



GOVERNMENT HILL COMMUNITY COUNCIL

P.O. Box 100018 • Anchorage, Alaska 99510-0018

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FCC Delegate; Robert Atkinson, Alternate Delegate

Stephanie Kesler, Past President

February 19, 2008

Subject: Government Hill's remarks regarding FEIS comment responses.

Government Hill respectfully submits the following remarks in response to selected published comments and responses in Appendix K of the FEIS.

A/C Couplet Bridge: Comment 291-31 - A/C Couplet Bridge does not have seismic capacity to provide access to KAC for evacuation.

The response to comment 291-31 included the following:

Travel demand analysis has been conducted and it has been determined that the A-C Couplet has adequate capacity to handle traffic volumes from the Knik Arm Crossing project until approximately 2023 at which time the Ingra-Gambell connection could be constructed to tie in with the Highway-to-Highway project proposed by AMATS. It is estimated that approximately two-thirds of the travel demand will shift to the Ingra Gambell Couplet once constructed.

This response directly contradicts DOT/PF's assessment of the A/C Couplet Bridge which is listed as "functionally obsolete", and it is also on DOT/PF's 2007 Bridge Inventory list as one of only 3 bridges in the state with the comment of "Fracture Critical", meaning that it requires special inspections to ensure that it does not collapse. Contrary to the Purpose and Needs Statement, the A-C Couplet Bridge is not a reliable "redundant route".

Funding and Construction: Comment 295-49 – No construction should be done until all bridge-related funding is secured.

Government Hill and other organizations asserted:

... that the bridge and its access roads should not be constructed until all bridgerelated funding has been secured. If this is not done, there will be needless, adverse environmental and social impacts and community costs associated with a bridge that might never be completed.

The FEIS response included the following:

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Determining financial feasibility entails determining the costs to construct, operate and maintain the project on the costs side and determining the forecast traffic and toll revenue on the revenue side of the equation. These elements are then used to determine the cash flow generated in order to determine its sufficiency to support project financing. KABATA has hired numerous highly respected independent experts to determine these various elements and to assist it in determining the financial feasibility of the Knik Arm Crossing. The following provides a brief history of the financial feasibility work that has been performed...

The response is a justification of the [highly suspect] financial feasibility analysis. The response fails to address the underlying issue of adverse social, environmental, and community costs that will be incurred if bridge construction is started but not completed.

In a letter dated March 24, 2007 to David Miller of FHWA from Mary Jane Michael, Executive Director of the Municipality of Anchorage's Office of Economic and Community Development, Ms. Michael stated that the MOA's Long Range Transportation Plan was amended to include language prohibiting construction on the Anchorage landside until the complete funding package is secured and the access connections and project design have been submitted for review to the Municipality of Anchorage.

The excerpt is below:

Finally, the Anchorage Assembly and Mayor Begich, which together hold three of the five member positions on the Anchorage Metropolitan Area Transportation Study group (AMATS), recently supported a key amendment to Assembly Ordinance 2007-46 (S), to include the Knik Arm Crossing in MOA's Long Range Transportation Plan (LRTP), which added the following language:

D. No construction work will begin on Anchorage landside bridge approaches until the complete funding package is secured for the bridge and the access connections and the project design had been submitted for review through the established municipal design review process.

Based on this recent pronouncement by MOA decision makers, we expect that these mitigation issues must be fully resolved before construction may proceed. We look forward to working with you to address these major concerns.

Obviously, construction of Anchorage landside approaches are prohibited until the complete funding package is in place.

Anchorage Access Solution

The Anchorage Access Solution (ASS) is a proposal resulting from the initial Context Sensitive Design meetings held in December 2005. As pointed out in our comments throughout Appendix K in the FEIS, KABATA and FHWA grossly misrepresented our proposed solution. The Phase 2 crossing at Elm Street was just one of *many* possible Phase 2 routes including some that *closely* resemble the Phase 2 Degan Street Variant. We have strenuously objected to the misrepresentation of the AAS as demonstrated by our comments throughout Appendix K.

