



GOVERNMENT HILL COMMUNITY COUNCIL

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September 26, 2011

Mr. David Miller
Division Administrator
Alaska Division
Federal Highway Administration
P.O. Box 21648
709 West 9th Street, Room 851
Juneau, AK 99802-1648

Dear Mr. Miller:

This letter concerns FHWA actions concerning the proposed Knik Arm Crossing (KAC).

We recently received the cover page to the August 2, 2011 "Federal-Aid Project Agreement" from FHWA which documents that FHWA authorized the Knik Arm Bridge and Toll Authority (KABATA) to spend money to purchase Rights of Way (ROW) under the proposed design-build structure for the Knik Arm Crossing (KAC) project. We believe that spending such money is unnecessary and imprudent at this time given the following circumstances:

1. Anchorage Assembly Resolution 2007-46(S) included the condition that "*no construction work will begin on the Anchorage landside bridge approaches until the complete funding package is secured for the bridge and the Anchorage access connections and the project design has been submitted for review through the established municipal design review process.*" (emphasis in original) That and subsequent resolutions are consistent with the language in Chapter 12, page 13, Condition D of the Anchorage LRTP (revised in 2007) where it says, "*No construction work will begin on the Anchorage landside bridge approaches until (1) the complete funding package is secured for the bridge and the Anchorage access connections and (2) the project design has been submitted for review through the established municipal design review process.*" The LRTP also states on page 13 under Condition B: "*No funding currently planned for implementation of the existing LRTP, beyond that currently authorized in Tables 12-2 and 12-4, will be used to support construction or maintenance of any element of the KAC.*"

In the "Project Description" box of the August 2, 2011 "Federal-Aid Project Agreement" the authorized work is described as "*advance construction, request authority to proceed with right of way appraisals and acquisitions and request funding for full parcel acquisitions in segment 9, government hill (sic).*"

It seems clear that the acquisition of individual homes or businesses for right of way or even acquiring appraisals to negotiate that right of way, constitutes the beginning of construction of an element of the KAC project.

2. We are not aware that the Mayor and the Anchorage Assembly were notified by either FHWA or KABATA of the proposed release of ROW funds and we certainly do not believe that the financial details for the KAC have been secured or are even sure that they ever will be secured. The “*project design*” for the KAC has also not been “*submitted for review through the established municipal design review process.*” This lack of notification by FHWA and KABATA of the ROW funds release and the apparent violation of 2 of the 6 conditions that the Anchorage Assembly and AMATS put into the LRTP is, at a minimum, a violation of the spirit of the LRTP and a significant concern.
3. KABATA’s March 1, 2011 federal TIFIA Letter of Interest loan application for a \$306 Million US Department of Transportation TIFIA loan noted that the Alaska legislature was currently considering two bills that would provide: 1) an additional \$150 Million to the project and 2) a state financial guarantee, subject to annual appropriation, necessary to cover the toll shortfall to make the annual, contractual availability payments to the bridge contractor. The “Pro-Forma” Financial Plan attached to the application included the not yet approved \$150 Million. But the bills providing the funds and the proposed guarantee never received a hearing in either the House or Senate Finance Committees before the legislature adjourned its regular session on April 17, 2011 so FHWA knew that the financing was not in place when it authorized release of the ROW funds in August 2011. FHWA also knows that the proposed \$150 M and the state guarantee were not in Tables 12-2 and 12-4 in the current LRTP.
4. Finally, FHWA in its April 8, 2011 final Transportation Planning Certification Review of the Anchorage Metropolitan Transportation Solutions (AMATS) for FFY 2010, on page 17, noted that “*AMATS, DOT&PF, and KABATA must ensure integration of the best available financial plan for the KAC project into the next AMATS LRTP update. Each entity must actively engage in each other’s planning processes and conditions must be provided to allow for active cooperation and the sharing of necessary and adequate information. Cooperation is particularly important because the KAC project is so large relative to the AMATS typical operating budget. The KAC financial analysis will therefore be a major element affecting the fiscal constraint of the plan. Affected agencies must cooperatively develop estimates of funds that will be available (23 CFR 450.322(f)(10).*” In releasing funds to be spent on ROW planning and acquisition before the “complete funding package” is in place, and before the legislature has passed legislation that KABATA lists as necessary to make their most recent financial plan feasible, it appears that in this instance FHWA is not following its own sound advice to integrate the best financial information from affected agencies into the latest transportation plans.

We also understand that the FHWA Alaska Division office in Juneau has had informal conversations with AMATS Technical Advisory Committee (TAC) members about the likelihood that KABATA or its contractor would receive a \$306 million federal TIFIA loan. We believe that the financial plan that accompanied KABATA’s Letter of Interest loan application to TIFIA is incomplete since it included the revenue from 4 lanes of bridge traffic and four lanes of approach roads but included only the cost of 2 lanes for the bridge and Mat-Su approaches. Specifically, KABATA’s Pro-Forma and other documentation in their 2011 TIFIA Letter of Interest does not include any costs for Phase 2 of the KAC, which expands the KAC from 2 lanes to 4 lanes. Subsequent to those FHWA-AMATS TAC

conversations, information has been presented to the AMATS TAC that the population and traffic projections used by KABATA are too high and inconsistent with other information AMATS is using in preparing the Metropolitan Transportation Plan, see;
http://knikbridgefacts.org/wp-content/uploads/2011/09/AMATS_TAC_August_29_20111.pdf.

Given the above, we have two requests:

1. That FHWA provide us with the full attachments to the August 2, 2011 “Federal-Aid Project Agreement” including what is listed as “Cost Estimate”, “Map” and “Supporting Data”.

At the September 9, 2011 KABATA Board meeting, the ROW funds release was referred to as a “partial authorization.” With the substantial public interest in the project and property owners now being contacted by KABATA to obtain appraisals as well as their being informed of the likelihood that their property will be purchased or could be taken by *eminent domain*, it seems clear that the complete and precise authority you have given KABATA on its use of ROW funds should be made public immediately.

2. FHWA reconsider its authorization – partial or otherwise - of KABATA’s expenditure of ROW funds for the KAC project, and that FHWA only authorizes use of those funds when a complete funding package for the KAC is in place.

It is clear that the current KABATA financial plan does not meet the existing LRTP condition that no further state or local funds be used. It is also clear that there is no existing funding package for the KAC in place that has the support of the parties who can fund that plan. So the expenditure of ROW funds is premature at best.

Thank you for your consideration of these important issues.



Bob French,
President, Government Hill Community Council

cc: Mayor of Anchorage, Dan Sullivan,
Anchorage Assembly Chair, Debbie Ossiander,
Senator Lisa Murkowski,
Senator Mark Begich
Representative Don Young