

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to issue Negotiated Land Sale – Fairbanks
MHT 9400747

Notice is hereby given that, pursuant to the provisions of AS 38.05.801 and 11 AAC 99, the Executive Director of the Alaska Mental Health Trust Land Office (TLO) has determined that it is in the best interest of the Alaska Mental Health Trust and its beneficiaries to complete a negotiated land sale of certain Trust land to the Salcha-Delta Soil and Water Conservation District. 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 to Fort Wainwright Military Base in Fairbanks, and is more particularly described as: Trust parcel FM-0451, located within Section 9 and Section 10, Township 001 South, Range 001 East, Fairbanks Meridian, containing approximately 280 acres (MH Parcel FM-0451).

Persons who wish to submit a qualified competing offer as described in Section XIII of the best interest decision, believe that the written decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, December 5th, 2022**. **Qualified competing offers and/or Comments should be submitted to the TLO at 2600 Cordova Street, Suite 201, Anchorage, AK 99503, or by fax (907) 269-8905 or email mhtlo@alaska.gov.** Following the comment deadline, the Executive Director will consider timely comments that question the decision on the basis of the best interest of the Alaska Mental Health Trust and its beneficiaries or inconsistency with 11 AAC 99, and the best interest decision may be changed in response to such written comments or other information. Commenting parties will be provided a copy of the final best interest decision after the end of the notice period.

To be eligible to file for reconsideration of the best interest decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the notice period. Eligible persons will have twenty (20) calendar days after published notice of or receipt of the final written decision to request that the Executive Director reconsider the decision under 11 AAC 99.060(b).

Copies of the written decision are available at the Trust Land Office, or at <https://alaskamentalhealthtrust.org/trust-land-office/>. If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658.

In compliance with the Americans with Disabilities Act, the Alaska Mental Health Trust is prepared to accommodate individuals with disabilities. Please contact the Trust Land Office at (907) 269-8658 for assistance. Requests for assistance must be received at least 96 hours prior to the comment deadline in order to ensure that any necessary accommodations can be provided.

The Executive Director of the TLO reserves the right to waive technical defects in this notice or to amend, postpone, or vacate the best interest decision.

DocuSigned by:

Jeffrey Green

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Jeffrey Green

Acting Executive Director

11/2/2022

Date

Published Fairbanks Daily News-Miner: 11/3/2022

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

MHT: **9400747**
MH Parcel: **FM-0451**

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 #. Salcha-Delta Soil and Water Conservation District / MHT 9400747.

III. Subject Property.

A. Legal Description. Section 9: NE1/4 and Section 10: W1/2NW1/4, NW1/4SW1/4, Township 001 South, Range 001 East, Fairbanks Meridian, containing approximately 280 acres, more or less. According to the Survey Plat approved by the U.S. Surveyor General’s Office in Juneau, Alaska on October 9, 1913.

B. Settlement Parcel Number. FM-0451.

C. Site Characteristics/Primary Resource Values. The parcel is located immediately northwest of the Fort Wainwright Northern Warfare Training Center. It is primarily composed of freshwater forested, shrub, and emergent wetlands. It is north of the Chena River with access only through the Fort Wainwright military base. The primary resource value of the subject parcel is for disposal through a land sale.

D. Historical and Existing Uses of the Property. Trust parcel FM-0451 consists of portions of riparian river and stream corridors, and a large swath of wetlands. The

parcel is undeveloped and there are no competing interests. No historical or existing uses are known.

- E. Adjacent Land Use Trends.** Military Land, gravel extraction, undeveloped wetlands, and residential.
- F. Previous State Plans/Classifications.** Tanana Basin Area Plan (TBAP), Management Unit Little Chena 1W1. Under the TBAP this parcel was designated as agriculture land and may be offered for sale.
- G. Existing Plans Affecting the Subject Parcel.** The parcel is within the Fairbanks North Star Borough (FNSB) and subject to the FNSB ordinances. Title 18, Zoning Ordinance, zones the parcel as General Use 1 (GU-1) with portions of the parcel having a Military Noise zoning overlay. The GU-1 is intended for rural areas.
- H. Apparent Highest and Best Use.** A negotiated sale to the Salcha-Delta Soil & Water Conservation District, in partnership with the US Military, is the apparent highest and best use of the parcel. This sale would turn this parcel into a performing asset and generate revenue for the Alaska Mental Health Trust Authority (Trust) and its beneficiaries. The parcel may not be economically developable due to the wetlands on most of the parcel, the access limitations, high construction costs, low property values, and adjacent military training activities and associated noise.

