



CITY AND BOROUGH OF SITKA

A COAST GUARD CITY

ADMINISTRATION

100 Lincoln Street | Sitka, Alaska 99835

www.cityofsitka.com

administrator@cityofsitka.org

907-747-1812

June 7, 2022

VIA EMAIL ONLY

Jusdi Warner, Executive Director
Trust Land Office (TLO)
Alaska Mental Health Trust Authority
2600 Cordova Street, Suite 201
Anchorage, AK 99503
mhtlo@alaska.gov

Re: Notice to Issue Negotiated Land Sale Sitka – MHT 9101115

Dear Ms. Warner,

The City and Borough of Sitka (CBS) submits this letter of opposition to the proposed sale of Alaska Mental Health Trust Authority land in Sitka, case file MHT 9101115. CBS contends that the sale would result in an unacceptable, unmitigated risk to existing CBS infrastructure, the decision does not prioritize long-term revenue maximization, and that the TLO did not work in good faith with CBS to explore alternatives.

Objection 1: Risk to CBS Infrastructure

As noted in the Best Interest Decision, there is long-standing use of the northern portion of Lot 97 (CRM-7006) for the CBS owned and maintained work float. CBS secured a right-of-way grant from the Bureau of Land Management for the access road, parking area, and underlying utilities which was recently renewed for an additional thirty (30) years; a copy of the right-of-way grant is enclosed. Given that the Best Interest Decision itself cites that “The economy of Sitka is primarily dependent on fishing, seafood processing, and tourism related activities”, it should be evident why CBS must fiercely protect its infrastructure that serves maritime industry.

While the Best Interest Decision notes that the applicant has “...stated that they would allow access to the City of Sitka without any conditions if the parcel is purchased”, CBS would have no legal means of recourse if the applicant or another future property owner was no longer inclined to provide said access. In a meeting with the TLO’s Southeast Lands Manager on March 29, 2022, CBS made clear that it would like to work with the TLO to secure access to the work float. CBS was told that options such as subdividing this small remnant area to facilitate a transfer to CBS could be considered; CBS was still awaiting an answer to this inquiry when the Best Interest Decision was issued. Given this

conversation, the statement in the Best Interest Decision that "...there are no known public concerns regarding the proposed action" is inaccurate.

In considering this sale without first taking the necessary steps to properly secure access to public infrastructure, the TLO is imposing unacceptable, unmitigated risk for CBS, a critical sector of Sitka's economy, and the community at large. Furthermore, the TLO's inaction to rectify this situation prior to sale of the property creates an unnecessarily adversarial relationship between a future property owner and the community before development has even begun. Inducing these potential risks and conflict in an effort to hastily dispose of what the TLO considers a "non-performing asset" erodes the public's trust in the TLO to manage its lands prudently as required by 11 AAC 99.020.

Until a formal, legally binding means of securing access to the CBS work float is provided, CBS objects to this sale in the strongest possible terms.

Objection 2: Long-term Revenue Maximization

While this parcel presents a somewhat challenging development proposition, it remains valuable, waterfront property in a community with extremely limited land availability. With a total land area of 36,100 square feet between the five parcel remnants comprising the subject property and a sale price of \$156,000, the TLO will be selling this property at a little less than \$5/square foot which is considerably lower value than surrounding properties by a magnitude of 50-66% compared to average CBS assessed land values. While a negotiated sale does allow others to counteroffer, the limitations of time and advertising are unlikely to yield more robust bids. The thirty-day public comment period in which counteroffers can be made effectively rules out public entities from participating, and it is undeniable that a private party that has had months to plan and research will be unfairly advantaged in a competitive bid situation. The decision to proceed with this sale appears to have been made with the priority of expediency rather than the trust management principle of long-term revenue maximization.

Objection 3: Lack of Good Faith Effort

At our March 29th meeting, CBS expressed interest in exploring creative opportunities for land trades that could have resulted in more TLO value realization for not only the subject property, but other TLO lands in Sitka. CBS and TLO are uniquely positioned to work together for mutual benefit, and we were very excited by the prospect of starting a long-term, collaborative partnership that could deliver on the goals of both our organizations. CBS was still awaiting an answer to this inquiry when the Best Interest Decision was issued.

