

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale - Petersburg

MHT: **9101081**
MH Parcel: **Portion of CRM-2284-02**

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 #. Stephanie Landen / MHT 9101081.

III. Subject Property.

A. Legal Description. A portion of Trust parcel CRM-2284 within the NW ¼ NE ¼ of Section 14, Township 60 South, Range 79 East, Copper River Meridian. Containing 21-acres, more or less; according to the survey plat accepted by the Department of the Interior, General Land Office in Washington, D.C. on January 25, 1928; and the supplemental survey plat of Section 14 accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on April 30, 1952.

B. Settlement Parcel Number. A portion of CRM-2284-02.

C. Site Characteristics/Primary Resource Values. The portion of Trust parcel CRM-2284-02 that's part of this negotiated sale is located in the Papke's Landing area, about 10 miles south of Petersburg. The parcel can be accessed from Papke's Landing Road. At present the subject parcel is in the process of being surveyed and subdivided by the TLO as part of a larger subdivision project, known as the South Mitkof Subdivision. The proposed hypothetical lot measures 21-acres in size, and is triangular in shape, with the long sides making up the east and west property lines, with the east boundary

bordering fronting the Mitkof Highway. The terrain of the parcel is flat, with a mix of forested wetlands and muskeg. The primary resource value of the parcel, and its highest and best use, is disposal through a land sale.

D. Historical and Existing Uses of the Property. The parcel is vacant and undeveloped. No sign of prior logging activity, road construction, or trail development exists. The Department of Natural Resources issued a Quit Claim Deed to the Trust for this parcel in 1996.

E. Adjacent Land Use Trends. The subject property is at the intersection of the Mitkof Highway and Papkes Landing Road, 10 miles south of Petersburg, in an area of the Petersburg Borough zoned “rural residential”. Roads in the area are not paved, and building permits are not required. Land use trends in the region are primarily associated with small scale logging, commercial fishing and outdoor recreation. The Papke’s Landing area is a neighborhood community with very little economic activity other than a nearby boat launch, small campground, and convenience store. Most of the residents living in the area are retirees, or seasonal workers participating in the fishing industry.

F. Previous State Plans/Classifications. Central/Southern Southeast Area Plan (2000); Region 3. Petersburg.

G. Existing Plans Affecting the Subject Parcel. The parcel is within the Petersburg Borough and is subject to borough zoning requirements.

H. Apparent Highest and Best Use. The proposed 21-acre parcel has platted road access along the Mitkof Highway and Papke’s Landing Road, electrical utilities are adjacent to the property boundary, and the parcel is developable for commercial or residential use. The land is wet, flat, and consists of forested wetlands and muskeg. No merchantable timber or material resources are located on the subject parcel. The highest and best use of the parcel is disposal through a negotiated sale.

IV. Proposal Background. In October of 2021, the TLO received an application from Stephanie Landen seeking to purchase the subject parcel. We discussed possible purchase options with Ms. Landen, and explained that prior to closing on a land sale, the South Mitkof subdivision survey and platting process would need to run its course and the final plat recorded. We explained the administrative process for a negotiated sale, and that the location of the hypothetical parcel would need to be identified, and an appraisal would need to be ordered to help the TLO determine a value. We also reiterated that survey and platting work would need to be completed prior to entering into a land sale contract or issuance of a Quit Claim Deed. Ms. Landen agreed to move forward under these conditions and an appraisal was ordered for the subject parcel based on a 21-acre hypothetical lot layout at the intersection of Papke’s Landing Road and the Mitkof Highway.

V. Terms and Conditions. On June 14, 2022, the TLO and Ms. Landen entered into a purchase and sale agreement outlining the terms and conditions for purchasing the property through a negotiated sale at a price of \$212,500.00. When the purchase price is paid in full, and the survey and platting work has been completed a Quitclaim 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 non-performing assets into performing assets. Experience has demonstrated that it is unlikely that this hypothetical parcel will appreciate at a rate that would justify holding it for later sale. It is also not cost effective for the TLO to hold this parcel long term and incur the associated management costs and liabilities.

VII. Alternatives.

- A. Do nothing or offer sometime in the future.** This alternative would delay receipt of revenues from sale, income from land sale contract interest, income from Trust principal interest, and could result in additional costs and risks to the Trust without significant increase in value.
- B. Leasing the parcel.** No interest has been expressed for leasing the property. Management costs to the Trust will generally decrease on the property through a sale.
- C. Alternate development.** The mix of forested wetlands and muskeg limit the development options of the parcel and would require significant financial investments to further subdivide, construct roads, install utilities, develop well and septic, and market. No interest has been expressed for material or mineral development, or for timber extraction.

VIII. Risk Management Considerations.

- A. Performance Risks.** Performance risks will be mitigated through the TLO's Purchase and Sale Agreement, Land Sale Contract, and Quit Claim Deed. In present condition, the parcel is not generating any revenue for the Trust. The parcel is considered a non-performing asset.
- 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 period, there are no known public concerns.

IX. Due Diligence.

- A. Site Inspection.** TLO staff inspected the parcel on February 25, 2022. In addition, a detailed evaluation of the parcel was performed by an appraiser, of all available data pertaining to the parcel when the valuation was completed in February of 2022.
- B. Valuation.** An appraisal of the subject parcel was completed on February 10, 2022, using a sales comparison approach of similar properties within the region that recently sold and determined the fair market value to be \$170,000.00. To compensate for not selling the land competitively the TLO required a premium of 25% or \$42,500.00 above the appraised fair market value, for a final negotiated sale price of \$212,500.00 for the parcel.
- C. Terms and Conditions Review.** An agreement for the purchase and sale of the parcel was completed on June 14, 2022. The agreement outlines the terms and conditions of the sale, includes a map depicting the location of the parcel, and contains a sample Quit Claim Deed. The standard TLO land sale contract documents have been reviewed by the Department of Law.
- D. Other.** Upon completed survey of the parcel by the TLO, the exact acreage will be determined, and the area may increase or decrease as a result. The per acre value of the property is approximately \$10,120.00 per acre, and this per acre value will be used to

determine the final sale price based on the final per acre size of the parcel, which is expected to be 21-acres.

