



## **POLICY COMMITTEE MEETING**

Wednesday, September 18, 2013 10:00 am – 12:00 pm  
State of Alaska DOT & PF, 2301 Peger Road, Main Conference Room

1. Call to Order
2. Introduction of Members and Attendees
3. Public Comment Period (3 minute limit)
4. Approval of the September 18, 2013 Agenda
5. Approval of the August 21, 2013 Minutes
6. Committee Reports
  - a. Coordinator's Office Report and Technical Committee Action Items
7. Old Business
  - a. Public Participation Plan Update
  - b. Local Planning Approval Agreement Update
8. New Business
  - a. Operating Agreement Changes (Action Item)
9. Public Comment Period (3 minute limit)
10. Other Issues
11. Informational Items
  - a. Long Range Transit Plan Briefing - FNSB
  - b. Illinois Street Reconstruction Update
  - c. Historical Plaque and Artwork Update
  - d. State Rail Plan Advisory Group Meeting October 1
  - e. Obligations/Offsets
12. Policy Committee Comments
13. Adjourn

Next Scheduled Policy Committee Meeting, 10:00 am, Wednesday, October 16, 2013 at the DOT&PF Main Conference Room.



## **POLICY COMMITTEE**

**Main Conference Room**

**State of Alaska DOT&PF, 2301 Peger Road**

**Fairbanks, Alaska**

**Meeting Minutes – August 21, 2013**

### **1. Call to Order**

Guy Sattley, Vice Chair, called the meeting to order at 10:00 a.m.

### **2. Introduction of Members and Attendees**

#### **Attendee**

\*Mayor Jerry Cleworth  
 \*Mayor Bryce Ward  
 \*Bernardo Hernandez for Mayor Luke Hopkins  
 \*Guy Sattley, Vice-Chair  
 \*Perry Walley  
 \*Steve Titus, Chair  
 \*Cindy Heil for Alice Edwards  
 †Joan Hardesty  
 \*\*\*Donna Gardino  
 \*\*Aaron Buckley  
 \*\*Deborah Todd  
 †Michael Schmetzer  
 †Bob Pristash  
 \*\*Kellen Spillman  
 \*\*Margaret Carpenter  
 \*\*Linda Mahlen  
 Ryan Anderson  
 Meadow Bailey  
 Rob Campbell  
 Kris Riesenber-(via telephone)  
 Tami Seekins  
 John Jackovich  
 Rynniva Moss  
 Pete Fellman  
 Mike Smith  
 Clifton Coghill

#### **Representative Organization**

Mayor, City of Fairbanks  
 Mayor, City of North Pole  
 Mayor, Fairbanks North Star Borough  
 FNSB Assembly Member  
 City of Fairbanks Council Member  
 DOT&PF, Northern Region Director  
 DEC Division of Air Quality  
 DEC Division of Air Quality  
 FMATS, MPO Coordinator  
 FMATS Transportation Planner  
 FMATS, Administrative Assistant  
 City of Fairbanks, Public Works & Engineering  
 City of Fairbanks Engineering Department  
 FNSB Community Planning  
 DOT&PF Planning  
 DOT&PF Planning  
 DOT&PF Preconstruction  
 DOT&PF Information Officer  
 DOT&PF – Central Region  
 FHWA  
 Citizen  
 Citizen-Owner of Big I  
 Senator Coghill's Office  
 Senator Bishop's Office  
 Senator Bishop's Office  
 Representative Higgins Office

***\*FMATS Policy Committee Members, \*\*FMATS Staff Members, †FMATS Technical Committee Members***

### 3. Public Comment Period (3 minute limit)

Ms. Gardino introduced Aaron Buckley, the new FMATS Transportation Planner to the Policy Committee. Ms. Gardino stated that Mr. Buckley was from Ohio and held a Master's Degree in Planning. Mr. Titus welcomed Mr. Buckley and stated that he thought that Mr. Buckley would find the meeting very interesting. Mr. Titus explained that there were two, three-minute public comment periods and invited anyone wishing to comment to raise their hands. Mr. Jackovich stated that he owned the Big I and was at the meeting regarding the Illinois Street landscaping. Mr. Jackovich stated that he was extremely happy with how the landscaping through the Illinois Street and in front of his business looked. Mr. Jackovich stated that he thought the DOT took the time to do it right and as a business owner he appreciated the money and effort put forth there. Mr. Jackovich stated that he understood the pride that went into it and wanted them to know that he would his best to do what was needed to be done to continue to maintain the area the same way in the future.

Tami Seekins stated that she was here to see what happened with the Chena Small Tracts project. Ms. Seekins stated that she had been involved with the project for a number of years. Ms. Seekins stated that at the last FMATS meeting there had been a recommendation to direct DOT to come up with three design plans and have them ready for presentation with budgets to the Legislature for possible funding. Ms. Seekins stated that she would like to see the project recommended even though there had been some controversy from a small group of people regarding the effect on the gravel pond, but everybody agreed that something needed to be done there. Ms. Seekins stated that this was the safe route to school that her children would be taking to get to school and as a parent she was uncomfortable with the fact that the road had no shoulders, was very dangerous, and people went 40 mph at a minimum. Ms. Seekins stated that her concern was that if they did not go forward with this plan and ask DOT to do these designs, the project would be halted by a couple of homeowners with hypothetical concerns and she did not want to see that happen so if this was the way to move the project forward for the safety of the children and the community, then that was what she was for.

### 4. Approval of August 21, 2013 Agenda

- **Motion:** To approve the August 21, 2013 Agenda. (Sattley/Heil).
- **Vote on the motion:** None opposed. Approved

### 5. Approval of July 17, 2013 Minutes

- **Motion:** To approve the July 17, 2013 meeting minutes. (Ward/Hernandez)
- **Vote on the motion:** None opposed. Approved.

### 6. Committee Reports

#### a. Coordinator's Office Report and Technical Committee Action Items

Ms. Gardino stated that she had Grand Jury duty for the entire month of September and might not be able to get out of it, so she might not be able to attend the Technical or Policy Committee meetings. Ms. Gardino provided an update and highlights from workshops and meetings she had attended and all other FMATS activities that had occurred from the report included in the meeting packet.

## 7. Old Business

### a. Public Participation Plan Comments To Date

Ms. Gardino explained the public participation plan was out for comment until the end of August. Ms. Gardino stated that she had not received any public comment until yesterday when she received comments from the Alaska DOT Civil Rights Office and would incorporate those comments.

### b. Local Planning Approval Agreement Comments

Ms. Gardino explained the comments received and transmitted to DOT and the FNSB that were included in the meeting packet.

**Discussion:** Ms. Gardino explained that the draft agreement was being rewritten and prepared for submission at the next Technical Committee meeting.

Mr. Sattley inquired about the three items in the packet regarding the local planning approval comments. Mr. Sattley stated it was all very interesting but on the third page it shifted to first person language and wanted to know who the individual was from the City of Fairbanks who had written the comments.

Ms. Gardino stated that it was her understanding that several people had reviewed the Local Planning Approval (LPA) Agreement within the City of Fairbanks and the staff had forgotten to change pronouns but was not sure who.

Mr. Titus inquired if Mayor Cleworth wanted to address that. Mayor Cleworth stated that he had not drafted the report, so if Mr. Schmetzer wanted to address that he could. Mr. Schmetzer stated that Jackson Fox, the City Environmental Manager, had drafted up the compiled comments. Mr. Sattley inquired if the paperwork got reviewed by the Technical Committee. Ms. Gardino stated that the Borough and State would review and incorporate the comments, redraft the agreement, and then bring it back to the Technical Committee. Mr. Sattley inquired if it was like a working group presenting it to the Technical Committee.

Ms. Gardino stated that the Borough and the State DOT were working on the agreement and it was her understanding that they would present it to the Technical Committee. Mayor Cleworth stated that the Technical Committee had come up with a list of ideas and comments to be incorporated in the list and he did not see those comments on the list, but he was sure there were some other comments being considered that would be included as well.

## 8. New Business

### a. Chena Small Tracts Project Update and Recommendation (Action Item)

**Motion:** To recommend to direct DOT&PF to continue the design on the Chena Small Tracts Improvement project, including reconsidering alternatives with widened shoulders, sidewalks, lighting, repaving the roadway, and fencing. (Hernandez/Sattley).

**Discussion:** Ms. Gardino explained that at the June 2013 Technical Committee meeting, the DOT had presented the current design for the Chena Small Tracts project which was a separated path. Ms. Gardino stated that the

separated path option was in the final design phase right now and needed about \$985,000 to go to construction and the total was a \$1.5 million dollar construction project as shown in the meeting packets. Ms. Gardino stated that at the June meeting, the Technical Committee had asked the DOT to provide them with the alternatives and planning level estimates for those alternatives also included in the meeting packet. Ms. Gardino stated that the construction estimate for repaving the road with six-foot wide shoulders was \$2.7 million and the construction estimate to add an 8-foot sidewalk on the north side, regrade, and repave the road was \$2.6 million. Ms. Gardino stated that the Technical Committee discussed the options and decided to take no action until the August meeting at which time the recommendation on the table today was made. Ms. Gardino stated that the August Technical Committee meeting was held in the City Council Chambers in front of a standing room only crowd. Ms. Gardino stated that there were many people commenting on the project at the meeting. Ms. Gardino stated that she had just received the draft meeting minutes yesterday, but had already posted the recording of the meeting along with the written comments she had received online at the FMATS website. Ms. Gardino stated that she received 18 letters/emails of support and three letters in opposition to the project. Ms. Gardino stated that everyone in the room had commented that something needed to be done and it was not a safe place. Ms. Gardino stated that there was no definite preference, but everyone had agreed that something definitely needed to be done.

Mr. Titus read a summary of the Chena Small Tracts project public comments received by DOT stating that there were 38 comments in support of the project and 7 were opposed. The results received in support of the current design were: 29 in favor of a separated path with 7 against and there were a total of 48 comments received. Mr. Titus stated that it appeared that there was a lot of support for a project and the current project but however, there were some folks who did not like the current project as designed.

Mr. Titus stated that since the motion was directing the DOT he wanted to provide more information regarding the project process. Mr. Titus explained that in 2010 funds were received through the Legislature by DOT, not FMATS, in the amount of \$150,000 in general funds to design a project. Mr. Titus stated that on January 1, 2011, FMATS donated \$350,000 to the project and at that time that was done because the project was not moving forward and the FMATS Committee thought that if they donated the general fund dollars, the project would move forward, and it did. Mr. Titus stated that the project moved forward and later that year another \$100,000 was received from the Legislature.

In 2012, Mr. Titus stated that \$298,000 in General Funds was appropriated by the Legislature and so there was \$898,000 available in General Funds for the project. Mr. Titus explained that the DOT was put under pressure in the spring of 2011 to design a project. The project started moving in

February 2011 and the project scope was changed to conform with the capital request that was provided and the original scope request included a road upgrade and bike/pedestrian facility. Mr. Titus stated that there had been discussions about changes in project scope, but the bike path was always within the scope of work being done.

Mr. Titus stated that there were questions whether the project was an FMATS project or not. The Department was given money to design the facility and multiple public hearings were held, one in October 2012 and one in January 2013. Mr. Titus stated that the options from this motion were all proposed and a number of them were rejected. Mr. Titus stated that at the meeting in January 2013 the separated bike path proposal was accepted by the community, so the Department moved ahead and designed that project. Mr. Titus stated that the project was designed and was ready to go to bid.

Mr. Titus stated that DOT reported through the Legislature about it and they could not go to the Federal program to get money since it was all General Fund money and they were led to believe that last year the capital dollars were going to be appropriated, but that did not happen. Mr. Titus stated that a number of Legislators looked at the project and voiced their support. Then, last fiscal year, the Department received Legislative authority to receive and spend the money, but that did not mean they received the money. Mr. Titus stated that had the project received the \$900,000, the project would probably already have been built this spring and been pretty close to being completed now.