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Phase 1 of the AAS was demonstrated to be both less expensive than the Degan and Erickson Alternatives and has far fewer impacts to historic properties protected by Section 106 and parks protected by Section 4(f). If a Degan-like variant was selected for Phase 2, the variant would have fewer impacts on Section 106 and 4(f) resources. A minor compromise would be required: the curves from Government Hill to the viaduct would be at tight radius that prohibits a 50 mph design speed. However, those speeds would be similar to the Phase I 35 mph loop road and A/C Couplet Bridge speeds.

Several AAS design elements are superior to the Degan-Erickson alternatives. Intersections occur on flat ground north of Government Hill Elementary School as opposed to the middle of icy and steep "Curling Club Curve". Also, currently Loop road is a four lane road. The Erickson Variant converts Loop road to a two lane road with on and off ramps which will force both Government Hill and Elmendorf traffic on to a single ramp.

TeamBuildingInitiative: 291-4

From Section 1.4 of the Knik Arm Crossing Report on pages 1-3:

Because the proposed Knik Arm Crossing project was deemed nationally significant, FHWA selected it for participation in the NEPA TeamBuilding Initiative. The goal of this FHWA initiative is to improve the quality and timeliness of transportation development projects while ensuring stewardship of the human and natural environment. In addition, the TeamBuilding Initiative aims to assess potentially controversial impacts early in the NEPA process; use conflict-resolution techniques; build public trust through an effective public involvement process; identify opportunities to integrate innovative technology and data tools; and improve documentation of impacts from the proposed project and records.

Our comments and the official response in regards to the TeamBuilding Initiative:

Comment: 291-4

Government Hill firmly believes that if the stakeholders had been allowed to follow the TeamBuilding Initiative, reviewing reasonable alternatives in good faith, the resulting DEIS may have been a strong document that could have received broad support. Instead, the DEIS is fatally flawed.

Response:

The Knik Arm Crossing Draft EIS was conducted in accordance with the National Environmental Policy Act (NEPA) and 36 CFR 800, Protection of Historic Properties. The consultation process is ongoing through the Final EIS. The Interdisciplinary Team was established specifically for environmental resource and regulatory agencies, and local governmental officials. A concurrent public involvement process was established that included outreach to the general public, group meetings, community council

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meetings, public scoping meetings, public workshops, and newsletters. In addition, 14 separate meetings were held with the GHCC or its representatives during the Draft EIS process.

As a result of the scoping process, reasonable alternatives were identified and brought forward for study in the Draft EIS, including the Anchorage Access Solution. The Anchorage Access Solution was refined in consultation with the GHCC Steering Committee. The resulting alternative, the Elm Street Alternative, was determined by FHWA to not be reasonable. The results of the Elm Street Alternative analysis are contained in Section 2.5.4.3.

The above response does not address the total failure to adhere to the guidelines established by the TeamBuilding Initiative. There are several TeamBuilding Initiative comments in Appendix K of the FEIS. Not a single response addresses the issue. Every response consists of the stock language used above.



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Subject: Supplemental Government Hill Remarks Regarding the FEIS.

Purpose and Need Criterion Shortfalls:

The Bridge as described in the FEIS fails to meet requirements delineated in item 3 of the primary "Purpose and Needs". It does not meet Criterion P&N-2, P&N-3, P&N-4, and it does not provide:

...transportation system redundancy for alternative travel routing and access between regional airports; ports; hospitals; and fire, police, and disaster relief services for emergency response and evacuation.

The following quote (with emphasis added) from page 5 of KABATA's 2007 Annual Report indicates a major retreat from one of the key components of the so-called Phase 2 expansion:

The majority of the project would be a minimum of one-lane in each direction to start with, and engineered to easily expand in the future. On opening day the project would connect into the Anchorage network via the A/C Couplet. When traffic increases, toll revenue could help finance an extension to the Ingra/Gambell Couplet and add through-lanes

KABATA has repeatedly asserted that toll revenues will finance both operations and maintenance costs, as well as the eventual construction in Phase 2 of the 4 lane bridge and connecting roads needed to make the KAC effective.