CBS takes issue with the implication in the Best Interest Decision that our inaction to submit a land use application is proof that our interest in the subject parcels was not earnest; CBS was advised not to submit an application while our inquiries shared at the March 29th meeting were purportedly being vetted through TLO management. CBS took that guidance in good faith - good faith that CBS does not feel has been extended in

return. While it's our inclination that this was not an intentional attempt to mislead, but rather a regrettable oversight, the end result is unfortunately the same. Had we been better advised, CBS would have gladly submitted the application to advance our proposal. It's our sincere hope that future efforts between the TLO and CBS proceed with more transparency and better communication.

In conclusion, CBS strongly opposes the proposed sale of property as described in case file MHT 9101115. The sale as currently structured presents unacceptable, unmitigated risk to CBS infrastructure and represents an abdication of the TLO's responsibility to manage its lands prudently by preventing foreseeable conflict. In its haste, the sale has sacrificed long-term revenue maximization, fairness, and a good faith effort to work collaboratively with local government. We urge you to reconsider your determination that this sale, as currently envisioned, is in the best interest of the of the Alaska Mental Health Trust.

Sincerely,



John Leach
Municipal Administrator

Enclosure: Bureau of Land Management Right-of-Way Grant AA061914

Cc (via email): Senator Bert Stedman
 Representative Jonathan Kreiss-Tompkins
 City and Borough of Sitka Assembly



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Glennallen Field Office
P.O. Box 147
Glennallen, Alaska 99588
www.blm.gov/alaska

In Reply Refer To:
281001 (012)
AA061914

CERTIFIED MAIL 7019 0160 0000 4017 4080
RETURN RECEIPT REQUESTED

City and Borough of Sitka
Michael Harmon
Public Works Director
100 Lincoln Street
Sitka, Alaska 99835

Dear Mr. Harmon:

Enclosed are two copies of the unsigned right-of-way (ROW) grant (BLM Form 2800-14) for your right-of-way renewal for the City and Borough of Sitka Fishermen's Dock access road, parking area and underlying utilities for water and electric service.

Please review the grant and attachments and if they meet your approval, have the appropriate party sign and date all copies and return to the address shown above. Upon our receipt of the documents, the Bureau of Land Management (BLM) Glennallen Field Office (GFO) will issue the ROW grant, absent any other unresolved issues.

Rental Exempt

Pursuant to 43 CFR 2806.14, you are exempt from paying rent.

Monitoring Fee Category

According to Federal regulations contained in 43 CFR 2804.16, you are exempt from paying monitoring fees.

Please sign and return **both** copies of the right-of-way grant and stipulations, within 30 days of receipt. If these requirements are not met, the application may be rejected.

If you have any questions on this matter, please contact Brenda Becker, Realty Specialist by calling (907) 822-7321, or by email bbecker@blm.gov during normal business hours.

Sincerely,

ALYSIA
HANCOCK

Digitally signed by
ALYSIA HANCOCK
Date: 2021.05.12
12:36:17 -08'00'

Alysia Hancock
Glennallen Assistant Field Manager

Enclosure:
2 copies of right-of-way grant and stipulations

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

Issuing Office
Glennallen Field Office

Serial Number
AA061914

1. A (right-of-way) (permit) is hereby granted pursuant to:

- a. Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
- b. Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
- c. Other (describe) _____

2. Nature of Interest:

- a. By this instrument, the holder City and Borough of Sitka, Sitka Alaska receives a right to construct, operate, maintain, and terminate a access road, parking area with underlying utilities for water and electrical service. on public lands (or Federal land for MLA Rights-of-Way) described as follows:

Lot 97A
USS 3926, containing .35 acres.

- b. The right-of-way or permit area granted herein is 14 feet wide, 660 feet long and contains .21 acres, more or less. If a site type facility, the facility contains _____ acres.
- c. This instrument shall terminate on December 31, 2051, 30 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may may not be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

rental exempt

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 180 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit(s) 1 and 2, dated _____, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- g. **No in water construction activities shall occur during the time period of March 15 to May 31, per Alaska D.E.C. Certificate of Reasonable assurance (401) and C.O.E. Section 10 Permit**
- h. **All dredging shall occur at low tide when teh work area is dewatered per C.O.E. Section 10 Permit No.**

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

(Signature of Holder)

(Signature of Authorized Officer)

(Title)

Glennallen Field Manager

(Title)

(Date)

(Effective Date of Grant)

City and Borough of Sitka – Stipulations
AA061914

1.0 Definitions

- 1.1 The Glennallen Field Manager or designated representative is the Authorized Officer (AO), as defined by 43 CFR 2920.0-5(c).
- 1.2 “Grantee” means the City and Borough of Sitka, and any and all assignees that may be of record, including all agents, contractors, subcontractors, and employees.
- 1.3 “Grant” means the license, lease, permit, or other permission granted by the United States to the grantee for the use of public lands and resources.

