

## REPORT OF THE FINANCE COMMITTEE

NOVEMBER 18, 2020

A meeting of the Finance Committee was held on Wednesday, November 18, 2020, at 7:00 p.m. via teleconference.

Mayor Jim Donchess, Chairman, presided.

### Mayor Donchess

As Chairman of the Finance Committee, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04 and subsequent extensions, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:

*To access Zoom, please refer to the agenda or the City's website for the meeting link.*

*To join by phone dial: 1-929-205-6099*

*Meeting ID: 826 1379 4838*

*Passcode: 098835*

*The public may also view the meeting via Channel 16.*

We previously gave notice to the public of the necessary information for accessing the meeting, through public postings. Instructions have also been provided on the City of Nashua's website at [www.nashuanh.gov](http://www.nashuanh.gov) and publicly noticed at City Hall and Nashua Public Library.

If anybody has a problem accessing the meeting via phone or Channel 16, please call 603-821-2049 and they will help you connect.

In the event the public is unable to access the meeting via the methods mentioned above, the meeting will be adjourned and rescheduled. Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-To-Know Law.

The roll call was taken with 7 members of the Finance Committee present: Alderman Patricia Klee, Alderwoman Elizabeth Lu, Alderman Linda Harriott-Gathright, Alderwoman-at-Large Shoshanna Kelly, Alderman-at-Large Brandon Michael Laws, Alderman-at-Large Michael B. O'Brien, Sr., and Mayor Jim Donchess.

Also in Attendance:

Alderman Richard A. Dowd  
Brian Sojka, Police Supervisor  
Steve Buxton, Assistant Fire Chief  
Tim Cummings, Economic Development Director

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## ROLL CALL

### Alderman Klee

Yes, I am here, I can hear the proceedings. I am not really alone, you can hear my little whiner in the background there. But I am technically human-alone in the room.

### Alderwoman Lu

I am here alone and I can hear you.

### Alderman Harriott-Gathright

Clerk says, I'm present, I can hear everyone, I am in this room alone and I am practicing social distancing.

### Alderwoman Kelly

I am here, I am alone and I can hear everyone.

### Alderman Laws

I am here, I am alone and I can hear everyone.

### Alderman O'Brien

I am present, I can hear the proceedings and I am alone.

### Mayor Donchess

I am practicing social distancing, therefore at home and I am alone in the living room. We've done the roll call. Public Comment, is there any member of the public who would like to speak to the Committee? I see Mr. Teeboom, please go ahead.

## PUBLIC COMMENT

Fred Teeboom Ok thank you. I don't normally attend the meetings but I have been tracking the cost of the Performance Arts Center. It is on your agenda for R-20-093 for approval for the guaranteed maximum price. I'd like to say first of all that your contractors ICON and Harvey are doing a very good job on the estimating especially when compared with the Webb study that preceded the current project. But being a guaranteed maximum price I did look at the details and the details are in your attachments to your agenda. So I'll make a few comments; I won't take too much time. The cost, the guaranteed maximum price is now for the construction part of the job not the total project which is \$25 million. We are talking just the construction of the Performance Arts Center is now priced to be guaranteed maximum at \$15.8 million dollars.

However the Option 2, and I presume this is Option #2, the Steering Committee considered many options. On 2 January of this year, the price was estimated at \$15.2 million so you have an addition here of \$600,000.00. I started looking at the spread sheet, that these details are in Exhibit 8, Exhibit H pages 12 and 13 which are pages 61 and 62 on your attachment if any of you have a computer tracking this.

Essentially the subcontract costs were up by about \$600,000.00 and the construction management contingency fees are up about \$200,000.00. So this Committee ought to ask the question why the contingency construction management contingency fee go up and especially why did the subcontract costs go up. That combined \$800,000.00 increase with some minor reductions elsewhere, there's a total increase like I said before of \$600,000.00. The committee ought to look into that.

The outstanding item that I paid attention to that in the spreadsheet, like I said it's on page 61/62, there is no contingency for the design. There's contingency for construction managers and some other contingencies. I ran my own spread sheet from this thing but there is no design contingency. I don't know what that means. And looking back at the original presentation by ICON back in 2 January, there was no design contingency then either and I don't remember anybody asking that question. I attended that meeting. There is no design contingency, what does that mean? Does it mean the design is done, no changes, or the changes are picked up elsewhere? Architectural fees for example. It's not clear to me where the design contingency is in this guaranteed maximum price.