Mr. Titus stated that the folks around the lake became concerned about the project because now the project was imminent. Mr. Titus stated that Senator Bishop and Representative Higgins both held town meetings with standing room only about the project and the concerns associated with the project. Mr. Titus stated that the Department thought the project met the needs of the community at one time and now there had been concerns raised through the Technical and Policy Committees and they were directing the Department to change the project. Mr. Titus stated that the Department had followed what the Legislature instructed them to do and had spent General Fund money to do what was directed and now were potentially being directed to do something different including things that were already looked at. Mr. Titus stated that the Department was not real excited about doing all the things the motion stated they needed to do as they had already been done. Mr. Titus further stated that he would suggest that if this were going to be an action by the Policy Committee, the Policy Committee would need to indicate that the Technical Committee needed to resolve through whatever means, what the project was going to be. Mr. Titus stated that Ms. Seekins had stated that she was in favor of the project, but in order to have a project she would support what would make it safer for the children on the road. Mr. Titus stated that he would vote against the motion, as currently crafted, and would encourage

everyone else to do the same keeping in mind that the Phase 4 construction money would have to come through the Legislature. Mr. Titus stated that it would be the individuals, not the Policy Committee, who needed to advocate for that. Mr. Titus stated that he understood that FMATS had general funds to apply towards the project, but which project was also the question. Mr. Titus stated that they as a Department wanted to be participatory and get the work for the infrastructure they had done but did not want to do it over and over again when they thought they had done their process and had a project that was ready to go, that was frugal, met the Legislative intent, at one time met the intent of the community, and was a very safe project.

Mr. Hernandez stated that his understanding was that the project was dead or stopped and was not going any further. Mr. Hernandez stated that since there was a project already approved by the Borough that was ready to go but understood the project was stopped. Mr. Titus stated that the project was ready to go but without any additional construction funding appropriated it would be shelved until the funds were available. Mr. Titus stated that you could say the currently designed project was stopped due to a lack of funding.

Mayor Cleworth stated that he had attended the Technical Committee meeting and heard all the comments and most of the discussions by members of the Technical Committee that followed. Mayor Cleworth stated that he knew that DOT had representation at the Technical Committee meeting and inquired if that meant that the DOT representative had voted in error to bring this motion forward to the Policy Committee since he did not approve of the motion. Mr. Titus stated that he was not sure how the DOT representative had voted. Ms. Gardino stated that the Technical Committee vote had been unanimous. Mr. Titus stated that then it sounded to him like the DOT representative might have voted in error. Mr. Sattley inquired if that meant Mr. Titus was advocating defeat of the amended motion as Mr. Hernandez read it and then recommend a further motion be made by somebody to have it sent back to the Technical Committee.

Mr. Titus stated that if the Policy Committee were going to move forward with that project and think of funding it, then he believed that the Technical Committee needed to work with the community to come up with which project DOT was going to design and there were lots of solutions, and only one design solution. Mr. Sattley inquired if that meant that this motion did not address the second half of that. Mr. Titus stated that Mr. Sattley was correct.

Ms. Heil inquired if the question was whether or not FMATS wanted to take on the funding of the project or not, and if so, then it would have to be redesigned because federal money required the federal design. Ms. Gardino stated that the project was State funded. Ms. Heil asked if the project would stay State funded. Ms. Gardino stated that it would stay State funded. Ms. Heil inquired if that meant that then it was a matter of whether FMATS would expend the General Fund money to redesign or finish the project. Ms. Heil inquired if that meant that was the decision that FMATS was trying to

decide now. Mr. Titus stated that Ms. Heil was correct and there was a completed design ready to go. Ms. Heil inquired if the design were accepted would the project be ready to go. Mr. Titus stated that Ms. Heil was correct and it would. Ms. Heil stated that she felt that it was a policy decision and did not need to go back to the Technical Committee. Ms. Heil stated that the first question was whether FMATS used their own money or not and if they said no, then there was no more discussion. Ms. Heil stated that if they said yes, then there would be a motion. Mr. Titus thanked her for the discussion.

Mayor Ward stated that the question was whether we wanted to redesign the project and he thought the project had gone through all the process and saw no reason based on public involvement to go back and redesign it.

Mayor Ward stated that he thought everyone wanted the project and the question came down to funding. Mayor Ward stated that he saw no reason the project needed to go back to design, we should finish up what we've got, and ask the Legislature to fund that. Mayor Ward stated that he did not think it was necessary to send the project back and he was not in favor of the motion.

Mr. Sattley stated that he disagreed with the DEC representative and the first priority was to figure out which design was wanted. Mr. Sattley stated that having the Technical Committee do that was fine. Mr. Sattley stated that first was the design and secondary was the money not the money first, in his opinion.

Mayor Cleworth stated that in the Safe Routes to School Program there were several projects that were done under that program and asked Ms. Gardino whether this project was part of that program. Ms. Gardino stated that they did a Safe Routes to School Plan and a sidewalk along Chena Small Tracts was a recommendation that came out of that plan, but they had not received any Safe Routes to School Federal funding to implement that portion of the plan. Ms. Gardino stated that the Borough had received funding to build a sidewalk along Palo Verde which was the school associated with Chena Small Tracts. Mayor Cleworth stated that it was his take on the meeting was that people there were trying to come up with a plan that would appease everyone including the lake folks that were upset with it. Ms. Gardino stated that had been her take on the meeting as well.

Mr. Hernandez stated that he agreed with Mayor Ward that we already had a project that was ready to go, not everyone totally agreed with it, but often people did not agree to a project. Mr. Hernandez stated that the project had been approved by the Borough Planning Commission. Mr. Hernandez stated that he did not disagree with Mr. Sattley's suggestion about sending the project back to the Technical Committee either. Mr. Hernandez stated that he felt that this was an important project. Mr. Hernandez stated that this was a route to school, people were driving 40 mph or faster, and there were no places for kids to walk or ride their bicycles. Mr. Hernandez stated that he felt that this was an opportunity to move forward. Mr. Hernandez stated what he



would like to do was see that the project continue to move forward maybe using some portion of FMATS funding. Mr. Hernandez stated that he wanted to hear what people thought about either sending the project back or making a decision to go forward with the project.

Mr. Titus stated that as he understood the motion, a vote for the motion might open up redesign mode of the project and there might be some issues with the Department over that.

Mr. Walley inquired if the project was redesigned and funding were there next year would the redesign jeopardize that funding. Mr. Titus stated that it was a possibility and would depend on what design were chosen and if right-of-way or additional clearing were involved that would impact the construction season next year and depending on which way others decided to go, it might not happen. Mr. Titus stated that if the current design were tightened up and the Policy Committee decided to use General Fund money to fund the project, the project could start next spring as designed.

**Amended to the Motion:** To delete “to direct”; delete “to continue” and replace it with “finish”; delete everything after “Improvement project” and add “have the FMATS Policy Committee solicit legislative monies to move to construction.” (Ward/Sattley)

**Discussion:** Mr. Sattley stated that this would accomplish what we were thinking of doing in two motions which was to defeat the original motion, and then have another motion to send it back to the Technical Committee. Mr. Titus clarified the motion to Mr. Sattley and stated that the motion would be to finish up the current design. Mr. Sattley stated that Mr. Titus was right and it would not go back to the Technical Committee and would solve the whole thing. Mr. Titus stated that the way he understood it, the intent of Mayor Ward’s motion was to finish up the current design and then solicit funding from the Legislature for the project. Mayor Ward stated that Mr. Titus was correct and that was the intention behind his motion and later on FMATS could always come back through and fund the project if the Legislature did not feel inclined to fund the project in the spring.

Mr. Sattley inquired if Mr. Titus was comfortable with his Department being asked via the motion to solicit funding and if that was wording Mr. Titus was comfortable with. Mr. Titus stated that the Policy Committee would solicit the funding. Ms. Gardino reread the motion to clarify the wording to everyone. Mr. Sattley inquired if that wording was bearable to Mr. Titus. Mr. Titus stated that it was not acceptable once he totally understood the motion. Mr. Sattley stated that was why he had asked. Mr. Titus stated that the Department soliciting money was a dicey deal. Mr. Titus stated that if the motion were to say: “and the Policy Committee would solicit”, that would be better because the Policy Committee would be asking for the money from the Legislature. Mr. Titus explained that if it did not happen in the spring, the Policy Committee would still have the opportunity in May to fund the project and still get it completed next summer. Ms. Heil suggested that instead of the motion

directing the DOT it could be reworded to say: “The Policy Committee supports or encourages the DOT to continue rather than directed them to finish the design.....”.

**Vote on Motion:** Six in favor. One opposed. (Cleworth). Approved.

**Amended Motion:** To recommend DOT&PF finish the design on the Chena Small Tracts Improvement project and have the FMATS Policy Committee solicit legislative monies to move to construction.

**Vote on Motion:** Six in favor. One opposed. (Cleworth). Approved.

**b. Foundation and Installation Funding (Action Item)**

**Motion:** To use \$142,000 of SB230 funding for the foundation and art installation. (Heil/Hernandez).

**Discussion:** Ms. Gardino explained the cost breakdown for installation of the artwork foundation. Ms. Gardino explained that this had been a Federally funded project and now it was a State funded project. Ms. Gardino explained that previously the ICAP funds had come out of the Illinois Street project, but since it was no longer part of that project, now the funding was coming out of the project ICAP. Ms. Gardino explained that she had been assured by Mr. Titus’ Construction staff that this was a good estimate for the foundation work. Mr. Titus commented that the money was needed to cover some unforeseen sight conditions encountered by the contractor which raised the cost to \$142,000 to keep the project moving forward. Mr. Titus explained that the DOT was hoping the price would come in less, but it should not come in any higher than that amount. Mr. Titus stated that he had Construction personnel look at the construction costs to ensure that they were reasonable and had been assured that they were.

**Vote on Motion:** None opposed. Approved.

**c. FFY14 FMATS Coordinator’s Office Budget (Action Item)**

**Motion:** To approve the FMATS Coordinator’s Office Budget for Fiscal Year 14, as presented. (Hernandez/Heil).

**Discussion:** Ms. Gardino stated that every August she came to the Policy Committee with the budget breakdown included in the meeting packets. Ms. Gardino stated that the Coordinator’s Office had come in under budget due to personnel shortages this fiscal year. Mayor Cleworth stated that the City was not a big fan of how the PL funds were used and had a problem with the PL funding source. Mayor Cleworth explained that he would vote against the budget because of the funding source. Mr. Titus commented that Ms. Gardino did a very good job of coming in under budget and he appreciated that fact.

**Vote on Motion:** Four in favor. Three opposed. (Cleworth/Walley/Ward). Approved.

**d. Illinois Street Landscaping (Action Item)**

**Discussion:** Ms. Gardino explained the photo and typical section of the landscaping included in the packets and that this item was put on the agenda by Mayor Cleworth.

Mayor Cleworth stated once a month the mayors got together and discussed different subjects and the Illinois Street improvements were discussed in front of the Big I and the maintenance there. Mayor Cleworth stated that they had discussed what was happening north of that area for landscaping and Mayor Hopkins wanted to get further clarification on exactly what would be happening in that area.

Mayor Cleworth stated that he would like information or a report from DOT as to what was envisioned in the area that was now gravel and continuing north in that corridor. Mr. Titus introduced Mr. Anderson to respond to Mayor Cleworth's inquiry. Mr. Anderson stated that on the Illinois Street project he had gone out and spoken with construction staff and looked at all the different areas discussed in the last few weeks. Mr. Anderson stated that he was informed that original plans accommodated drainage through a combination of paving, topsoil, and seeding, but further down Charles Street towards College Road there would be a combination of topsoil and seeding and there were also areas back towards downtown that would be paved along the corridor. Mr. Anderson stated that in his opinion construction staff had a handle on the issues and it would consist primarily of pavement, topsoil, and seeding for grass.

Mr. Sattley asked Mr. Anderson how wide a swath was being discussed from the edge of the sidewalk to the edge of the right-of-way. Mr. Anderson stated that it varied depending on right of way widths, profile of the road, and the surrounding topography. Mr. Sattley inquired whether that meant 6 ft., 10 ft., or 2 ft. Mr. Anderson stated that in some places it went as wide as 10-15 ft. and in some places it might be 3 ft., but they would have to lay out the plans for more specifics along the project corridor. Mr. Sattley inquired if that Mr. Anderson was talking about both sides of the road. Mr. Anderson stated that it was on both sides of the road. Mr. Sattley inquired if that meant that on the west side you had the railway with a big chunk and Golden Valley, and that was it. Mr. Anderson stated that Mr. Sattley was correct and that a lot of that area along the railway was paved, behind the sidewalk that was in the proposed plans, and past Charles Street it would all be seeded with topsoil and grass seed and that included the area in front of Golden Valley. Mr. Sattley inquired if that also included seeding along the fence in front of Golden Valley. Mr. Anderson stated that the fence was being taken down in that location. Mr. Sattley inquired if they were talking about grass up to the location where the fence had been in front of Golden Valley. Mr. Anderson stated that Mr. Sattley was correct.