2.0 General

- 2.1 The grantee will address all matters to the Glennallen Field Manager, P.O. Box 147, Glennallen, Alaska 99588.
- 2.2 In case of change of address, the grantee shall immediately notify the AO.
- 2.3 Any modifications to the proposed activities must be approved in writing by the AO.
- 2.4 This grant is subject to all prior valid and existing rights, and the United States makes no representations or warranties whatever, either expressed or implied, as to the existence, or nature of such valid existing rights.
- 2.5 The right to grant additional rights-of-way or permits for compatible use on, over, under, or adjacent to the land involved in this grant is reserved to the AO.
- 2.6 It is the responsibility of the grantee to ensure that field party members are familiar with and adhere to these stipulations.
- 2.7 The grantee, in exercising the privileges granted under this grant shall comply with the regulations of the Department of the Interior and all Federal, State, Borough and Municipal laws, ordinances, or regulations, which are applicable to the area or operations covered by this grant.
- 2.8 The grantee may be requested by the AO to furnish transportation and quarters for designated field representatives or observers while inspecting operations.
- 2.9 In the advent of a disagreement of the interpretation or implementation of these stipulations the grantee agrees that the AO shall have the final say in how these stipulations are interpreted and implemented.
- 2.10 Grantee shall defend and hold the United States, it's assigns, agents, employees, representatives and successors in interest, harmless from and against any and all actions, fees, for injury to or death of any person, persons, or property arising in connections with and as a

direct result of grantee's activities, included but not limited to United States negligence, if any, in failing to recognize or remedy a hazardous condition existing on public lands.

- 2.11 This grant may not be encumbered, hypothecated, assigned, subleased, or transferred without prior written approval by the AO.
- 2.12 The AO may revoke or terminate this grant in whole, or in part, upon a determination by the AO that the terms, conditions, or stipulations of the grant have been violated, or by determination by the AO that the grantee's actions pose a threat to human health or safety, or irreparable harm to the surrounding environment.
- 2.13 This grant does not authorize the grantee to take from the public lands any mineral or vegetative material, including timber, without securing authorization under 30 USC 601 et seq.
- 2.14 This grant does not authorize any other use of the public lands or improvements belonging to the US Government.
- 2.15 Grantee shall comply with Title VI of Civil Rights Act of 1964 (42 U.S.C. 2000 et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
- 2.16 The grantee shall protect all Survey Monuments. In the advent of obliteration or disturbance of a survey monument, the grantee shall immediately notify the AO. The grantee will be financially responsible to re-establish the survey monuments to the Bureau standards.
- 2.17 This grant does not relieve the grantee from securing any other permits, licenses, or other authorizations required by federal, state, or local law.

3.0 Vegetation

- 3.1 The grantee will do everything reasonable, both independently and/or upon request of the AO to prevent and suppress fires on or near the lands occupied under the permit.
- 3.2 Use of pesticides or herbicides shall comply with the applicable Federal and State laws. Pesticides or herbicides shall be used in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides or herbicides, the grantee shall obtain from the AO written approval of a plan showing the type and quantity of materials to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the AO. Emergency use of pesticides or herbicides shall be approved in writing by the AO prior to such use.
- 3.3 All activities shall be conducted so as to avoid or minimize disturbance to vegetation. If it becomes necessary to remove vegetation, prior approval by the AO is required.
- 3.4 Any revegetation will be with native species only.

