

**APRIL 2017 EMAIL STREAM BETWEEN DWAC AND CITY OF ASHEVILLE**  
**(Note: READ FROM THE BOTTOM UP)**

Hi Cathy – Thanks so much for this thorough summary. It appears from your description that the only responding firm was non-responsive in that it lacks the capacity to handle this project fully, and therefore, must rely on the City to provide some guidance about securing sub-contractors.

One of the reasons we suggested retaining a consultant is that the City has not had the level of expertise needed to help it sort through NCDOT's NEPA assumptions and analysis through the years. As a result, the City has been an unequal partner in negotiations. Simply put, the City doesn't know what it doesn't know, so we would be concerned that the status quo would continue moving forward even with a \$200k expenditure on a project management consultant. The City needs highway planning and NEPA analysis expertise, not project management services, so it appears that your one and only bid was lacking the subject matter expertise necessary for the I-26 Connector project.

Beginning in 2000 with the CCC group, this entire project has been led by those with no understanding of highway engineering dynamics. The ADC efforts circa 2008 secured the services of a bridge consultant, but unfortunately, NCDOT is building a highway --not a bridge (as Mr. Derrick Weaver of NCDOT reiterated to me at the recent community meeting in Hillcrest.) This fundamental error in bringing an inappropriate team to the table resulted in the entire effort going seriously off course and has led to the current plan to build three elevated highways through the City and along its riverfront. It's well past time for the City to secure competent and knowledgeable assistance in this effort. We would ask the Council to start anew and work with those of us associated with DWAC who have major infrastructure transportation planning expertise to develop a next round RFP.

I am sure that all of you on the selection committee are very talented individuals. However, your joint expertise is not in this area. Mr. Dundas has a background in municipal utilities – not highways. Mr. Ridout has expertise in transit and parking. Mr. Nutter's expertise is in community planning. While the city has multi-modal goals on this project, it is above all else a major highway project. It is certainly commendable when the City seeks community input on development projects. In many cases, the dynamics are suitable for concerned volunteer input. But this project is not one of them -- the I-26 Connector project demands highway planning expertise. If that one simple reality had been brought to the table nearly two decades ago, the City of Asheville would not now be backing a plan that is so destructive to the environment.

Esther, we urge you to review the five suggestions we provided earlier in this email stream and change course on this project before it's too late.

Best regards,

**Suzanne Devane**  
President  
**HD Resources, Ltd.**  
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**From:** Cathy Ball [<mailto:cball@ashevillenc.gov>]

**Sent:** Friday, April 07, 2017 8:07 AM

**To:** sdevane <[sdevane@hdresources.net](mailto:sdevane@hdresources.net)>; Esther Manheimer <[esthermanheimer@avlcouncil.com](mailto:esthermanheimer@avlcouncil.com)>

**Cc:** Lael Gray <[laelgray@yahoo.com](mailto:laelgray@yahoo.com)>; Foster de la Houssey <[fosterdela@gmail.com](mailto:fosterdela@gmail.com)>; Gary Jackson <[GJackson@ashevillenc.gov](mailto:GJackson@ashevillenc.gov)>; councilgroup <[AshevilleNCCouncil@ashevillenc.gov](mailto:AshevilleNCCouncil@ashevillenc.gov)>; Jaime Matthews <[JMatthews@ashevillenc.gov](mailto:JMatthews@ashevillenc.gov)>; Anne LaViolette <[anne28806@gmail.com](mailto:anne28806@gmail.com)>; Bill LaViolette <[lavsnavl@gmail.com](mailto:lavsnavl@gmail.com)>; Mary Trauner <[mary@mtrauner.net](mailto:mary@mtrauner.net)>; Rachel Stein <[nrachelstein@gmail.com](mailto:nrachelstein@gmail.com)>; Sue G. Russell <[suegrussell@att.net](mailto:suegrussell@att.net)>; Zoe Schumaker <[zoe\\_schumaker@yahoo.com](mailto:zoe_schumaker@yahoo.com)>

**Subject:** RE: I-26 Connector RFQ and Design Build Projects

Suzanne,

As you are aware, the City received one proposal for the I-26 Technical Assistance RFP. A committee reviewed the proposal and interviewed the consultant on Friday, March 31, 2017. The committee consists of 3 city staff members and 2 members of the MMTC.

The consultant interviewed well and has excellent project management experience. We have completed reference checks on the consultant, all of which were positive. The consultant is a minority engineering firm with a local office. The review committee is meeting next week to discuss requesting the consultant consider adding additional sub-consultants to round out the level of technical expertise needed to complete the work. During the interview last Friday, committee members asked the consultant if they would be willing to consider adding to their team and they were very open to the idea.