The spreadsheet is kind of interesting, there's \$100,000.00 difference between – if you add the salary on pages 61 and 62 versus the guaranteed maximum price, presented in your resolution, there's actually a \$100,000.00 discrepancy, not a very large number, but still the actual additions add up to about \$100,000.00 more than the guaranteed maximum price. I don't know if anybody through Tim Cummings has checked these numbers. But for the record, I don't know who is attending from Harvey but they ought to answer the question why the additions are off by \$100,000.00, and it favors the City. The numbers of \$100,000.00 more as in the resolution.

Now there was a Zoom meeting 28 October, I did not attend the meeting, I forgot about it but Tim Cummings told me in an email that they cut about \$800,000.00 from the estimate that was presented on 2 January. Now I don't know what was cut. You can't, you know, there's a very lengthy exhibit that lists all the drawings and there must be several hundred drawings in this design. Of course the drawings are not part of your package. There are huge amounts of design information but the \$800,000.00 that was cut, so it's not clear what was cut. He mentioned that the second elevator was cut and I don't know what the impact there is. It's probably up to the Finance Committee. There are two elevators. The second elevator was cut some additional cuts. But if you combine these two, there's a \$600,000.00 increase in the estimate presented earlier in the year as \$800,000.00 on the cut and there's a combined impact price of \$1.4 million dollars. That presents about 10%. It's not necessarily upsetting because it is an estimate final, you know, nailing down a guaranteed maximum price and guaranteeing that. Ten percent is not unreasonable, but the thing is it ought to be understood. Why is there a \$1.4 million dollar difference and Tim Cummings ought to address it.

The final point I'll make there is a lengthy list of exclusions. Again, not everything gets nailed down. Many of these things deal with security cameras and security and of soil that may be contaminated, unseen defects in the existing buildings that is going to get thrown down. But the list of exclusions that is Exhibit - I think it's J -, well anyway you have an Exhibit list of exclusions. There is also a list of exclusions for Exhibit 8 its estimate. The list of exclusions in the later Exhibit is much lengthier than the list of exclusions within the estimate and that's problematic. The list of exclusions ought to be at least understood. The list of exclusions sets you up for change orders; change orders are expected. There's got to be a certain amount of contingency in the \$25 million dollars estimated at least a \$1 million dollars of contingency against unforeseen problems which are listed in exclusions and there may be exclusions outside of the exclusions that are later on found because you are dealing with tearing down an old building on the same site and putting up a new building that's actually next to an existing building which is called the apartment building. So it's a fairly complex operation.

But in your Resolution there are two lists of exclusions - one a lengthy one and one a not-so-lengthy and it ought to be understood. That's the result of my comments, I am not against, I am fairly impressed with the presentation by ICON and Harvey in the attachments to the Resolution and I understand the Finance Committee only has so much time to get into this one because there are other items on your agenda. So you may ask Tim Cummings a few questions along these lines and then let the Steering Committees deal with the rest. Thank you for listening to me.

Mayor Donchess

Thank you very much. Any other members of the public wish to address the Committee? Please proceed.

Laura Colquhoun I'm 30 Greenwood Drive. I know the Board is reviewing the Guaranteed Maximum for the PAC tonight. However, has anybody come up with the costing of the exclusions? How much is the City of Nashua going to lose on permit fees that are going to be waived? Nashua Taxpayers need to know how much more money is going to be required to get this project up and running. Before anybody decides on this amendment, I think these questions need to be answered to both the Board and the Nashua Taxpayers. Thank you.

Mayor Donchess

Thank you very much. Any other member of the public wish to speak? If not we will move on to Communications.

COMMUNICATIONS

From: Kelly Parkinson, Purchasing Manager

Re: Vehicles: Police Interceptor Utility (Marked) Funded From FY21 CERF/81500Vehicles in the amount of \$304,124.10

**MOTION BY ALDERMAN HARRIOTT-GATHRIGHT TO ACCEPT, PLACE ON FILE, AND APPROVE THE PURCHASE OF SEVEN 2021 FORD POLICE INTERCEPTOR UTILITY VEHICLES, WHICH WILL REPLACE SEVEN 2018 FORD INTERCEPTOR UTILITY MARKED VEHICLES, FROM M-H-Q, INC. MUNICIPAL VEHICLES, MARLBOROUGH, MA, IN THE AMOUNT OF \$304,124.10. FUNDING WILL BE THROUGH DEPARTMENT 150 POLICE; SOURCE: FY21 CERF/81500 VEHICLES, BY ROLL CALL.**

ON THE QUESTION

Mayor Donchess

Now I see there is someone from the PD on. I'm not sure who it is?

