

**JOURNAL OF CITY COMMISSION WORK SESSION**  
**Virtual Meeting by Zoom**  
**November 16, 2021**

City Commission Work Session

Mayor Kelly presiding

**CALL TO ORDER: 5:30 PM**

Due to the COVID-19 health concerns, the format of the City Commission Work Session was held in a virtual video-conferencing environment.

**ROLL CALL/STAFF INTRODUCTIONS:** City Commission members participated electronically via Zoom Webinar: Bob Kelly, Owen Robinson and Rick Tryon. Mary Sheehy Moe was excused. City Staff participating electronically were: Deputy City Manager Chuck Anderson; Public Works Director Paul Skubinna, Public Works Acting City Engineer Jesse Patton and Public Works Engineer Mark Juras; Police Captain Rob Moccasin; and City Attorney Jeff Hindoien. Deputy City Clerk Darcy Dea was present in the Commission Chambers.

To honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), modifications have also been made for public participation.

To attend and participate in the virtual meeting utilizing Zoom, attendees must register in advance for the Commission Meeting at: [https://us02web.zoom.us/webinar/register/WN\\_maHzNa91SESGmQa\\_PuLKxQ](https://us02web.zoom.us/webinar/register/WN_maHzNa91SESGmQa_PuLKxQ)

For all other participation options, please see **Public Participation Guide for City Commission Meetings**.

**PUBLIC COMMENT**

Participating via Zoom was:

**Kevin Westie**, City resident, expressed concern with regard to having Zoom meetings since the infection rate is decreasing. He discussed negative impacts of controlled, slow growth in communities; and climate; carbon emissions and electric vehicles. He commented that filling Commissioner Houck's vacancy should be the will of the citizens.

**1. NEIGHBORHOOD COUNCIL #8 UPDATES.**

NC #8 Official Delegate, Travis Grove reported that the northern boundary is the Missouri River, the southern boundary is Central Avenue, the eastern boundary is 36th Street from Central north to 9th Avenue North then East to 38th Street and north to the Missouri River, the western boundary is 12th Street north from Central Avenue to 7th Avenue North, then east to 15th Street North, and then north to the Missouri River.

Council 8 holds its regular meeting on the third Thursday of each month, except for December 2021, at 6:00 p.m. in the Women's Annex of the Great Falls Transition Center, 1019 15th Street North. The Annual

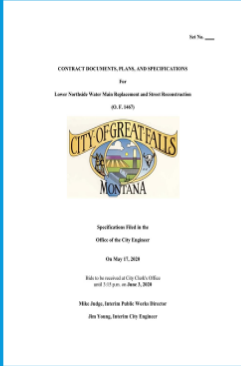
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Ice Cream Social and block party were well attended and Council 8 has approximately 51 followers on Facebook.

**2. PROJECT RISK MANAGEMENT AND PROJECT DELIVERY METHODS.**

Public Works Director Paul Skubinna reported that from 2017-2021, the Public Works Department has issued over \$71 million in construction contracts across 63 projects. Change Orders caused 17 projects to be approximately \$1 million over budget and 46 projects to be approximately \$2.1 million under budget.

Public Works Director Skubinna, Acting Engineer Jesse Patton, Engineer Mark Juras, City Attorney Jeff Hindoen, Thomas Dean & Hoskins (TD&H) President Wade Deboo, and Advanced Engineering and Environmental Services (AE2S) Regional Manager Nate Weisenburger reviewed and discussed the following PowerPoint:

<div style="text-align: center; background-color: #0070C0; color: white; padding: 5px;"> <h2 style="margin: 0;">PROJECT RISK MANAGEMENT AND PROJECT DELIVERY METHODS</h2> <p style="margin: 0;">November 16, 2021</p> </div> <div style="margin-top: 20px;"> <p><b>Design Bid Build (DBB) Overview</b></p> <p>Used for Majority of CoGF Projects</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 33%;">Design</th> <th style="width: 33%;">Bid</th> <th style="width: 33%;">Build</th> </tr> </thead> <tbody> <tr> <td>COGF Identifies Project</td> <td>Publicly Advertised</td> <td>Submittals</td> </tr> <tr> <td>COGF Contracts with Designer or In House Design</td> <td>Design Team Answers Questions, Issues Addenda</td> <td>Mobilization</td> </tr> <tr> <td>Bid Documents are Produced</td> <td>Bids Opened</td> <td>Construction</td> </tr> <tr> <td></td> <td>Notice of Award, Construction Contract Execution, Notice to Proceed</td> <td>Final Completion - 2 Year Warranty Period</td> </tr> </tbody> </table> </div>	Design	Bid	Build	COGF Identifies Project	Publicly Advertised	Submittals	COGF Contracts with Designer or In House Design	Design Team Answers Questions, Issues Addenda	Mobilization	Bid Documents are Produced	Bids Opened	Construction		Notice of Award, Construction Contract Execution, Notice to Proceed	Final Completion - 2 Year Warranty Period	<div style="text-align: center; margin-bottom: 20px;"> <p><b>Presentation Goals</b></p> <ul style="list-style-type: none"> <li>Education on Project Risk Management</li> <li>Discussion on Change Orders</li> <li>Identify and Discuss Project Delivery Methods</li> <li>Plan to use GC/CM (General Contractor/Construction Manager) on upcoming WTP Solids Mitigation Project</li> </ul> </div> <div> <p><b>Project Risk Management</b></p> <p><b>Current CoGF Risk Management Practices</b></p> <ul style="list-style-type: none"> <li>Hire Consultant</li> <li>Bid Documents</li> <li>Construction Contract</li> <li>Construction Phase Services</li> <li>Project Management</li> <li>Contingency</li> <li>Change Order</li> </ul> <p><b>Proposed Practices</b></p> <ul style="list-style-type: none"> <li>Alternative Project Delivery Method GC/CM</li> </ul> </div> <div style="text-align: right; margin-top: 20px;">  </div>
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#### Project Risk

##### Top Causes of Uncertainty (McGraw Hill, 2014)

- Unforeseen Site Conditions
- Design Errors/Omissions
- Owner Driven Changes
- Accelerated Schedule

##### Top Risk Mitigation Strategies (2014)

- Better Communication
- Greater Leadership
- Project Contingency
- Use of Team-Based Alternative to DBB

Impact of Strategies on Mitigating the Seven Top Causes of Project Uncertainty (According to Owners, Architects and Contractors)

	Design Errors	Accelerated Schedule	Owner Driven Changes	Unforeseen Site Conditions	Contractual Disputes	Change Order Budget	Unforeseen Conditions	Average
Better Communication	88	86	84	88	82	79	79	83
Greater Leadership	81	83	78	71	80	83	72	77
Project Contingency	86	79	76	71	72	68	68	73
Use of Team-Based Alternative to DBB	79	76	73	68	64	57	59	68
Use of DBB	83	68	76	68	76	67	68	63
Shared Liability Contract	68	59	71	62	63	53	58	53
Use of Low Designated Intermediate Contract	78	61	72	71	70	72	63	64

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#### Change Orders – What Are They?

##### Majority of Change Orders are “Good”

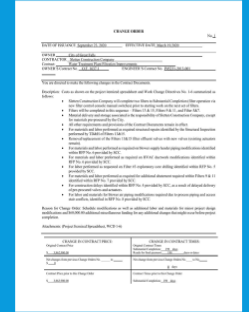
- Adjustment to a Contract to Modify its Scope of Work
- A way to adjust contracts up or down as needed
  - Generally has an Associated Cost or Savings

##### A Contracting Tool used to:

- Add necessary items to projects
- Increase/Decrease project scope due to Owner requests
- Address unforeseen issues
- Manage Project risk

##### Some Change Orders are “Bad”

- An attempt by a contracted party to take unacceptable financial advantage of the City



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#### Change Orders – Why Do they Happen?

##### Owner-Driven Changes

- Owner has a need for alterations (additive or deductive)

##### Unforeseen Site Conditions

- A hidden issue at the project site not identified during design
- Force Majeure – disasters, war, fire, pandemics, etc.

