

CORRECTED JOURNAL OF COMMISSION PROCEEDINGS
April 16, 2024

Regular City Commission Meeting

Mayor Reeves presiding
Commission Chambers Room 206

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL/STAFF INTRODUCTIONS: City Commission members present: Cory Reeves, Joe McKenney, Rick Tryon, and Susan Wolff. Commissioner Shannon Wilson was excused. Also present were City Manager Greg Doyon and Deputy City Manager Chuck Anderson; Public Works Director Chris Gaub; Planning and Community Development Director Brock Cherry; Finance Director Melissa Kinzler; Library Director Susie McIntyre; City Attorney David Dennis; Police Chief Jeff Newton; and City Clerk Lisa Kunz.

AGENDA APPROVAL: City Manager Greg Doyon pulled item 15 from the agenda. There were no proposed changes to the agenda by the City Commission. The Agenda was approved as amended.

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS: None.

1. PROCLAMATIONS

Earth Day [April 22, 2024] and National Library Week [April 7-13, 2024].

Makenna Sellers, Executive Director, Montana Renewable Energy Association, submitted written comment that advancing more sustainable power generation, conservation, and energy efficiency are key to a clean and healthful environment as outlined in the state constitution, and thanked the City Commission for acknowledging Earth Day with a proclamation.

Ken Palison, City resident, discussed Hooker Chemical Company dumping chemicals in the Love Canal in Niagara Falls, contaminating the soil and groundwater that lead to 701 deaths, and took 21 years to clean up.

COMMUNITY INITIATIVES

2. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM CITY COUNTY HEALTH DEPARTMENT.

Megan Brunelle, Family Health Services Nurse, reported that April is Child Abuse, Neglect and Prevention Month. The City County Health Department offers many services that can help assist in decreasing child abuse and neglect rates in Cascade County. A prevention strategy to assist in this crisis is home visiting. Home visiting provides voluntary family centered services in the home to pregnant and newly parenting women and families. Recent studies show that home visiting can greatly reduce the risk of child maltreatment reoccurrence. To get involved, contact the City County Health Department for more information on the programs, or visit the Prevent Child Abuse and Neglect Task Force site at cascadecountypcan.org.

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3. PETITIONS AND COMMUNICATIONS

Brandon Colwell, not a City resident but works in the City, requested that building permit information be made available for contractors to see who is doing work in Great Falls. He suggested a higher level of enforcement for licensing requirements for out of state contractors, and incentivizing local contractors in order to build a more experienced and licensed workforce of local residents.

Derek Hitt, not a City resident, commented that other localities (Missoula County) have implemented apprenticeship programs that are registered with the state and provide an incentive by lowering a bid by a certain amount to local contractors. There is a desperate need for trained and qualified workers in the trades.

Planning and Community Development Director Brock Cherry provided both gentlemen with his contact information.

NEIGHBORHOOD COUNCILS

4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

BOARDS AND COMMISSIONS

5. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

CITY MANAGER

6. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Greg Doyon made the following announcements:

- In honor of National Public Safety Telecommunicators Week, an award ceremony will be held at the 911 Center on Friday, April 19th at 9:00 a.m.
- The Civic Center ribbon cutting ceremony is scheduled for Friday, April 19th at 11:00 a.m. on the front steps and foyer.
- Fifty-eight applications were received for the advisory committee for the Growth Management Plan.

Manager Doyon discussed his participation in a recent panel for Leadership Montana. He reported it was refreshing to hear from an enthusiastic class that were very complimentary of Great Falls, particularly of downtown, the riverfront and trail system.

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CONSENT AGENDA.

7. Minutes, April 2, 2024, City Commission Meeting.
8. Total Expenditures of \$2,452,151 for the period of March 21, 2024 through April 3, 2024, to include claims over \$25,000, in the amount of \$1,839,581.
9. Contracts List.
10. Approve the Final Payment for the Parks & Rec ADA Restroom Project in the amount of \$5,710.60 to Wadsworth Builders and authorize the City Manager to make the payment. **OF 1810.0**
11. Approve the Final Payment for the Natatorium Demolition Project in the amount of \$36,606.14 to Shumaker Trucking & Excavating Contractors, Inc., and \$369.76 to the State Miscellaneous Tax Fund, and authorize the City Manager to make the payments. **OF 1393.8**
12. Set a public hearing on Resolution 10546, a Conditional Use Permit for a “Type II Community Residential Facility” land use upon the property located at 2201 11th Street SW for June 4, 2024.