Thus KABATA's preferred alternate as described in the FEIS and KABATA's 2007 Annual Report, does not meet Criterion P&N-2:

Would be financially feasible, based on the ability to finance a total estimated project cost not-to-exceed \$600 million (this criterion is for initial construction costs of the facility, Phase 1, and does not include ultimate build-out capacity that would be funded through toll-backed financing).

It also does not meet Criterion P&N-3:

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Would be sustainable; projected travel demand would provide estimated debt service and cover operation and maintenance costs".

We agree with the Municipality of Anchorage when they said in their Comments to the DEIS:

Our analysis projects a daily volume of 160-480 gravel-haul trucks based on the DEIS information, in addition to other tractor-trailer trucks from the Bridge through our Downtown District. This is detrimental to the Municipality. Moreover, projected traffic volumes on the proposed Phase I connector alternatives via the A/C Couplet are unworkable. Our analysis indicates the A/C Couplet Viaduct over Ship Creek will be over capacity and dysfunctional well before projected in the DEIS.

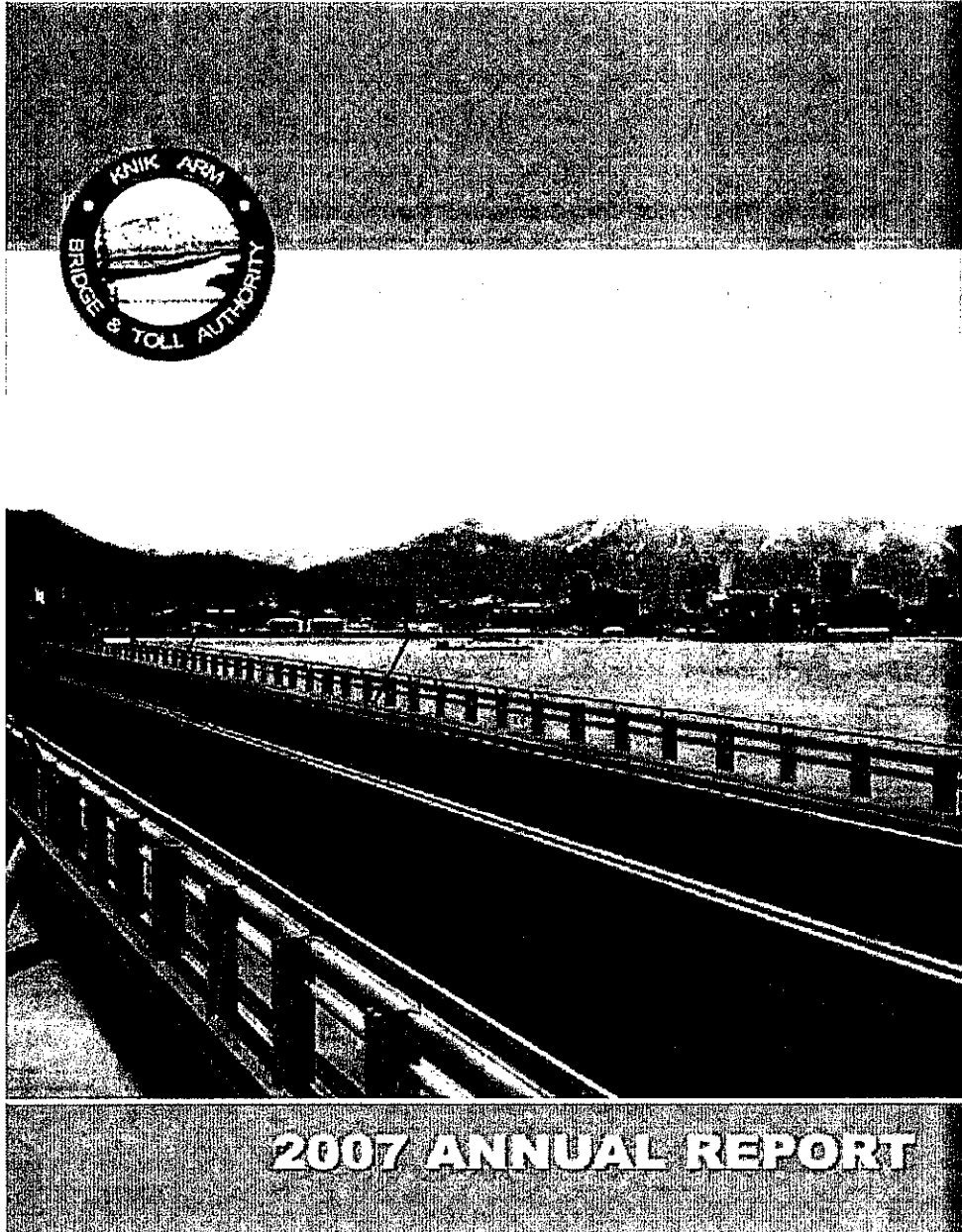
Because of these unacceptable effects on the connecting transportation networks, KABATA's preferred alternate does not meet Criterion P&N-4:

Would be efficient; defined as a measure of traffic operating conditions that occur when such factors as travel demand, effects on connecting transportation networks, facility length, travel time, and operating speed are collectively considered.

The Government Hill Community Council supports the comments on the FEIS by Trustees for Alaska, the Alaska Public Interest Group, the Alaska Transportation Priorities Project and others that comment on the critical shortcomings of the Purpose and Needs.

Bridge Design Fails Basic Functionality and Safety Requirements:

KABATA's 2007 Annual Report prominently displays the picture below:



The bridge is depicted as two lanes lacking any sort of pullout. The Knik River bridge on the Glen Highway also was originally a two lane bridge. It experienced major problems with ice fog due to the open water and cold temperatures. It was also the site of many accidents until the second bridge was built, special lights installed, and turned into a fully divided 4 lane highway, which has lessened the number of crashes. If the Knik Arm Crossing is built as a two lane bridge, one can only imagine the results of a multi-car crash in the middle of the bridge due to ice fog and zero visibility on a 1.5 mile long bridge over open water in freezing conditions. It will take hours, if not days, to clear out the wreckage. That is not an "effective" road.

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Fiber Optic Cables on Government Hill:

KABATA's states on page 4-86 of the FEIS that there are no known major communication lines in the Anchorage portion of the KAC project. That is false. During the CSS discussions in December 2005, with Government Hill Community Council, GHCC informed KABATA that a critical high capacity fiber optic cable carrying at least half of the instate and out of state communications for ALL of Alaska will be crossed by either the Degan or Erickson Tunnels.

Hazardous Materials:

The discussion in 4.5.4.3 of hazardous materials sites in the Government Hill neighborhood are missing several known haz-mat sites. This includes the following: that OT92 extends to Site 99, and would be impacted by the Erickson Tunnel. Site 99, the former Defense Fuels site had the buried tanks removed, but the foundations for those tanks remain, which will cause much high costs when digging the trench for the Erickson Tunnel. Sunset Park is the former location of Government Hill, and as a school built in the 1950's was full of asbestos and lead-based paint, as well as having buried underground fuel tanks. We regularly find pieces of the school coming up through the grass in Sunset Park and are confident that excavations for the Erickson Tunnel will be impacted by those hazardous materials.

Cumulative Impacts:

GHCC agrees with comments 274-6, 274-7, 274-8, 274-18 and 274-9 among others that the EIS is deficient with regards to direct, indirect and cumulative impacts of the KAC. The FEIS needs to include a more thorough discussion of alternatives that would avoid or minimize impacts to Section 106, 4(f), fish, wildlife, wetland trust resources, marine mammals, and other cultural and recreational resources. In particular, no specifics are given on actual mortality due to direct, indirect and cumulative impacts. Also, the summary of impacts shown in the FEIS summary minimizes the impacts.

