

**PROGRAMMATIC AGREEMENT  
AMONGST THE FEDERAL HIGHWAY ADMINISTRATION,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
ELMENDORF AIR FORCE BASE, AND  
THE ALASKA STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE KNIK ARM CROSSING PROJECT  
ACSTP-0001(277)/56047**

**Preamble**

*Description of the Undertaking*

**Whereas**, the Alaska Division of the Federal Highway Administration (FHWA), in cooperation with the Knik Arm Bridge and Toll Authority (KABATA), an applicant for Federal assistance, proposes to construct a new bridge to span Knik Arm, connecting the Municipality of Anchorage and the Matanuska-Susitna Borough; and

**Whereas**, FHWA has identified the Northern Access-Erickson Alternative as the Recommended build alternative in the Final Environmental Impact Statement (FEIS) and defined the Area of Potential Effect (APE) for the Knik Arm Crossing (KAC) Project (Appendix A, Figures 1a-1d - *Area of Potential Effect*); and

**Whereas**, FHWA has determined that the Northern Access-Erickson Alternative will have an adverse effect on the Government Hill Urban Renewal Historic District, which has been determined eligible for listing in the National Register of Historic Places (National Register), and may affect additional historic properties during the life of project design and development (through 2030) and have potential for other effects during implementation of Phases 1 and 2; and

**Whereas**, the project will be constructed in two distinct construction phases to provide needed capacity as traffic volumes grow, and the FEIS discloses the environmental impacts anticipated to result during the estimated 20-year design life of the project; and

**Whereas**, the two distinct construction phases for the KAC Project identified in the FEIS include:

Phase 1 will include a cut-and-cover tunnel beneath Erickson Street to connect with Loop Road/A-C Couplet and is scheduled to commence in 2009; and

Phase 2 is proposed to accommodate future traffic growth and includes a new roadway extension from the Phase 1 construction project to connect to the Ingra-Gambell Couplet; the timing of this project construction is dependent on future traffic growth; and

**Whereas**, FHWA or KABATA, as appropriate, shall ensure that this PA will become part of the design and construction specifications for whatever contracting method is utilized to construct Phase 1 and 2 of the KAC Project; and

**Whereas**, FHWA recognizes the potential for the KAC Project to increase traffic on the A-C Couplet and cause other unanticipated impacts south of the APE; and

**Whereas**, the recommended build alternative proposes to use a portion of the western bluff of the Elmendorf Air Force Base (EAFB), requiring Department of Air Force authorization and easement on federal land for project right-of-way, and

**Whereas**, FHWA has developed this Programmatic Agreement (PA), pursuant to 36 CFR Part 800, Section 800.14(b), to comply with the requirements of Section 106 for the adverse effects of Phase 1 and to establish the compliance strategy for the proposed planning and design required for Phase 2; and

#### *Consulting Parties*

**Whereas**, consulting parties, as referred to in this PA, include the Signatories, Invited Signatory, and Concurring Parties to this PA; and

**Whereas**, FHWA has consulted with the Alaska State Historic Preservation Officer (SHPO) in accordance with Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470s) and 36 CFR 800; and

**Whereas**, FHWA has consulted with the Advisory Council on Historic Preservation (ACHP) following the ACHP's decision to participate in the development of the PA under 36 CFR Section 800.14(b) for a long-term project that requires ongoing consultation; and

**Whereas**, FHWA consulted with the Matanuska-Susitna Borough (MSB) and Municipality of Anchorage (Municipality) in order to fulfill its local government consultation as set forth in 36 CFR 800.2(c)(3); and

**Whereas**, FHWA consulted with Anchorage Historic Preservation Commission (AHPC), Anchorage Historic Properties, Inc. (AHPI), Alaska Association for Historic Preservation (AAHP), and Government Hill Community Council (GHCC) in order to fulfill its consultation with additional consulting parties as set forth in 36 CFR 800.2(c)(5); and

**Whereas**, FHWA consulted with the Knik Tribal Council, the Native Village of Eklutna, Eklutna, Inc. and Knikatnu, Inc. in order to fulfill its tribal consultation requirements as set forth in 36 CFR Section 800.2(c)(2) as it relates to sites of traditional religious and cultural importance; and

**Whereas**, FHWA conducted the consultation process from 2005 through 2008; and

*Identification and Evaluation*

**Whereas**, FHWA, in consultation with the SHPO, conducted the identification and evaluation of historic properties which will be affected by the implementation of the KAC Project as evidenced by letters dated February 24, 2006 and June 23, 2006; and,

**Whereas**, FHWA acknowledges the possibility for the KAC Project to affect additional historic properties as yet unidentified in a portion of the western bluff of EAFB; and

**Whereas**, the additional identification and evaluation for historic properties, primarily archeological sites detailed in Stipulation II, *Actions Needed to Complete Identification and Evaluation*, will be completed as part of Phase 1 pursuant to the terms of this PA and as detailed in Stipulation IX.B, *Effectiveness of PA*; and

**Whereas**, FHWA allocated \$142,000 in grant funds on August 3, 2006, which have been administered by SHPO to enable the Municipality and the MSB, through the Certified Local Government (CLG) Program, to assist with the identification, evaluation, and planning for historic properties in their jurisdictions which may be affected during the implementation of the terms of this PA for Phases 1 and 2 of the KAC Project; and

**Whereas**, the Municipality, as the CLG, shall manage and administer any mitigation funding provided for the benefit of the GHCC under the terms of this PA; and

*Other Agreements*

**Whereas**, this PA outlines the procedures for Section 106 reviews required for future, unforeseen adverse effects through the development of Standard Mitigation Agreements (SMAs) developed among FHWA, KABATA, the SHPO, and other consulting parties, as appropriate, in accordance with Appendix B, *Notification Process and Standard Mitigation Agreements*; and,

**Whereas**, FHWA commits to continuing public notification and participation, as appropriate, during the implementation of the terms of this PA; and

**Whereas**, other federal agencies involved in project activities that are related to the KAC Project may fulfill their Section 106 responsibilities by notifying the ACHP and SHPO in writing of their intentions to comply with the terms of this PA as it applies to their undertaking(s); and

**Whereas**, EAFB shall use the terms of this PA to fulfill its Section 106 and Section 110 responsibilities as set forth in the NHPA; and

**Whereas**, the Municipality and MSB, as local governments with jurisdiction over the KAC Project area, have been invited as Concurring Parties without the right to amend or terminate the PA; and

**Whereas**, the GHCC, whose district boundaries are contained within the Municipality, shall form a four-person board selected according to Community Council by-laws (Government Hill Board) to represent the neighborhood during the Section 106 consultation process and have been invited to be a Concurring Party without the right to amend or terminate the PA; and

**Whereas**, FHWA invited AHPI, AHPC, and AAHP to be Concurring Parties without the right to amend or terminate the PA; and

**Whereas**, FHWA has invited the Knik Tribal Council and Native Village of Eklutna, the affected federally recognized Tribes, along with Knikatnu, Inc. and Eklutna Inc., the Alaska Native Claims Settlement Act (ANCSA) village corporate entities, to be Concurring Parties concerning properties of traditional religious and cultural significance to them as part of FHWA's government-to-government consultation requirements for resources of Tribal interest off Tribal Lands without the right to amend or terminate the PA; and