Next week the committee will develop a list of additional expertise that need to be added to the team and follow up with the consultant to request they provided resumes and interview, if needed, the additional sub-consultants. This additional process will delay our ability to go to Council by the end of the month. We would anticipate bringing a recommendation to Council in May.

My best,  
Cathy

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**From:** sdevane [<mailto:sdevane@hdresources.net>]

**Sent:** Wednesday, April 05, 2017 9:19 AM

**To:** Esther Manheimer <[esthermanheimer@avlcouncil.com](mailto:esthermanheimer@avlcouncil.com)>; Cathy Ball <[cball@ashevillenc.gov](mailto:cball@ashevillenc.gov)>

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**Subject:** Re: I-26 Connector RFQ and Design Build Projects

Cathy -- How did the interview go? Can you share any details? Thanks! Suzanne

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Esther Manheimer <[esthermanheimer@avlcouncil.com](mailto:esthermanheimer@avlcouncil.com)>

Date: 4/4/17 2:56 PM (GMT-05:00)

To: Cathy Ball <[cball@ashevillenc.gov](mailto:cball@ashevillenc.gov)>

Cc: Suzanne Devane <[sdevane@hdresources.net](mailto:sdevane@hdresources.net)>, Lael Gray <[laelgray@yahoo.com](mailto:laelgray@yahoo.com)>, Foster de la Houssaye <[fosterdela@gmail.com](mailto:fosterdela@gmail.com)>, Gary Jackson <[GJackson@ashevillenc.gov](mailto:GJackson@ashevillenc.gov)>, councilgroup <[AshevilleNCCouncil@ashevillenc.gov](mailto:AshevilleNCCouncil@ashevillenc.gov)>, Jaime Matthews <[JMatthews@ashevillenc.gov](mailto:JMatthews@ashevillenc.gov)>, Anne LaViolette <[anne28806@gmail.com](mailto:anne28806@gmail.com)>, Bill LaViolette <[lavsina vl@gmail.com](mailto:lavsina vl@gmail.com)>, Mary Trauner <[mary@mtrauner.net](mailto:mary@mtrauner.net)>, Rachel Stein <[nrachelstein@gmail.com](mailto:nrachelstein@gmail.com)>, "Sue G. Russell" <[suegrussell@att.net](mailto:suegrussell@att.net)>, Zoe Schumaker <[zoe\\_schumaker@yahoo.com](mailto:zoe_schumaker@yahoo.com)>

Subject: Re: I-26 Connector RFQ and Design Build Projects

Thank you

On Apr 4, 2017, at 2:34 PM, Cathy Ball <[cball@ashevillenc.gov](mailto:cball@ashevillenc.gov)> wrote:

Mayor,

A committee interviewed the consultant on Friday, March 31, 2017. The panel included three city staff (Ken Putnam, Cathy Ball and Jade Dundas) along with two members of the city's Multi Model Commission (Dave Nutter and John Rideout).

My best,  
Cathy Ball

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**From:** Esther Manheimer [<mailto:esthermanheimer@avlcouncil.com>]  
**Sent:** Tuesday, April 04, 2017 10:47 AM  
**To:** 'Suzanne Devane' <[sdevane@hdresources.net](mailto:sdevane@hdresources.net)>  
**Cc:** 'Lael Gray' <[laelgray@yahoo.com](mailto:laelgray@yahoo.com)>; 'Foster de la Houssaye' <[fosterdela@gmail.com](mailto:fosterdela@gmail.com)>; Gary Jackson <[GJackson@ashevillenc.gov](mailto:GJackson@ashevillenc.gov)>; councilgroup <[AshevilleNCCouncil@ashevillenc.gov](mailto:AshevilleNCCouncil@ashevillenc.gov)>; Cathy Ball <[cball@ashevillenc.gov](mailto:cball@ashevillenc.gov)>; Jaime Matthews <[JMatthews@ashevillenc.gov](mailto:JMatthews@ashevillenc.gov)>; 'Anne LaViolette' <[anne28806@gmail.com](mailto:anne28806@gmail.com)>; 'Bill LaViolette' <[lavsinavl@gmail.com](mailto:lavsinavl@gmail.com)>; 'Mary Trauner' <[mary@mtrauner.net](mailto:mary@mtrauner.net)>; 'Rachel Stein' <[nrachelstein@gmail.com](mailto:nrachelstein@gmail.com)>; 'Sue G. Russell' <[suegrussell@att.net](mailto:suegrussell@att.net)>; 'Zoe Schumaker' <[zoe\\_schumaker@yahoo.com](mailto:zoe_schumaker@yahoo.com)>  
**Subject:** RE: I-26 Connector RFQ and Design Build Projects

Thanks for this. Cathy can answer the question about RFQ response review. Also, you are probably aware that we have a new representative to the state DOT Board, Billy Clarke. He's a lawyer in town and will represent this region well in his new role.

