revenue generation; however, interested parties are encouraged to submit competing offers as described below.
- Do nothing. This scenario offers no definitive timeline for revenue generation.

VIII. Risk Management Considerations.

A. Performance Risks. The Trust intends to convey to the Buyer all of its right, title, and interest to the surface estate of the Premises. Conveyance shall be in the form of a statutory Quitclaim Deed ("QCD") and shall be duly executed and acknowledged by Seller. To reiterate, final terms and conditions remain to be negotiated through the execution of a Purchase and Sale Agreement (PSA).

B. Environmental Risks. None known.

C. Public Concerns. Should this disposal occur; the Trust will remain as a majority landowner of lands within the Juneau Subport Subdivision through the ownership of Lot C1, including 2.9 acres, as well as the remnant part of Lot C2 created through subdivision and anticipated to include in excess of an acre. The risk created by the sale exists in how the site will be developed. The process of development and the end

result of development both have the ability to add or diminish value to the Trust's remaining holdings.

IX. Due Diligence.

- A. Site Inspection.** The site has been inspected on many occasions by numerous employees of the TLO. Additional inspection(s) as required to confirm suitability of the land for the Offeror's intended use remains as the responsibility of the offeror, and their own due diligence.
- B. Valuation.** The sales price was arrived at through a series of offers and counter offers, and is believed to be at, or above, market value for the sales subject. An appraisal is not a contingency to the completion of the sale, and the Trust remains current on market data for this area.
- C. Terms and Conditions Review.** Final terms and conditions remain to be established through the completion of a Purchase and Sale Agreement to be developed and approved by the TLO. The TLO has authored and executed similar agreements in the past.

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 disposal through 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. 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. Through consultation with the board, it was explained that the offer received was unsolicited and includes monetary compensation of an amount that, through a current market analysis, is believed to be in the best interest of the trust and its beneficiaries. The subject property was posted with signage on Thursday, June 30th, 2016 encouraging interested parties to contact the Trust Land Office. The property was posted with "For Sale" signs fronting Egan Drive on Monday, November 14th, 2016. Additionally, the property has been listed for sale on Trust Land Office website (<http://mhtrustland.org/index.php/real-estate/>) since Friday,

December 2nd, 2016. Prior to the instant offer, no other parties have submitted an application to purchase the property. 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. Given the price offered, the apparent lack of other interest, and the efficiency of process, a non-competitive disposal is in the best interests of the trust and its beneficiaries.

- XI. Trust Authority Consultation.** The Alaska Mental Health Trust Resource Management Committee was consulted on October 26th, 2016. The Committee recommended that the proposed transaction of a disposal through negotiated sale be forwarded to the Alaska Mental Health Trust board of trustees. The full board of trustees was consulted on November 17th, 2016, and the board of trustees concurred with the disposal through negotiated sale. Being that a competitive sale is more permissive, the board's concurrence with the negotiated sale would also cover a competitive sale if later determined to be in the Trusts 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 Executive Director from determining that an alternative proposal will serve the best interest of the Trust. A future determination of that nature may 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 or rescinded because it is not in the best interest of the Trust or its beneficiaries, including the determination that a non-competitive disposal is 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 within 30 calendar days from the date of execution of this best interest decision. Instructions for submission can be found online at <http://mhtrustland.org/index.php/land/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, conceptual plan and elevation view drawings for the proposed form of development, a proposed timeline for development, a deposit of 5% of the offered price in certified funds and any other terms and conditions proposed for inclusion in a purchase and sale agreement. The Letter of Intent must be signed by a company officer with authority to bind the company, or a duly authorized agent. 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 also consider whether any other persons expressed qualified competing interests in purchasing the Property such that a competitive disposal process

would be in the best interest of the Trust or its beneficiaries. The Executive Director will then, in his or her discretion, modify the decision in whole or in part in response to such comments or other pertinent information, rescind the decision, 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, as determined by the Executive Director. 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.

Pursuant to 11 AAC 99.060(b), 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. 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 receipt of 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 100, 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:



John Morrison
Executive Director
Alaska Mental Health Trust Land Office

12-15-16

Date