Beluga Whales:

The Government Hill Community Council supports the comments on the FEIS by Defenders of Wildlife, the Marine Mammal Commission, NOAA, Trustees for Alaska, and others that identify various shortcomings in the discussion of impacts to Cook Inlet beluga whales. Among the problems identified in these comments, the discussion of impacts to the beluga whale understates the challenges the whale faces and minimizes or ignores information indicating that the bridge may drive the whale population to extinction. E.g., NOAA, Comments on the Knik Arm Crossing Draft EIS 2 (Nov. 17, 2006). The EIS, as a result, violates NEPA by depriving decision makers and the public of a reasonably thorough discussion of the impacts of the bridge. E.g., Ctr. for Biological Diversity, 508 F.3d at 526-27."

In Support of other Comments Regarding Lack of Alternative Evaluation:

Government Hill Community Council agrees with the EPA in Comments 313-3, 313-4, 313-13, 313-14, the Matanuska Susitna Borough, the Municipality of Anchorage, the Corps of Engineers in comments 293-2, 293-4 and the Alaska SHPO that the FEIS has not explored and evaluated additional or true alternatives that would avoid or minimize environmental impacts.



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Response to *Final Section 4(f) Evaluation*

This letter is in response to KABATA's release of the *Final Section 4(f) Evaluation* of the proposed Knik Arm Crossing. KABATA's interpretation of Section 4(f) and its analysis of alternatives are incorrect and insufficient, and do not meet the legal requirements of NEPA, Section 106 of the National Historic Preservation Act, or Section 4(f) the Department of Transportation Act of 1966. KABATA's conclusions are incorrect because it failed to carry forward alternatives that would not impact 4(f) resources. The process is insufficient because the Section 106 and Section 4(f) consultation is nowhere close to being concluded, and because it still fails to address comments submitted by GHCC in response to the DIES, specifically, GHCC comments 291-49 to 291-63.

(Continuing) Problems with the Alternatives Analysis

The first problem is that KABATA has failed to propose, adequately develop, or carry forward alternatives that would avoid adverse Section 4(f) impacts. To avoid a true alternatives analysis, KABATA narrowly defines its purpose and need (including the arbitrary \$600 million price tag) and adopts arbitrary interpretations of "*prudent and feasible*" KABATA admits that both the Degan and Erickson routes would adversely impact parks and historic resources. Thus, GHCC renews its objection, echoed by many others in comments to the DIES, to KABATA's characterization of the Degan and Erickson routes as actual "*alternatives*", they are mere variants. Courts also have recognized that "[a]n alternative route which uses any part of a park is not an alternative to use of the park." Until KABATA stops calling these routes "alternatives" and brings forward and develops alternatives that do not impact Section 4(f) resources, no true Section 4(f) analysis can occur.

Courts have held that "[t]he mere fact that a 'need' for a highway has been 'established' does not prove that not to build the highway would be 'imprudent'" GHCC continues to disagree that there is no "*prudent and feasible*" alternative that would entirely avoid Section 4(f) properties. Several of the alternatives dismissed by KABATA in Table 4-2 as too costly or disruptive to choose or even to carry forward such as Boniface, West Bluff, and one variant of the Anchorage Access Solution would have negligible or no impacts on Parks and historic sites. Along the same lines, KABATA overuses the "*unique problem/truly unusual factor*" reasoning. Under KABATA's explanation in Table 4-2, "*unique and usual*" factors that disqualified particular alternatives include such mundane and common issues as "*substantial military impacts*" (whatever that means), "*moving security gate,*" "*high cost,*" and the highly speculative "*more likely to lead to ultimate closure of both bases.*" This type of sloppy reasoning is not consistent with court decisions holding that factors such as cost, directness of route, and community disruption cannot be viewed as "*unique*" problems. If Congress had intended these factors to be on an equal footing with the preservation of parkland there would have been no need for section 4(f). Thus, we renew specific disagreements with these conclusions that we and others lodged during

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the DEIS process because we see nothing here in the final EIS that shows those objections were considered in anything other than a pro forma manner.