Mr. Hernandez inquired why it was better to pave in some cases and seed in others. Mr. Anderson stated that in the railroad area, for example, it was preferred to be paved and it was his understanding the City was involved in the decision of where paving and seeding would occur elsewhere in that area. Mr. Hernandez inquired if Mayor Cleworth had a design or preference what parcels should be paved or seeded and planted with some type of landscaping. Mayor Cleworth stated that before he answered, he needed to ask Mr. Anderson a question of what the plan was for the specific area in question. Mayor Cleworth stated that grass tended to require more maintenance and his idea was to put in vegetation that required low or no maintenance to make the corridor more aesthetically pleasing. Mayor Cleworth stated that looking at simply brush and trees to line Cushman Street and just north of that if there could be a continuation of trees that could be put up that would be low or no maintenance costs similar to the Design Alaska proposal.

Mr. Hernandez inquired if there had been discussions with the property owners in that area about landscaping and maintaining it. Mayor Cleworth stated there had been discussions about that but he would defer the question to Mr. Pristash and Mr. Schmetzer. Mr. Titus stated that this was beyond what was in the contract already. Mr. Pristash stated that last summer they saw that the road profile was high but nothing could be done at that point so they proceeded with the regular design. Mr. Pristash stated that it was decided the best thing to do was to reduce the amount of impervious surface and get the most pervious surface to provide the least amount of runoff. Mr. Pristash stated that the road was high north of Slater Street and the area of the old FE Buildings and GVEA was lower and to fix all that it was decided to put catch basins and grass but the question was who would maintain the grass. Mr. Pristash stated that then mulch had come up and the fact that it was easier to maintain than grass. Mr. Pristash stated that it had progressed from there and they came up with durable plants that had been used before and asked the contractor for a price.

Mr. Titus stated that it was his understanding from the engineer's estimate that this would cost an additional \$200,000+ to the contract over what was originally designed. Mr. Titus stated that the City and DOT had a maintenance agreement where the City was responsible for the road maintenance but not the landscaping maintenance. Mr. Titus stated that if it was determined that topsoil and seed were landscaping, the City would not be responsible for that, so who would be responsible for the landscaping maintenance. Mr. Titus stated that in regards to the maintenance, he thought that Mayor Cleworth was clear about the fact that there was no landscaping maintenance included in the agreement with DOT. Mayor Cleworth stated that he thought that the landscaping and maintenance were supposed to be conducted by DOT. Mr. Titus stated that it was determined by DOT project

staff that there was no landscaping on the project; so who would take care of the grass and seed. Mr. Titus stated that it would obviously fall to the DOT and they were prepared to do that maintenance for the topsoil and seed. Mr. Titus explained that it was his understanding that the maintenance of the area adjacent to Mr. Jackovich's place would be covered by the Borough.

Mr. Hernandez stated that it was also his understanding that the Borough would take care of that. Mr. Titus stated that if the DOT took care of the topsoil and seed on the corridor, Terminal Street stuff and the landscaping put in under the contract would all be taken care of. Mr. Titus stated that in addressing the Mayor's Complete Streets concept, if topsoil and seed were put in there might be an opportunity in the future to make that all match up. Mr. Titus further stated that this project was supposed to be over the first of October so he was not sure if they would be able to get through with the landscaping and how it was funded might cause an issue. Mr. Titus stated that if it solved the problem of a maintenance issue, DOT would take care of the maintenance of the topsoil and seed. Mr. Titus stated that with Terminal Street taken care of and if the City took care of plowing snow and bridge maintenance, then project maintenance was covered.

Mr. Hernandez inquired if anyone had talked to residents along the corridor and inquired if they were willing to maintain the landscaping if it were put in that area. Mayor Cleworth stated that he thought that they had spoken with the residents in that area. Mr. Schmetzer stated that when the project was designed by DOT and City Engineers there was a fast push to get it out and not much thought had been given to pedestrian facilities on Illinois Street. Mr. Schmetzer stated that now there are pedestrian facilities down the entire alignment where before there was a gravel shoulder. Mr. Schmetzer stated that he did not recall the City ever commenting on back of sidewalk and to the right-of-way. Mr. Schmetzer stated that they meshed a plan set together, and put it out to bid. Mr. Schmetzer stated that they realized this spring that there were some areas along the back of sidewalk that they clearly did not think through. Mr. Schmetzer stated that he had spoken with all the adjacent private property and business owners in that area and they all wanted landscaping and had agreed to maintain it. Mr. Schmetzer stated that in a couple places there was a City ordinance that required landscaping to separate a parking area from a public right-of-way. Mr. Schmetzer stated that Denali State Bank was considering expansion of their parking area and if they did that, that landscaping would satisfy the City ordinance and no additional landscaping would be required as it would meet the City ordinance.

Mr. Sattley inquired which landscaping Mr. Schmetzer was talking about. Mr. Schmetzer clarified that it was the vegetative strip of trees and shrubs that met the City ordinance. Mr. Schmetzer stated that it was the same case with the Fairbanks Daily News-Miner. Mr. Titus inquired if the topsoil and seed on the contract met the City landscaping ordinances. Mr. Schmetzer stated that

it did not, but giving them additional property and having them do the maintenance, would meet the intent of the City ordinance.

Mr. Hernandez inquired if the property owners had agreed to maintain the landscaping in that area if it was provided. Mr. Schmetzer stated that was correct. Mr. Titus stated that the Department had the responsibility for maintenance since it was FHWA funded. Mr. Titus stated that it was probably not a good idea to have private individuals agreeing to do maintenance. Mr. Titus explained that there was a lady on Van Horn Road who mowed the right of way all the time. Mr. Sattley stated that was fine until the property was sold to somebody who did not own a lawnmower. Mr. Titus stated that the fact that those people were willing to do maintenance was a wonderful thing, but DOT would still be the lead in making sure that the maintenance was done. Mr. Sattley inquired if Mr. Schmetzer was including the railway in the happy people that would be doing the maintenance. Mr. Schmetzer stated that it would be the Daily News-Miner who leased from the Railroad doing the maintenance. Mr. Sattley asked Mr. Schmetzer about the big railroad parking lot in that area. Mr. Schmetzer stated that it would not be included as the Railroad had no capability of maintaining landscaping. Mr. Sattley stated that the Railroad Real Estate Division in Anchorage probably did not want to come to Fairbanks to maintain it. Mr. Schmetzer stated that he had no idea that the City had no maintenance authority in that area and had been ready to draft a maintenance contract in that area until the Mayor informed him of that fact.

Mr. Titus stated they had a contract with contract requirements and appreciated the fact that the Mayor would like to mesh that with the Complete Streets project, but under the contract there would not be a drainage issue. Mr. Titus stated that the Department would go forward and take care of the topsoil and seed that was not the responsibility of the City. Mr. Titus stated that he suggested finishing the contract and then if something more exotic was going to be done it could be looked at then. Mr. Hernandez stated that four or five years ago a Borough telephone survey had found that the citizens wanted more economic development and more beautification in the city. Mr. Hernandez stated that he thought what had been done along that area had made the community more attractive and economically viable. Mr. Hernandez stated that he would go ahead and offer a motion to put in the landscaping in where people were willing to maintain it and since it would require minimal maintenance he would go ahead and propose it. Mayor Cleworth seconded that.

**Motion:** To have the landscaping be put in along this area where people are willing to maintain it (along the Illinois Street Reconstruction project). (Hernandez/Cleworth).

Mr. Sattley inquired if there was any possibility that property owners could pay to put in trees or landscaping where the grass was in the right-of-way later. Mr. Titus stated that they would have to get a right-of-way beautification permit from DOT and those were typically approved by DOT and FHWA encouraged. Mr. Sattley asked if that meant that if one of the property owners wanted to do landscaping at their own expense in the right-of-way, they could put in trees and whatever was required by the landscaping ordinance in the right-of-way and scoot their parking over a little bit. Mr. Titus stated that they could not park in the right-of-way, but they could get a landscaping permit beyond what was already being done under the contract.

Mayor Cleworth stated that he spoke in favor of the motion because grass required maintenance and he knew that DOT did not like to mow grass and if there was something that could be done to mitigate that, it would make it a lot more attractive than it is. Mr. Sattley inquired where the money would come from. Mr. Titus stated that he was not sure where the funding would come from. Ms. Gardino stated that the project would not be requesting additional funding. Mr. Titus stated that speaking for the DOT they got enough unfunded mandates and did not get a lot of additional funding to their maintenance budget and it was nice when you did not have to do the maintenance and assign others to do it and it was difficult to take on all this stuff. Mr. Titus stated that while he liked the look of landscaping there needed to be an organized effort and they needed to get something that would mesh with the Complete Streets project. Mr. Titus stated that there might be money available in the project but to put in landscaping and pay for it and say that DOT would have to maintain it was not favorable to him.

Mr. Hernandez stated that he understood Mr. Titus' concerns and that they already had a large area to maintain, but this took the onus off DOT. Mr. Hernandez stated that if folks were willing to maintain it, this would be a valuable resource for them and we should let them go forward with it. Mr. Titus stated that DOT had the responsibility, could not depend on the benevolence of the public, and since there was not a broad agreement in place that they would take care of it, he could not assume that would be the case. Mayor Ward inquired if maintenance was also required where landscaping was installed or a beautification permit were obtained for the property by the property owner prior to installation would that be a possibility.

Ms. Heil stated that just a contract change order and who would track that contract would be a task in itself. Mr. Titus stated that it was in the realm of possibility. Mr. Sattley asked Ms. Gardino if there was an actual representation of what could be in that strip and if there was an actual estimate for the landscaping there. Ms. Gardino stated that an estimate received from HC Contractors on August 10, 2013 listed an exact amount to provide landscaping for the areas alluded to. Mayor Cleworth stated that if

this were done it would be as maintenance- free an item as they could come up with and thought it was a win-win for everyone.

**Vote on Motion:** Four in favor. Three opposed. (Titus/Heil/Ward), Approved

**9. Public Comment Period (3 minute limit)**

Mr. Jackovich stated that one of the things he recognized being close to the street and during snow removal was when the snow was moved to the sidewalks and then taken to the grass area, it left little rocks in the grass that killed the grass. Mr. Jackovich stated that he would was excited to maintain his area because he wanted to make his business look good inside and out for as long as he could. Mr. Jackovich stated that you had to be there to do the maintenance or have someone else do it. Mr. Jackovich stated that when snow was plowed it needed to be moved to the sidewalk and then taken away so it did not leave little rocks behind that would kill the lawn. Mr. Jackovich stated that he thought that the maintenance part could be performed by all the owners.

**10. Other Issues**

None.

**11. Informational Items**

**a. College Road Corridor Study Open House-September 3**

Ms. Gardino stated that the second open house was September 3rd from 5-7 p.m. at the Bentley Mall and would look at the three segments and alternatives that had been derived.

**b. Illinois Street Reconstruction Update**

Ms. Gardino stated that the list of change order included in the meeting packet. Ms. Gardino explained that the contractor was working near the bridge and on the College Road intersection.

**c. Historical Plaque and Artwork Update**

Ms. Gardino explained the project updates included in the meeting packet. Ms. Gardino explained that Mr. Buckley was working on the plaques and the foundation was being worked on as well, and the artist was on board and excited to begin work.

**d. State Fund Summary**

Ms. Gardino explained the State Fund Summary included in the meeting packet.

**e. Banking Request Response**

Ms. Gardino explained the banking request response received from DOT Headquarters was approved as presented.

**f. Obligations/Offset List**

**g. Performance Based Planning Requirement**

Ms. Gardino explained the Performance Based Planning requirement by FHWA presented in the handout included in the meeting packet.