**Whereas**, the Tribes' goals and objectives for this PA are the Tak'at Tribal Replacement Fish Camp, recognition that members of the Knik Tribal Council and the Native Village of Eklutna are descendents of the original people of this area, respectful treatment of human remains and artifacts, development of a collection and curation agreement that is sensitive to Tribal interests, and provision for historic preservation and cultural awareness training to the construction contractors; and

**Whereas**, ACHP is a Signatory to this PA and has the right to amend or terminate the PA; and

**Whereas**, EAFB is a Signatory to this PA for those actions under its jurisdiction with the right to amend or terminate the PA; and

**Whereas**, SHPO is a Signatory to this PA and has the right to amend or terminate the PA; and

**Whereas**, KABATA, as project sponsor, has participated in consultation pursuant to 36 CFR 800 and is signing this PA as an Invited Signatory with the right to amend or terminate the PA with the notification and concurrence of the Signatories, and shall be responsible to administer and implement the stipulations under the terms of this PA for and as directed by FHWA; and

**Whereas**, failure of a Concurring Party(ies) to sign this PA does not relieve FHWA and KABATA of the responsibility to execute the terms of this Agreement, unless so requested and amended by Signatories to this Agreement; and

*Mitigation*

**Whereas,** FHWA has taken an integrated approach to this PA where applicable NEPA requirements and Section 106 requirements pursuant to 36 CFR 800.2(a) and 800.3(b) for the KAC Project overlap; the provisions in this PA do not reflect all of the NEPA-related mitigation documented in the FEIS and Record of Decision (ROD); and

**Whereas,** FHWA views the historic properties as part of the broader Government Hill community setting and commits to mitigation and project design solutions developed in a manner that promotes the significant historic characteristics and continued viability of the neighborhood that have been documented in the KAC Project, *Recommendations for a Historic District(s): Government Hill, Anchorage, Alaska, Volumes 1 and 2 (Stephen R. Braund & Associates, 2006)* and FEIS while meeting project goals; and

**Whereas,** construction of a cut-and-cover tunnel beneath Government Hill has been incorporated into the Knik Arm Crossing project design to provide for community cohesion and represents an environmental mitigation measure outlined in the FEIS that FHWA has concluded will assist in minimizing direct and indirect adverse effects to the Government Hill neighborhood and the Government Hill Urban Renewal Historic District; and

**Now, therefore,** FHWA, ACHP, EAFB, and SHPO (collectively “Signatories”) hereby agree that the undertaking shall be implemented in accordance with the following stipulations in consideration of the effects this undertaking will have on historic properties.

## Stipulations

FHWA, in coordination with KABATA, shall ensure that the following stipulations are implemented:

### I. Schedule

- A. FHWA shall provide the Signatories with the anticipated design and construction schedules concurrent with the initiation of the design phases for each construction phase of the project, so the Signatories can evaluate the appropriateness of the mitigation measures identified in the following stipulations at the then-current conditions. Preliminary design of the KAC Project is contained in the FEIS. Subsequent draft design and construction schedules for Phase 1 shall be provided immediately upon completion to the Signatories and shall allow for comments prior to the final design and construction schedules. The final design and construction schedules shall be provided as information is developed by the contractor and following review by FHWA and KABATA. Phase 2 design and construction schedules shall be provided in the same manner.
- B. FHWA shall ensure that archaeological surveys detailed under Stipulation II, *Actions Needed to Complete Identification and Evaluation*, is started no later than six (6) months after the publication of the ROD.
- C. FHWA will enter into negotiations with appropriate local governments and Tribal entities referenced in this PA to work out the scopes of work for MOUs that will establish baseline information used in the negotiation of SMAs and other appropriate mitigation required under the terms of this PA. It is the intent of this paragraph that FHWA will enter into negotiations, make its final decision, and present to the consulting parties for their signature, MOUs signed by FHWA no later than six (6) months after the date of this PA, in order to make funding available at the earliest possible date. All other stipulations in this PA are benchmarked to the ROD.

### II. Actions Needed to Complete Identification and Evaluation

Archaeological Surveys at EAFB: FHWA shall ensure that the archaeological surveys of the portion of the APE that falls within EAFB, illustrated in Appendix A, *Area of Potential Effects Figures 1b and 1d*, are carried out prior to Phase 1 construction.

- A. Archaeologists and Historic Archaeologists meeting the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-44739) shall conduct an archaeological survey of lands within EAFB identified as falling within the APE for the project. With assistance from the qualified cultural resource professionals, FHWA will consult with SHPO, Tribes, KABATA, and EAFB to ensure identification and

documentation of any additional potential historic properties within the APE on EAFB lands.

- B. The survey(s) shall follow the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716-44718) for identification and testing procedures as presented in *Guidelines for Evaluating and Registering Archaeological Properties* (National Register Bulletin 2000).
- C. The archaeologist(s) shall evaluate any archaeological or potential historic properties identified within the APE for eligibility to the National Register using established National Register criteria. FHWA shall determine National Register eligibility in consultation with the SHPO, Tribes that attach religious and cultural significance to the site, and EAFB. All National Register evaluations will follow the Secretary of Interior's Standard's and Guidelines for Evaluation of Historic Properties, 36 CFR Part 63, and 36 CFR Part 800.4(c). Disputes concerning eligibility will be resolved by the Keeper of the National Register (Keeper) pursuant to 36 CFR Part 63 and 36 CFR Part 800.4(c)(2).
- D. For those properties that are determined to be eligible for inclusion in the National Register, FHWA shall apply the criteria of adverse effect (36 CFR Part 800.5) in consultation with the SHPO, EAFB and the Tribes that attach traditional religious and cultural significance to the property. The views of other consulting parties will be sought through consultation, as appropriate, if there is a finding that a project activity will cause an adverse effect.
- E. If it is determined that additional historic or archeological properties or properties of religious and cultural significance to Tribes located within the APE on EAFB will be adversely affected, FHWA shall consult with EAFB, KABATA, SHPO, and the Tribes to develop a mitigation plan for resolving adverse effects. If the parties cannot reach agreement on a SMA pursuant to Stipulation V.B.5, *Mitigation Measures for Future, Unforeseen Adverse Effects*, the matter shall be referred to the ACHP under the dispute resolution provision set forth in Stipulation X, *Dispute Resolution*, of this PA.
- F. Following the execution of the approved mitigation plan, appropriate analysis shall be conducted and the final report(s) shall be prepared. The scope of work for this review shall be determined in consultation with the SHPO prior to the initiation of these actions. The report(s) shall meet contemporary professional standards and follow the Alaska Office of History and Archaeology (OHA) Standards and Guidelines for Investigating and Reporting Archaeological and Historical Properties in Alaska (Historic Preservation Series #11) and the Secretary of the Interior's Standards and Guidelines for reports (48 FR 44734-44737). FHWA shall ensure that all final cultural resource survey, evaluation and mitigation reports, resulting from actions pursuant to this PA, are provided to SHPO, the Tribes, KABATA, and EAFB. EAFB will incorporate the findings of the final reports into its cultural resource files and use for the management of other cultural resources in proximity to that portion of the installation used for the KAC Project.