Brian Sojka, Police Supervisor

It's Brian Sojka, Police Supervisor.

Mayor Donchess

Nice to see you.

Alderman Harriott-Gathright

How do you spell your last name?

Brian Sojka, Police Supervisor

S-O-J-K-A.

Alderman Harriott-Gathright

Thank you.

Mayor Donchess

And could you please give an explanation of this item?

Brian Sojka, Police Supervisor

What we are looking to do is replace 7 of our existing cruisers with the 2021 Police Interceptors. It is a redesigned vehicle from 2018 to 2021 so there's a little bit more equipment that needs to be purchased because we can't interchange the old parts from the old cruiser to the new cruiser like we had done in the past. And we actually are shooting for 100,000 mileage by the time we replace these vehicles.

Mayor Donchess

Ok, any questions or discussions? Madam Clerk, would you please call the roll?

Alderwoman Lu

I'm sorry I had my hand up.

Mayor Donchess

I recognize your voice, Alderwoman Lu?

Alderwoman Lu

It's Elizabeth Lu, I'm sorry, can everyone else see me?

Mayor Donchess

We can see you when you are speaking but I can't see you otherwise. So I need you to speak up as you do.

Alderwoman Lu

Alright, quick question.

Mayor Donchess

Go ahead.

Alderwoman Lu

Thank you. I just wanted to ask why the vehicles were presented this way? I know that I think the purchase is for 10 or 11. I'd have to look again. Is that because there are 7 that are the same? Is that because the packages are slightly different?

Brian Sojka, Police Supervisor

Yes they are. I'm sorry, Brian Sojka, Police Supervisor. The 7 vehicles are identical to each other so there are the same equipment, same everything in the vehicles. And then we have 2 other orders that we are looking to do but the equipment in the cars are different. That's why they are not all combined together.

Alderwoman Lu

Alright, thank you. And is 100,000 the goal of the life of these vehicles?

Brian Sojka, Police Supervisor

Yes.

Alderwoman Lu

Ok, thank you, that's all.

Mayor Donchess

Any other questions or comments? I don't see anyone. So Madam Clerk, we are on then to the next communication from Kelly Parkinson, Purchasing Manager. Alderwoman Harriott-Gathright?

Alderman Klee

Don't we need to vote on the previous one?

Mayor Donchess

We didn't get the first one, I'm sorry. We didn't get the first one by roll call. So let's go back to the first item.

Alderman Harriott-Gathright

Thank you, I was going to say.

Mayor Donchess

Madam Clerk, would you please call the roll?

A viva voce roll call was taken which resulted as follows:

Yea: Alderman Klee, Alderwoman Lu, Alderman Harriott-Gathright,  
Alderwoman Kelly, Alderman Laws, Alderman O'Brien, Mayor Donchess 7

Nay: 0

**MOTION CARRIED**

From: Kelly Parkinson, Purchasing Manager

Re: Vehicles: Police Interceptor Utility (Marked) Funded From FY21 CERF/81500 Vehicles in the amount of \$85,002.60

**MOTION BY ALDERMAN HARRIOTT-GATHRIGHT TO ACCEPT, PLACE ON FILE, AND APPROVE THE PURCHASE OF TWO 2021 FORD POLICE INTERCEPTOR UTILITY VEHICLES, WHICH WILL REPLACE TWO FORD INTERCEPTOR UTILITY MARKED VEHICLES, FROM M-H-Q, INC. MUNICIPAL VEHICLES, MARLBOROUGH, MA, IN THE AMOUNT OF \$85,002.60. FUNDING WILL BE THROUGH DEPARTMENT 150 POLICE; SOURCE: FY21 CERF/81500 VEHICLES, BY ROLL CALL.**

ON THE QUESTION

Mayor Donchess

Are there questions or comments on Item #2. Yes, Alderman O'Brien?

Alderman O'Brien

Thank you, Mr. Mayor. Alderman Lu brought up a very good point and maybe the Police Department can speak on this equally as well. But knowing vehicles and everything, yes, they do shoot for the 100,000 miles but you've got to remember that these vehicles, some of them, are running almost 24/7. So it's not just mileage it's you compensate what they call "engine hours". So you have to take that into consideration. So they may be approaching like I say the 100,000 but their engine hour potential is well up there. So it's just a point for information. Thank you.