**12. Policy Committee Comments**

- Ms. Heil stated that the Federal Register notice came out last week for the Fairbanks Carbon Monoxide Limited Maintenance Plan and if there were no adverse comments, it would be a direct final and was good on October 8th. Ms. Heil explained that this was the second year plan and in ten years after that, Fairbanks would be redesignated to a "Total Attainment Area" with no more maintenance requirements, so Fairbanks was on the downhill slide for Carbon Monoxide.
- Mr. Titus stated that the Commissioner had sent him an email and wanted to know why headbolt heater outlets were being installed in high school parking lots but once he explained that it was being done under CMAQ the Commissioner thought that it a very good idea.
- Mayor Cleworth asked Ms. Heil if there was contemplation of changing PM<sub>2.5</sub> requirements. Ms. Heil stated that new standards were coming out for PM<sub>2.5</sub> and it was looked at every five years. Ms. Gardino inquired if they were contemplating Fairbanks might become a non-attainment area for the annual standard. Ms. Heil stated that DEC was looking at that right now. Ms. Gardino asked if that meant that Fairbanks would be a non-attainment area for two different PM<sub>2.5</sub> standards. Ms. Heil stated that hopefully that would not be the case.

**13. Adjourn**

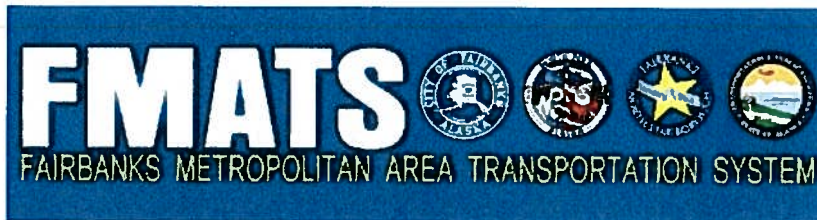
Motion to Adjourn: (Hernandez/Heil)

The meeting was adjourned at **11:46 a.m.**

The next Policy Committee Meeting is scheduled for **10 a.m. on Wednesday, September 18, 2013** at the DOT&PF Main Conference Room on Peger Road.

Approved: \_\_\_\_\_  
Steve Titus, P.E., Chair  
FMATS Policy Committee

Date: \_\_\_\_\_



## September 2013 FMATS Staff Report

### Meetings

- ✚ Attended the Technical Committee Meeting and the Policy Committee Meeting, reviewed meeting minutes
- ✚ Prepared all meeting packets for Technical and Policy Meetings
- ✚ Attended pre-Policy committee meetings with the City of Fairbanks, City of North Pole, FNSB and State
- ✚ Prepared all meeting backup documentation for the September meetings
- ✚ Posted ads on the State's online public notice system, the Fairbanks North Star Borough's online Public notice system, requested newspaper advertisements, and placed Public Service Announcements on the radio for both the routine Policy and Technical Committee meetings
- ✚ Prepared all Title VI reports for the September meetings
- ✚ Attended the Transportation Committee weekly meeting
- ✚ Attended the weekly Illinois Street Reconstruction Project status meeting, as available
- ✚ Facilitated a meeting regarding the MTP and Conformity
- ✚ Participated in the College Road Corridor Study advisory group meeting and the open house

### Correspondence and Communication

- ✚ Updated the website with recent meeting packets, minutes and current planning efforts

### Filing

- ✚ Filed meeting items and correspondence

### Organization

- ✚ Processed the Purchase Order for the TIP Tool and coordinated with AMATS

### Public Outreach

- ✚ Attended the Board of Directors Meeting of the Chamber of Commerce and provided an update on the Transportation Committees' efforts
- ✚ Sent out the quarterly newsletter and received a 31.9% open rate
- ✚ Issued the Public Participation Plan for an additional thirty day comment period and publicized in the Fairbanks Daily News-Miner

### Agency Relationships

- ✚ Organized an interagency consultation regarding the status of the SIP, the travel model update, the need for conformity and how these efforts interrelate
- ✚ Met with the City of Fairbanks and the design section to review next year's projects

### Strategic Planning

- ✚ Reviewed the draft work products and provided comments for the College Road Corridor Study
- ✚ Met with Kittelson on a tentative schedule for the MTP update

**Short-Range and Tactical Planning**

- ✚ Continued work on the last two historical plaques and forwarded the draft plaques to Design Alaska for layout and design

**Funding**

- ✚ Forwarded the approved FMATS budget to set up the next fiscal year accounting system

**Legislation**

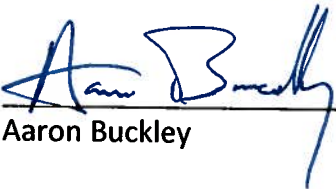
**Training**


- ✚ Attended a webinar on a Pedestrian Safety Guide and Countermeasure Selection System, Reliability Performance Measures, and Guidance on Bicycle and Pedestrian Facility Design Flexibility and FHWA Final TAP Guidance and Q & A
- ✚ FMATS Transportation Planner attending on-going training on website development and maintenance

**Submitted by:**

  
\_\_\_\_\_  
Donna J. Gardino

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Aaron Buckley

  
\_\_\_\_\_  
Date



**FMATS Technical Committee**

**Action Items**

**09.04.13**

**Motion:** To put a display advertisement in the Daily News-Miner and have interested persons contact FMATS for a copy of the Public Participation Plan within a finite time period for comment. (Hernandez/McBeath).  
None opposed. Approved.

Donna J. Gardino

Chair, FMATS Technical Committee

Date



## RESPONSIVENESS SUMMARY FOR THE FMATS PUBLIC PARTICIPATION PLAN UPDATE SEPTEMBER 4, 2013

---

FMATS reviewed a draft Public Participation Plan (PPP) at its July 3, 2013 Technical Committee meeting and finalized the draft on July 17, 2013 at its Policy Committee meeting. The Policy Committee approved its release to receive public comment at that meeting. The public comment period extended from July 18 – August 31, 2013. Only agency comments were received during this forty-five day comment period. The following is a summary of the comments received and responses to those comments.

**Comment:** Comment indicated that the description of Title VI of the Civil Rights Act of 1964 was too broad.

**Response:** Reworded the entire paragraph, as suggested. Changed it to read the Act prohibits discrimination on the basis of race, color and national origin and added other non-discrimination statutes such as the Federal-Aid Highway Act, the Age Discrimination Act and the Americans with Disabilities Act. It was also clarified that the regulations and executive orders that followed did not enforce the Civil Rights Act but merely added more protection.

**Comment:** Comment stated concern that the discussion of the FHWA Order preceded the discussion of Executive Order 12898.

**Response:** Reversed the discussion and expounded on the topic.

**Comment:** Comment expressed concern that much more attention was given to E.O. 12898 than the other Executive Orders.

**Response:** Added separate paragraphs to discuss E.O. 13166, E.O. 131756 and the Americans with Disabilities Act.

**Comment:** Reword the paragraph to state that the public participation plan is part of the FMATS' mission.

**Response:** Reworded the first sentence but did not change the latter. The Public Participation Plan is used as a guide to develop the rest of the planning documents listed.

**Comment:** How are you ensuring that the goals are being met and the tools are being used?



## RESPONSIVENESS SUMMARY FOR THE FMATS PUBLIC PARTICIPATION PLAN UPDATE SEPTEMBER 4, 2013

---

**Response:** Added a statement that the methods used for public outreach are reviewed and documented in the UPWP annual report.

**Comment:** How are the following measures of effectiveness as they don't appear to be gathering or collecting data (total number of public meetings, tweets, radio and TV interviews, featured stories, community service group meetings, chamber meetings, delivered presentations)?

**Response:** These contribute to the proactive outreach that FMATS employs to increase public participation and interest in its plans. The more FMATS uses these outlets the more opportunity for public awareness and participation.

**Comment:** Delete the recommendation that the air quality representative have a strong technical and policy background.

**Response:** Deleted.

Fairbanks North Star Borough,

and

State of Alaska, Department of Transportation – Northern Region

**MEMORANDUM OF UNDERSTANDING**

**FOR LOCAL PLANNING AUTHORITY REVIEW AND APPROVAL OF DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES PROJECTS**

In The Fairbanks North Star Borough

Memorandum of Understanding

FOR LOCAL PLANNING AUTHORITY REVIEW AND APPROVAL OF DEPARTMENT OF TRANSPORTATION AND  
PUBLIC FACILITIES PROJECTS

This agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, between the Alaska Department of Transportation and Public Facilities Northern Region (DOT&PF), and the Fairbanks North Star Borough (FNSB), provides procedures for the local review process for DOT&PF capital projects. This agreement supersedes the Memorandum of Understanding for Highway Project Review dated July 18, 1988.

Whereas, it is in the best interest of DOT&PF and the FNSB to agree on local planning review and approval procedures that clearly identifies and to the extent practicable streamlines the required process; and

Whereas, it is important to involve the FNSB early in the project planning and design process and for both parties to respond to comments in a timely fashion and make a good faith effort to reach agreement on all identified issues before proceeding with construction; and

Whereas, there are often multiple opportunities for the public and the FNSB to provide comments and participate in the project development process prior to and during the local planning authority approval; for example the State Long Range Transportation Plan (LRTP), Statewide Transportation Improvement Program (STIP), FMATS Metropolitan Transportation Plan (MTP), and FMATS Transportation Improvement Program (TIP); and

Whereas, the FNSB is the local planning authority and pursuant to AS 29.40.010 et seq. a Planning Commission and Platting Board have been established to regulate land activities; and

Whereas, the FNSB has adopted a Comprehensive Plan consistent with AS 29.40.030 to guide the physical, social, and economic development and it is in the best interest of the public to ensure consistency between transportation projects and the adopted Comprehensive Plan; and

Whereas, AS 35.30.010 states: "...before commencing construction of a public project (1) if the project is located in a municipality the department [DOT&PF] shall submit the plans for the project to the planning commission of the municipality for review and approval"; and

Whereas, AS 35.30.020 states: "A department shall comply with local planning and zoning ordinances and other regulations in the same manner and to the same extent as other landowners"; and

Whereas, AS 35.30.010 (c) states: "If final disapproval by resolution of the governing body of the affected municipality or village is not received within 90 days from the date the project was submitted to the municipality or village, the department may proceed with the project"; and



Whereas, AS 35.30.030 states: “If a department clearly demonstrates an overriding state interest, waiver of local planning authority approval and the compliance requirement may be granted by the governor. The governor shall issue specific findings giving reasons for granting any waiver under this section”; and

Whereas, the DOT&PF, or its subrecipients, will develop and submit project plans and other supporting information to the FNSB for local planning authority approval; and

Whereas, it is ultimately the responsibility of the FNSB Planning Commission to determine the consistency of a transportation project with the Comprehensive Plan per FNSB Title 2.40.041 (c); and

NOW, THEREFORE, BE IT RESOLVED, that the DOT&PF and the FNSB agree to cooperate and participate in the local planning authority approval process that will effectively meet the requirements of Alaska State Statutes and FNSB ordinances; and

BE IT FURTHER RESOLVED, that this process will contribute to comprehensive public involvement, and ensure as necessary local government review by the FNSB Assembly, Planning Commission, and Planning Board; and

BE IT FURTHER RESOLVED, that the parties in this agreement accept the review procedures as follows:

### **SECTION 1 – PARTIES TO THIS AGREEMENT**

The parties to this Agreement are the State of Alaska Department of Transportation, Northern Region and the Fairbanks North Star Borough.

### **SECTION 2 – INTRODUCTION/PURPOSE**

The FNSB and DOT&PF are invested in the public health, safety, and welfare and required by federal, state, and local laws and regulations to perform long range planning. The purpose of the local planning authority review and approval process is to ensure that transportation projects, as designed, are consistent with Comprehensive Plan and local planning and zoning ordinances.

This agreement will only cover transportation projects within the municipal planning jurisdiction of the Fairbanks North Star Borough as defined in AS 29.40.010. Each transportation project under the scope of this agreement will go through the appropriate review process and a letter, including findings of fact, will be submitted from the FNSB to the DOT&PF. This local planning authority review and approval process will satisfy the requirements of AS 35.30.010, AS 35.30.020, and is consistent with powers of the Planning Commission defined in FNSB Title 2.40.041, and the powers of the FNSB Planning Staff defined in FNSB Title 2.40.061.

### **SECTION 3 – FORMAL PLANNING AUTHORITY APPLICATION PROCESS**

When a project reaches a point where specific project plans and location can be recommended, the DOT&PF will submit an official application, accompanied by either a design study report (DSR) or detailed plan information, to the FNSB for Local Planning Authority Approval. The 90-day review period, specified in AS 35.30.010 (c), will begin upon receipt of application and associated documentation by the FNSB.