- IV. Proposal Background.** The Salcha-Delta Soil and Water Conservation District applied for a conservation easement in October 2020 seeking to purchase an interest in the property on behalf of the Army Compatible Use Buffer (ACUB) Program. The ACUB program mitigates encroachments to military training, testing, and operations by conserving natural landscapes and protecting habitats around existing training operations. The US Army Environmental Command oversees cooperative agreements with partners, such as the Salcha-Delta Soil and Water Conservation District, who acquire the land, or an interest in the land, in their name and manage it in perpetuity as an effective buffer to the military training center and as a preservation of natural space.
- In January of 2022, the TLO acquired a feasibility study of the development capability of the 280-acre parcel which concluded that development opportunities are significantly limited. Access to the property is via the Fort Wainwright military base and portions of the parcel are within the Military Noise Area (extending east from Ladd Army Airfield). Over 90% of the parcel has poorly drained soils with shallow permafrost, resulting in difficulties with septic system installation, road, and house construction. In consideration of the physical access and development limitations, the undeveloped lots in the adjacent Secluded Acres Subdivision, and high development costs, at this time developing the parcel would not be in the best interest of the Trust and its beneficiaries.
- The TLO evaluated the proposal for a conservation easement and determined it is in the best interest of the Trust and its beneficiaries to dispose of the property via a negotiated sale. A conservation easement would perpetually restrict future develop, yet the TLO would remain liable and responsible for impacts to the property as the landowner. Therefore, disposal of the surface estate is a preferred action given the considerations discussed above.

- V. Terms and Conditions.** On October 27, 2022, the TLO and the applicant entered into a purchase and sale agreement outlining the process for purchasing the property through a negotiated sale at a price of \$540,800.00. 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,” 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. Past experience has demonstrated that it is unlikely that this parcel will appreciate at a rate that would justify holding it for a later sale. It is also not cost effective for the TLO to hold the parcel and incur the associated management costs and potential liabilities.
- VII. Alternatives.**
- A. Do nothing or offer in the future.** This alternative would result in a loss of revenue or delay receipt of revenues from sales, income from Trust principal interest, and could result in additional costs and risks to the Trust without significant increases in value.
 - B. Competitive Land Sale** Offer the parcel for sale during the 2023 Fall Land Sale. Historical revenue returns for this area have not met or exceeded the negotiated sale premium of 30% above the appraised fair market value.
 - C. Alternative Development.** The majority of the parcel is not conducive to subdivision development due to wetlands classification and potential discontinuous permafrost. The military noise, military access, FNSB subdivision requirements, high construction costs, and adjacent low property values suggest the return on development investment would not compete with the proposed negotiated sale.
- 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.
 - C. Public Concerns.** Subject to the comments resulting from the public notice, there are no known public concerns regarding the proposed action.
- IX. Due Diligence.**
- A. Site Inspection.** TLO staff conducted a site Inspection on September 11, 2014, for the purpose of evaluation for Wetlands Mitigation Banking. In addition, a detailed examination was done by the appraiser of all available data pertaining to the parcel when the valuation was completed in September 2020.
 - B. Valuation.** An appraisal of the subject parcel “as is” and “where is” was completed in September 2020 by Axelsson & Associates. The appraisal determined the fair market value of the parcel to be \$416,000. To compensate for not selling the land competitively the TLO required a premium of 30%, or

\$124,800 above the appraised fair market value, for a final negotiated sale price of \$540,800.00.

- C. Terms and Conditions Review.** An agreement for the purchase and sale of the property was completed on October 27, 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 land 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:

- i. 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.
- ii. AS 38.05.127, Access to navigable or public water and requiring "to and along" easement on Trust properties diminishes the sale value of Trust lands and therefore is inconsistent with Trust management principles.

- XI. Trust Authority Consultation.** The Alaska Mental Health Trust Resource Management Committee was consulted on October 19, 2022. The Committee concurred with the Executive Director's recommendation to dispose of Trust parcel FM-0451 through a negotiated sale or subsequent disposal.

- XII. Best Interest Decision.** Given the information above and the information contained in the complete record, the Executive Director finds that the proposed transaction is in the

best interest of the Trust, subject to the terms and conditions addressed in this decision. The decision is based upon the consideration of the five Trust management principles set out in 11 AAC 99.020 and is in full compliance with 11 AAC 99. This decision does not preclude the TLO from determining that an alternative proposal will serve the best interest of the Trust. A future determination of that nature will require a best interest decision specific to the proposal.