##### Design Errors/Omissions

- The cost of imperfection
- Only 79% of owners believe perfect construction documents are possible (McGraw Hill)



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#### Change Orders – Why Do they Happen?

##### Accelerated Schedule

- Projects which have aggressive completion deadlines can increase risk as things may be overlooked, dismissed, etc.

##### “Bad” Change Order:

- An attempt to manipulate an existing issue or create a new issue with motives of greed, profit, manipulation, etc.



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#### Change Order Examples by Local Professionals TD&H Engineering

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#### 1. Owner Driven Changes: Water Main Crossing

Need was identified by City Engineering **DURING** water main installation to modify and upgrade adjacent parking stalls.

- Adding these improvements to the existing contract was believed to be cost effective option to get improvements completed



Verde Park Gravel Parking Lot

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## 2. Changes caused by Unforeseen Conditions: Water Treatment Plant UV Project

Previously unknown buried tank discovered during construction:

- No records showed tank existence
- Thorough Field Investigation During Design failed to uncover tank
- Contractor required additional work and money to pay for revisions associated with the discovery



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## 3. Design Errors and Omissions

- Errors, Designer (Either Consultant or City Staff)**
  - Consultant responsible for change order associated with a design error
- Omissions.**
  - Example: Fire hydrant not included in construction bid is later determined to be required.
  - Consultant not typically responsible for change order associated with this type of omission.



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Question: Is there a more efficient way to deliver complex projects with reduced risk, streamlined schedule, and reduced change orders?

Answer: Yes, Alternative Project Delivery Method of GC/CM Can Save Money by:

- 1) Collaboration
- 2) Schedule Acceleration
- 3) Negotiated Construction Cost

GC/CM is only applicable for certain complex projects, majority of projects will still utilize DBB

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## Legal Discussion on Alternative Project Delivery Methods by Jeff Hindoi

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### Montana Law – Alternative Delivery Methods

Montana law specifically allows public entities to use the General Contractor / Construction Manager (GC/CM) project delivery model as an alternative to the traditional Design/Bid/Build model. In order to do that, however, the City Commission must make a detailed written finding that:

1. The project has significant schedule ramifications and use of the alternative delivery method is necessary to meet critical deadlines by shortening construction duration – factors include:
  - significant cost savings / opportunities for revenue generation
  - demonstrable public benefits from less construction time
  - less/shorter disruption of facility
2. The design process will contribute to significant cost savings through value engineering, systems analysis, etc.

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### Montana Law – Alternative Delivery Methods

The "governing body" written finding also includes:

3. The project presents significant technical complexities that necessitate the use of an alternative delivery method; and
4. The use of an alternative project delivery method will not:
  - Encourage favoritism or bias in awarding the contract; or
  - Substantially diminish competition for the contract

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### What is General Contractor / Construction Manager (GC/CM)?

#### Process

- CoGF Hires Design Consultant
- Design Progresses to 30% milestone
- GC/CM Selected via RFO & RFP
- Two-Phase Contract signed with Contractor
  - Phase 1 – Preconstruction Services Contract
  - Phase 2 – Construction Contract
- Ability to off-ramp to public bidding of project

Change Orders may still occur but on a reduced basis, limited to:

- Owner-Driven changes
- Unforeseen Issues



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### Why GC/CM?

#### Collaboration (Pre-Construction Phase Services)

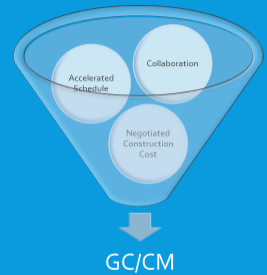
- Shared Risk / Open Communication
- Contractor involvement in Design process
- Constructability Means & Methods Review
- Construction Management & Schedule Planning
- Cost Estimating/Modeling and Transparency

#### Accelerated Schedule

- Public Bidding step taken out of equation
- Early procurement of construction materials
- Head start on submittals, etc.

