

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER**

**Non-Competitive Sale to Public and Charitable Applicant,
Municipality of Anchorage**

FINAL FINDING AND DECISION – ADL 233002

pursuant to

AS 38.05.035 (e), AS 38.05.810

and

RELATED ACTIONS

Mineral Order (Closing) - *AS 38.05.185 and AS 38.05.300*

This Final Finding and Decision is intended to complement and update the Preliminary Decision for ADL 233002 issued on August 10, 2018, which is attached.

Recommended Action(s): The Department of Natural Resources (Department), Division of Mining, Land and Water (Division) received an application from the Municipality of Anchorage (MOA) to purchase a parcel of State land pursuant to *Alaska Statute (AS) 38.05.810*. The decision will allow the parcel to be sold through a non-competitive sale to the applicant. The parcel is located at 18205 Fish Hatchery Road in Eagle River and is approximately 9.37 acres in size. The legal description for the parcel is Tract A, Alaska State Land Survey 2006-3 according to the plat recorded August 26, 2009 as Plat 2009-66 Anchorage Recording District, Third Judicial District, Alaska.

Related Action: The Preliminary Decision is dependent upon adoption of Mineral Order 1207.

Authority:

The Department has the authority under *AS 38.05.810(a)* to sell State-owned land to a political subdivision of the State if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*.

Public Notice and Discussion:

Pursuant to *AS 38.05.945*, a public notice announcing the Preliminary Decision for the proposed noncompetitive sale and a draft of Mineral Order 1207, along with the solicitation for public comment, was published and distributed in compliance with the above statute in the following manner:

- Posted under State of Alaska Online Public Notice from August 10 to September 11, 2018;

- Mailed to the postmaster in Eagle River per *AS 38.05.945(c)(4)*, with a request to post through September 11, 2018;
- Mailed to the Chugiak-Eagle River Library, with a request to post through September 11, 2018;
- Mailed to the regional corporation per *AS 38.05.945(c)(2)-(3)*; and
- Mailed to adjacent land owners, community councils, villages and other state and local agencies.

Comments Received: We received four written comments during the public comment period. These comments are summarized and addressed as follows.

From the Alaska Department of Transportation & Public Facilities: No comments.

Response: Thank you for reviewing the proposal.

From two individuals: Two nearby landowners appreciated being informed of the proposal and stated general support. One of these commenters preferred that the property would be sold to a public entity and stated a concern about potential land clearing to the east of the developed area.

Response: Thank you for your feedback. The Division will impose a deed restriction that limits the property use to public purposes. For input on the specifics of how the property will be used, such as land clearing, the Division recommends getting in touch with MOA Real Estate Department about their plans.

From one individual: A nearby landowner commented that the proposed land sale would turn the former Geologic Material Center into an industrial business area. The commenter characterized the neighborhood as peaceful with medium to upper-end homes, whereas the proposed reuse is more suited for a heavy industrial area. Specific comments pertained to the property reuse creating noise and visual impacts to the neighborhood, aggravating local traffic problems, as well as several questions pertaining to details of property use plans by the MOA.

Response: Thank you for providing input on the proposed public and charitable sale. For more than 50 years, the State used the property for government services, initially as the Fire Lake Hatchery and subsequently as the Department's Geologic Materials Center. The MOA proposes to purchase the property to provide the Eagle River / Chugiak Parks and Recreation Department with centralized storage of vehicles, equipment, and materials, and conduct light fabrication work, such as building fencing and park benches. The MOA is a valid applicant for a public and charitable sale, and the MOA has identified a reuse for the property that serves a public interest and is consistent with the current property zoning. The Division recommends contacting the MOA Real Estate Department to learn more about how they plan to use the property.

Your concerns and questions specific to the traffic and land use are best addressed by the MOA Planning Department, as they address local land use and transportation planning. Note that the March 2018 *Update of the Chugiak-Eagle River Site-Specific Land Use Plan* recognizes concerns about traffic in this area in a broader context, and outlines recommendations to help guide development within your community.

Stipulations:

The applicant will be required to comply with the following stipulations to complete the proposed land sale.

1. Within one year from the date of the notice to proceed to appraisal, the applicant must hire an appraiser, the appraiser must apply for appraisal instructions issued by the Division, and then must submit to the Division a completed fair market value appraisal in accordance with appraisal instructions issued by the Division.
2. Upon approval of the appraisal, a notice to proceed to purchase will be issued to the applicant. Within the time period specified in this notice, the applicant must submit to the Division the following:
 - A completed and signed Declaration of Intent Form;
 - Payoff amount plus \$265 for patent application and recordation fees OR minimum 5% of the purchase price as deposit plus \$405 for land sales contract application and recordation fees. These fees are current as of the date of the Final Finding and Decision issuance but are subject to change.

Final Finding and Decision:

The recommended action has not been modified from the original proposed actions described in the Preliminary Decision.

The State patent issued for this land sale will restrict use of the subject parcel to a public purpose and will contain the following reversionary clause:

The condition that pursuant to AS 38.05.810, the Grantee and its successors in interest may use the above described parcel for public purposes only. If the Director of the Division of Mining, Land and Water of the Department of Natural Resources determines that the Grantee or Grantee's successors in interest have failed to observe this condition, the Director may declare a forfeiture of this conveyance and title hereby conveyed shall there upon revert to the State of Alaska.

The Department recommends proceeding with the proposed actions as described in the Preliminary Decision. The findings presented above have been reviewed and considered. Public notice has been accomplished in accordance with AS 38.05.945

Notice and comments received were considered. The case file has been found to be complete and the requirements of all applicable statutes have been satisfied.

Under the authority of the applicable statutes, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended actions as described and referenced herein.

Recommendation and Approval of the Final Finding and Decision follow.

Signature on file

Recommended by: Kathryn Young
Section Manager
Land Sales Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

January 16, 2019

Date

Signature on file

Approved by: Martin W. Parsons
Director
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

January 17, 2019

Date

Signature on file

Approved by: Corri A. Feige
Commissioner
Department of Natural Resources
State of Alaska

March 1, 2019

Date

Reconsideration Provision

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may request reconsideration, in accordance with *11 AAC 02*. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in *11 AAC 02.040(c) and (d)* and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Ave., Ste. 1400, Anchorage, Alaska 99501; faxed to 907.269.8918; or sent by electronic mail to dnr.appeals@alaska.gov. Under *11 AAC 02.030*, requests for reconsideration filed under *11 AAC 02* must be accompanied by the fee established in *11 AAC 05.160(d)(6)*, which has been set at \$200 under the provisions of *11 AAC 05.160 (a) and (b)*.

If reconsideration is not requested by that date or if the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on the 31st day after issuance. Failure of the commissioner to act on a request for reconsideration within 30 calendar days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with *11 AAC 02* before appealing this decision to Superior Court. A copy of *11 AAC 02* may be obtained from any regional information office of the Department of Natural Resources.