Commissioner Wolff moved, seconded by Commissioner Tryon, that the City Commission approve the Consent Agenda as presented.

Mayor Reeves asked if there were any comments from the public or discussion amongst the Commissioners.

Hearing none, Mayor Reeves called for the vote.

Motion carried 4-0.

PUBLIC HEARINGS

13. **RESOLUTION 10545, CONDITIONAL USE PERMIT (CUP) TO ALLOW HANDLING OF A HAZARDOUS SUBSTANCE, HYDROGEN SULFIDE (H₂S), WHICH IS LISTED AS AN INGREDIENT OF ASPHALT, FOR THE PROPERTY ADDRESSED AS 6501 18TH AVENUE NORTH.**

Mayor Reeves declared the public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Brock Cherry reported that this CUP request is merited due to the handling of hazardous material as defined by the EPA. The material in question is hydrogen sulfide (H₂S), a trace component in asphalt, which the applicant is hoping to facilitate transloading services. He clarified that the purpose for the CUP is not the transloading facility. That is something the applicant could do via a building permit with stamped plans. The CUP is a requirement of Title 17, Chapter 20 of the Official Code of the City of Great Falls (OCCGF).

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Chapter 20 of Title 17 of the OCCGF requires a Conditional Use process before permitting a land use proposal that involves the handling of hazardous materials, among other potentially dangerous or offensive activities. Specifically, Section 17.20.3.060 states, “a permitted land use that emits air contaminants or potentially offensive odors outside of the building, or that handles radioactive materials, hazardous substances, hazardous waste, or regulated substances shall be considered a conditional use in every circumstance.” Because the EPA lists hydrogen sulfide (H₂S) as a hazardous substance, a CUP is required to allow the transload facility to handle asphalt.

The proposed site is within Agri-Tech Park that is within a Planned Unit Development (PUD). The PUD has even more conditions of approval that need to be met prior to a building permit. Three conditions will need to be met: Emergency Management Plan, Spill Prevention and Control Plan, and an Industrial Wastewater Survey.

Brian Marler, President and Managing Partner of Ponderosa Solutions, LLC, reported that the company was founded in 2001 as a wholesale brokerage company. During that time, they operated about 250 railcars and bought and sold product across Canada, Mexico, and the United States. The first transloading operation was in 2008 where they transloaded asphalt as the commodity in Oklahoma City. Since then they have loaded over 4,000 cars per year, in several locations across the states. Ponderosa Solutions has received Safe Ship recognition awards almost annually.

There has been a demand for a transload facility in Great Falls for a period of time. There is a lot of local businesses that could benefit from the opportunity to bring in or export commodities via rail. The fundamental problem was none of those opportunities drove enough economic value to justify building a \$3.5-\$4.5 million dollar project.

With the help of the Great Falls Development Alliance, Ponderosa Solutions was able to find an anchor partner that is interested in moving commodities through this facility over a period of time that justifies the economic development. That commodity is asphalt petroleum project. It is the same commodity on the roads today. The anchor customer supporting the investment has a demand for the project to be operational by November 1, 2024.

The intent is to employ five to eight people under the current business model. The plan is to load from 1,100 to 1,500 cars per year through the facility. The specific asphalt that will be transloaded contains roughly 5 parts per million of H₂S.

Over the past three years, they have trucked a significant amount of this commodity from Great Falls to Silver Bow County, and transloaded it from there. They are looking to cut some of that truck haul out and bring it back into Great Falls.

H₂S can be described as a decomposing organic material through a bacterial breakdown process. H₂S is about managing the concentration level and not the presence. They will monitor H₂S concentration for every railcar that is loaded and every operator will be carrying an H₂S monitor that will give an active reading and active identification if an operator ends up in a scenario where that concentration level is dangerous.

In summary, they have loaded over 4,000 cars annually with asphalt for the past 16 years with zero incidents with H₂S.

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Mayor Reeves asked if the Commissioners had any questions of staff or the applicant.

Commissioner McKenney inquired if there were barrels of concentrated H₂S or if the H₂S was in with the asphalt.

Applicant Marler clarified that H₂S evolves out of decomposing organic material. The asphalt inherently has some evolving H₂S that comes off the material. When that material is concentrated into a vessel, then naturally that H₂S is going to evolve out of the dome lid of a railcar. That is the space they will manage to ensure they do not have any health concerns.

Mayor Reeves asked if there were any comments from the public in support of Resolution 10545.