- G. FHWA shall consult with EAFB regarding the curation of artifacts resulting from the implementation of a mitigation plan to ensure that applicable Department of Defense (DoD) guidelines are met.
- H. FHWA and KABATA shall ensure that the archaeologist(s) attend any necessary safety briefings and be provided appropriate safety equipment as required by EAFB prior to conducting surveys on EAFB lands.
- I. FHWA and KABATA shall ensure compliance with the Department of Air Force Right-of-Entry letter to KABATA, An Entity of the State of Alaska on EAFB (No. FXSB2001-08-ROE-06) or applicable amendment or replacement thereof.
- J. FHWA and KABATA shall ensure compliance with Department of the Air Force, Pacific Air Forces Memorandum for Distribution A, *Base Policy When Encountering Human Remains* (Appendix C).
- K. Unless otherwise agreed to by FHWA, EAFB, SHPO, KABATA, Tribes, and CLGs, the scopes of work developed under Stipulation II shall not exceed two (2) years from the publication of the ROD.

### **III. Mitigation Measures**

#### **A. Funding of the KABATA Liaison**

1. Role and Responsibilities: FHWA shall participate in funding for a KABATA staff liaison (KABATA Liaison) position within six (6) months after the date of this PA. The KABATA Liaison shall be hired in consultation with FHWA and SHPO, employed by KABATA, consult and collaborate with all Section 106 consulting parties as the primary point of contact to implement Phases 1 and 2 of this PA, and will also provide regular project development and construction status updates. Key tasks will include the following:
  - a. Establish and coordinate consultation and project status update meetings. The purpose of these meetings may include, but not be limited to, the following: to recommend priorities and goals of mitigation and assess progress of those plans, and identify any recommended changes or amendments to the current mitigation plans based upon evolving information or developments during construction.
  - b. Establish and maintain lines of project related communication and consultation with the consulting parties and the design and construction engineers, including oversight and monitoring of internet sites created for the KAC Project.

- c. Manage and supervise the Phase 1 mitigation measures and any associated FHWA deliverables that are to be reviewed by the Section 106 consulting parties.
- d. Address requests by consulting parties to review deliverables and documentation that are provided to concurring parties.
- e. Assist the CLGs with the preservation planning efforts provided for in Stipulation IV.A, *Certified Local Government Historic Preservation Plans*.
- f. Assist the CLGs with evaluation related to unanticipated effects in Stipulation VII, *Discoveries*.
- g. Develop semi-annual status reports on the implementation of this PA as detailed in Stipulation IX, *Review Protocols*.
- h. Collect any notices from Section 106 consulting parties to this PA that identify impacts different than those stated in this PA to historic properties for KABATA and FHWA processing per Stipulation IX, *Review Protocols*. The Liaison shall research the issues listed in the notice and prepare a recommendation for the disposition of the request and action by FHWA. The notification process for consulting parties to submit requests for consideration is outlined in Appendix B, *Notification Process and Standard Mitigation Agreements*.
- i. Provide administrative support and technical assistance required by Section 106 consulting parties to meet the terms of this PA.
- j. Provide, on an annual basis, or more frequently as circumstances require, historic preservation and cultural awareness training to the construction contractors and employees. The training shall include information related to the following topics:
  - i. Illegal collection and disturbance of historic and prehistoric cultural materials, including human remains.
  - ii. Scope of applicable laws and regulations.
  - iii. Initial identification and reporting of archeological materials, human remains, and historic buildings or structures that may potentially be discovered during the course of their work.
- k. Develop a Best Practices Manual related to historic properties and a Section 106 “lessons learned” case study on the KAC Project that may be helpful to future Section 106 processes on this and other projects. The Best Practice Manual and “lessons learned” case study will be made available to the parties of this PA and

other interested parties within one (1) year of the completion of Phase 1 construction.

2. **Qualifications and Selection:** The KABATA Liaison will meet the Secretary of Interior's Professional Qualification Standards (48 FR 44738-44739) for architectural history with experience in historic preservation planning. KABATA shall use its standard hiring procedures in the selection of the Liaison; however, FHWA and SHPO shall be part of a committee to recommend any selection of the candidate for the position. As part of the semi-annual reporting, KABATA shall verify that the Liaison position is staffed and that SHPO is provided the opportunity to comment on their performance in carrying out the tasks set forth in this PA.

## **B. Contractors and Contract Adherence to PA**

FHWA and KABATA shall ensure that contracts developed in the implementation of all phases of this project shall expressly refer to and require compliance with the stipulations of this PA. Contractors responsible for work set forth in this PA shall have qualified staff that meet the Secretary of Interior's Professional Qualification Standards (48 FR 44738-44739) for architectural history with experience in historic preservation planning to ensure the satisfactory compliance with the terms of the PA during the design and construction of each project phase. The KABATA Liaison will provide appropriate guidance regarding the implementation of terms of this PA to all contractors, particularly those involved in construction related activities.

## **C. Archaeological Monitoring**

1. FHWA, in consultation with ACHP and SHPO, shall develop an archaeological monitoring plan for areas directly affected by Phase 1 and Phase 2 construction activities that will identify where monitoring is recommended. The plan will ensure the recordation and recovery of previously unidentified historic properties, including archaeological sites, human remains, sacred objects, items of cultural patrimony, and other usual or unique cultural features and artifacts.
2. Monitoring shall be guided by detailed monitoring protocols contained in the archaeological monitoring plan that FHWA submits to SHPO and Tribes for review and comment. These parties shall have thirty (30) days to review the plan and provide comments to FHWA. Should SHPO or the Tribes object within 30 days after receipt of the plan, FHWA shall consider all comments and, as appropriate, consult with the objecting party to resolve any objections. Comments from SHPO and Tribes shall be considered in the approval of the final monitoring protocols by FHWA.
3. The monitoring plan shall be developed by an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for Archaeology to be consistent

with the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation (48 FR 44734-44737).

4. FHWA shall require that all monitoring is done by or under the supervision of an archaeologist(s) meeting the Secretary of the Interior's Professional Qualification Standards for Archaeology (48 FR 44738-44739).
5. FHWA shall ensure that a preconstruction meeting is conducted that includes the construction project engineer, the construction contractor, and the supervising archaeologist to discuss the terms and conditions of the monitoring plan. SHPO, Tribes, and other identified consulting parties shall be invited to attend. A minimum of fifteen (15) working days notice shall be provided prior to the meeting.
6. FHWA shall ensure that the following archaeological monitoring protocol is implemented in the areas determined to need monitoring as described in the monitoring plan:
  - a. An archaeological monitor will be on site during all ground disturbing activities within areas in the APE determined to need monitoring as described in the monitoring plan.
  - b. The archaeological monitor shall be authorized to halt construction in a specific location, or to redirect work to other locations, while documenting and recovering previously undiscovered archaeological sites, human remains, sacred objects, items of cultural patrimony, and unusual or unique archeological data.
  - c. If monitoring yields an unanticipated discovery or effect, all work shall be redirected away from the immediate vicinity of the discovery and protocol will proceed in accordance to Stipulation VII, *Discoveries*.
  - d. If human remains are encountered during monitoring, they shall be treated in accordance with Stipulation III.D., *Treatment of Human Remains*. All work shall stop adjacent to the discovery, with the area of work stoppage being adequate to provide for the security, protection, and integrity of the remains. Construction shall resume in the area of the discovery only after proper removal of the human remains.
7. A report, meeting contemporary professional standards and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation (48 FR 44734-44737), shall be written for the project following the completion of monitoring activities. The SHPO and Tribes will provide written comments within thirty (30) calendar days of receipt of adequate information. FHWA shall ensure that the final report is provided to all Signatories, Invited Signatory, Tribal entities, and other consulting parties, as appropriate.