Mayor Donchess

Anyone else? Madam Clerk, would you please call the roll?

A viva voce roll call was taken which resulted as follows:

Yea:	Alderman Klee, Alderwoman Lu, Alderman Harriott-Gathright, Alderwoman Kelly, Alderman Laws, Alderman O'Brien, Mayor Donchess	7
Nay:		0

**MOTION CARRIED**

From: Kelly Parkinson, Purchasing Manager  
 Re: Vehicles: Police Interceptor Utility (Marked) Funded From FY21 CERF/81500 Vehicles in the amount of \$59,372.93

**MOTION BY ALDERMAN HARRIOTT-GATHRIGHT TO ACCEPT, PLACE ON FILE, AND APPROVE THE PURCHASE OF ONE 2021 FORD INTERCEPTOR UTILITY MARKED VEHICLE FROM M-H-Q, INC. MUNICIPAL VEHICLES, MARLBOROUGH, MA, IN THE AMOUNT OF \$59,372.93. FUNDING WILL BE THROUGH DEPARTMENT 150 POLICE; SOURCE: FY21 CERF/81500 VEHICLES, BY ROLL CALL.**

A viva voce roll call was taken which resulted as follows:

Yea:	Alderman Klee, Alderwoman Lu, Alderman Harriott-Gathright, Alderwoman Kelly, Alderman Laws, Alderman O'Brien, Mayor Donchess	7
Nay:		0

**MOTION CARRIED**

From: Kelly Parkinson, Purchasing Manager  
 Re: Protective Clothing & Equipment Funded From FY21 Operating Budget/61110 Protective Clothing in the amount of \$25,848.70

**MOTION BY ALDERMAN HARRIOTT-GATHRIGHT TO ACCEPT, PLACE ON FILE, AND APPROVE THE PURCHASE OF TEN (10) SETS OF PERSONAL PROTECTIVE EQUIPMENT (PPE) FROM BERGERON PROTECTIVE CLOTHING IN THE AMOUNT OF \$25,848.70. FUNDING WILL BE THROUGH DEPARTMENT 152 FIRE RESCUE; SOURCE: 61110 PROTECTIVE CLOTHING, BY ROLL CALL.**

ON THE QUESTION

Mayor Donchess

Ok from the PD, are you still on?

Steve Buxton, Assistant Fire Chief

Good evening. It's Steve Buxton, Assistant Chief, Nashua Fire. How are you?

Mayor Donchess

Steve Buxton, Assistant Chief, yes?

Steve Buxton, Assistant Fire Chief

This is basically a partial order for protective clothing. This is the structural fire fighting gear that our members wear when responding to incidents. It's inline with what we've done in the past and we make multiple purchases of this size annually. There will be another one of these come springtime when we go to hire our new personnel. I can take any questions if anybody has any?

Mayor Donchess

Anybody have questions or comments for Assistant Chief Buxton. Alderman O'Brien?

Alderman O'Brien

Yeah, Chief I know the answer as you know, but to assist the public because it is like you say a reoccurring event. But the life expectancy of this protective clothing, it does have a life expectancy and needs to be replaced. And plus our firefighters are going to multiple incidents and they do need a couple of sets. And every single incident you go to creates wear and tear. So there is contamination. So can you just give us a background, how important it is that there is a life expectancy and why we are rotating this to keep the member safe?

Steve Buxton, Assistant Fire Chief

Certainly, Steve Buxton, Nashua Fire. So basically industry standard requires us to replace interior structural firefighting every 10 years. All of our members have 2 sets of protective clothing and the reason for that is because when they come back from an incident we have to decon, clean their gear of carcinogens and debris and other items as such that aren't very good for us. We have a program in place that we've been adhering to for several years now. The plan has been approved by the Board of Fire Commissioners and it keeps us so we are replacing their primary set somewhere in the 6 to 8 year range so their second set is right on the cusp of just outside that 10 year window. The reality of it is they are not in that second set that often unless they are laundering their primary set.

For instance yesterday we had a multiple alarm fire down in the south end of the City. So 38 members of the Fire Department went back to quarters after, utilized the extractor machines in the fire houses to clean their protective clothing. Obviously, they need something to wear in responding to incidents while that's being laundered. So that secondary set of PPE is put in service at that point in time. Does that answer your question, Alderman O'Brien?

Alderman O'Brien

Yes, it does. Thank you Chief.

Steve Buxton, Assistant Fire Chief

Thank you sir.