Jolene Schalper, Great Falls Development Alliance, commented that Ponderosa Solutions would simply be transferring asphalt from truck to rail. They are currently trucking it to Butte to transfer it from truck to rail. Approval of the CUP will result in significant savings on natural resources and their clients' budgets. Three reasons GFDA is in support of this project are (1) Great Falls needs a transload facility and it will benefit numerous other local businesses, (2) it is a great fit for the Agri-Tech Park, and (3) not only is this a great project for the community, it is a great project for GFDA in that they will be able to recoup some of the \$2.2 million dollars that they invested in infrastructure costs to build Agri-Tech Park.

Rhett Hulett, Owner of M&D Construction, 4415 18th Avenue North, commented he is only a few blocks from the project. It will be a great deal for him. He has worked with Specialty Mills, Fed Ex and Helena Chemical in the Agri-Tech Park. The transload facility will fit right in with those other businesses and for other products. He has done transload for another company in town that brings in steel. They have to build it and take it down every time. It is not set up for permanent use like this one will be.

Mayor Reeves asked if there were any comments from the public in opposition to Resolution 10545.

Ron Pollock, commented he is neither for nor against this Resolution. He attended the Neighborhood Council meeting where there were more Neighborhood Council members and City staff than citizens. He suggested it is the Neighborhood Council's responsibility to engage their neighbors by whatever methods are available when a resolution of this nature is addressed.

There being no one further to address the Commission, Mayor Reeves asked if Director Cherry or Applicant Marler wanted to address any of the comments made. Hearing none, Mayor Reeves closed the public hearing and asked the will of the Commission.

Commissioner Wolff moved, seconded by Commissioner McKenney, that the City Commission adopt Resolution 10545 subject to the Conditions of Approval being fulfilled by the applicant.

Mayor Reeves asked if there was any discussion amongst the Commissioners.

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Commissioner McKenney referred to the last paragraph of page 104 of the agenda packet wherein he referenced that the applicant has not had to submit conditional use permit requests at their other facilities, as asphalt is not deemed hazardous because H2S is in such low concentration. He inquired why Great Falls requires a CUP.

Director Cherry responded that even though it is in trace amounts, City Code states a CUP is required in every circumstance. He expressed appreciation to the applicant for their due diligence and providing everything staff needed to meet the standards set by City Code.

Commissioner McKenney asked the applicant if staff brought this CUP requirement to his attention and did it give him pause in doing business in Great Falls.

Applicant Marler responded that staff brought it to his attention. He has looked at multiple locations inside and outside of Great Falls. The Agri-Tech Park was rail ready. There were things about that location that provided some advantages from a timeframe perspective. Had he gotten more lead-time, he probably would not have pursued inside the City limits as much. Director Cherry and staff convinced him that this process would be seamless and quick and should still be able to meet timelines.

There being no further discussion, Mayor Reeves called for the vote.

Motion carried 4-0.

OLD BUSINESS

14. INDOOR AQUATICS AND RECREATION CENTER, CHANGE ORDER NO.7. OF 1770.0

Park and Recreation Director Steve Herrig reported that the requested action is that the City Commission approve Change Order No. 7 in the amount of a \$31,135.57 for the Indoor Aquatics and Recreation Center. The Change Order includes the following:

1. Cast Letter Changes	\$ 20,541.92
2. Key Switches for Gym Equipment	\$ 953.91
3. Knox Box	\$ 837.32
4. Sponsor Signs for Gym Scoreboards	\$ 564.65
5. FDC Relocations	<u>\$ 8,237.77</u>
Total	\$ 31,135.57

Commissioner Wolff moved, seconded by Commissioner McKenney, that the City Commission approve Change Order No. 7 to Swank Enterprises in the amount of \$31,135.57 for the Indoor Aquatics and Recreation Center, and authorize the City Manager to execute the Change Order documents.

Mayor Reeves asked if there were any comments from the public. Hearing none, Mayor Reeves asked if there was any discussion amongst the Commissioners.

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Commissioner Tryon commented that the amount of the Change Order is a lot of money to the average citizen. The total amount of all the Change Orders is about \$893,500. He noted that he did a quick search on Amazon and questioned the amount for the Knox Box. He knows the items are going to be covered by donations, but hopes staff has been pushing back as much as they can on the contractor and these change orders if some items are not justifiable.