4.0 Waste-Hazardous Materials

- 4.1 All fuel or lubricant spills will be cleaned up immediately, taking precedence over all other matters, except the health and safety of personnel. Spills will be cleaned up utilizing absorbent pads or other Alaska State DEC approved methods. Any such spill sites will be documented so that they can be located during the compliance check.
- 4.2 Recovered spill fluids will be removed and incinerated in approved receptacles.
- 4.3 As soon as possible, but not later than 24 hours, notice of any such discharge as defined in Alaska Statute Title 18, Chapter 75, Article 2, will be given to the AO and any other Federal and State Officials as are required by law.
- 4.4 All State and Federal safety standards and regulations for fuel transportation and handling will be followed. Only fuel products and amounts specifically authorized shall be stored on site and shall be located at least 100 feet away from any source of water. All fuel containers, including barrels and propane tanks, shall be marked with the grantee's name, product type, and year filled.
- 4.5 No hazardous materials shall be transported or disposed within the area of authorized use.
- 4.6 The site must be kept clean. All waste generated during the operation and termination activities of this right-of-way shall be removed and disposed of as required by state and federal laws. As defined in this paragraph "waste" means all discarded matter, including but not limited to human waste, trash, garbage, litter, oil drums, petroleum, ashes, and discarded equipment.
- 4.7 Fuel storage containers, including slow test holding tanks and hazardous substances, with a total combined capacity larger than 55 gallons shall not be placed within 100 feet of the ordinary highwater mark of any water body. Containers which exceed a total combined capacity of 110 gallons must be stored within an impermeable diked area or portable impermeable containment structure capable of containing 110 percent capacity of the largest independent container. All containers must clearly be marked with the content's and the Grantee's name. Drip pans and materials, such as absorbent pads, must be on hand to contain and clean up spills from any transfer or handling of fuel.
- 4.8 Petroleum products or by-products shall not be used for dust suppression.
- 4.9 Areas of operation shall be left clean of all unauthorized foreign objects. This shall include, but is not limited to, wires, pins, flags and reflectors.

5.0 Cultural

- 5.1 There shall be no disturbance of any archaeological or historical sites, including graves and remains of cabins, and no collection of any artifacts whatsoever. Also, collection of vertebrate fossils, including mammoths and mastodon bones, tusks etc., is strictly prohibited. If historic resources are encountered, then all artifacts will be respectfully left in place and the Glennallen Field Office's cultural resources staff will be notified immediately.

5.2 Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the grantee, or any person working on his behalf, on public or Federal lands shall be immediately reported to the AO. Grantee shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the AO. An evaluation of the discovery will be made by the AO to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Grantee will be responsible for the cost of evaluation and the AO will make any decision as to proper mitigation measures.

6.0 Recreation-Travel Management

6.1 The grantee shall not enclose or obstruct in any manner or erect or maintain any signs or structures on roads or trails commonly used for public travel or access to public lands surrounding the permit.

6.2 Grantee shall not create new trails with any motorized vehicles including but not limited to passenger vehicles, 4-wheel drive vehicles, UTV's, ATV's, motorcycles, and E-bikes. No new access trails or roads are authorized without written authorization from the Bureau of Land Management.

7.0 Lands

7.1 Prior to abandonment of any portion of the facilities authorized by this grant, the grantee shall contact the AO, and if the situation warrants, to arrange a joint inspection of the grant area. The inspection will be held to agree on an acceptable rehabilitation plan. The AO must approve the plan in writing prior to the grantee commencing any abandonment and/or rehabilitation activities.

7.2 The grantee shall at his expense, perform all maintenance and repairs, including exterior painting, structural maintenance and repairs, and maintenance of the ground necessary to keep the premises in first class order, repair, and safe condition throughout the term of the grant. The grantee waives the right to make repairs at the expense of the United States Government.

7.3 All construction, maintenance, painting, etc., shall be done utilizing natural earth tone colors/materials, approved by the AO.

7.4 Any further ground disturbance will be done after approval by the AO.

7.5 This grant does not authorize any other use of the public lands or improvements belonging to the US Government.

Permittee Signature

Date

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Negotiated Land Sale – Sitka
MHT 9101115

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 Catherine Schirber. 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 in the community of Sitka and is more particularly described as: Lot 97 & 98 of U.S. Survey No. 3926, located within Section 2, Township 56 South, Range 63 East, Seward Meridian, containing approximately 3.42 acres (MH Parcel(s) CRM-7006 & CRM-1618).