Mayor Donchess

Anybody else have questions or comments? Yes, Alderwoman Klee?

Alderman Klee

Thank you. I guess my question would be, you mentioned the 6 to 8 years. Do we track the usage of these or do we just, you can do a visual and say it's time. Because I know there probably are some firefighters that go out more often than others, only because of the shift that they are on or something to that nature. I don't mean that one works harder than the other because that's not the case. But it could even be one engine company. So is there a way that you track this or is it just you do a visual and say, there's a little wear and we need to replace these?

Steve Buxton, Assistant Fire Chief

Steve Buxton, Nashua Fire. That's a very good question, Alderwoman Klee. So we do have – some companies are busier than others and some see increased fire activity than others. They wear their protective clothing pretty much to every incident they go on. So the busier companies do see more wear on their protective clothing than the slower companies. That being said, you know by luck of the draw, you could hit multiple fires and wear through your protective clothing faster than somebody else on the Fire Department. We do do visual inspections on an annual basis. They have a regular schedule where they are supposed to be laundering and inspecting their PPE of their own will with their company officers. But there's also an annual program within the Department where we inspect and as the Deputy Chief, you can see him in the crowd there, Deputy Kirk, he's the guy in charge of ordering the protective clothing. So as he is analyzing his list of names of who is up for replacement in that 6 to 8 year window, he's also analyzing who potentially might be departing us in the near future because they reached the end of their tenure so it's not really worth buying them a new set of PPE because they are still inside that 10 year window as well as who can probably get a couple extra years out of their PPE versus who we will have to replace on the early side. So there are multiple factors that are taken into account when we decide if we are actually purchasing somebody's PPE.

Alderman Klee

Thank you very much. Mr. Mayor, I'd just like to make one quick comment if that's OK?

Mayor Donchess

Yeah that's fine.

Alderman Klee

Thank you. Yesterday's fire, I had heard there was one firefighter that had been hit by something. I hope he's doing well and everybody else stayed safe. I know it was a very large fire yesterday so thank you for all that you do.

Steve Buxton, Assistant Fire Chief

Thank you for that and he is doing very well at home resting with his family at this point in time and expected to make a full recovery. Thank you for your thoughts.

Mayor Donchess

Anyone else with questions for Mr. Buxton? Madam Clerk, would please call the roll?

A viva voce roll call was taken which resulted as follows:

Yea:	Alderman Klee, Alderwoman Lu, Alderman Harriott-Gathright, Alderwoman Kelly, Alderman Laws, Alderman O'Brien, Mayor Donchess	7
Nay:		0

**MOTION CARRIED**

UNFINISHED BUSINESS - None

NEW BUSINESS – RESOLUTIONS

**R-20-093**

Endorsers: Mayor Jim Donchess  
Alderman-at-Large Ben Clemons  
Alderman Richard A. Dowd  
Alderman Patricia Klee  
Alderman Linda Harriott-Gathright  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Skip Cleaver  
Alderman-at-Large Lori Wilshire

**APPROVING THE GUARANTEED MAXIMUM PRICE AMENDMENT FOR THE PERFORMING ARTS CENTER**

**MOTION BY ALDERMAN HARRIOTT-GATHRIGHT TO RECOMMEND FINAL PASSAGE, BY ROLL CALL.**

ON THE QUESTION

Mayor Donchess

And that is Resolution 20-093. I believe Mr. Cummings is here on this item?

Tim Cummings, Director of Economic Development

Yes good evening Mayor.

Mayor Donchess

Could you please brief the Committee on the features of this Resolution?

Director Cummings

Certainly, again, Tim Cummings, Director of Economic Development for the City. And the Resolution before you is the furtherance to a contract that was already approved by this body relative to the construction management of the Performing Arts Center. We are now at a time where we have a guaranteed maximum price which is \$15,821,890.00. This number is actually pretty much spot on with what was previously discussed. It is slightly higher by about \$18,000.00 from the previous estimate that was done. The estimate that was referenced during public comment in January of 20, that was a very early estimate, there have been two or three estimates done subsequent to that one that was done in January.

The \$15.8 represents hard construction numbers, hard bids that have been given. There was an approximate overage of \$800,000.00 that did come in when this was bid in August. What you see is a lot of value engineering that was done over the last month or so which brought the figure down by some \$780,000.00 which brings it back into line of the \$15.821.

And it was done pretty much that wouldn't affect or feel anything in terms of the Performing Arts Center. There were two items that I thought warranted discussion. One was the loss of the second elevator and the second was some material that will be used on the outside of the building.