Director Herrig responded that there could be a price difference between a commercial Knox Box and a residential Knox Box. He reminded the Commission that the first Change Order was a deduction to the project. The remaining Change Orders include over \$699,000 in alternates that were brought back in to the project, approximately \$110,900 for City directives, and about \$83,000 for contractor changes.

Fund raising monies will be coming in over the next few years. The project is currently \$1,049,000 over budget, but they have commitments for over \$1,600,000 for construction use.

Commissioner Wolff visited the new facility with the Fire Marshal and he explained the need to move the FDC. It was exciting to see the progress. She thanked Director Herrig for monitoring all the details throughout the process.

Commissioner McKenney commented that he serves on the Governor's Housing Task Force and has heard from some jurisdictions that their Fire Marshals may not do their inspections until the very end. It adds to the costs and it really slows down the timeframe of opening.

A couple of items on the Change Order are from the Fire Marshal inspections. His sense is that the Fire Marshal has been involved throughout the project and is not holding up the project with late inspections.

Director Herrig explained he had early conversations with Fire Marshal McIntosh and Fire Chief Jones, reviewed the designs and came to some decisions that remained within City Code. His understanding is that the FDC goes out to a third party review. When that occurred they were reviewing plans that did not have the entire infrastructure on it. A few weeks ago, Fire Marshal McIntosh noticed the FDC next to a power source. They were able to figure out a fix to the problem to bring the FDC out to the front of the building making it more accessible to the Fire Department.

Mayor Reeves called for the vote.

Motion carried 4-0.

NEW BUSINESS

- *15. COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AGREEMENT WITH GREAT FALLS PARK AND RECREATION FOR THE PURCHASE OF A KUBOTA UTILITY VEHICLE TO SERVICE GIBSON AND ELKS RIVERSIDE PARKS.**

*Pulled from agenda.

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16. 33RD STREET WATER TANK REHABILITATION CONSTRUCTION CONTRACT AWARD. OF 1794.1

Public Works Director Chris Gaub reported that the 33rd Street Water Storage Tank was constructed in the mid 1940's. It is one of two water tanks on the main zone that serves 2/3 of the City. It stores 4.75 million gallons of water, which is 50 percent of the City's total water storage capacity. It is also the primary supply to the Ella elevated water tower on the east side of Great Falls. The tank persistently leaks treated water into the sanitary sewer system and is a waste of resources. A consultant evaluated the tank and found the underlying structure to be sound. He recommended repair with a liner system that will extend the life of the tank approximately 20-years. The liner can also be spot repaired which could further extend the life of this tank.

The bids for this project were opened on April 3, 2024. One contractor, DN Tanks, submitted a responsible bid. DN Tanks is a reputable company and their bid is within six percent of the engineer's estimate. This same company under a different name actually built this tank in the 1940's.

Commissioner Tryon moved, seconded by Commissioner Wolff, that the City Commission award a contract in the amount of \$2,941,050 to DN Tanks for the 33rd Street Water Storage Tank Rehabilitation project, and authorize the City Manager to execute the necessary documents.

Mayor Reeves asked if there were any comments from the public.

Ron Pollock, City resident, inquired if DN Tanks was a local or out of state company.

Director Gaub responded that he believed out of state, but would have to verify that.

Mayor Reeves asked if there was any discussion amongst the Commissioners. Hearing none, Mayor Reeves called for the vote.

Motion carried 4-0.