We will, however, take the time to reiterate our earlier comments, not responded to in the FIES, that the Anchorage Access Solution generated by the initial CSS meeting in Dec 2005 was grossly misrepresented by KABATA in the DEIS and FEIS. The Phase 2 variant crossing at Elm Street is just one of many possible Phase 2 alternates, including some that closely resemble Phase 2 for the Degan variant. The GHCC pointed out to KABATA and FHWA prior to issuance of the DEIS that they were misrepresenting the AAS, but we were completely ignored. Phase 1 of the AAS actually has far fewer impacts to Historic Properties protected by Section 106 and Parks protected by Section 4(f). If a Degan-like variant for Phase 2 was selected, it would have fewer impacts on Section 106 and 4(f) cultural resources, with a minor compromise, namely the curves necessary from Government Hill to the Viaduct over the Railroad Yards to Ingra/Gambell would need to be at a tighter radius than a 50 MPH design speed.

Problems with the Process

The evaluation cannot be considered complete or sufficient until all consulting parties and KABATA have agreed on the scope of the impacts of all alternatives, and (if protected resources are to be taken) reached agreements on mitigation measures. Neither of these steps has been taken.

The *4(f) Evaluation* admits that the coordination and consultation required by Section 106 for mitigation is incomplete. For example, between the draft and final versions of the *Section 4(f) Evaluation* KABATA deleted its commitment to determine mitigation before publication of the FEIS, and now suggests that consultation and coordination would “continue through the final design process.” (p. 70). In its response to Comment 298-19, KABATA states “The extent of adverse impacts to the Government Hill Urban Renewal Historic District will not be known in detail until specific design elements are identified.” For comments 298-19 to 298-23, KABATA again states that it will not know the actual extent of the adverse impacts, and again merely repeats that it is developing a Memorandum of Agreement, but has no specificity of the actual mitigation that will occur. Correspondence between KABATA/FHWA and the MOA and SHPO, including correspondence exchanged following publication of the Draft EIS, shows that the consultation process has barely started, with the final evaluation failing to list a single mitigation measure agreed to by either of these two consulting parties. Under these circumstances, the entire mitigation discussion starting on page 69 and continuing to page 78 should be viewed as nothing more than a series of one-sided negotiating gambits that KABATA hopes might be mistaken for a true consultation process.

The *Final Section 4(f) Evaluation* incorrectly states that “[c]onsultation is ongoing” with the Government Hill Community Council (p. 69). In fact, KABATA has not worked with GHCC since early 2006, and the last exchange of emails in January and February of 2006 and letters in November and December 2006 (attached to FEIS) showed GHCC pleading with KABATA/FHWA to return to the table, an invitation that FHWA and KABATA have steadfastly refused to accept for the past 2 years. And yet, KABATA now proposes “to undertake further Context Sensitive Solutions workshop efforts with the Government Hill Community” during the final design effort! (p. 71). Under these circumstances, the proposal to allow KABATA to move forward before consulting with GHCC would be the functional equivalent of locking the barn door after all the cows have left. After-the-fact

workshops cannot satisfy federal requirements to consult and to minimize harm. KABATA must be required to conclude the consultation process before FHWA issues its ROD. The GHCC agrees with US Dept of Interior in Comment 274-1 [*"We recommend that the Federal Highway Administration (FHWA) and the Knik Arm Bridge and Toll Authority (KABATA) continue their efforts to develop measures amenable to the Municipality of Anchorage and Government Hill community to mitigate the effects of the Degan and Erickson Alternatives on Section 4(f) resources and the community as a whole."*] and looks forward to that process concluding before any ROD is issued and before the project moves forward.

Finally, KABATA has neglected over the past year to consult with the Anchorage Historic Preservation Commission. AHPC was created in January of 2007 to serve as the historic preservation review commission for the purpose of maintaining the municipality as a certified local government, and to serve as the local historical district commission for the municipality under AS 29.55 and AS 45.98. AHPC has significant expertise and legal responsibilities with respect to historic properties in Anchorage and recently voted to request designation as a consulting party for purposes of complying with Section 106 of the National Historic Preservation Act, and that it be an invited signatory to any MOAs developed under Section 106.