FNSB staff will review the application, select the appropriate review process, prepare a staff report (as necessary), with accompanying recommendation and recommended finding of facts, and formally begin the coordination process. FNSB staff and the FNSB Planning Commission will review the project based on consistency with the FNSB Regional Comprehensive Plan, as well as all applicable FNSB Ordinances.

The following projects will be exempt from the local planning authority review and approval process, with the concurrence of the DOT&PF and the FNSB:

- 3R (Resurfacing, Restoration, Rehabilitation) projects, with no right-of-way acquisition involved
- Highway Safety Improvement Program (HSIP) project, with no right-of-way acquisition involved or other major change triggering the need for a public hearing
- Maintenance-only project

If a project is exempt from the local planning authority review and approval process the DOT&PF shall submit the plans and supporting information to the FNSB Community Planning Department for informational purposes.

### **3.1 Projects requiring a public hearing**

For the purpose of this agreement a project requiring a public hearing before the FNSB Planning Commission will be defined as a project displaying any of the following characteristics:

- Acquisition of right-of-way and/or relocation of business(es) or home(s)
- Adding or removing thru travel lanes
- Projects that are not consistent with any FNSB Title 15, Title 17, or FNSB Title 18 ordinances
- Has generated considerable controversy or may do so with adequate public notice
- Projects requiring an Environmental Impact Statement (EIS)
- Projects that do not appear to be consistent with the FNSB Regional Comprehensive Plan or cause land use plan changes

Projects will be placed on the Planning Commission's agenda under New Business as a public hearing item, and will appear in the local newspaper as part of the Planning Commissions' agenda a minimum of five working days before the Planning Commission meeting.

Additional public notification will include "Dear Property Owner" letters sent out prior to the hearing. At a minimum, all property owners adjacent to the roadway or corridor and any property owners previously notified by the DOT&PF will be notified. The FNSB will publish a legal advertisement in the local newspaper along with other items on the Planning Commission public hearing agenda.

The Planning Commission may unconditionally approve a project, with associated findings of fact referencing project consistency to the FNSB Regional Comprehensive Plan. Unconditional approval by the Planning Commission will complete the local planning authority review process and the remainder of the 90-day review and approval period will be waived with a letter of finding sent to the applicant.

The Planning Commission may choose to postpone action on a project until a later date as long as this postponement does not exceed the 90 day review period. If the Planning Commission takes no formal action on a project, adds conditions to its approval, or objects to a project, the Planning Commission's final decision will be forwarded to the Borough Assembly. The Planning Commission shall include findings of fact referencing project consistency, or inconsistency, to the FNSB Regional Comprehensive Plan, with conditional approval or objection to the DOT&PF's local planning authority approval request. The Borough Assembly, at the discretion of the Presiding Officer may choose to hold additional public hearings on the project. The Borough Assembly shall approve the DOT&PF's request, approve the request with conditions from the Planning Commission, or deny the DOT&PF's request for local planning authority approval, with associated findings of fact referencing project consistency or inconsistency to the FNSB Regional Comprehensive Plan.

If the proposed project does not conform to any FNSB Title 15, Title 17, or FNSB Title 18 ordinances the project plans must be brought into compliance, or a variance acquired by DOT&PF, prior to the construction of the proposed project. Projects requiring a re-plat must follow the procedures laid out in FNSB Title 17 and the Section 6.4 of this document.

### **3.2 Projects not requiring a public hearing**

Any project requiring local planning authority approval that does not meet the criteria for requiring a public hearing will automatically be placed on the Planning Commission consent agenda, but may be removed by the Commission Chair at the request of staff or a Planning Commission member. When it is not clear if a project meets the requirements of a public hearing FNSB staff will consult with DOT&PF staff to determine if a public hearing is appropriate. If approved as part of the consent agenda, the review will not be forwarded to the Assembly, and a letter of finding will be sent to the applicant. The remainder of the 90-day review and approval period will be waived. Those projects which have been removed from the consent agenda will be considered by the Planning Commission and follow the same approval procedures outlined in Section 6.1 of this document.

### **3.3 Project Changes**

If projects undergo a major change after the project has received local planning authority approval, the project will be resubmitted to the FNSB for review and the 90 day review period will begin again. If a change occurs that is unclear as to whether it constitutes a major change, a consultation will occur between DOT&PF Staff and FNSB Community Planning Staff to determine if the change is a major change. This consultation process will occur in a best attempt to expedite a decision. If requested by the FNSB, a new application for the project or portion thereof, will be submitted and will follow the appropriate review process.

FNSB Planning Commission or FNSB Assembly approval of the project represents consistency with the Comprehensive Plan and compliance with all aspects of the local review process except platting, which is addressed in Section 6.4 of this document.

### **3.4 Platting Process**

After the FNSB Planning Commission had taken action on a preliminary design, and before DOT&PF finalizes right-of-way acquisition, the FNSB Platting Board will perform a preliminary plat review of all projects which

involve right-of-way acquisition. At this time, DOT&PF will submit an application containing information as specified by the applicable municipal ordinances (i.e. FNSB Title 17) from the Platting authority. If there is a deviance from an applicable municipal ordinance the DOT&PF shall amend the preliminary plat to conform to the ordinance, or pursue a variance to the ordinance. Upon approval of the preliminary plat by the Platting Board, a letter of finding will be sent to the applicant.

Once the DOT&PF has completed construction, a record of survey will be submitted to the FNSB. The final plat will incorporate changes to the preliminary plat that have been made since its approval.

If the FNSB finds the Record of Survey meets the conditions of the preliminary plat, the Platting Officer will process the plat and the plat will be submitted to the Recorder's Office. If the FNSB finds the final plat fails to meet all of the conditions specified on the approved preliminary plat, the final plat or project will be resubmitted for the appropriate level of review.

Final FNSB approval completes the review process and a Record of Survey will be submitted to the FNSB Department of Community Planning within two years of a project completion.

**SECTION 4 - CONFLICT RESOLUTION**

If conflicts are identified and not satisfied prior to a project requesting local planning authority approval the DOT&PF may request that planning commission hearings be postponed or withdraw their application. The DOT&PF may also pursue Planning Commission approval, without a positive recommendation from FNSB Staff.

If a project is denied local planning authority approval by the FNSB Planning Commission and FNSB Assembly the DOT&PF may pursue a waiver from the Governor of local planning authority approval "if a department clearly demonstrates an overriding state interest" consistent with AS 35.30.030. Specific findings giving reasons for granting this waiver shall be provided to the local planning authority.

Conflicts prior to the local planning authority approval process are addressed in Section 4 of this document.

**SIGNATURES**

\_\_\_\_\_  
**Mayor – Fairbanks North Star Borough**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Northern Region Director – Alaska Department of Transportation**

\_\_\_\_\_  
**Date**

## **ATTACHMENT 1 – DEFINITIONS**

3R Project – Resurfacing, restoration, and rehabilitation of an existing roadway on the same alignment or modified alignment. The principal objective of 3R projects is to restore the structural integrity of the existing roadway, thereby extending the service life of the facility, or lesser scope of work.

Assembly –The Governing Body of the Fairbanks North Star Borough.

Comprehensive Plan – A compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public, of the first or second class borough. The Comprehensive Plan for the Fairbanks Area is the FNSB Regional Comprehensive Plan.

FMATS – The Metropolitan Planning Organization in the Fairbanks Area.

Highway Safety Improvement Project (HSIP) – A project consistent with the State Strategic Highway Safety Plan (SHSP) that corrects or improves a hazardous road location or feature, or addresses a highway safety problem.

Local Planning Authority – A first or second class borough, or a city in a borough that consents by ordinance and is delegated by ordinance with planning, platting, and land use powers and duties. The Fairbanks North Star Borough is the local planning authority for the area within its jurisdiction.

Major Change – a change in plans that DOT&PF and the FNSB agree may be inconsistent with what was approved in the prior Local Planning Authority Approval Process. Examples include:

- Removing permitting access to private/public property (temporary construction easements not included)
- Considerable increases to right-of-way acquisition (including right-of-way acquisition on property previously identified as not requiring right-of-way acquisition)
- Adding or deleting thru-lanes
- Changing the type of pedestrian/bicycle facilities to be installed
- Changes that have the potential to adversely affect the community
- Not in compliance with zoning and /or other ordinances
- Deletion of Landscaping from the project

Metropolitan Planning Organization (MPO) – The policy board of an organization created and designated to carry out the metropolitan transportation planning process. In the case of the Fairbanks Area FMATS will be considered the MPO.

Metropolitan Transportation Plan (MTP) – The official multimodal transportation plan addressing no less than a 20-year planning horizon that is developed, adopted, and updated by the MPO through the metropolitan transportation planning process.

Planning Commission – Commission appointed with the responsibility to prepare and submit to the assembly a proposed comprehensive plan in accordance with AS 29.40.030 for the systematic and organized development of the borough and review, recommend, and administer measures necessary to implement the comprehensive plan, including measures provided under AS 29.40.040. The Planning Commission for the entirety of the Fairbanks North Star Borough will be the FNSB Planning Commission.

Platting Authority - The Fairbanks North Star Borough platting board, platting officer, or hearing officer as appropriate to the context in which the term is used.

Transportation Project – A capital improvement project, through the DOT&PF, that will improve, reconstruct, or rehabilitation roadways or bicycle and pedestrian facilities within the Fairbanks North Star Borough, regardless of the funding source.

Right-of-Way Acquisition – The total or partial acquisition of privately owned property for use as public right-of-way as an aspect of a capital improvement transportation project.

Statewide transportation improvement program (STIP) – means a statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range statewide transportation plan, metropolitan transportation plans, and TIPs, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.

Transportation improvement program (TIP) – means a prioritized listing/program of transportation projects covering a period of four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the metropolitan transportation plan, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.

**ATTACHMENT 2– RELATED ALASKA STATE STATUTES**

19.20.060 Participating in Financing, Planning, and Regulation

19.20.070 Local Service Highways

19.20.015 Local Control of State Transportation Corridors

29.40.010 Planning, Platting, and Land Use Regulation

29.40.030 Comprehensive Plan

35.30.010 Review and approval by local planning authorities

35.30.020 Compliance with municipal ordinances

35.30.030 Waiver

44.42.050 State Transportation Plan

DRAFT

## Donna Gardino

---

**From:** Carpenter, Margaret (DOT) <margaret.carpenter@alaska.gov>  
**Sent:** Thursday, September 05, 2013 8:17 AM  
**To:** Donna Gardino  
**Cc:** Chapman, Judy (DOT); Mahlen, Linda S (DOT)  
**Subject:** Operating Agreement

Donna,

Below you will find a summary of the changes to the Operating Agreement from the AG's office. The changes do not impact intent of the document.

Page 2, Last sentence: change 23 **USC** 450.312 to 23 **CFR** 450.312.

Page 10, Section 5.4 Title, change **(c)** to **(e)**. (The body of the section references (e) which is correct)

Page 17, Section 12.1, change **30** days to **15** days (per MAP-21)

Page 19, Section 13, Not necessary to change, but 49 CFR 18.36 allows FMATS to follow State procurement laws, if you want to add.

Page 20, Section 14.3 should reference **OMB Circular A-133** (Single Audit Requirement) instead of the CFR.

Let me know if you have any questions.

Thanks,

Margaret



**Fairbanks North Star Borough,  
City of Fairbanks,  
City of North Pole,  
and  
State of Alaska**

**FAIRBANKS METROPOLITAN AREA  
TRANSPORTATION SYSTEM**

**INTER-GOVERNMENTAL OPERATING AGREEMENT  
and  
MEMORANDUM OF UNDERSTANDING  
for  
TRANSPORTATION AND AIR QUALITY PLANNING  
AMENDMENT NO. 1**

**In The  
Metropolitan Area  
of the  
Fairbanks Metropolitan Planning Organization**

Fairbanks North Star Borough,  
City of Fairbanks,  
City of North Pole,  
and  
State of Alaska

FAIRBANKS METROPOLITAN AREA TRANSPORTATION SYSTEM  
INTER-GOVERNMENTAL OPERATING AGREEMENT  
AND  
MEMORANDUM OF UNDERSTANDING  
FOR  
TRANSPORTATION AND AIR QUALITY PLANNING

In The Metropolitan Area of the Fairbanks Metropolitan Planning Organization

**AMENDMENT NO. 1**

This Amendment No. 1 is entered into this \_\_\_\_ day of \_\_\_\_\_, 2013 by and between the State of Alaska, the City of Fairbanks, the City of North Pole, and the Fairbanks North Star Borough.