A. Non-competitive Disposal Determination. 11 AAC 99.020 (d) allows for the disposal of Trust land through a competitive basis, unless the Executive Director in consultation with the Trust Authority, determines in a written decision required by 11 AAC 99.040 that a non-competitive disposal is in the best interest of the Trust and its beneficiaries. This parcel is being sold at a 30% premium above the appraised fair market value to compensate for not disposing of the land through a competitive sales process. This 30% premium offer exceeds the historical average of competitive sales in the immediate area. Given the 30% premium on the sales price, the development constraints, access limitations, and proximity to the Fort Wainwright Northern Warfare Training Center, 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 matches or exceeds the current offer of \$540,800 for the parcel, and a deposit of 10% of the offered price in certified funds. In the event that there is competing interest, all qualified interested parties will be notified by phone, fax, or e-mail how they may participate in the alternative sale process. Following the comment deadline, the Executive Director will consider timely written comments that question the decision on the basis of the best interest of the Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director 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: <https://alaskamentalhealthtrust.org/trust-land-office/>.

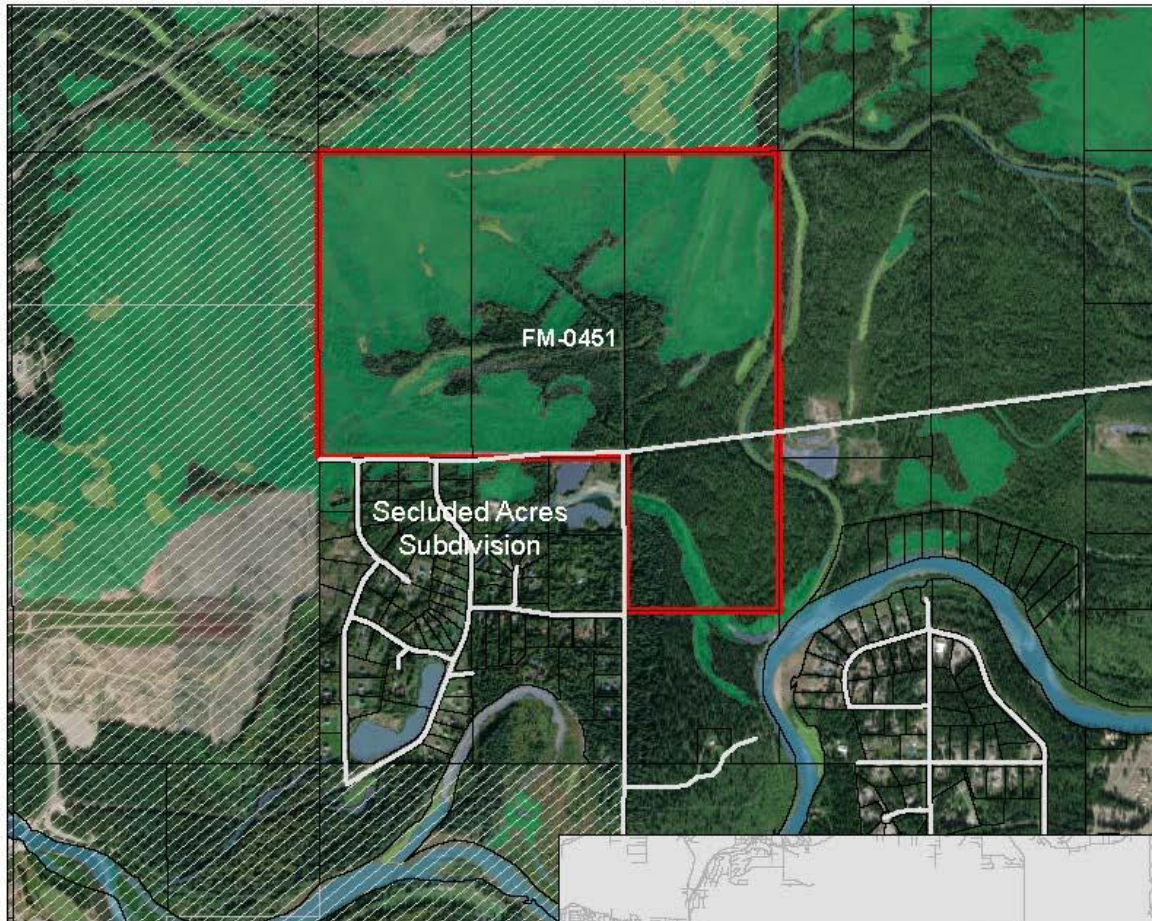
XVI. APPROVED:

DocuSigned by:

Jeffrey Green
Acting Executive Director
Alaska Mental Health Trust Land Office

10/31/2022

Date

Exhibit A



Negotiated Sale, MHT 9400747

Wetland Type

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine



- Roads
- MHT 9400747
- Ft. Wainwright Military Withdrawal