But I wanted to make sure the Steering Committee was well aware of, so we had that discussion to understand those were some of the trade-offs necessary to keep this project on track. It is completely designed, there's no need for a design contingency any further. The total project is \$25 million. This is just hard construction figures. There's two contingencies it should be noted with this project. There's one for our construction contingency, there's also an additional owner's contingency on this project. And there's also some escalation built in as well, approximately \$200,000.00/\$250,000.00 in escalation.

Why do I mention all of this? Because we put this out to bid in August, we put this out to bid while we were in the middle of trying to understand whether we were going to achieve the New Market Tax Credit. We knew that closing of the New Market Tax Credit was going to take some time so we need the prices to be held. And we have the prices being held until December 30<sup>th</sup>. There's been a lot of moving parts over the last few weeks to try to bring this to the point that it's at now. We thought it was prudent to get a number locked in, and then if we needed to we could do a change order and take some from Owner's Contingency or Escalation if necessary, but that's proven not to be the case as all the bidders so far have indicated that they are going to be holding their prices until we can get them under contract, which, if we close on December 15<sup>th</sup>, we'd be looking to put them under contract sometime right after that closing.

So, I need this to be approved this evening so we can move this on and show it as part of the project for the New Market Tax Credit deal as it is part of the paperwork for that transaction. That's all I have at this time, Mayor. Thank you.

Mayor Donchess

Alright, any members of the Committee have any questions or comments for Mr. Cummings? Alderwoman Lu?

Alderwoman Lu

Yes, I do. Thank you, Mr. Chairman. Through you to Director Cummings, one small question I have is the escalation or escalator. I'm not familiar with that term. Could you just tell me what you mean by that?

Director Cummings

It is a built-in figure so if the prices do change for any reason, materials go up, labor costs go up, it's a guaranteed maximum price. So the construction manager, particularly when you have a long window before you get authorization to proceed, they will build in an escalator to ensure that there's enough money available. That, you know, whether you put it in contingency or you have it as an escalator, Harvey has both built into the contract.

Alderwoman Lu

And how are they different, an escalator?

Director Cummings

It's just separate categories. I mean I'm sure there's a more specific, more detailed answer in terms of construction contingency as opposed to an escalator. I mean the escalator is there if need be, if you want to draw upon it because a number goes. It's very similar to construction contingency.

Alderwoman Lu

Just a follow up. So I'm still not clear but that escalator, it's something that is in the figure but if it's not spent it reverts to the City? Is that also true of the contingency?

Director Cummings

Well in a traditional project what you are saying is true, yes contingency would revert back to the City. In this particular project it is going to revert to the owner of the project which is not technically the City because of the New Market Tax Credit deal. In theory, what you are saying yes.

Alderwoman Lu

Ok and that does help me understand the difference between the escalator and the contingency. One other question if I could?

Mayor Donchess

Go ahead.

Alderwoman Lu

Do you have any response to Ms. Colquhoun's question about the cost of the exclusions from the guaranteed maximum? I had spoken with her; she addressed her concern to me and I didn't have an answer for her. There are quite a few exclusions and I know you provided me with 12 items that have been priced out. But are there other items that do need to be priced out?

Director Cummings

I am not understanding the question. There are some exclusions that are being carried elsewhere in the budget like FF&E, like specialty equipment. And then there are some exclusions, just to make clear, that the project isn't going to actually take on those costs unless there's a change order requested. So it really is specific as to which ones you are mentioning.

Mayor Donchess

Just for clarification sake, what is FF&E?

Director Cummings

Furniture, fixtures and equipment. This budget here that we are discussing is a subset of the total project costs. We are only discussing hard construction at \$15.8. Some of the exclusionary items, and this is a unique project in that we have a lot of FF&E and Specialty Equipment or Technical Equipment that could be considered hard construction or in this case, we segregated it separately as part of the soft costs. It still will all be coordinated through Harvey for the project purposes but it will be purchased separately. We have all those projects, we have all the equipment confirmed prices and they are holding their prices until December 30<sup>th</sup>. That's above and beyond the \$15.8 though; it's something like \$2.3/\$2.4.

Alderwoman Lu

Ok thank you. Maybe I'll get back to you with some of these specific questions, there were quite a few but I'll get back to you. Thank you.

Mayor Donchess

Alright, anybody else with questions or comments? I don't see anyone. Alright Madam Clerk, would you please call the roll?