WITNESSED, THAT:

Whereas, the above reference parties entered into the Fairbanks Metropolitan Area Transportation System (hereinafter the “FMATS”) Inter-Governmental Operating Agreement and Memorandum of Understanding for Transportation and Air Quality Planning in the Metropolitan Area of the Fairbanks Metropolitan Planning Organization (hereinafter the “Operating Agreement”) on March 15, 2003; and

Whereas, the Safe Accountable Flexible Equity Transportation Equity Act – Legacy for Users (SAFETEA-LU) was passed on August 10, 2005; and

Whereas, the above reference parties approved and adopted the FMATS Policy and Technical Committees Bylaws (hereinafter the “Bylaws”) on April 14, 2003, and revised said bylaws on April 16, 2008; and

Whereas, the above referred parties entered into the FMATS Memorandum of Understanding for the Implementation of a FMATS Coordinator’s Office on November 2, 2007, and have since hired an MPO Coordinator; and

Whereas, the U.S. Census Bureau released new urbanized area boundaries on March 26, 2012 that requires FMATS to adjust its boundaries per 23 ~~CFR~~<sup>USC</sup> 450.312 by June 2014; and

Whereas, Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) was passed into law on July 6, 2012;

Now, therefore, the above referenced parties agree to amend the Operating Agreement as follows:

## **SECTION 1 – PARTIES TO THIS AGREEMENT**

The parties to this Agreement are the State of Alaska, the Fairbanks North Star Borough (FNSB), the City of Fairbanks, and the City of North Pole. The City of Fairbanks is the designated host agency for the Metropolitan Planning Organization’s Coordinator’s Office.

## **SECTION 2 – PURPOSE**

This agreement is entered into in accord with 23 USC § 134 – 135 and 49 USC § 5303 – 5306 to provide the structure and process for the continuing, cooperative and comprehensive consideration, development and implementation of transportation and air quality plans and programs for intermodal transportation in the Metropolitan Planning Area (MPA) of the FNSB. 23 USC § 134 states in pertinent part:

It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 135(d).

To accomplish this objective, the metropolitan planning organization in coordination with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for the metropolitan areas of the State. Such plans and programs shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an intergral part of an intermodal transportation system for the State and the United States. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall

be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed. (23 USC § 134 (a) and (c))

### **SECTION 3 – LEGAL AUTHORITY**

#### **3.1 Federal Transportation Planning Statutes**

23 USC § 104(f), 23 USC § 134 and 49 USC § 5303 – 5306 provide funding and require designation of a metropolitan planning organization for urbanized areas of at least 50,000 population to carry out a transportation planning process and receive federal funding. Those Statutes require the State and the local governments to coordinate the planning and construction of all urban transportation facilities with a continuing, cooperative, and comprehensive transportation planning process.

#### **3.2 Metropolitan Planning Organization Designation**

On April 14, 2003, the Governor of the State of Alaska designated the Metropolitan Planning Organization and identified the Fairbanks Metropolitan Area Transportation System (FMATS) Policy Committee as the policy body providing the direction of transportation planning in the MPO in accordance with Federal law.

#### **3.3 Federal Air Quality Regulations**

Air Quality Title 42 USC § 7504 et. seq. requires each area-wide air quality planning agency to prepare an area-wide air quality plan providing for attainment of National Ambient Air Quality Standards (NAAQS). Alaska Statutes Chapter 46.14 requires the Alaska Department of Environmental Conservation (ADEC) to develop a State Implementation Plan (SIP) providing for the attainment of the NAAQS. The FNSB has been designated as the air quality planning agency and has adopted an Air Quality Plan, which is the local component of the SIP. The FNSB is the planning agency that coordinated transportation related air quality planning within the MPO. The Unified Planning Work Program includes the annual preparation of a Reasonable Further Progress Report on Air Quality and review of the goals of the Air Quality Plan, as necessary. The FMATS Policy Committee must approve the area-wide Air Quality Plan.

## **SECTION 4 – DEFINED TERMS**

“ADEC” means the State of Alaska Department of Environmental Conservation.

“ADMINISTRATIVE MODIFICATION” means a minor revision to a metropolitan transportation plan or TIP that includes minor changes to project/project phase costs, minor changes to funding sources of previously-included projects, and minor changes to project/project phase initiation dates. It is a revision that does not require public review and comment, redemonstration of fiscal constraint, or a conformity determination (in nonattainment and maintenance areas).

“ADOT&PF” means the State of Alaska Department of Transportation and Public Facilities.

“AIR QUALITY PLAN” means the Fairbanks component of the State Implementation Plan for Air Quality regarding air quality strategies in nonattainment areas.

“AMENDMENT” means a revision to a long-range metropolitan transportation plan or TIP that involves a major change to a project included in a metropolitan transportation plan or TIP including the addition or deletion of a project or a major change in project cost, project/project phase initiation dates, or a major change in design concept or design scope (e.g. changing project termini or the number of through traffic lanes). An amendment is a revision that requires public review and comment, redemonstration of fiscal constraint, or a conformity determination (for metropolitan transportation plans and TIPs involving “non-exempt” projects in nonattainment and maintenance areas).

“ASSEMBLY” means the Fairbanks North Star Borough Assembly, the legislative governing body of the Fairbanks North Star Borough.

“CITY OF FAIRBANKS” means the home rule city, a political subdivision of the State of Alaska, and the largest city within the Metropolitan Planning Area.

“CITY OF NORTH POLE” means a home rule city, a political subdivision of the State of Alaska, located within the Metropolitan Planning Area.

“CO” means Carbon Monoxide, a colorless, odorless gas produced due to incomplete combustion of fossil fuels. Alaska has a potential for wintertime health problems with CO in the Fairbanks area.

“CONFORMITY” means a Clean Air Act (42 U.S.C. 7506(c)) requirement that ensures that Federal funding and approval are given to transportation plans, programs and projects that are consistent with the air quality goals established by a State Implementation Plan (SIP).

“CONSULTATION” means that one or more parties confer with other identified parties in accordance with an established process and, prior to taking action(s), considers the views of the other parties and periodically informs them about action(s) taken.

“COOPERATION” means that the parties involved in carrying out the transportation planning and programming processes work together to achieve a common goal or objective.

“COORDINATION” means the cooperative development of plans, programs, and schedules among agencies and entities with legal standing and adjustment of such plans, programs, and schedules to achieve general consistency, as appropriate.

“DOT” or USDOT” means the United States Department of Transportation.

“DBE” means a Disadvantaged Business Enterprise.

“EPA” means the United States Environmental Protection Agency.

“FAIRBANKS CITY COUNCIL” means the legislative governing body of the City of Fairbanks.

“FHWA” means the Federal Highway Administration, an operating agency of the United States Department of Transportation.

“FMATS” means the Fairbanks Metropolitan Area Transportation System.

“FNSB” means the Fairbanks North Star Borough, a second class borough, a political subdivision of the State of Alaska that includes the City of Fairbanks, the City of North Pole, and the Metropolitan Planning Area within its boundaries.

“FTA” means the Federal Transit Administration, an operating agency of the United States Department of Transportation.

“MAINTENANCE AREA” means an area that was designated as an air quality nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an air quality attainment area, under section 107(d) of the Clean Air Act (42 USC 7407(d)).

“MPA” or “METROPOLITAN PLANNING AREA” means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection § of 23 USC 134. The MPA shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan and may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

“MPO” or “METROPOLITAN PLANNING ORGANIZATION” means the policy board of an organization established as a result of the designation process under subsection (d) of 23 USC 134. To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city based on population) as determined by the Bureau of the Census; or in accordance with procedures established by applicable State or local law.

“MPO Coordinator” means the person who chairs the Technical Committee and serves as staff to the Policy Committee.

“MPO COORDINATOR’S OFFICE” means the staff responsible for the management and planning of the MPO, including long range and short range transportation, strategic planning, tactical planning, control, finance, funding, intra-agency and inter-agency relationships, compliance and other planning activities.

“MTP” or “METROPOLITAN TRANSPORTATION PLAN” means the official multimodal transportation plan addressing no less than a 20-year planning horizon that is developed, adopted, and updated by the MPO through the metropolitan transportation planning process.

“NAAQS” means the National Ambient Air Quality Standards.

“NONATTAINMENT AREA” means any geographical region of the United States that has been designated by the EPA as a nonattainment area under section 107 of the Clean Air Act for any pollutants for which an NAAQS exists.

“NORTH POLE CITY COUNCIL” means the legislative governing body of the City of North Pole.

“PL” means the FHWA Metropolitan Transportation Planning funds authorized under 23 USC § 104 to carry out the requirements of 23 USC 134, Metropolitan Transportation Planning.

“PM<sub>2.5</sub>” means Fine Particulate Matter that is less than 2.5 micrometers in diameter. PM<sub>2.5</sub> is a product of combustion, primarily caused by burning fuels. Examples of PM<sub>2.5</sub> sources include power plants, vehicles, wood burning stoves, and wild fires.

“POLICY COMMITTEE” OR “FMATS POLICY COMMITTEE” means the committee established under Section 5.2 of the Agreement for cooperative decision-making in accordance with this Agreement.

“PUBLIC PARTICIPATION PLAN” means a documented process for providing citizens, affected public agencies, representatives of public transportation employees,

freight shippers, providers of freight transportation services, private providers of transportation, representative of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process.

“SECTION 5303” means the Federal Transit Administration (FTA) funds made available under 49 USC 5305(g) to carry out the requirements of 49 USC 5303, Metropolitan Transportation Planning.

“SIP” or “STATE IMPLEMENTATION PLAN” means, as defined in section 302(q) of the Clean Air Act (CAA), the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 110 of the CAA, or promulgated under section 110(c) of the CAA, or promulgated or approved pursuant to regulations promulgated under section 301(d) of the CAA and which implements the relevant requirements of the CAA. It is the air quality implementation plan of the State of Alaska.

“STATE” means the State of Alaska.

“STIP” or “STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM” means a statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range statewide transportation plan, metropolitan transportation plans and TIPs, and required for projects to be eligible for funding under title 23 USC and title 49 USC § 53.

“TECHNICAL COMMITTEE” or “FMATS TECHNICAL COMMITTEE” means the committee established in Section 5.3 of this Agreement for the cooperative decision-making in accordance with this Agreement.

“TIP” or the “Transportation Improvement Program” means a transportation improvement program developed by a metropolitan planning organization under subsection (j) of 23 USC 134. It is developed in cooperation with the State and any affected public transportation operator and contains projects consistent with the current metropolitan transportation plan, reflects the investment priorities established in the current metropolitan transportation plan and once implemented, is designed to make progress toward achieving performance targets established under subsection (h)(2) of 23 USC § 134.

“UPWP” or “UNIFIED PLANNING WORK PROGRAM” means a statement of work identifying the planning priorities and activities to be carried out within a metropolitan planning area. At a minimum, a UPWP includes a description of the planning work and resulting products, who will perform the work, time frames for completing the work, the cost of the work, and the source(s) of funds.



URBANIZED AREA means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

## **SECTION 5 – ORGANIZATION AND RESPONSIBILITIES**

### **5.1 FMATS**

FMATS is the Metropolitan Planning Organization’s framework, in cooperation with the State and public transportation operators, for the development of the Metropolitan Transportation Plan, Transportation Improvement Program, Unified Planning Work Program and the Air Quality Plan.

5.1.1 In order to receive and expend federal funding for transportation and air quality improvements there must be coordination between the State and the MPO as required by federal regulation. Therefore, the purpose of FMATS is to provide the framework and mechanism for the MPO and the State to jointly develop and implement transportation and air quality plans and programs, which will assure compliance with State and Federal transportation planning and air quality requirements. The duties and responsibilities within FMATS are further described in this section.

5.1.2 FMATS is responsible for the metropolitan transportation planning process within the urbanized boundaries in accordance with the Unified Planning Work Program approved by the Policy Committee, the State, the FHWA, and the FTA.

### **5.2 FMATS Policy Committee**

The FMATS Policy Committee, hereafter referred to as the “Policy Committee”, shall have as members, the Northern Region Director of the State of Alaska Department of Transportation and Public Facilities (ADOT&PF), the Fairbanks North Star Borough (FNSB) Mayor, the Mayor of the City of Fairbanks, the Mayor of the City of North Pole, a representative of the State of Alaska Department of Environmental Conservation (Air Quality), a designated representative of the FNSB Assembly, and a designated representative of the Fairbanks City Council. Each member of the Policy Committee shall have one vote. The MPO Coordinator will serve as Secretary to the Policy Committee.