8. Any materials collected as part of archaeological monitoring efforts shall either be returned to owners of the properties where the collection took place, or curated in accordance with 36 CFR 79 and 11 AAC 16.020-16.030 at a repository within the State, meeting Tribal interests as determined by FHWA, in consultation with the Tribes and SHPO.

#### **D. Treatment of Human Remains**

1. FHWA shall ensure that any and all human remains encountered during project implementation are treated with dignity and respect pending a determination of their ultimate treatment and identification of descendants.
2. Should human remains be encountered, work will be stopped at once in the locality to prevent further disturbance and the supervising archaeologist shall immediately notify the Alaska State Troopers (AST), KABATA, FHWA, EAFB, and SHPO. If the human remains are determined or believed by the supervising archaeologist to be Native American, the supervising archaeologist shall also immediately notify the Knik Tribal Council and the Native Village of Eklutna. See Appendix D, *Human Remains Contacts*, for specific contact information for Agency and Tribal Officials involved with human remains consultation.
3. If the remains appear recent in the judgment of the supervising archaeologist, FHWA and KABATA shall defer to the opinion of the AST and/or State Medical Examiner (SME) for a determination of whether the remains are of a forensic nature and/or subject to criminal investigation.
4. A physical anthropologist experienced in the analysis of human remains shall examine the human remains offsite to determine racial identity. The physical anthropologist shall document, analyze, and photograph the remains so that an independent assessment of racial identity can be made. The physical anthropologist shall be afforded no more than thirty (30) days time to conduct his or her analysis.
5. If the human remains are not Native American, and a determination has been made by AST and SME that a death investigation is not warranted, then FHWA and KABATA, in consultation with the SME, will identify, locate and inform descendants of the deceased. If no descendants are found, the supervising archaeologist shall obtain a permit from the Alaska State Bureau of Vital Statistics, and re-inter the remains in a designated area.
6. Should any associated or unassociated funerary objects, sacred objects, or objects of cultural patrimony as defined by the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001) be encountered, work shall be stopped at once in the locality to prevent further disturbance and the supervising archaeologist

shall immediately notify KABATA, FHWA, EAFB, SHPO, the Knik Tribal Council, and the Native Village of Eklutna.

7. Should any human remains be encountered on EAFB, FHWA and KABATA shall ensure compliance with Department of Air Force, Pacific Air Forces Memorandum for Distribution A, *Base Policy When Encountering Human Remains*, November 10, 2008 (Appendix C).

#### **E. Architectural Documentation of Government Hill Historic Properties**

FHWA shall complete the following architectural documentation measures within two (2) years from the publication of the ROD subject to the granting of property access.

1. All architectural documentation will be prepared by a qualified professional(s) meeting the Secretary of the Interior's Professional Qualification Standards for Architectural History (48 FR 44738 - 44739).
2. FHWA shall prepare OHA architectural recordation forms to document the current conditions of the three contributing elements of the Government Hill Urban Renewal Historic District at 710 Ash Street (ANC-01878), 730 Ash Street (ANC-01880), and 601 Vine Street (ANC-02103) that would be individually affected under the Erickson Alternative.
3. FHWA shall submit the site plans and architectural recordation forms to SHPO along with black and white 35-millimeter photographs or digital photographs of the properties' exteriors. The drawings and photographs shall meet Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) documentation Level III standards, and the written data shall meet documentation Level II standards.
4. SHPO shall have thirty (30) calendar days from receipt of FHWA architectural documentation submittals to review and comment. The FHWA shall take into account any comments received during the review period and make revisions as appropriate.
5. FHWA shall ensure that the original documentation is filed with the National Archives and Records Administration Pacific Alaska Region office in Anchorage upon completion.

#### **F. Marketing and Relocation of Three Identified Government Hill Historic Properties**

All stipulations in this provision relate to the three (3) contributing historic properties that will be impacted within the Government Hill Urban Renewal Historic District.

1. Prior to those construction actions in Phase 2 that will affect the Government Hill Urban Renewal Historic District, FHWA will provide a qualified professional(s) meeting the Secretary of the Interior's Professional Qualification Standards for Historic Architecture (48 FR 44738-44739) in coordination with a structural engineer to investigate the structural integrity of the three affected properties at 710 Ash Street (ANC-01878), 730 Ash Street (ANC-01880), and 601 Vine Street (ANC-02103) to determine the reasonableness of their relocation. Assessment by a qualified professional(s) meeting the Secretary of the Interior's Professional Qualification Standards for Architectural History or Historic Architecture (48 FR 44738-44739) shall also consider moved properties under the National Register Criteria Consideration B: whether relocation can maintain the contributing properties' eligibility as defined. Right-of-way acquisitions for Phase 2 are not scheduled until future development of the KAC Project; however, advance right-of-way acquisition and relocation may be made available during Phase 1 for hardship cases, protective/economic purchases, or property owners requesting advanced acquisition. In the event properties are acquired in advance for right of way acquisitions, FHWA will ensure that such properties are protected and monitored pending final decisions regarding their disposition.
2. FHWA shall provide the recommendations of the structural integrity investigations to SHPO and the ACHP for review and comment. The SHPO and ACHP shall have thirty (30) days from FHWA's submittal of its recommendations to review and comment on the recommendations. The FHWA shall take into account any comments received during the review period. FHWA shall ensure that the draft and final recommendations of the structural integrity investigations are provided to all Signatories, Invited Signatory, and consulting parties as appropriate.
3. For the three (3) affected historic buildings located at 710 Ash Street (ANC-01878), 730 Ash Street (ANC-01880), and 601 Vine Street (ANC-02103) that the Signatories agree can be reasonably relocated, FHWA shall market the purchase, relocation, and maintenance of these buildings by qualified buyers (who are willing to relocate and rehabilitate the buildings appropriately to maintain their historic significance) by making them available for purchase for one dollar (\$1).
4. Relocations will occur prior to the implementation of Phase 2. Priority shall be placed on relocating properties within the boundaries of the Government Hill Urban Renewal Historic District in accordance with the Government Hill Historic Preservation Plan and the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties (1995). The SHPO shall have thirty (30) days from FHWA's submittal of a relocation proposal to review and comment. The FHWA shall take into account any comments received during the review period.
5. Owing to the passage of time before the Phase 2 marketing and relocation of these historic properties pursuant to 36 CFR Section 800.4(c)(1), FHWA, in consultation

with the SHPO will decide if it is appropriate to re-evaluate this mitigation measure if the historic significance of the properties change or if there is a change in the anticipated effects of the project, pursuant to Stipulation IX, *Review Protocols* (e.g., should the building be altered or demolished and no longer require relocation). This re-evaluation shall be implemented prior to and in coordination with the Phase 2 construction actions that would affect the Government Hill Urban Renewal Historic District. Should a change in National Register significance or effect be determined, FHWA shall reopen consultation with the Signatories to this PA and identified consulting parties, as appropriate, to reconsider the appropriateness of this measure and to explore other means of mitigation.

#### **G. Government Hill Neighborhood Plan (Neighborhood Plan)**

Not later than six (6) months after the date of this PA, but independent of and separate from this PA, FHWA shall negotiate, in consultation with SHPO and GHCC, and enter into a MOU with the Municipality whereby FHWA shall provide funding for the Municipality to develop a Government Hill Neighborhood Plan to serve as a planning and management “tool” that promotes the historic character and values of the Government Hill neighborhood and the orderly growth, improvement, and future development of the neighborhood. The Neighborhood Plan shall address preservation of buildings and landscape features that define the historic character of the Government Hill neighborhood, while guiding other aspects of the growth and development in the neighborhood. The Municipality shall develop the Neighborhood Plan in consultation with SHPO and the GHCC, and will incorporate the Government Hill Historic Preservation Plan, as appropriate, as detailed in Stipulation IV.A.3.