Persons who 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, June 15, 2022. 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

5/11/2022

Date
Published Daily Sitka Sentinel: 5/16/2022

Certificate Of Completion

Envelope Id: 1E32116AF03A41FE9409B81F35730B2A	Status: Completed
Subject: Please DocuSign: 9101115 PN_5-9-2022.pdf	
Source Envelope:	
Document Pages: 1	Signatures: 1
Certificate Pages: 3	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Disabled	Vanessa Head
Time Zone: (UTC-09:00) Alaska	PO Box 110206
	Juneau, AK 99811
	vanessa.head@alaska.gov
	IP Address: 158.145.14.25

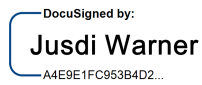
Record Tracking

Status: Original	Holder: Vanessa Head	Location: DocuSign
5/11/2022 9:12:39 AM	vanessa.head@alaska.gov	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: State of Alaska	Location: DocuSign

Signer Events

Jusdi Warner
 jusdi.warner@alaska.gov
 TLO Executive Director
 Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

 Jusdi Warner
 A4E9E1FC953B4D2...
 Signature Adoption: Pre-selected Style
 Signed by link sent to jusdi.warner@alaska.gov
 Using IP Address: 72.35.96.192

Timestamp

Sent: 5/11/2022 9:14:39 AM
 Viewed: 5/11/2022 9:20:56 AM
 Signed: 5/11/2022 9:25:05 AM

Electronic Record and Signature Disclosure:

Accepted: 12/30/2021 9:53:31 AM
 ID: 602731d5-3aaf-4076-a8af-4fcf6419229d
 Company Name: State of Alaska

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent	Hashed/Encrypted	5/11/2022 9:14:39 AM
Certified Delivered	Security Checked	5/11/2022 9:20:56 AM
Signing Complete	Security Checked	5/11/2022 9:25:05 AM
Completed	Security Checked	5/11/2022 9:25:05 AM

Payment Events

Status

Timestamps

Electronic Record and Signature Disclosure

The Alaska Mental Health Trust Authority
Trust Land Office
Negotiated Land Sale - Sitka

MHT: 9101115

MH Parcels: **CRM-1618 & CRM-7006**

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 #. Catherine Anne Schirber / MHT 9101115.

III. Subject Property.

A. Legal Description. Located in Section 2, Township 56 South, Range 63 East, Copper River Meridian, Alaska, and more particularly described as: CRM-7006, Lot 97 of U.S. Survey No. 3926, Alaska (Situating within U.S. Survey No. 1763, Sitka Elimination), containing 2.72 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 October 5, 1965; and, CRM-1618, Lot 98 of U.S. Survey No. 3926, Alaska (Situating within U.S. Survey No. 1763, Sitka Elimination), containing 0.70 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 October 5, 1965.

B. Settlement Parcel Number. CRM-7006 & CRM-1618.

C. Site Characteristics/Primary Resource Values. The subject parcels are located immediately west of downtown Sitka at the base of the John O’Connell Bridge western abutment. The two original Trust parcels now consist of five remnants as a result of developing the bridge abutment, and associated highway ROW. Of the five

remnants, only one is feasible for any type of commercial or residential development. Based on site visits and research, the parcels receive a significant amount of public use by adjacent property owners using the remnant parcels to access the water. One of the remnant parcels on the north side of bridge provides access to the City of Sitka work dock; this remnant is within a paved parking lot. There is also some evidence of homeless camps under the bridge. Although there is a road adjacent to the parcels, the road does not provide drivable access to the parcels. There is electric in the area. The primary resource value of the subject parcels is for disposal through a land sale.