#### **5.2.1 The Powers and Duties of the FMATS Policy Committee**

The FMATS Policy Committee shall have overall responsibility for the implementation of this Agreement, coordination of the FMATS’ efforts and responsibilities of the Technical Committee, and the ultimate

development and adoption of the FMATS UPWP, FMATS TIP, FMATS MTP and Air Quality Plan.

### 5.3 FMATS Technical Committee

There shall be a FMATS Technical Committee, hereafter referred to as the “Technical Committee”. Each member of the Technical Committee shall have one vote and all actions of the Technical Committee, including recommendations to the Policy Committee, shall be by a majority vote of the total authorized number of members. The MPO Coordinator will serve as Chair of the Technical Committee. The MPO Coordinator may only vote when required to resolve a tie.

### 5.4 Metropolitan Planning Area (MPA) under 23 USC § 134(ee)

The Metropolitan Planning Area specified by 23 USC § 134(e) shall be the geographical area shown on Attachment #1 to the Agreement incorporated hereto by reference. Provided such boundaries conform to the requirements of 23 USC § 134(e), the MPO and the Governor may mutually agree to change the boundaries of the Metropolitan Planning Area.

## **SECTION 6 – KEY PLANS and PROGRAMS**

6.1 There are four primary planning or programming activities that FMATS is responsible for developing. This section summarizes these key plans and programs, which include the Air Quality Plan, FMATS Metropolitan Transportation Plan, Transportation Improvement Program, and FMATS Unified Planning Work Program.

### 6.1.1 Air Quality Plan

The Fairbanks North Star Borough, with full assistance from DEC, the MPO and all other cooperating agencies, is responsible for developing and updating an Air Quality Plan, which shall:

- (1) Identify area-wide objectives and policies required to attain and maintain the NAAQS for carbon monoxide (CO) and PM<sub>2.5</sub> for the Metropolitan Planning Area;
- (2) Inventory technical, physical, and other air quality planning data;
- (3) Analyze alternatives and establish strategies designed to attain and maintain the NAAQS for the Metropolitan Planning Area;
- (4) Address any other air quality issues required by the EPA or US Department of Transportation within the MPA Boundary;

- (5) Provide for the implementation of the adopted air quality strategies as expeditiously as practical; and
- (6) Provide for and show reasonable further progress towards achievement of PM<sub>2.5</sub> standards within the nonattainment area and continue maintenance of the CO standards until no longer required, anticipated to be in 2024.

#### 6.1.2 FMATS Metropolitan Transportation Plan

The MPO, in cooperation with the State, is responsible for developing or updating a FMATS Metropolitan Transportation Plan. The MPO shall follow the latest federal planning requirements, as prescribed in 23 CFR 450.322.

#### 6.1.3 Transportation Improvement Program

The MPO, in cooperation with the State, is responsible for developing or updating the FMATS Transportation Improvement Program. The MPO shall follow the latest federal planning requirements, as prescribed in 23 CFR 450.324.

#### 6.1.4 Unified Planning Work Program

- (1) The MPO, with full assistance from the State and all other cooperating agencies, is responsible for developing or adjusting the FMATS Unified Planning Work Program. The MPO shall:
  - (a) Describe all the transportation and air quality planning and operational activities to be completed in a fiscal year.
  - (b) Ensure early coordination with FHWA and FTA.
- (2) No later than July 1 of each year, ADOT&PF, in consultation with the MPO Coordinator's Office, will provide to the Policy Committee in writing the amount of estimated Federal PL and Section 5303 funds, and required match ratios, to be made available to FMATS for the next fiscal year of October 1 through September 30. ADOT&PF, the FNSB and the MPO Coordinator shall recommend work tasks with budgets for tasks in which it participates. FMATS' staff shall develop and implement a UPWP public involvement program, within the Public Participation Plan, and prepare a UPWP with the full cooperation of ADOT&PF, the MPO Coordinator, the FNSB and the Technical Committee. Discussions between ADOT&PF, the FNSB and the MPO Coordinator and FMATS shall take place to determine how the

proposed tasks can be accomplished in the most efficient and effective manner. The UPWP shall be reviewed by the Technical Committee, approved by the Policy Committee, and forwarded to ADOT&PF for concurrent approval by FHWA and FTA prior to any work being performed.

## 6.2 Changes/Amendments to Key Plans and Programs

### 6.2.1 An Amendment

The Policy Committee, with its responsibility to maintain existing plans and programs, shall approve amendments, in accordance with its Public Participation Plan. An Amendment is triggered by the addition or deletion of a project or a major change in the project cost, project / project phase initiation dates, or a major change in design concept or design scope. An amendment is a revision that requires public review and comment periods consistent with the FMATS public involvement policy, re-demonstration of fiscal constraint, or a conformity determination (for metropolitan transportation plans and TIPs involving “non-exempt” projects in nonattainment and maintenance areas).

### 6.2.2 An Administrative Modification

The Policy Committee, with its responsibility to maintain existing plans and programs, shall approve Administrative Modifications in accordance with the Public Participation Plan. An Administrative Modification is triggered by a minor revision to a metropolitan transportation plan or TIP that includes minor changes to project/project phase costs, minor changes to funding sources of previously-included projects, and minor changes to project/project phase initiation dates. It is a revision that does not require public review and comment, re-demonstration of fiscal constraint, or a conformity determination (in nonattainment and maintenance areas).

### 6.2.3 Amendments/Changes to the FMATS Unified Planning Work Program (UPWP).

Changes in work assignments and studies to be performed to meet the air quality and transportation planning requirements may be made by the FMATS Policy Committee at such times and to such extent as deemed necessary. Total funds to be made available for the performance of said work and services shall not exceed the amount specified in the FMATS UPWP. Reimbursement will be made by ADOT&PF in accordance with procedures stated herein, and shall be expended only on the FMATS

UPWP approved by the FMATS Policy Committee, the State, FHWA and FTA.

(1) Changes in funding levels for tasks, or changes in tasks, shall be requested as soon as possible after the need for such change is recognized.

(a) **Amendment to the UPWP**  
(No additional funding required)  
An Amendment to the FMATS UPWP is triggered when task budget amounts exceed 10 percent of the original approved program budget, individual changes of \$25,000 or more to task budgets, or significant scope changes. Amendments require the concurrence of the Policy Committee, ADOT&PF, FHWA and FTA before becoming effective.

(b) **Administrative Modifications to the UPWP**  
(No additional funding required or no significant change to scope)  
An Administrative Modification is triggered when task budget amounts do not exceed 10 percent of the approved program budget or individual changes of \$25,000 or less of a task budget. Administrative Modifications require the concurrence of the Policy Committee and the ADOT&PF before becoming effective. The Policy Committee, FHWA and FTA will be notified as soon as possible of these changes.

(c) **Program Total Funding Adjustments**  
Requests for additional program funding will require the approval of the Policy Committee, ADOT&PF, FHWA and FTA.

## **SECTION 7 – CONSULTANT CONTRACTS**

7.1 **FHWA and FTA Approval:** For all federally funded work to be done under a consultant contract, prior FHWA approval is required before a Request For Proposal (RFP) is issued. Early coordination is essential. The contracting agency will provide ADOT&PF with a draft Scope of Services for review and submittal to ADOT&PF Headquarters, FHWA and FTA.

- 7.2 ADOT&PF Approval: The contracting agency will coordinate with ADOT&PF to review the final RFP, Scope of Services, project budget and project management plan. ADOT&PF shall also have an opportunity to serve on the Selection Committee.
- 7.3 Work Products: ADOT&PF will have an opportunity to review draft work products prior to review by the Technical and Policy Committees.

## **SECTION 8 – INSPECTION OF WORK**

ADOT&PF, as well as FHWA and FTA, shall at all times be accorded review and inspection of the work and shall at all reasonable times have access to the premises, to all data, notes, records, correspondence, and instruction memoranda or description which pertain to the work involved in the FMATS UPWP.

## **SECTION 9 – ADDITIONAL AND SEPARATE WORK PROJECTS**

From time to time, ADOT&PF or the MPO may desire one of the other parties to perform additional work projects for services separate and apart from those set forth in the FMATS UPWP. At such times, the requesting party will notify the other party of the intention, including a request for the specific work and/or services desired. If there is a willingness and ability to do the work or perform the services requested, written acceptance by the requesting party of the terms accepted shall constitute authority to proceed with the work and/or services requested. The requesting party shall pay for such work or services within a reasonable time after billing. Such billing shall be made pursuant to the terms agreed upon for each particular work project.

## **SECTION 10 – PROGRAM REPORTING REQUIREMENTS**

### 10.1 Reporting: UPWP

In accordance with 49 CFR 18.40 as supplemented by 23 CFR 420.117, the ADOT&PF is responsible for managing the day-to-day operations of FMATS UPWP supported activities. ADOT&PF must monitor the UPWP supported activities to assure compliance with applicable Federal requirements and assure performance goals are being achieved. Monitoring must cover each program, function or activity. The reporting procedures shall include, but not limited to, the following:

#### 10.1.1 Quarterly Reports

All parties involved shall prepare a quarterly financial statement, narrative progress report for all tasks identified in the UPWP for which they are

responsible and submit to the ADOT&PF Northern Region no later than 30 days following the last day of each UPWP fiscal quarter.

Within 40 days of the last day of the fiscal quarter, ADOT&PF Northern Region will compile all reports and shall either, review and approve the report, or request modifications. Upon approval, the ADOT&PF Northern Region staff will forward the reports to the MPO Coordinator to provide as informational items to the Policy and Technical Committees.

If ADOT&PF staff requests modifications, the report will be forwarded to the MPO Coordinator as a draft report. Within 50 days following the last day of each UPWP fiscal year quarter, all requested report modifications shall be submitted to the ADOT&PF Northern Region. Upon approval, the ADOT&PF Northern Region will re-submit the report to the MPO Coordinator no later than 60 days following the last day of each UPWP fiscal year quarter.

This final UPWP Quarterly Report shall serve as the basis for reimbursement and shall consist of the following:

(1) Financial statement shall include task and program summary of the following data:

- (a) Current quarterly expenditures
- (b) UPWP fiscal year to date expenditures
- (c) PL, Sec. 5303, and local funds / in-kind expended to date
- (d) PL, Sec. 5303, and local funds / in-kind remaining

(2) Narrative progress report shall include:

- (a) A description of work accomplished during the quarter
- (b) Significant events (i.e. travel, training, conferences)
- (c) Milestones reached in sufficient detail to justify the quarterly expenditures

For tasks consisting of a scheduled completion date, the percentage complete, explanatory information on the progress and any issues relating to the task, such as schedule delays, shall be given.

(3) The transit element report shall be in the format prescribed by the ADOT&PF Statewide Transit Coordinator and FTA.

### 10.1.2 Annual Report

Upon receipt of all UPWP 4<sup>th</sup> quarterly reports, the ADOT&PF Northern Region will draft the UPWP Annual Report. The ADOT&PF Northern Region will forward the UPWP Annual Report to the MPO Coordinator no later than 60 days following the last day of the UPWP fiscal year to provide to the Policy and Technical Committees for informational purposes. The ADOT&PF Northern Region will submit the UPWP Annual Report to the ADOT&PF Headquarters for review and submittal to FHWA and FTA to meet the reporting requirements of 23 CFR 420.117.

The annual report for the UPWP fiscal year will contain:

- (1) Performance and Expenditure Report
- (2) Comparison of actual performance with established goals
- (3) Progress in meeting schedules
- (4) Cost overruns or underruns
- (5) Approved UPWP revisions
- (6) Other pertinent supporting data

### 10.1.3 Significant Events

Events that have significant impact on the work program shall be reported by the parties of this agreement to ADOT&PF as soon as they become known. The types of events or conditions that require reporting include problems, delays or adverse conditions that materially affect the ability to attain program objectives. This disclosure shall be accompanied by a statement of action taken or contemplated, and any state or federal assistance required resolving the situation.

### 10.1.4 Other Reports

Copies of formal reports, informal reports, and material emerging out of a task specified in the FMATS UPWP shall be governed by Section 11 of this Agreement.