#### **H. FHWA Consultations with the Government Hill Community**

FHWA shall consult and collaborate with the Government Hill Board on behalf of the GHCC early in the design phases for both Phase 1 and Phase 2 construction projects. This is to ensure that design and construction minimize and mitigate impacts to the broader Government Hill community, including local roads, sidewalks, access, and visual impacts. In order to integrate mutual goals, FHWA shall consult with SHPO, the ACHP, the Municipality, and other consulting parties, as appropriate, during this process to maximize the effectiveness and compatibility of historic properties mitigation measures.

#### **I. Construction of a Cut-and-Cover Tunnel on Government Hill**

1. Pursuant to the NEPA FEIS, construction of a cut-and-cover tunnel located beneath Government Hill has been incorporated into the KAC Project to minimize community impacts. The tunnel location and function have been optimized to minimize right-of-way relocations and adverse impacts to Government Hill while balancing the requirements of design, safety, topography, and the need to reestablish the local road system on top of the tunnel.

2. FHWA shall implement Context Sensitive Mitigation (CSM) to minimize and mitigate adverse effects of the KAC Project to Government Hill and maintain the Government Hill neighborhood's building and landscape character, as nearly as practicable, and shall consult and coordinate with the Municipality, SHPO, and the GHCC and their representatives to consider the Government Hill Neighborhood Plan and Government Hill Historic Preservation Plan to the extent such plans have been completed. The CSM will be guided by the recommended approaches in the Secretary of Interior's Standards for the Treatment of Historic Properties during design development. The Government Hill Board will be consulted early and frequently during the design phases to address design specifics, such as the tunnel lid and reestablishing character defining features. Initiation of CSM coordination with the Government Hill community will begin coincidental with the beginning of design development for the project and will adhere to a community participation protocol developed in advance by FHWA and GHCC.
3. FHWA shall provide concept plans, developed in coordination with a qualified professional(s) meeting the Secretary of the Interior's Professional Qualification Standards for Architectural History (48 FR 44738-44739), for the cut-and-cover tunnel lid to SHPO, Government Hill Board, and the Municipality for review and comment throughout the stages of design development at approximately the 30-60-90% designs for both Phase 1 and Phase 2.
4. If it is determined that additional properties will be adversely affected by refinements in the design of the cut-and-cover tunnel, FHWA shall consult with the identified consulting parties to develop a SMA for resolving adverse effects in accordance with Stipulation V.B.3 and V.B.4, *Mitigation Measures for Future, Unforeseen Adverse Effects*. If the parties cannot agree on a mitigation plan, they may invite the ACHP to consult or invoke the dispute resolution provision found in this PA in Stipulation X, *Dispute Resolution*.

#### **J. Collection and Curation**

1. The FHWA will assist the property owner, in consultation with SHPO, the Knik Tribal Council, the Native Village of Eklutna, and other consulting parties as appropriate, shall develop Curation Agreement(s) (Appendix B in 36 CFR 79) to address the disposition of artifacts, faunal materials, and/or samples collected, along with photographs, field notes, and other related material for activities covered by this PA.
2. FHWA shall fund all reasonable costs for curation of materials collected in conjunction with the recovery actions under this PA. FHWA, in consultation with the receiving institution, shall ensure that collected materials are conserved and packaged

in a manner acceptable to the receiving institution and are in accordance with 36 CFR 79 *Curation of Federally-Owned and Administered Archaeological Collections*.

#### **K. Construction Management Plan**

FHWA will ensure that the construction contractor develops a Construction Management Plan for Phase 1 and Phase 2 to minimize economic impacts and community disruption, including noise, construction traffic, work schedules, and neighborhood access, access to Government Hill businesses, and the Government Hill Elementary School. FHWA will provide GHCC and SHPO a draft Construction Management Plan no later than the 60% design review. The GHCC and SHPO will provide comments on this plan as it relates to historic properties once a final draft is prepared for Phase 1 and Phase 2.

#### **L. Air Quality Monitoring**

FHWA shall ensure air quality monitoring as per the Anchorage Metropolitan Area Transportation Solutions (AMATS) Long Range Transportation Plan commitment to assess before and after conditions for air pollutants in the vicinity of where the Knik Arm bridge traffic will merge with other A-C Couplet traffic in downtown Anchorage.

### **IV. Additional Mitigation Measures for Indirect Effects**

#### **A. Certified Local Government Historic Preservation Plans**

##### **1. MSB Historic Preservation Plan**

- a. FHWA acknowledges that there is potential for indirect effects in the MSB due to land development caused by construction of the KAC Project which may affect historic properties. FHWA shall provide additional funding, independent of and separate from this PA, to the MSB to verify through field investigations the *Knik Arm Bridge and Toll Authority Historic Preservation Plan for Portions of the Matanuska-Susitna Borough*, originally funded through the CLG Program Historic Preservation Plans in 2006.

FHWA shall negotiate and enter into a MOU with the MSB for field verification of sensitivity areas identified in the MSB preservation plan based on a scope developed in consultation with SHPO no later than six (6) months after the date of this PA. The scope will be negotiated with the MSB Manager. FHWA shall provide funding to conduct appropriate field studies, not to exceed two years, necessary for MSB to implement components of the MSB Historic Preservation Plan. The field investigations will assist MSB in their efforts to establish historic preservation planning and management “tools” that will guide future land use, historic preservation, and development in areas under their jurisdiction. The archaeologists shall meet the Secretary of the Interior’s Professional Qualification

Standards for Archaeology. The geographic area within which the field test verifications will occur shall be selected based on areas identified in the *Knik Arm Bridge and Toll Authority Historic Preservation Plan for Portions of the Matanuska-Susitna Borough* as locations of sensitivity for prehistoric and historic cultural resources. MSB will coordinate the field test verification with the Tribes pursuant to Stipulation IV.A.2, *Tribal Traditional, Religious and Cultural Preservation*.

- b. FHWA shall provide funding to the SHPO for Geographic Information System (GIS) and Alaska Heritage Resource Survey (AHRS) data entry for MSB sites. SHPO will provide updated GIS and AHRS information to MSB one year after signing of a Reimbursable Service Agreement. FHWA shall provide funding to MSB to incorporate AHRS data into MSB's GIS system. After completion of the MSB field survey, SHPO will enter updated and new site information and complete GIS data entry within one year of receipt and provide the updated information to the MSB.
- c. Access to the site location information that will serve as a basis for the MSB Historic Preservation Plan and the AHRS inventory database shall be restricted from the general public by the Archaeological Resources Protection Act of 1979 Public Law 96-95, *Archaeological Resources Protection Act of 1979, Sections 9a-b*, and Alaska Statute 40.25.120 (a)(4) (Public Record Disclosures), and Policy and Procedure No. 50200 which states that access to historic, prehistoric, and paleontological site location information contained in the AHRS is closed to the general public.