Problems with the Proposals

KABATA suggests that taking 0.8 acre of Sunset Park during Phase I will not seriously impact its use; however, the ROW acquisition would remove the tree buffers and part of the mown playing field. (p. 32). The conclusion seems incorrect, as anyone who has used a park knows that removing vegetative buffer between the road and the park increases noise, smell, and negative visual impact, making the park experience less enjoyable.

Next, KABATA proposes to reclassify the remnant of Sunset Park as "Mini Park," despite problems with access and parking (p.75). How can that be called mitigation? KABATA further proposes to investigate whether Cunningham Park could be expanded into an area smaller than the 1-acre minimum for "mini parks" in Anchorage. (p. 75). Creating a discontinuous scrap of land and calling it an amenity is not mitigation. The same problem applies to the proposal to investigate creating "discontinuous patches" of land on top of the tunnel lid (p. 76).: Small and discontinuous patches of land are not very functional and certainly can't make up for loss of community parks.

GHCC questions the conclusion that the Greenbelt is not subject to Section 4(f) protection. The greenbelt is a functionally important part of both Sunset and Harvard Parks, in that it serves as a sight, sound and smell buffer between road traffic and parkland. It is also, as the MOA has pointed out, important to the neighborhood. The greenbelt creates a sense of peace, privacy, and self-containment that is a hallmark of our neighborhood.

Next, GHCC and Civil Engineers working on similar designs and actual construction of similar projects believe that both Phase 1 and Phase 2 will not be able to be built as shown on the preliminary design drawings. We believe that the Phase 1 work will impact both the Curling Club and the Alaska Railroad Employee Recreation Center (Square & Round Dance Center, or S&RDC which is Historic element # ANC-1932). We feel that the Phase 2 work will cause the demolition of an additional 3 houses that are contributing elements to the Government Hill Urban Renewal Historic District. These conclusions are

explained more fully in the Appendix to the Section 106 comments. These probable impacts need to be documented and mitigated before the project can move forward.

The mitigation negotiations for Section 4(f) adverse affects have barely started. From the correspondence in Appendix J related to Section 4(f) resources, it is clear that the mitigation discussions are not complete. KABATA discusses moving picnic tables, and creating parking lots, but fails to commit to the actual mitigation requirements of the Municipality, such as replacing affected facilities, like the Square & Round Dance Center, and the Curling Club. We agree with the February 1, 2006 letter that states that Sunset Park will be wholly impacted. However, the FEIS summary says that Sunset will be only partially impacted. This is typical of the inconsistencies in the FEIS.

GHCC agrees with the Municipality of Anchorage in their March 24, 2007 letter when it states: *"We believe that the proposed mitigation measures are not adequate to maintain Government Hill community cohesion or the integrity of its parks, and that other alternatives need to be seriously considered as required by the EIS process."*

That letter further states *"any land lost from Harvard or Sunset Parks will be detrimental to the community and should be replaced with land of the equivalent size and usefulness, and equivalent connection to and accessibility by the neighborhood. Both current citywide and neighborhood uses should be factored into mitigation strategies, as well as the mitigation's impact on low-income and minority residents. Replacement strategies must include facilities as well as land area – and serve existing user populations."*

That letter further states *"We also believe it is necessary to work closely with the Government Hill Community to determine what combination of additional areas as well as enhancement or improvements in remaining park and green belt areas might provide adequate for the Degan or Erickson Alternative."* The GHCC protests that FHWA has refused to include Government Hill Community Council in the Section 4(f) negotiations.

The GHCC supports the Municipality of Anchorage in their March 24, 2007 letter when it states *"One significant measure that should be included in the mitigation process is the purchase of existing deteriorated properties in the business district ... for the development of a neighborhood business center."* It was pointed out in GHCC's DEIS comments that all of the businesses in the GH business district will likely be bankrupted during the construction process. It is also pointed out that one of the benefits of the Anchorage Access Solution is that those "indirectly impacted" (and minority owned) businesses that would otherwise not be compensated for their losses, would be fully compensated if the Anchorage Access Solution was implemented.

The GHCC also supports the stipulation in the Municipality's March 24, 2007 letter when it states *"these mitigation issues must be fully resolved before construction may proceed."*