- D. Historical and Existing Uses of the Property.** Trust parcels CRM-7006 and CRM-1618 were originally two separate islands. Construction of the bridge in 1971 involved filling tidelands between the two small islands, and Japonski Island, for the establishment of the bridge abutment. Additionally, the highway ROW cut a large swath through both parcels, in effect making them unusable. Parcel CRM-7006 was divided into two remnants with a larger, vacant 29,660 square foot piece to the south of the ROW, and a 3,664 square foot piece to the north which includes a portion of paved parking lot access linking to the City of Sitka work float gangway. Parcel CRM-1618 includes three small triangular shaped remnants, two to the north of the ROW and one immediately to the south ranging in size of 775 square feet, to 1,209 square feet. All combined, the five remnant parcels form a larger parcel due to common ownership, integrated highest and best use, and proximity to each other. While all five remnants front on the water and have marine access, the road access is less straightforward due to the ROW of which is managed by the Alaska Department of Transportation. When discussing road access with DOT they emphasized that any connections to the subject parcels would likely not be permitted due to safety concerns; they did say that there may be a possibility of tying into the access road which comes off Seward Avenue and provides access to the City of Sitka's work float which is part of a 50-year easement granted to the City of Sitka by the Bureau of Land Management.
- E. Adjacent Land Use Trends.** The economy of Sitka is primarily dependent on fishing, seafood processing, and tourism related activities. Land use trends in the area consist primarily of single-family residences, commercial activity, and outdoor recreation. The parcels make up the bridge abutment on the west side of the John O'Connell Bridge and are subject to high volumes of vehicle traffic between the airport located on Japonski Island, and the business district and marinas located near downtown Sitka. The area also sees regular public use by pedestrians, dog walkers, and site seers.
- F. Previous State Plans/Classifications.** Northern Southeast Area Plan – Baranof Island Area. Sitka; adopted June 2002.
- G. Existing Plans Affecting the Subject Parcel.** Sitka Comprehensive Plan 2030; adopted May 22, 2018.
- H. Apparent Highest and Best Use.** The two subject parcels consist of five subdivided remnants of which only one remnant is conducive to any sort of commercial or residential development; there are other similar sized parcels around Sitka that have been developed for residences. The highest and best use of the subject property is for commercial or residential development, and disposal through a negotiated sale.

- IV. Proposal Background.** In March of 2022, the TLO received an application from Catherine Schirber, seeking to purchase the subject parcels.
- V. Terms and Conditions.** On April 12, 2022, the TLO and the applicant (Catherine Schirber) entered into a purchase and sale agreement outlining the process for purchasing the property through a negotiated sale at a price of \$156,000.00. 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” (RMS), 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. Experience has demonstrated that it is unlikely that this property will appreciate at a rate that would justify holding for a later sale. It is also not cost effective for the TLO to hold this parcel for a long period of time 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 sales, income from land sale contract interest, 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 and there is currently no expressed interest for recreational or commercial lease.
 - C. Alternate development.** The parcels are not well suited to subdivide due to the topographic characteristics and small size of the remnants. Additionally, local ordinances and zoning restrictions to plat, subdivide, develop access, and construct infrastructure makes development of subdivision cost prohibitive. No interest has been expressed for commercial development or material/mineral development.
- VIII. Risk Management Considerations.**
- A. Performance Risks.** Performance risks will be mitigated through the TLO’s Purchase and Sale Agreement, Land Sale Contract, and Quitclaim 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, and there is no history of the TLO authorizing any use on the parcel.
 - C. Public Concerns.** Subject to comments resulting from the public notice, there are no known public concerns regarding the proposed action.
 - D. Other.** The City of Sitka has expressed interests in the subject parcels but has not submitted a land use application to purchase or lease. Based on discussions, it appears that their primary concern is retaining access across the small remnant that leads to the city work dock. This concern was relayed to the applicant, and they stated that they would allow access to the City of Sitka without any conditions if the parcel is purchased.

IX. Due Diligence.

- A. Site Inspection.** An appraiser hired by TLO visited the parcel in June of 2021, and TLO staff were on site in March 2022.
- B. Valuation.** An appraisal of the subject parcel was completed in June of 2021, using a sales comparison approach of similar properties within the region that recently sold and determined the fair market value of the combined parcels to be \$120,000.00. To compensate for not selling the land competitively the TLO required a premium of 30% or \$36,000.00 above the appraised fair market value, for a final negotiated sale price of \$156,000.00 for the parcel.
- C. Terms and Conditions Review.** An agreement for the purchase and sale of the property was completed on April 12, 2022. 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
- 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 30% above the appraised value to compensate for not selling or leasing the land through a competitive process. This 30% premium offer exceeds the historical average of competitive sales in the immediate area. Given the 30% premium price offered, the development constraints, limited access, and historical sales comparisons, 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 \$156,000.00 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, 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

5/5/2022

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

5/5/2022

Date



Negotiated Sale
MHT 9101115

-  MHT 9101115
-  Mental Health Parcels

0 50 100 150 200 250 Feet