A viva voce roll call was taken which resulted as follows:

Yea: Alderman Klee, Alderwoman Lu, Alderman Harriott-Gathright,  
Alderwoman Kelly, Alderman Laws, Alderman O'Brien, Mayor Donchess 7

Nay: 0

**MOTION CARRIED**

NEW BUSINESS – ORDINANCES - None

RECORD OF EXPENDITURES

**MOTION BY ALDERMAN HARRIOTT-GATHRIGHT THAT THE FINANCE COMMITTEE HAS COMPLIED WITH THE CITY CHARTER AND ORDINANCES PERTAINING TO THE RECORD OF EXPENDITURES FOR THE PERIOD FROM OCTOBER 30, 2020 TO NOVEMBER 12, 2020, BY ROLL CALL**

A viva voce roll call was taken which resulted as follows:

Yea: Alderman Klee, Alderwoman Lu, Alderman Harriott-Gathright, Alderwoman Kelly,  
Alderman Laws, Alderman O'Brien, Mayor Donchess 7

Nay: 0

**MOTION CARRIED**

GENERAL DISCUSSION - None

PUBLIC COMMENT

Mayor Donchess

Please proceed, Mr. Teeboom.

Fred Teeboom Yes the point about the contingency...

Mayor Donchess

Maybe you should, sorry, maybe you should give your name and address, we know who you are but just for the record, your name and address?

Fred Teeboom That's fine, Fred Teeboom, I reside at 24 Cheyenne. In answer to the exclusion question this is a complicated project because you're tearing down the old building, the Alec Shoe Store. You are attaching it to and combined with the building behind it which is a 4 story, I think, apartment building and making it into a theater which has lots of complications. They have all the Specialty Equipment, all the staging, all the audio/visual stuff, a lot of furniture, a lot of seating. It's a multiple purpose venture. So you don't price that out in the construction you price it out in contingency because there can be a lot of change orders on this job, a lot of change orders. I think if it would go over \$20,000.00/\$30,000.00 it goes before the Finance Committee, I'm not sure what the number is anymore.

Mayor Donchess

It's \$25.

Fred Teeboom \$25,000.00 if any change order comes back to this Committee, you are going to have a lot of change orders on this job. Plus you got all the contingency. You got \$1 million dollar, I think Tim mentioned it but the estimate that I have that goes back to January, I'm not been part of the later estimates. There was an oldest contingency, there is an oldest contingency of \$1 million dollars. That's a lot of contingency on a \$25 million dollar job. On top of that and I have argued this, there's an endowment fund valued at \$1.2 million dollars. You don't need a \$1.2 million dollar budget endowment fund because the operator spent the management's the operator manages, operates for \$1.00 a year. So the \$1.2 million dollars could also serve as a back up in case you need it. That's up to the Steering Committee and I presume that comes back before the Finance Committee. So that's \$2 million dollars of potential contingency. Perhaps the manager, aside from the escalation has a \$800,000.00 contingency in case he has problems. Now does that money come back to the owner? I don't think so, in the guaranteed maximum price, unless you negotiate in terms of savings you've got a \$15.8 million construction job. Let's say things are fantastic and it comes in \$14 million. Like the Broad Street Parkway came in low budget at the time because the costs were down. The construction manager keeps the money unless there is a sharing provision in the contract. I'm not aware if there was ever arranged a sharing - if not you may want to address that like there's a savings of \$1 million dollars, the contractor could say the owner gets half of that, half a million and the project manager gets half a million. So these are all, none of this stuff is fixed; these are all negotiated items. Just like every change order is going to be negotiated.

I should also say that the fee is quite reasonable, I think that the focus and fee on this job the 8% focus and fee is a reasonable fee. And a final point is the guaranteed maximum price, why would the contractor do a guaranteed maximum price, I mean why not just cost plus fee. Most military contract people complain about an all cost plus fee, the more you spend the more you get in fees. That's the whole point about a guaranteed maximum price; you put a maximum fee on this thing, you cannot go over that price unless really, you know through change orders, they all have negotiated. And my final point is, you've got a \$25 million dollar project, you've got about a \$16 million dollar construction job, you have got \$9 million dollars left over for everything else. This project should never go over \$25 million; if this goes over \$25 million Mayor, somebody ought to get shot. Thank you.

Mayor Donchess

Alright, thank you Mr. Teeboom.

Director Cummings

Mr. Mayor, I'm sorry, but there are a couple things I do think I should correct.