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
- D. Other provisions of law the TLO deems inconsistent with Trust responsibilities include:**
 - 1. AS 38.05.055, Alaska Residency required for purchase of State land, and AS 38.05.940, Veteran's discounts allowed on purchase price of State land. Preferences or discounts provided to Alaska residents or veterans would be granted at a cost to the Trust, hereby violating key Trust management principles.
 - 2. AS 38.05.127, Access to navigable or public water and requiring "to and along" easements on Trust properties diminishes the sale value of Trust lands and therefore is inconsistent with Trust management principles.

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 premium of 25% above the appraised value to compensate for not selling or leasing the land through a competitive process. This 25% premium offer is comparable to the historical average of competitive sales in the immediate area. Given the 25% premium price offered, site development constraints, and historical sales comparisons, a non-competitive disposal is in the best interest 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 of \$500.00, a formal Letter of Intent to include an offer price that exceeds the current offer of \$212,500.00 for the parcel, and a deposit of 10% of the offered price in certified funds. If 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 based on 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 \$500.00, 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

7/11/2022
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.

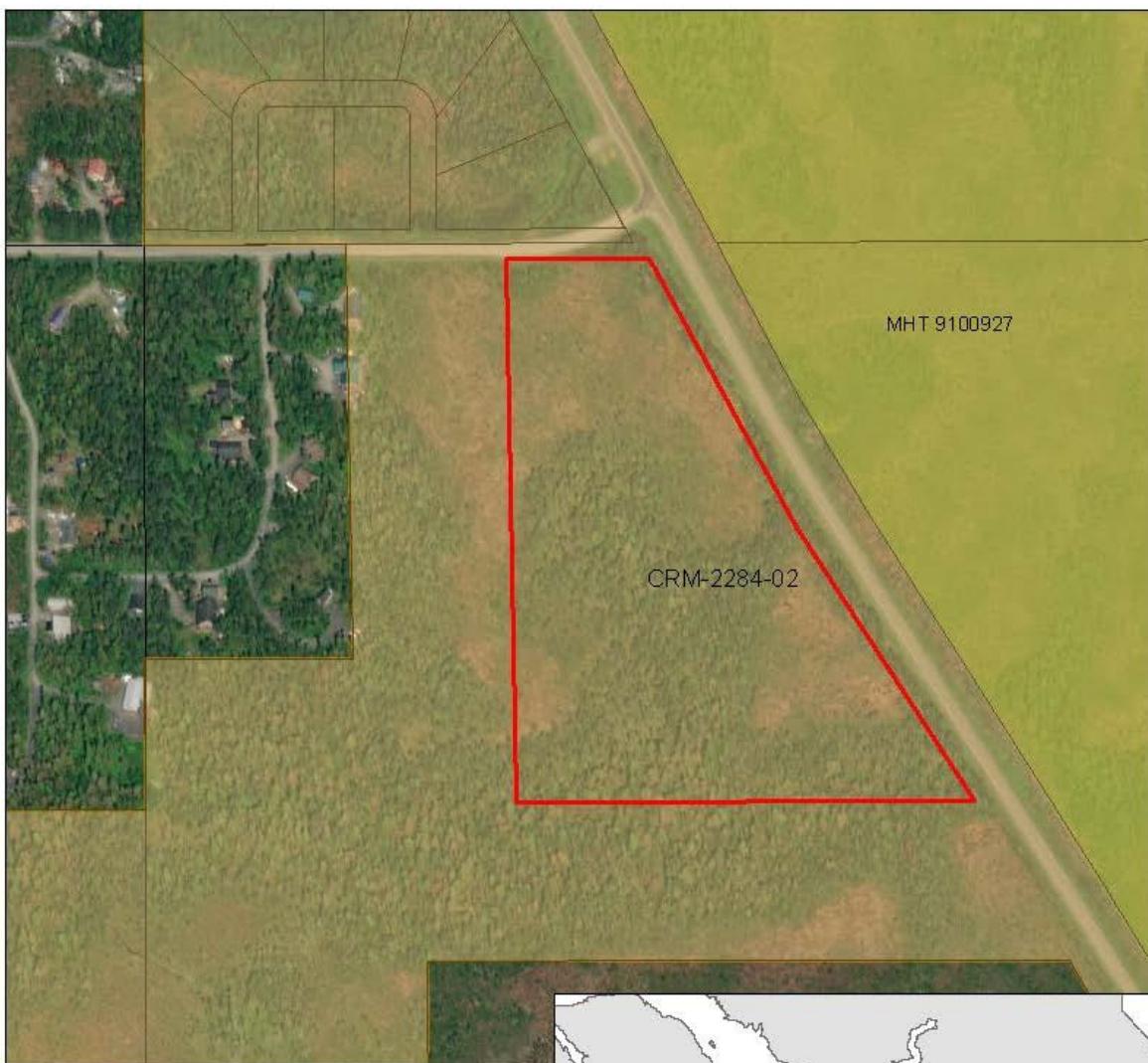
DocuSigned by:

Steve Williams
Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority

7/14/2022
Date



Exhibit A



Negotiated Sale, MHT 9101081

A portion of parcel CRM-2284-02.

- MHT 9101081
- Mental Health Parcels
- TLO Land Exchange

0 250 500 750 1,000 Feet