## **SECTION 11 – PLANNING REPORTS**

### 11.1 Planning Reports:

From time to time, ADOT&PF and the MPO may publish reports, documents, etc., upon completion of a portion and/or a phase of a particular planning element in the continuing transportation planning process. In order for the preparation and publishing of such reports to be eligible for participation of Federal funds, the FMATS Technical Committee shall review the report.



## 11.2 Publication

Publication by any party to the Agreement shall give credit to other parties, FTA and FHWA. However, if any party, FTA or FHWA does not wish to subscribe to the findings or conclusion of the study, the following statement shall be added:

“This report was funded in part through grant(s) from the Federal Highway Administration and/or the Federal Transit Administration, U.S. Department of Transportation. The views and opinions of the Fairbanks Metropolitan Area Transportation System expressed herein do not necessarily state or reflect those of the U.S. Department of Transportation.”

Furthermore, consultant logos are prohibited from the cover of all reports, documents, etc. that are approved by FTA and FHWA.

## 11.3 Copies:

Copies of draft and final reports, documents, etc., will be provided as required to federal and state agencies. Parties to this agreement will be provided copies as requested.

The FHWA reserves a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and authorize others to use, the work for Government purposes.

## **SECTION 12 – DIVISION OF COST AND PAYMENT**

### 12.1 Reimbursement

The maximum amount of Metropolitan Planning Funds available each year for reimbursement to the parties shall not exceed the budget approved in the FMATS UPWP or as amended. ADOT&PF will make reimbursement in accordance with the following procedures:

- (1) The parties shall submit to ADOT&PF a quarterly narrative progress report and financial statement, as defined in Section 10 of this Agreement.
- (2) Reimbursement will be made within ~~30~~15 days after ADOT&PF receipt and approval of the quarterly narrative progress reports and financial statements, subject to Federal planning funds being made available and received for the allowable cost.
- (3) Within 60 days of ADOT&PF approval of the last quarter narrative progress report and financial statement for the fiscal year,

ADOT&PF will close the FMATS UPWP account and request that an audit be performed.

- (4) The audit will be completed and final payment adjustments made within 120 days of the last quarter or to the extent possible.

## 12.2 ADOT&PF Tasks:

The parties may agree that ADOT&PF can most efficiently and effectively perform a task or a portion of a task to be funded with PL funds in the approved UPWP. In such cases, ADOT&PF shall:

- (1) Provide the MPO with all necessary documentation in order to permit the preparation of the reports required in Section 10 of this Agreement, Program Reporting Requirements.
- (2) Upon ADOT&PF approval of the quarterly narrative progress reports and financial statements, ADOT&PF shall submit a billing to FHWA for direct payment to ADOT&PF for approved UPWP costs.
- (3) ADOT&PF shall be reimbursed at the rate contained in the applicable Unified Planning Work Program.
- (4) ADOT&PF shall promptly provide the MPO with copies of its billings and statements.

## 12.3 Overruns:

The parties acknowledge that they will receive benefits from the information developed by performance of the elements outlined in the FMATS UPWP. They agree to pay that portion of their element costs which exceed the total program funding level budgeted for the parties, as shown in the FMATS UPWP, without recourse to the other parties.

## 12.4 Cost Limitations:

Reimbursement of administrative and operational costs will be made without profit or markup. These costs shall be limited to:

- (1) Direct salaries and wages, with payroll taxes and fringe benefits at actual costs, or if prorated to be allocated on an equitable basis;
- (2) Telephone charges and necessary travel limited to program specific charges;

- (3) Overhead or indirect costs as approved annually in the respective UPWP line item budget and verified by audit. Such overhead shall be allocated on an equitable basis. Eligibility shall conform to the provisions of 23 CFR 420.111(b);
- (4) Training as approved specifically in the UPWP or otherwise specifically approved by ADOT&PF, FHWA or FTA.

12.5 Rate of Reimbursement:

Reimbursement shall be at the rate specified and contained in the applicable UPWP.

12.6 Financial Accounting Level:

The expended funds will be accounted for at the task level (100, 200, 300 etc.).

12.7 Fiscal Year:

The UPWP fiscal year will be October 1 to September 30.

**SECTION 13 – PROCUREMENT, MANAGEMENT, AND DISPOSITION OF PROPERTY**

Procurement and management of property acquired for the program, including disposition of property if the program is discontinued, will be in accordance with 48 CFR, and 49 CFR 18.31 – 33.

**SECTION 14 – AUDIT PROCEDURES**

14.1 In addition to the requirements stated in this section, requirements for audit as defined in 23 CFR 420 and 49 CFR 18 will be used as guidelines. Also, with respect to contract cost principles and procedures, 48 CFR 31 will be used as guidelines.

14.2 Each participating party will maintain complete records of all manpower, materials and out-of-pocket expenses, and will accomplish all record keeping in accordance with the following procedures:

14.2.1 Each participating party will furnish ADOT&PF copies of all certified payrolls which shall include the hourly rate for each employee working on the project during the reporting period. In addition, a loaded rate factor will be shown in a manner compatible with existing approved local

procedures. The load rate factor is subject to adjustment based upon audits occurring during the life of this Agreement.

#### 14.2.2 Time Sheets

Individual time sheets will be maintained reflecting the daily total amount of hours worked and amount of time spent on each task within the program. It is imperative that the hours be traceable to the task.

#### 14.2.3 Materials

Copies of invoices shall support costs of any purchased materials utilized on this project.

#### 14.2.4 Out-of-Pocket Expenses

Copies of receipts shall support all expenses.

#### 14.2.5 Record System

The record system will be such that all costs can be easily traceable from all billings through the ledgers to the source document. Each expenditure must be identified with the task within the current approved FMATS UPWP.

#### 14.2.6 Cost Overruns

When expenditures are anticipated to overrun in one FMATS UPWP work element, the procedures for budget changes as outlined in Section 6.2 must be followed.

14.3 Each consultant contract or professional services agreement, in which any party engages, may require a specific audit for that project or agreement. The award of any such construction related engineering design services contract must be made in conformity with applicable Federal and ADOT&PF contracting procedures including ADOT&PF Procedure 10.02.010, and related Professional Services Agreement Handbook, or based on acceptable alternative contracting procedures approved by ADOT&PF and FHWA. This requirement is in addition to any agency-wide audit conducted pursuant to ~~23 CFR 12~~ OMB Circular A-133 (Single Audit Requirements).

14.4 The FMATS Program is to be audited every two years by ADOT&PF Internal Review auditors to insure adequate coverage. All parties and/or its subcontractors under this Agreement shall maintain all records and accounts relating to its costs and expenditures for the work during any fiscal year for a minimum of three (3) years following receipt of the final payment, and shall make them available for

audit by representatives of ADOT&PF, FHWA and FTA at reasonable times. All parties shall maintain records in a form approved by ADOT&PF. Final payment is defined as the final voucher paid by FHWA to ADOT&PF based on an audit. A request to close out a fiscal year or project account does not constitute final payment.

- 14.5 Any review, which does not meet Federal requirements, will be resolved between ADOT&PF and the other party. The financial records relating to a UPWP year may be closed out once FHWA accepts the audit and final payment adjustments have been made.

## **SECTION 15 – COMPLIANCE WITH TITLE VI, CIVIL RIGHTS ACT OF 1964**

- 15.1 All parties hereby agrees as a condition to receiving any Federal financial assistance from the USDOT, to comply with Title VI of the Civil Rights Act of 1964, (78 Statute 252, 42 USC § 2000d – 2000d-4 hereinafter referred to as the “Act”) and all requirements imposed by or pursuant to Title 49 CFR, Part 21, Nondiscrimination in Federally-assisted Programs of the USDOT, Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the “Regulations”). Regulations, and other pertinent directives, no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or activity for which any party receives Federal financial assistance from the USDOT, including FHWA and FTA, and hereby gives assurance that is will promptly take any measure necessary to effectuate this Agreement. This Assurance is required by 49 CFR 21.7 (a) (1).
- 15.2 More specifically, and without limiting the above general assurance, the FNSB hereby gives the following specific assurance with respect to the project:
- 15.2.1 The FNSB agrees that each “program” and “facility” as defined in subsections 21.23(b) and (e) of the Regulations, will be (with regard to a program) conducted or will be (with regard to a facility) operated in compliance with all requirements imposed by, or pursuant to, the Regulations
- 15.2.2 The FNSB shall insert the clauses of this assurance in every contract subject to the Act and Regulations.
- 15.2.3 Where the FNSB received Federal financial assistance to carry out a program of managerial training, under 49 USC § 5303 – 5306, the assurance shall obligate the FNSB to make selection of the trainee without regard to race, color, or national origin.

- 15.2.4 Where the FNSB receives Federal financial assistance to carry out a program under 49 USC § 5303 – 5306, the assurance shall obligate the FNSB to assign transit operators, and to furnish transit operators, for charter purposes without regard to race, color, or national origin.
- 15.2.5 Where the FNSB receives Federal financial assistance to carry out a program under the 49 USC § 5303 – 5306, routing scheduling, quality of service, frequency of service, age/quality of vehicles assigned to routes, quality of stations serving different routes, and locations of routes may not be determined on the basis of race, color, or national origin.
- 15.2.6 This assurance obligates the FNSB for the period during which Federal financial assistance is extended to the projects, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon; in which case the assurance obligates FNSB or any transferee for the longer of the following periods: a) The period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or b) the period during which the FNSB retains ownership or possession of the property.
- 15.2.7 The FNSB shall provide for such methods of administration for the program, as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other FNSB sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.
- 15.2.8 The FNSB agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, Regulations and this Assurance.
- 15.3 This Assurance is given in consideration of and for the purpose of obtaining, any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date thereof to the FNSB by the FHWA and/or FTA programs and is binding on it, other FNSB sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants in FHWA and/or FTA programs. The person or persons whose signature appears below are authorized to sign this assurance on behalf of the FNSB.

## **SECTION 16 – DISADVANTAGED BUSINESS ENTERPRISES (DBE) PROGRAM REQUIREMENTS**

### **16.1 Compliance**

The parties, their agents and employees shall comply with the provisions of 49 CFR 26 and Title VI of the Civil Rights Act of 1964. 49 CFR 26 requires that all parties shall agree to abide by the statements in paragraphs 16.2 and 16.3 and shall include these statements in all parties' USDOT financial assistance agreements and in all subsequent agreements between any party and any sub-grantees and any contractor.

### **16.2 Policy**

It is the policy of the USDOT that Disadvantaged Business Enterprises (DBE), as defined in 49 CFR 26 shall have an equal opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this Agreement. Consequently the DBE requirements of 49 CFR 26 apply to this Agreement.

### **16.3 DBE Obligation**

The Parties to this Agreement or their contractors agrees to ensure that Disadvantaged Business Enterprises (DBE), as defined in 49 CFR 26 have an equal opportunity to participate in the performance of contracts and sub-contracts financed in whole or part with Federal funds provided under this Agreement. In this regard the Parties to this Agreement and/or their contractors shall not discriminate on the basis of race, color, national origin, or in the award and performance of USDOT assisted contracts.

## **SECTION 17 - AMENDMENTS**

This Agreement may be amended only in writing, and must be done prior to undertaking changes or work resulting therefrom or incurring additional costs or any extension of time. Said amendments are subject to approval by the FMATS Policy Committee and the State of Alaska.

## **SECTION 18 – LIMITATION OF LIABILITY**

No liability shall be attached to any party to this agreement by reason of entering into this Agreement, except as expressly provided herein.

**SECTION 19 – COMPLIANCE WITH LAWS**

In addition to the laws, statutes, regulations and requirements stated herein, all Parties to this Agreement shall be knowledgeable of and comply with all Federal, State and local laws and ordinances applicable to the work to be done under this Agreement.

**SECTION 20 – TERMINATION OF AGREEMENT**

This Agreement will continue in force until or unless the Parties terminate the Agreement in writing.

**SECTION 21 – NON-APPROPRIATION CLAUSE**

Nothing in this agreement shall obligate any party to expend monies if there are insufficient or other lack of funds lawfully appropriated by their respective legislative bodies for this agreement performance.

**SIGNATURES**

<b>Mayor – Fairbanks North Star Borough</b>	<b>Date</b>
<b>Mayor – City of Fairbanks</b>	<b>Date</b>
<b>Mayor – City of North Pole</b>	<b>Date</b>
<b>Governor – State of Alaska</b>	<b>Date</b>



**Attachment #1**

**FMATS Metropolitan Planning Area Map**