Thank you,  
Esther

<image001.jpg>

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**Sent:** Tuesday, April 4, 2017 9:20 AM  
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**Subject:** RE: I-26 Connector RFQ and Design Build Projects

Thanks for getting back to me, Esther. To answer your question in a nutshell:

1. The City is a "decision-maker" on this issue and Council needs to take a stronger lead role as the elected representatives of the City's residents to insure City interests are protected. This responsibility can't be offloaded to Mountain True. Given that the DEIS was released in fall of 2015, it would be appropriate for the City at this juncture to pass a resolution calling on NCDOT to provide full visuals of 4B so the goals of NEPA can be met. As you know, NEPA is meant to

inform the public and decision-makers about the environmental impacts of the proposed action. If you are convinced that 4B is what the public wants, then it is important to provide 360 visuals from current ground level so that the public knows what 4B will actually look like and how it fits into the surrounding topography. The resolution should note that until these visuals are provided the City cannot continue to move the Working Group process forward.

2. Work behind the scenes directly with Gov. Cooper to insure that this project has the hard look and genuine NEPA process needed to insure the Connector is right for Asheville now and in the future. Once this project is built, it will be irreversible. All DOTs tend to “solve” highway projects by looking in the rearview mirror rather than at the roadway in front. DOTs want to build. (A bit like surgeons see the answer as surgery!) A Feb. 2016 Congressional Budget Office report that reviewed federal highway funding practices stated:

*“In recent years, however, the growth of travel abated, at least in part because of the recent recession and slow recovery and perhaps because of the aging population and lower rates of driving among younger drivers. In terms of vehicle-miles traveled per person, highway use in 2015 was comparable with what it was in 2000. The shares of highway use for moving people and for moving goods have remained fairly constant over the past three decades, although truck traffic has grown slightly faster than total vehicle-miles traveled.”*

That reality is why U.S. PIRG has called this project one of the nation’s top transportation boondoggles.

3. To the extent that the City has negotiated any improvements on the 4B front from NCDOT, get them in writing and on the record. Because you are an attorney, you know that when a party doesn’t want to put an oral commitment in writing, you have ample reason to be concerned!
4. Be open to the possibility that the current 4B plan is not the right solution for today and tomorrow. The CCC report and the 2007/2008 ADC efforts are outdated for a project that takes Asheville into the future. Just as Council would never have voted down a hotel development in 2000 or 2008, it was appropriate to do so now in 2017. Treat this highway project the same way. There has been significant development since this plan was conceived – including an incredible amount of greenway and riverfront development that will be lost to public access once three new elevated highways are built. The idea of walkable commercial use at the west side of the Bridge is pie-in-the-sky. The commercial on the west side of Patton Avenue is fast food, car dealerships and strip malls. Small local businesses don’t have existing infrastructure to move into (unlike Haywood before its renaissance.) Likewise the idea of limiting “urban sprawl” with the Connector project is akin to closing the barn door after the livestock has escaped. Urban sprawl is already happening because City property values are skyrocketing. Take a look at all the traffic that uses Leicester Highway and causes back-ups in and out of downtown. None of that will be remedied by the 4B alternative.
5. It appears that the City has viewed the I-26 Connector project over the years as a mechanism to secure roadway and multi-modal improvements that are unrelated to NCDOT’s goal of building the last 7 miles of I-26 to current highway standards. Step back from that and you can begin to see other possibilities. A lot of the traffic back-ups heading west over the bridge are due to having a signalized intersection to allow traffic to exit development around Westgate. That

could actually be remedied by simply continuing the frontage road and having the traffic exit at a signalized intersection further down the road. Bike and pedestrian access to and from the riverfront is important for the greenway and City riverfront development plans. That ped bridge can be built as a stand alone project for which the City can seek federal funding. (And dare I say it, that project can be designed as a “signature” pedestrian bridge!)

In a nutshell, the City should not be taking the hands off “nothing we can do” approach to this project. Put official City markers of concern on the record of proceedings to insure that the City is protected should legal action become necessary. Mountain True is not a decision-maker, but the City is and needs to move forward in a way that safeguards that role. I assure you that NCDOT will continue to game the process if things continue along the lines they have been going. The stakes here are huge and the City can't afford the inevitable outcomes that are part and parcel of 4B.

As I mentioned, DWAC would be happy to work with the City at no cost to assist you in taking a more robust approach to the project review and negotiations.

As a side question, Ken Putnam had told me there would be an entire committee reviewing RFQ responses. Has that occurred, or was the interview solely with Cathy?