## 2. Tribal Traditional, Religious and Cultural Preservation

- a. FHWA shall fund one full-time staff position (such as an archaeologist or Tribal cultural heritage professional), not exceed two (2) years, to assist the Knik Tribal Council and the Native Village of Eklutna to research, interview Elders, and document properties of traditional religious and cultural significance and historic resources important to the Tribes for the purpose of collaboration with the MSB field test verification effort of the MSB Historic Preservation Plan referenced in Stipulation IV.A.1, *MSB Historic Preservation Plan*. Not later than six (6) months after the date of this PA, FHWA shall negotiate and enter into MOUs with the Tribes, independent of and separate from this PA, to fund this staff position.
- b. FHWA shall continue to consult with the Knik Tribal Council, the Native Village of Eklutna, Knikatnu, Inc., and Eklutna, Inc., during the archaeological survey on EAFB, and for any archaeological monitoring deemed appropriate, based upon surveys, oral histories, and research, during project construction.

### 3. Municipality Historic Preservation Plans

- a. **Downtown area:** FHWA will provide funding to the Municipality to complete Historic Preservation Plans for the neighborhoods of Government Hill (as detailed below in IV.A.3.b), Downtown, South Addition, and Fairview (Appendix E, *Community Council District Boundaries*), and provide funding for the South Addition historic property baseline inventory. The plans will be guided by the Secretary of Interior's Standards for the Treatment of Historic Properties and Standards for Preservation Planning (36 CFR 68; U.S. Department of the Interior, National Park Service, 1995). Not later than six (6) months after the date of this PA, FHWA shall negotiate, in consultation with the SHPO, and enter into a MOU with the Municipality, independent of and separate from this PA, to fund the inventory and Historic Preservation Plans. These Plans will be used to establish historic preservation planning and management "tools" that will guide area development that promotes Anchorage and Alaska heritage and historic district characteristics and values, and for use in the assessment of potential traffic effects of the A-C Couplet, as detailed in Stipulation IX.C., *FEIS Traffic Impacts*. In addition to new funding, the Municipality will use remaining funding provided by this project in 2006 to develop the Historic Preservation Plans. The Municipality shall complete the inventory and Historic Preservation Plans within two (2) years of the issuance of the ROD.
- b. **Government Hill:** FHWA will provide funding to the Municipality for its use to complete the Government Hill Historic Preservation Plan. The funding will be administered by the Municipality in its capacity as the CLG. The Historic Preservation Plan will address preservation of buildings and landscape features that define the historic character of the Government Hill neighborhood as defined by the Government Hill Community Council Boundary (Appendix E, *Community Council District Boundaries*). The Historic Preservation Plan will use information in the *Knik Arm Crossing Project Recommendations for Historic Properties Volumes 1 and 2* (Stephen R. Braund & Associates, 2006) and the FEIS. The Historic Preservation Plan shall be developed in coordination with the Government Hill Neighborhood Plan detailed in Stipulation III.G, *Government Hill Neighborhood Plan*. FHWA shall also provide funding to the Municipality for its use in recording and archiving oral histories from Government Hill's older residents.
- c. The Government Hill Historic Preservation Plan will be guided by recommended approaches in the Secretary of Interior's Standards for the Treatment of Historic Properties and Standards for Preservation Planning

(36 CFR 68; U.S. Department of the Interior, National Park Service, 1995).

## **V. Development of Standard Mitigation Agreements (SMAs)**

Based upon the information developed in accordance with the MOUs with the Municipality, MSB, SHPO, and the Tribes, FHWA, in consultation with the SHPO, and other consulting parties, as appropriate, shall determine the need to develop and implement additional mitigation measures for both Phase 1 and Phase 2 of the KAC Project.

### **A. Summary of Implementation using MOUs**

1. FHWA shall use MOUs to carry out Stipulation III.G, *Government Hill Neighborhood Plan*, and Stipulation IV.A, *Certified Local Government Historic Preservation Plans* and Stipulation IV.A.2, *Tribal Traditional, Religious, and Cultural Preservation* and as a continuation of the financial investment that has already been made to the Municipality and the MSB to address adverse impacts that have been identified during the Section 106 process. FHWA will use information developed under the terms of the separate MOUs as guidance to negotiate SMAs and other mitigation required per the terms of this PA for Phase 1 and Phase 2.
2. FHWA will develop MOUs with Municipality and MSB CLGs, SHPO, and Tribes no later than six (6) months after the date of this PA to carry out Stipulations III.G, IV.A, and IV.A.2 mentioned immediately above and Stipulation I.C, *Schedule*.
3. FHWA will post the MOUs on the KAC Project Website for public review to demonstrate how they will be used to develop preservation plans related to Phase 1 of the KAC Project.

### **B. Mitigation Measures for Future, Unforeseen Adverse Effects**

1. As detailed in Stipulation IX, *Review Protocols*, FHWA shall analyze traffic impacts, not later than one (1) year prior to the scheduled construction of Phase 2, to determine whether there may be adverse effects to historic properties that were not anticipated based on the FEIS.
2. If, after the foregoing analysis, FHWA concludes such impacts are greater than anticipated by the FEIS, FHWA will consult with the SHPO and other consulting parties to determine what, if any, additional mitigation is appropriate for identified historic properties. FHWA will use a SMA when developing an expanded project mitigation plan (see Appendix B, *Notification Process and Standard Mitigation Agreements*).

3. In addition to traffic impacts, FHWA will consult with the SHPO and other consulting parties, as appropriate, to review other unforeseen effects on previously unidentified and identified historic properties or those that have been determined eligible due to the passage of time. As part of this consultation, alternative mitigation measures will be evaluated to resolve adverse effects resulting from Phase 1 or Phase 2 project activities. Such consultation shall not exceed 60 days, otherwise the FHWA will notify the ACHP and invite it to consult or provide formal comments.
4. Following consultation with consulting parties, FHWA shall submit the proposed SMA to the SHPO for review and concurrence within 30 days. The FHWA shall implement the SMA at the conclusion of the 30-day review period unless the SHPO or other consulting parties object. If, after consultation, FHWA and the SHPO cannot agree on terms for a proposed SMA, FHWA shall refer the matter to the ACHP pursuant to Stipulation X, *Dispute Resolution*.
5. If FHWA and SHPO disagree regarding the effects to identified historic properties, FHWA shall request the ACHP's opinion. ACHP will advise FHWA of its opinion regarding effects to the property(ies). The FHWA shall take into account the ACHP's opinion before making a final determination regarding how it will proceed. If an adverse effect is found by FHWA, a mitigation plan shall be developed and implemented in accordance with Stipulation V.B.3 and V.B.4 above.

### **C. Change in Eligibility of Historic Properties**

1. If any properties previously considered not eligible are determined eligible as a result of future identification and evaluation efforts or due to discoveries, the effects to those properties will be considered as part of project implementation. The FHWA shall determine National Register eligibility in consultation with SHPO, Tribes, and other consulting parties, as appropriate. Disputes between FHWA and SHPO, and Tribes regarding National Register eligibility will be forwarded to the Keeper of the National Register for resolution.
2. As a result of *Unforeseen Adverse Effects* or potential refinements or alterations to project design throughout the development and construction of Phase 2, FHWA may conclude that there are unforeseen effects to historic properties. FHWA, in consultation with SHPO, Tribes, the ACHP, and other consulting parties, as appropriate, will apply the Criteria of Adverse Effects in 36 CFR Section 800.5. The notification process for unforeseen adverse effects is detailed in Appendix B, *Notification Process and Standard Mitigation Agreements*. The FHWA shall determine National Register eligibility in consultation with SHPO, Tribes, and other consulting parties, as appropriate. Disputes between FHWA and SHPO, and Tribes regarding National Register eligibility will be resolved by the Keeper.