Mayor Donchess

You are breaking up a little. Tim, are you still on here? You were breaking up?

Director Cummings

I'm sorry, Mayor. Can you hear me now?

Mayor Donchess

I think we can hear you now, yeah.

Director Cummings

I was just saying there's a couple items I would just like to correct for the record. The previous speaker was correct on a lot of what he said. But I want to make sure things are clear on a couple things if I may?

Mayor Donchess

Are you speaking?

Director Cummings

Can you hear me?

Mayor Donchess

On and off. The screen says that your network bandwidth is low.

Director Cummings

Can you hear me now?

Mayor Donchess

Yes.

Alderman Klee

Director Cummings, maybe you can shut your video off, that might help, sometimes that helps with the bandwidth.

Director Cummings

Thank you. How about that, is that better now?

Mayor Donchess

It seems to have helped. We have a technical person on the Committee, thank God.

Director Cummings

Thank you, Mayor. So just a couple points for clarification, the previous speaker was correct in a lot of what he said. There are just a couple elements I think just deserve just a further flushing out and I don't want to belabor this point or extend the evening any longer than necessary. But standard protocol in the construction contracts for the City of Nashua is to typically have that split or reverter on the owner contingencies for building projects and the construction contingencies. So that is in there, I think Alderman Dowd could speak to that in more detail if need be in terms of how school building projects are handled. Is everyone hearing me?

Mayor Donchess

Yes.

Director Cummings

But then relative to the actual owner of the project and again, this is because of how the New Market Tax Credit is structured. The City of Nashua is not going to be the owner/developer of the project, it's being transferred and assigned. So this is something we will get into more detail on the 24<sup>th</sup>, but I do want to make sure that is clear to folks. There is robust owner's contingency, as the previous speaker pointed out, there was an endowment, that endowment basically rolled down into owner's contingency, so we are carrying about a \$1.8 owner's contingency now. That's on top of the \$600 ish that is being held by Harvey that's the construction contingency that I was referring to. So I just wanted to make those points clear and I think that the conversation on the 24<sup>th</sup> will be really helpful because we will get into more granular detail about how we are structuring this deal to proceed. But at the end of the day, the \$25 million should be more than sufficient to cover the cost for this project, I agree. Thank you.

Mayor Donchess

Alright, thank you very much.

Alderman Dowd

Mayor?

Mayor Donchess

Yes.

Alderman Dowd

Just a couple other things. The exceptions that they were talking about, those are usually unknown unknowns, in this case probably unknowns known; a company being knowledgeable of things that could happen. They put those in there to make sure that it's known that it's not being covered under the guaranteed maximum price. If they encounter those things, it would have to be covered by a change order. A change order would have to be approved through the process. Also, the contingency amounts are, as you go along in the project, when they realize that they are not going to spend the entire contingency that are in design or construction, that money comes back to the project, in my case, to the City; in this case to the owner. So they don't get to keep it.

The other thing is there may be a lot of change orders, but right now we are experiencing a few change orders in the School System in the three Middle Schools, but we've had as many positive change orders, in other words, money coming back to us as we have in money going out. Some of the change orders that we have experienced are things that we are doing because of COVID-19 to help the students with air circulation and other things. But you will get positive change orders that have money that reverts from the guaranteed maximum price. Again, the guaranteed maximum price doesn't change upwards unless there's a change order that drives it that way and it would have to be approved by whoever has authority to approve change orders. In the School Projects it is the Joint Special School Building Committee, if it's over \$50,000.00. So just wanted to clarify that or help clarify it for anybody listening. Thanks.

Mayor Donchess

Thank you, Alderman Dowd.

Director Cummings

And then, Mayor, I'm sorry, one last point and I just want to answer Mr. Teeboom's question, I want to make sure that the change order management fee is the exact same for the guaranteed maximum price at 3.5%.

Mayor Donchess

Ok.

REMARKS BY THE ALDERMEN - None

POSSIBLE NON-PUBLIC SESSION - None

ADJOURNMENT

**MOTION BY ALDERMAN KLEE TO ADJOURN BY ROLL CALL**

A viva voce roll call was taken which resulted as follows:

Yea: Alderman Klee, Alderwoman Lu, Alderman Harriott-Gathright,  
Alderwoman Kelly, Alderman Laws, Alderman O'Brien, Mayor Donchess 7

Nay: 0

**MOTION CARRIED**

The Finance Committee meeting was adjourned at 7:53 p.m.

Alderman Linda Harriott-Gathright  
Committee Clerk