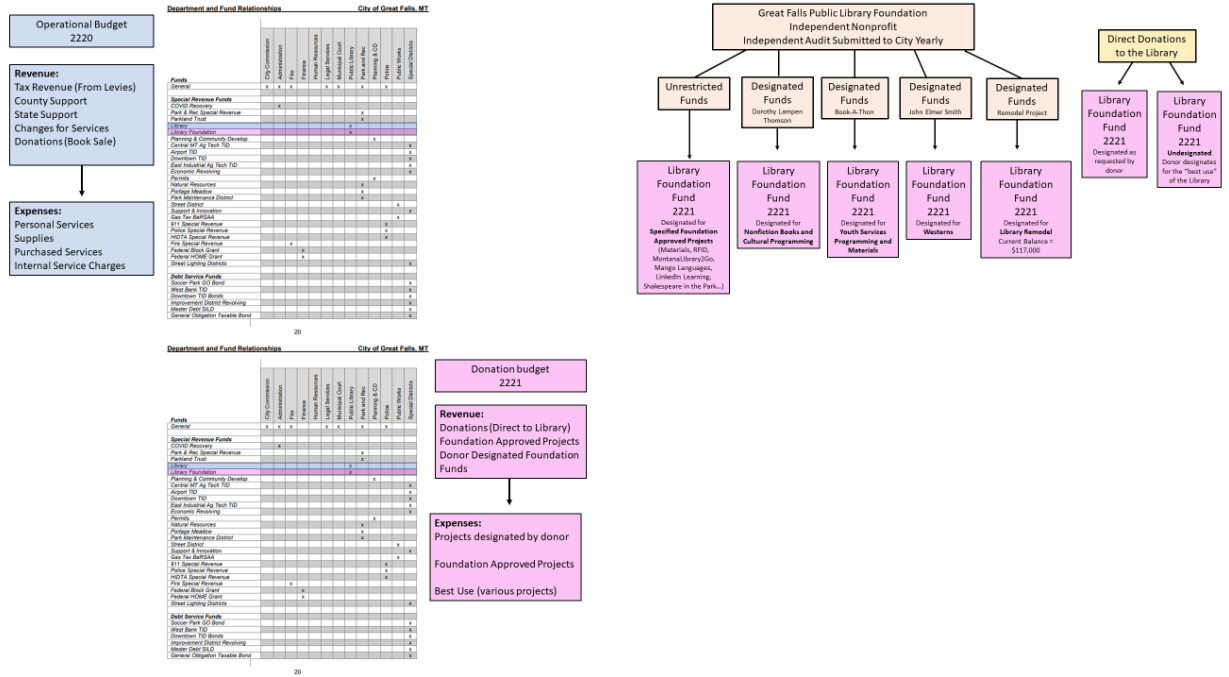
17. LIBRARY REMODEL DESIGN PROJECT PROFESSIONAL SERVICES AGREEMENT. OF 1762.5

Library Director Susie McIntyre reported that in 2022 the Library Foundation provided funding to create a Library Master Plan. Professionals examined operations, staffing, collections, and spaces of the entire building. One of the recommendations from the Master Plan was that the Library needed to improve its funding. She thanked the community for supporting the passage of a levy. Another recommendation was that the 56-year old Library building was in need of repair. The Great Falls Public Library has never undergone a remodel in those 56 years. The analysis of the Master Plan was that the Library needed to redo many of its major systems. The Library Board has approved a strategic plan. The first goal in the strategic plan is making sure the Library building is up to date and maintained. The first step in making that happen is getting some architectural designs.

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An RFP was issued. A review committee analyzed and ranked the proposals and chose Cushing Terrell as the best proposal. The Library Board approved awarding a contract to Cushing Terrell.

In response to public questions, Director McIntyre reviewed and discussed the following PowerPoint slides:



The Foundation has approved and been a part of the Master Planning process, and reviewed all of the proposals received in response to the RFP. Approval of this contract will not impact the operational budget of the Library. The Library Foundation has the monies to fund this contract, but will not be passing it all over to the Library at this time because of the interest they are currently making off the money. The plan is to pay Cushing Terrell bills as submitted first from the existing \$117,000 and then request the funds from the Foundation.

Approval of this contract is an important first step. In order for the Foundation to raise more money, it will need to know what the remodel will entail and what parts of the remodel will qualify for grants.

Commissioner Wolff moved, seconded by Commissioner Wolff McKenney, that the City Commission approve a Professional Services Agreement with CTA Inc., d/b/a Cushing Terrell, in the amount of \$873,158 for the Library Remodel Design project to be fully funded by the Great Falls Library Foundation, and authorize the City Manager to execute the agreement.

Mayor Reeves asked if there were any comments from the public.

Dennis Devine, 627 Carol Drive, commented that he has 35 years of experience in construction management, including for the State of Montana for five years and as the Great Falls Library Director of Facilities for five years. He expressed concern about the City getting into a contract it

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did not have the funds to meet the obligation. He received clarification that the \$117,000 plus the \$756,000 has been secured and committed.

The Master Plan has the 2025 projected construction costs, with 4% inflation, at \$16,899,000. He expressed concern about spending money on design when construction funding has not been secured. If the funding is not raised for five years, the needs and priorities of the project may change as well as cost impacts.

Mr. Devine suggested first using the Master Plan as the basis for pursuing all of the funding, before spending money on a design for something that may never be built.

Jeni Dodd, City resident, agreed with the previous speaker's comments. She expressed concern that there should be a legal document between the Library Foundation and the City making it clear that the Foundation is responsible to pay the amount of this contract.