#### **D. Documentation of Implementation using Standard Mitigation Agreements (SMAs)**

1. FHWA shall develop SMAs to carry out any mitigation that occurs in Phase 1 or in Phase 2 that exceeds the specific mitigation measures outlined in this PA under Stipulation III, *Mitigation Measures*, and Stipulation IV, *Additional Mitigation Measures for Indirect Effects*.
2. Once the SMAs have been signed by KABATA, the SHPO, and other consulting parties, as appropriate, the terms of the SMAs will be implemented within one year of the signing. A list of SMAs shall be posted bi-monthly by KABATA on its web site.
3. FHWA shall develop SMAs with only the affected consulting parties and SHPO. The participation of the ACHP is required only if there is a dispute.
4. If an SMA proposes mitigation that does not fall under the standard mitigation categories in Appendix B, *Notification Process and Standard Mitigation Agreements*, FHWA will involve the ACHP in consultation to determine whether an amendment to this PA is appropriate or mitigation can be modified to comport with the standard mitigation in Appendix B.

#### **VI. Tak'at Tribal Replacement Fish Camp**

FHWA and KABATA are committed to working with the Knik Tribal Council and Native Village of Eklutna to acquire land for a replacement fish camp site in an effort to recognize the importance of Tak'at as a traditional cultural site, as identified in the FEIS. While no mitigation is required, FHWA and KABATA have offered to secure a replacement location where Knik and Eklutna Tribes could help maintain their historic identities by operating a traditional fish camp along with the cultural practices, ceremonies, and educational opportunities that are part of their heritage, subject to the laws of the State of Alaska governing the taking of fish. Key factors important to site selection include fishability, access, land acquisition availability, and safety. The Tribes will jointly determine how the site will be used and shared.

FHWA and KABATA will oversee the acquisition of the replacement fish camp after FHWA approval of the ROD and an acceptable site is identified. Once ownership has been transferred to the Tribes, and the Tribes have an internal agreement in place on the use of the site, this Stipulation will be complete.

## VII. Discoveries

Should any previously unidentified historic property be affected by the undertaking or identified property be affected in an unanticipated manner, FHWA shall ensure that reasonable efforts are made to avoid, minimize, or mitigate effects adverse effects to such properties.

- A. Discoveries shall be identified, documented, and evaluated by a qualified professional who shall, at a minimum, meet the Secretary of Interior's Professional Qualification Standards (44 FR 44738-9), in an applicable discipline.
- B. All ground disturbing activities in the immediate vicinity of the discovery shall be redirected away from the discovery; the KABATA Liaison shall be immediately notified and shall take initial steps to protect and preserve the discovery such as flagging the area for avoidance; the KABATA Liaison shall notify FHWA of the discovery; and FHWA shall notify the Signatories of this PA, as well as Tribes and other consulting parties as appropriate, within 48 hours of the discovery.
- C. The notification shall include FHWA's assessment of National Register eligibility of the discovery, developed in consultation with SHPO. If the discovery is determined eligible for the National Register, a proposed treatment plan to resolve adverse effects will be delivered to appropriate consulting parties.
- D. Consulting parties provided with notification of the discovery shall respond to this notification within five (5) days.
- E. FHWA, in consultation with SHPO, shall take into account responses to the notification of discovery regarding National Register eligibility and proposed actions to resolve adverse effects.
- F. FHWA will notify the Signatories of this PA, Tribes, and other consulting parties as appropriate, in writing of the treatment plan to avoid, minimize, or mitigate effects to historic properties; implement the treatment plan; and submit a final report regarding eligibility and treatment of the discovery to the SHPO.
- G. The discovery of human remains is addressed in Stipulation III.D, *Treatment of Human Remains*.

## VIII. Emergencies

- A. Should FHWA deem it necessary to respond to an emergency declared by the President, a Tribal government, or the Governor of Alaska, or another imminent threat to public health or safety creates a hazardous condition or results in a threat to the integrity of historic properties and warrants action within thirty (30) days or less, FHWA and

KABATA shall notify SHPO of the measures taken to respond to the emergency or hazardous condition within 24 hours of the emergency, or as soon as conditions permit. Should a notice be provided to KABATA or FHWA by a local government or a work crew, FHWA and KABATA shall immediately notify SHPO of the situation and the measures taken to respond to the emergency or hazardous condition (contact information in Appendix D, *Human Remains Contacts*). SHPO will respond to emergencies within 48 hours of notification.

- B. FHWA and KABATA shall notify other consulting parties within 5 days and consulting parties shall comment on or provide assistance about the emergency to FHWA and KABATA through the KABATA Liaison. They shall immediately notify the KABATA Liaison and the FHWA Division Administrator (Contact information in Appendix B, *Notification Process and Standard Mitigation Agreements* via email and telephone of their intent to submit comments, and shall submit comments within five (5) calendar days of FHWA and KABATA's initial notification. In instances where the nature of the emergency or hazardous condition does not allow for such coordination, FHWA will advise consulting parties accordingly.
- C. For natural emergencies, KABATA and FHWA shall make the determination regarding the need to proceed with in coordination with FEMA or other local emergency response authorities. Emergency notifications, status, and outcomes shall be documented in the semi-annual reports detailed in Stipulation IX.A, *Status Reports*.

## IX. Review Protocols

- A. **Status Reports:** FHWA and KABATA shall provide status reports to Signatories every six (6) months by the end of January and July through the completion of Phase 1 construction, or for the first five (5) years starting within six months of the publication of the ROD, whichever benchmark occurs sooner. FHWA shall consult with SHPO and the ACHP at that benchmark to determine the frequency and type of future status reports. The status reports will document how all the Stipulations of the PA are being implemented. At a minimum, the KABATA Liaison shall convene an annual meeting each February to update all consulting parties and to discuss particular issues reported in the semi-annual reports.
- B. **Effectiveness of PA:** At the completion of Phase 1 construction, the KABATA Liaison and the Signatories shall review the effectiveness of this PA based on information gained from the Phase 1 design and construction process combined with the information provided by the Signatories through completion of Stipulation II, *Actions Needed to Complete Identification and Evaluation*, Stipulation III, *Mitigation Measures*, and Stipulation IV, *Additional Mitigation Measures for Indirect Effects*.
- C. **FEIS Traffic Impacts:** FHWA shall evaluate vehicular traffic impacts on the A-C Couplet in downtown Anchorage, not later than one (1) year prior to the scheduled

construction of Phase 2, to determine whether there may be adverse effects to historic properties that were not anticipated based on the FEIS.

- D. ACHP Site Visit:** ACHP shall conduct a site visit to monitor implementation of the stipulations at a minimum of every two (2) years through the construction of Phase 1, or for the first five years of construction, whichever benchmark occurs sooner. The first site visit conducted by the ACHP will be a year after the publication of the ROD.
- E. Document Reviews:** FHWA and KABATA shall post to the KABATA website plans, specifications, reports, and other documents to be reviewed under the terms of this PA for a minimum of thirty (30) days. The consulting parties will be notified when documents for review are posted. Consulting parties will have thirty (30) calendar days to submit comments on any documents reviewed under the terms of this PA. This review schedule does not apply to information related to Tribal resources for which government-to-government consultation is required.

