

## MINUTES OF THE METRO COUNCIL REGIONAL FACILITIES COMMITTEE MEETING

Wednesday, March 18, 1998

Metro Council Chamber

Members Present: Ruth McFarland (Chair), Patricia McCaig (Vice Chair), Lisa Naito

Members Absent: None.

Chair McFarland called the meeting to order at 1:35 PM.

### 1. INTRODUCTIONS

None.

### 2. CONSIDERATION OF MINUTES OF MARCH 4, 1998

**Motion:**

Councilor McCaig moved to adopt the Regional Facilities Committee minutes of March 4, 1998.

**Vote:**

Chair McFarland and Councilors Naito and McCaig voted aye. The vote was 3/0, and the motion passed unanimously.

### 3. RESOLUTION NO. 98-2618, FOR THE PURPOSE OF AMENDING THE CONTRACT BETWEEN METRO AND DAVID EVANS AND ASSOCIATES (CONTRACT NO. 904969) FOR DESIGN AND CONSTRUCTION MANAGEMENT SERVICES FOR THE PENINSULA CROSSING TRAIL IN NORTH PORTLAND

Melvin Huie, Senior Regional Planner, and Nancy Chase, Senior Real Estate Negotiation, both of Metro Open Spaces Department, were present to explain the need for amending the contract. Mr. Huie displayed several large, aerial photographs of the area and pointed out where the trail will be. The trail will be cover a three-mile section between the Willamette and Columbia Rivers and tie into the "40-mile Loop" (which is currently about 140 miles long). Mr. Huie said the trail will add considerably to the urban environment. The trail corridor runs along a street that was planned but never built, so in place of a four-lane street, the City will have a beautiful, wide trail and linear park. Ten-thousand people live within five blocks of the trail, and the University of Portland is located only about 10 blocks away. The university fields a strong cross-country track team, and plans to use the trail. Mr. Huie said people are excited about the trail, and more than 100 spectators showed up for the groundbreaking on March 17. He said once the trail is built, the City of Portland will maintain it.

Mr. Huie explained the reason for amending the contract with David Evans and Associates. David Evans was retained to design the trail and to manage construction. The original contract was made before Metro transferred \$584,000 of federal Congestion Mitigation/Air Quality (CMAQ) grant money from the Omsi-to-Springwater trail project to this project. The switch meant federal grant money would be involved, and along with federal money come federal mandates that incur additional costs. The additional costs are for the additional services that are mandated, the cost of managing those services, and the cost of obtaining permits that could not be anticipated.

Councilor McCaig asked if the additional costs had been explained when the fund switch was up for approval. Mr. Huie said yes. Councilor McCaig asked how much the additional costs total. Mr. Huie said \$90,000 in grant money and \$38,000 to meet federal requirements. Councilor McCaig said she did not remember discussing that \$128,000 more would be needed because of the federal involvement, when the issue of switching funds came before the committee. Mr. Huie said the \$90,000 was discussed. He said that part of the additional cost is federal, but part is the local permitting process.

Chair McFarland said the amount in the original bid was \$133,330.60. With this additional \$128,132.76, the cost will be almost doubled. Chair McFarland asked if more money would be available because of the money taken from the Omsi-to-Springwater trail project. Mr. Huie said yes. Chair McFarland asked if

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Metro would pay for these added expenses from that money. Mr. Huie said it would be a combination of that money and bond money. Chair McFarland asked if she was correct in her understanding that no budgets would need to be changed. Mr. Huie said yes. He said \$1.6 million had been originally budgeted for this project, and that amount has been accumulating interest. The project would remain within the \$1.6 million plus the interest it has accumulated.

Councilor McCaig asked if the \$90,000 portion would come out of the bond money, because it would be allowable for operating expenses. She asked if the \$38,000 increase was due to requirements that accompanied the transfer of \$584,000 in federal money. Mr. Huie said that is correct. Councilor McCaig asked if the \$90,000 had been approved when the resolution that approved the fund transfer was passed. Mr. Huie said yes.

Mr. Huie said that among the federal mandates that came along with the transfer was a requirement to have an inspector onsite at all times; federal inspectors are generally engineers. The mandates also require a surveyor, an apprenticeship program to teach construction skills, and quality control of all materials. He said all workers must be U.S. Citizens, resident aliens, or foreign nationals with work permits, and this must be verified. All this costs money. The first contract with David Evans did not anticipate the additional federal requirements, as no federal money was involved at that time.

Mr. Huie said that in addition to the federal mandates, there are a multitude of other mandates that range from a permit from the Burlington Northern/Santa Fe Railroad company, which is located in Fort Worth, Texas, to Intergovernmental Agreements (IGAs) with the City of Portland and the Oregon Department of Transportation (ODOT), to obtaining permits from a multitude of local transportation and environmental bureaus. Not all the permits could be anticipated, because until an application is actually submitted, the various bureaus do not tell applicants what all will be required. In addition, the bureaus constantly upgrade their own rules.