Best,

**Suzanne Devane**

President

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**From:** Esther Manheimer [<mailto:esthermanheimer@avlcouncil.com>]

**Sent:** Monday, April 03, 2017 12:27 PM

**To:** 'Suzanne Devane' <[sdevane@hdresources.net](mailto:sdevane@hdresources.net)>

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**Subject:** RE: I-26 Connector RFQ and Design Build Projects

Suzanne – thank you for the email. Can you help me understand what it is you would me and the council to do at this juncture? I know Cathy interviewed the one applicant last week.

Thank you,  
Esther

**From:** Suzanne Devane [<mailto:sdevane@hdresources.net>]

**Sent:** Wednesday, March 29, 2017 5:01 PM

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**Subject:** I-26 Connector RFQ and Design Build Projects

Hi Mayor! Lael suggested that I reach out to you about two specific concerns relating to the City RFQ and the Design-Build process NCDOT envisions. I am copying another member of our Coalition (Foster), as he is a retired Transportation Planner and received the same intel from his sources that I did about the RFQ.

I understand from speaking with Ken Putnam that only one response was received. At the time I spoke to him, he wasn't sure whether it would prove responsive. Both Foster and I reached out to companies that would have had the capabilities to do the work, but they decided not to do so. They shared the same concerns with us.

- An RFQ requires a significant amount of work and the firms felt they didn't have enough information about what they were expected to do for the contract to even make an attempt. I know that when members of the MNA Board met with City officials last September at the meeting you arranged to discuss the possibility of retaining expertise, that Cathy Ball (or perhaps Julie) stated the City wouldn't even know how to write an RFP for this work, and I think that was reflected by the lack of interest in responding to the RFQ. One firm I spoke with said that there wasn't even a line in the RFQ about needing NEPA process assistance and that this is an issue because that allows a firm to assess the overall scope of the project. I know from my experience as a consultant that when a potential client doesn't seem to be able to articulate the project clearly, it's a red flag that it is likely to be a huge time suck and I respond accordingly.
- Second, to be responsive to the RFQ, it was necessary for any responding firm to have highway A/E capabilities. The firm I was primarily hoping would respond is internationally known for NEPA project assistance with a Raleigh office. When that office reached out to A/E firms, no one would even consider being involved for fear of annoying NCDOT. Since NCDOT is where they get the lion's share of their work that is clearly an issue. I also think it underscores the reality that preparing the City to negotiate with NCDOT from a position of educated strength is widely perceived as a move that would annoy NCDOT. In a nutshell, NCDOT doesn't want the City reps to know what they are seeing and doing -- as is the case status quo.
- DWAC continues to remain very concerned about NCDOT's decision to make this a design-build project with so many unknowns remaining about its scope and impacts. According to the Federal Highway Administration guidance, Design-Build is generally used to expedite a project. States are NOT precluded (per the 2005 SAFETEA-LU) from issuing RFP's, awarding them, and issuing notices to begin preliminary design work prior to NEPA compliance. The downside is that changes may not be able to be made within the defined project budget, and the project can take unexpected turns that were not envisioned. See <http://americancityandcounty.com/contracts/growth-and-growing-pains-design-build-construction> for a broader discussion:

*"With design-build, the owner will lose some control of the design process. Design often is managed through owner approval of design documents during performance. While some design elements may be specified, typically the contractor is given flexibility in design. Recent federal*

*court decisions have illuminated the boundaries of design and construction independence as one of the sources of tension in the relationship.*

*Contract management is more challenging as well. Contract administration overall requires more collaboration. The absence of effective collaboration may be where the growing pains of design-build are revealed.”*

In a nutshell, NCDOT can move ahead and define project parameters that have terrible consequences on Asheville under Design-Build that would leave the City with few (or no) options to secure necessary changes once the impacts are apparent because they will likely become known in the midst of construction.

I know DWAC has sent a letter to the City asking that NCDOT decisions be placed on hold and that you contact Gov. Cooper directly to share concerns. We've not yet received a response. The City is 18 months into the Working Group activities following the release of the DEIS in fall of 2015. I would challenge anyone on the City Council to fully describe the impacts of this project on the City. Unless and until that can be done, the City may end up having backed a project that will devastate the City, its neighborhoods, and its business community.

I very much appreciate your responsiveness to our concerns over the last year, but I fear that the City needs to open its eyes to the probability that NCDOT is working aggressively to ramrod a project through that the public will hate when all is said and done. I realize that this project has been around since 1988 and has always managed to drop off the radar for one reason another. It appears that it just might come to fruition during your tenure as mayor. I don't envy you that responsibility.

If the bid for the RFQ is non-responsive, I would be very happy to work (pro bono) with Ken and Cathy to craft something that might elicit more responses. I also hope you might be willing to contact the Governor and seek a planning hiatus.

Thanks for your ear!

Best,

**Suzanne Devane**

President

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