## **X. Dispute Resolution**

- A.** Should any Signatory, Invited Signatory, or Concurring Party to this PA object within thirty (30) calendar days from receipt to any report or documentation provided for review or actions proposed pursuant to this PA, FHWA shall consult with the objecting party and SHPO to resolve the objection.
- B.** If FHWA determines that the Section 106 related objection cannot be resolved through consultation, it shall request the further comments or staff level recommendations from the ACHP pursuant to 36 CFR 800.6(b). Any ACHP comment provided in response to such a request will be taken into account by the FHWA, in accordance with 36 CFR 800.6(c)(2), with reference only to the subject of the dispute; the FHWA's responsibility to carry out all actions under this PA that are not subject to the dispute will remain unchanged.
- C.** At any time during implementation of the measures stipulated in this PA, should an objection to any such measure or its manner of implementation be raised, FHWA shall take the objection into account and consult as needed to resolve the objection.

## **XI. Public Objections**

- A.** Pending the completion of Phase 1 and Phase 2 activities, FHWA and KABATA shall ensure opportunities for ongoing public participation for the Section 106 related activities. This PA and any amendments, and PA related reports, plans, and documents, with the exception of documentation containing sensitive cultural resource information, will be made available for review to the general public at the KABATA office, or on the KABATA website, or through other reasonable means.

- B. Any timely objections from the public related to historic preservation, in general, or the terms of this PA in particular, shall be considered by FHWA and KABATA, in consultation with SHPO, with respect to the terms of this PA. Comments are to be submitted to the KABATA Liaison and the FHWA Division Administrator (Contact information in Appendix B, *Notification Process and Standard Mitigation Agreements*). The KABATA Liaison, within ten (10) days after receipt, will research the issue and make a recommendation to FHWA and SHPO for responding to the objection. Within ten (10) days after receipt from the KABATA Liaison, FHWA and SHPO shall consider the issue and provide a response.

## **XII. Roles and Responsibilities of the Signatories and Invited Signatories**

To successfully implement this PA, roles and responsibilities have been established for the Signatories and Invited Signatory. The roles and responsibilities of each party are detailed in Appendix F, *Roles and Responsibilities*.

## **XIII. Amendment**

- A. The Signatories shall review this PA each January following its execution to consider whether its terms are being properly met to respond to current conditions. The Signatories shall have thirty (30) calendar days to notify FHWA if an amendment should be considered. Any amendments to this PA recommended during the review shall be considered in accordance with Stipulation IX, *Review Protocols* (36 CFR 800.6(c)(7)), as appropriate. If the review results in a recommendation to amend the PA, the consulting parties shall consult for a minimum of thirty (30) days prior to the proposed amendment to the PA.
- B. SHPO, EAFB, and ACHP may request FHWA to consider an amendment, whereupon they shall consult to consider such amendment pursuant to 36 CFR 800.6(c)(7). Amendments shall be executed in the same manner as this PA.

## **XIV. Duration**

- A. This PA shall continue in full force and effect until all measures provided for are completed or until ten (10) years from the execution date of this PA. At the end of the fifth year after the execution date of this PA, a re-assessment of the effectiveness of the PA, taking into account effects on historic properties, including the development of SMAs, shall be conducted by the Signatories and the KABATA Liaison. At any time prior to such re-assessment, KABATA may request in writing that FHWA, ACHP, EAFB, and SHPO review KABATA's project schedule and consider an extension or

modification of this PA. No extension or modification shall be effective unless all Signatories to the PA have agreed to it in writing.

- B. A time extension to complete the Stipulations and measures set forth under this PA beyond the PA duration of ten (10) years shall be considered based upon a letter of support from the SHPO verifying continued effectiveness of this PA for the mitigation of effects to historic properties. Should SHPO express concerns, the PA may be amended following consultation with Signatories, Invited Signatory, and other consulting parties pursuant to Stipulation XIII, *Amendment*.

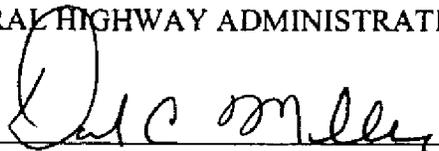
## **XV. Termination**

Any Signatory with the right to terminate this PA may do so by providing thirty (30) days written notice to the other Signatories. The Signatories will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, FHWA will seek further comments of ACHP pursuant to 36 CFR 800.7.

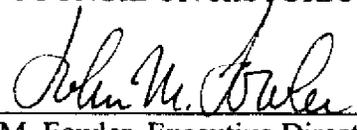
Execution and Implementation of this PA evidence that FHWA has consulted with SHPO and ACHP on the Knik Arm Crossing Project, and has taken into account the project's effects on historic properties in accordance with its Section 106 responsibilities.

**Signatories**

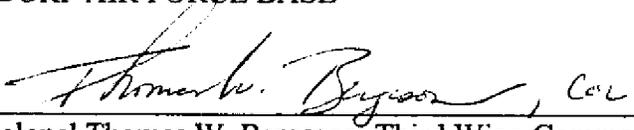
FEDERAL HIGHWAY ADMINISTRATION

By:  12-15-08  
David Miller, Division Administrator Date

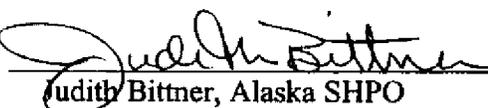
ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  12/29/08  
John M. Fowler, Executive Director Date

ELMENDORF AIR FORCE BASE

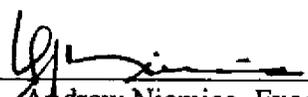
By:  12-22-08  
Colonel Thomas W. Bergeson, Third Wing Commander Date

STATE HISTORIC PRESERVATION OFFICER

By:  12-19-08  
Judith Bittner, Alaska SHPO Date

**Invited Signatory**

KNIK ARM BRIDGE AND TOLL AUTHORITY

By:  12-5-08  
Andrew Niemiec, Executive Director Date

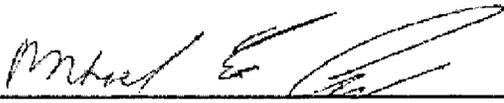
**Concurring Parties**

KNIKATNU, INC.

By: Raymond Theodore  
Raymond Theodore, President

12-17-08  
Date

EKLUTNA, INC.

By:   
Michael Curry, President

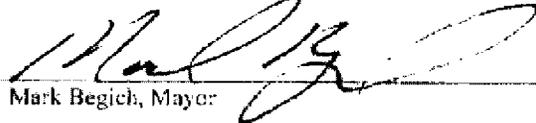
12/30/08  
Date

KNIK TRIBAL COUNCIL

By: Debra Call 12/15/08  
Debra Call, President Date



MUNICIPALITY OF ANCHORAGE

By:  12-24-08  
Mark Begich, Mayor Date

MATANUSKA-SUSITNA BOROUGH

By: \_\_\_\_\_  
John Duffy, Borough Manager Date

GOVERNMENT HILL COMMUNITY COUNCIL

By: \_\_\_\_\_  
Julie Jessal, President Date

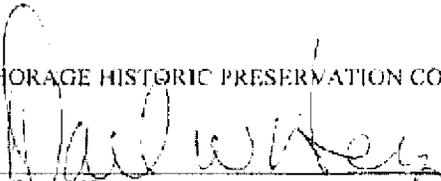
ANCHORAGE HISTORIC PROPERTIES, INC.

By: \_\_\_\_\_  
Gina Holloman Date



ANCHORAGE HISTORIC PRESERVATION COMMISSION

By:

  
Darrel Hess

12-18-08  
Date