Mr. Huie said construction also requires extensive coordination with the local utility companies to obtain easements. It also involves digging up pavement. Digging always turns up the unexpected. Already, digging has turned up a dry well that must be filled in. Things like this cannot be predicted, and they cost money. Mr. Huie said the contract also requires public involvement. The department has done more of that than expected. He said Metro's section of the trail should open this fall, and the city's section should be open by December.

Mr. Huie said the cost for design, management, and permitting would amount to 16% of total project costs. That is in line with federal mandates for "soft costs".

Councilor McCaig asked if all the things Mr. Huie listed made up the \$128,000. Mr. Huie said yes. Councilor McCaig asked what part makes up the \$38,000. Mr. Huie said the various costs are detailed in a memo from David Evans (included in the meeting record). Councilor McCaig asked if most were due to federal mandates or were they due to local mandates. Mr. Huie said it was both.

Councilor Naito asked about the cost for art. Mr. Huie said that is a Metro requirement. Metro requires that 1% of the total cost be spent on public art. Since the cost of the project had gone up, the amount for art would need to go up by 1% of that, also.

Mr. Morrissey, Council Analyst, asked if this would be the last change-order. He noted that most of the increased expenses were due to items that David Evans did not anticipate. He questioned why a contractor would bid a contract and not anticipate these kinds of costs. Also, he asked if Metro is agreeing with David Evans that all the costs they are requesting are appropriate. He asked whether any of the costs had been negotiated. For example, the art costs had been anticipated but not budgeted for. He wondered who, in that case, should be responsible for picking up the tab for that. The last item, the additional construction services, David Evans claimed that administering the ODOT contract entails more documentation than anticipated. He wondered why a contractor who routinely does this kind of work had not anticipated these costs. He wondered what other expenses might crop up in the future.

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Chair McFarland asked Mr. Huie 1) if another change-order is likely, and 2) how many of the additional costs could have been anticipated. She said she understood why the charges that came with the federal money could not have been anticipated. She asked about the rest.

Mr. Huie said he does not anticipate more charges, but he cannot guarantee it. He said a contingency fund has been set aside to cover some additional charges.

Councilor McCaig said she understood how difficult it is to predict costs for a project of this scale involving so many jurisdictions. She also realizes that a project of this scale is new for Metro. She said under the circumstances, she would expect more changes. And as long as the nature of the need is made clear, she felt confident about being able to evaluate each need as it arises.

Councilor Naito asked whether there had been other bids that, though larger, might have anticipated the expenses. Mr. Huie said only two bids had been received, and one did not meet minimum requirements. Councilor Naito said she wanted to make sure that a low bid had not been intentionally submitted with the intention of coming back with requests for increases. Mr. Huie said that was not the case here. He reminded the committee that the project would not go over the original \$1.6 million budget plus its interest, and in addition the department had leveraged a good size chunk of federal money. By negotiating with the city and ODOT to assume responsibility for parts of the project, some money might be left that could be used to build more on the OMSI-to-Springwater trail.

Chair McFarland asked if Metro had yet seen the costs for actual construction of the trail. Mr. Huie said no. He said the construction would be paid for out of what was left of the \$1.6 million after subtracting the \$266,000 for management and permitting. Chair McFarland asked if the department would be coming back before the committee to request the construction money. Mr. Huie said no, because the committee had already approved that money. Of the \$1.6 million, 16% of that is for this part. He said the department is not asking for more money; it is just increasing the percentage for soft costs from, say, 13% to 16.

**Motion:**

Councilor McCaig moved to recommend Council adoption of Resolution No. 98-2618.

**Vote:**

Chair McFarland and Councilors McCaig and Naito voted aye. The vote was 3/0 in favor, and the motion passed unanimously.

Councilor McCaig will carry the motion to a meeting of the full Council.

Mr. Huie added that David Evans would be managing construction of the trail, not actually constructing it. That would be done by a subcontractor.

**4. COUNCILOR COMMUNICATIONS**

None.

There being no further business before the committee, the meeting was adjourned at 2:11 PM.

Prepared by,

Pat Emmerson  
Council Assistant

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**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF MARCH 18, 1997**

The following have been included as part of the official public record.

<b>DOCUMENT</b>	<b>DOCUMENT DATE</b>	<b>DOCUMENT DESCRIPTION</b>	<b>DOCUMENT NUMBER</b>
<b>Peninsula Crossing Trail</b>	March 1998	Parks and Greenspaces Update	031898-RF1