Jolene Schalper, City resident, commented that a lot of people vocalized support when they voted yes for the mill levy. Their voice was heard, and now they expect it to move forward. The Library Foundation is extremely active. The initial work has been completed and now it is time to move into the architectural and engineer design phase. It is time to update the Library.

Brianne Laurin, Library Foundation Executive Director, reported that the Foundation has raised 119% of the amount needed for this contract. The money and gift agreements are in the bank. The Foundation is able to apply for grants when it can show that it has a design and budget for a certain area. The Foundation has worked closely with Cushing Terrell and Cushing knows that the Foundation will need to have project breakdowns for this purpose.

Ms. Laurin further reported that the Foundation was formed in 1968 to provide books, records, tapes, film, furnishings and other items, materials or objects including the facilities as deemed useful to the community. The design services will build the case for support for fund raising opportunities, and to create phases for the project. Approval of the contract is the initial first step.

Whitney Olson, Library Board Chair, thanked the Foundation for their leadership and support of the Library. They could not do this project without the Library Foundation. This contract will not impact the operational budget of the Library. The funds will come from the Library Foundation, and their donors have given specifically to this project.

Written comments were submitted by **Jeni Dodd**, City resident, in opposition to the City contracting with Cushing Terrell for the Library Remodel Design project. Ms. Dodd opined the agreement should be between the Library Foundation and Cushing Terrell. As a taxpayer, she does not agree with potentially being on the hook for this contract.

There being no one further to address the Commission, Mayor Reeves asked if there was any discussion amongst the Commissioners.

Commissioner Wolff encouraged the Library to utilize the GCCM process.

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Commissioner Tryon inquired if the amount of the contract would be paid with designated or undesignated funds.

Foundation Executive Director Laurin clarified that they have a special capital campaign designated fund. All of the gift agreements designate the design project first, and remaining funds would go to the remodel project. As of now, they have \$1,040,700 or approximately \$167,000 more than the design project.

Commissioner Tryon received confirmation that the reason the City is approving this contract, even though it is coming out of Library Foundation funds, is because of the Management Agreement between the Library and the City.

Director McIntyre added that the Library adopted the fiscal policies of the City. Although the Foundation is providing the funding, the contract is with the City because the City owns the building.

Commissioner Tryon noted that he has been asked why the Library Foundation needs to come to the City Commission to ask permission to spend 501(c)3 funds, and why is that fund in a City account.

The Commission is being asked to approve an \$873,000 contract with only \$117,000 guaranteed right now. He will vote to approve, but he requested that an agreement be drafted between the City and the Library Foundation that sets forth the funds will be provided as Cushing Terrell issues the invoices so the City is not on the hook.

Foundation Executive Director Laurin commented that the Library Foundation Board approved this project. Foundation funds are being managed by DA Davidson and currently have a good rate on return. As soon as she is invoiced, she will write a check to the Library. She agreed an MOU between the City and Library Foundation Board would be helpful.

Commissioner McKenney commented he had some of the same concerns as Commissioner Tryon. He noted the motion was that the project be fully funded by the Great Falls Library Foundation. He inquired if that language gave the City the protection it needed to cancel the agreement with Cushing Terrell if, for some reason, the money was not available from the Library Foundation

City Attorney David Dennis commented that the best protection would be to have the money in the bank, or next best to have a signed agreement by the Foundation to pay the money. The Foundation was created for the sole purpose of supporting the Library. There have been many projects in the past where a similar process was followed and the money came through. He thinks there is little risk in this situation of the Foundation not coming through on their obligation.

Commissioner Wolff suggested that the MOU be worded such that the Foundation money be taken out as billed so that they do not lose their investment potential.

There being no further discussion, Mayor Reeves called for the vote.

Motion carried 4-0.

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ORDINANCES/RESOLUTIONS

CITY COMMISSION

18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

19. COMMISSION INITIATIVES.

The Commission members present were in agreement to direct City staff to draft an MOU with the Library Foundation Board. City Attorney Dennis noted he was clear on what was being requested.

The Library has established its negotiating team with regard to upcoming discussions concerning the Library Management Agreement. All were in agreement that the City's negotiating team would consist of Commissioner Wolff, Commissioner McKenney, City Manager Greg Doyon and City Attorney David Dennis.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Tryon moved, seconded by Mayor Reeves, to adjourn the regular meeting of April 16, 2024, at 8:46 p.m.**

Motion carried 4-0.

Mayor Cory Reeves

City Clerk Lisa Kunz

Minutes Approved: May 7, 2024