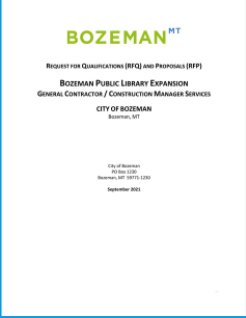



#### Negotiated Construction Cost

- Price Agreement Procured near 90% Design Milestone
- Contractor at risk if cost is exceeded
- Certain amount of work is self performed (50%)
- Requires Competition of and Transparency with Sub-Contractor Quotes



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<p><b>Who Else is Using GC/CM?</b></p> <ul style="list-style-type: none"> <li>• Great Falls Public Schools <ul style="list-style-type: none"> <li>• GFHS Addition/Remodel</li> <li>• CMR Addition/Remodel</li> <li>• Longfellow Elementary School</li> <li>• Giant Springs Elementary School</li> </ul> </li> <li>• Montana Department of Transportation <ul style="list-style-type: none"> <li>• Trout Creek – Bridge Rehab and Roadway</li> </ul> </li> <li>• City of Bozeman <ul style="list-style-type: none"> <li>• Bozeman Public Library Expansion</li> </ul> </li> <li>• Many Others</li> </ul> 	<p>Alternative Project Delivery Method  Examples by Local Engineering  Professionals AE2S</p>
<p><b>Regional Water Treatment Plant</b>  City of Grand Forks, ND</p> <p><b>\$152M</b>  20 MGD</p> 	 <p><b>Water Treatment Plant &amp; Intake Improvements</b>  City of Pierre, SD</p> <p><b>\$38M</b>  8.8 MGD</p>
 <p><b>Water Resource Recovery Facility</b>  City of Watford City, ND</p> <p><b>\$20M</b>  1.4 MGD</p>	<p><b>Revisiting our Goals</b></p> <ul style="list-style-type: none"> <li>• Education on Project Risk Management</li> <li>• Discussion of Change Orders</li> <li>• Identify and Discuss Project Delivery Methods</li> <li>• Tee up for GC/CM on upcoming WTP Solids Mitigation Project: <ol style="list-style-type: none"> <li>1. Agenda Report of Written Findings</li> <li>2. GC/CM Selection via RFQ &amp; RFP</li> <li>3. Agenda Report Awarding GC/CM Contract</li> </ol> </li> </ul> <p>Questions?</p>

Commissioner Robinson expressed support with regard to the General Contractor/Construction Manager (GC/CM) method and he added that the use of GC/CM has potential for cost savings on projects. He expressed appreciation to Public Works Director Skubinna for his efforts with regard to finding new ways to improve upon things done in the past.

Commissioner Tryon inquired about the Agenda Report of written findings for GC/CM projects.

Public Works Director Skubinna responded that the initial Agenda Report of written findings would include Commission input and the second Agenda Report would describe awarding the GC/CM contract.

Commissioner Tryon further inquired how the use of an alternative project delivery method would not encourage favoritism in awarding the contract or diminish competition for the contract.

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City Attorney Hindoiien responded that Montana law allows public entities to use the GC/CM project delivery method. In 2005 the Montana Contractors Association had concerns that the traditional Design Bid Build (DBB) model had the prospect of leading to favoritism. He added that the GC/CM project delivery method does not discourage competition because contractors are familiar with and have benefited from the method.

Mayor Kelly received clarification that in-house design is generally utilized for smaller projects and an RFP/RFQ approach is for larger, more complex projects. He further received clarification that the scoring criteria for RFP and RFQ's could be provided in the Agenda Report.

Commissioner Tryon received clarification that the GC/CM method is more of a collaborative process than the DBB, because contractors participate early on during the design process of large, complex projects, such as the Indoor Aquatics Recreation Center.

**DISCUSSION OF POTENTIAL UPCOMING WORK SESSION TOPICS**

Deputy City Manager Chuck Anderson reported that the December 7, 2021 work session includes a Special Work Session for an opioid litigation update, an update from Neighborhood Council 3, as well as Crime Task Force recommendation discussions. The Elected Officials Swearing In Ceremonies and Open House will be on December 21, 2021.

**ADJOURN**

There being no further discussion, Mayor Kelly adjourned the informal work session of November 16, 2021 at 6:40 p.m.