



Merri-bek City Council

Minutes of the Special Council Meeting

Held online on Wednesday 19 April 2023

The Mayor opened the meeting at 6.06 pm and stated the Council meeting is being held on the traditional country of the Wurundjeri Woi Wurrung people and acknowledged them as Traditional Owners. The Mayor paid respects to their Elders, past, present and emerging, and the Elders from other communities who may be here today.

Present	Time In	Time Out
Cr Angelica Panopoulos, Mayor	6.06 pm	6.11 pm
Cr Helen Davidson, Deputy Mayor	Apology	
Cr Adam Pulford	6.06 pm	6.11 pm
Cr Annalivia Carli Hannan	6.06 pm	6.11 pm
Cr Helen Pavlidis	Apology	
Cr James Conlan	6.06 pm	6.11 pm
Cr Lambros Tapinos	6.06 pm	6.11 pm
Cr Mark Riley	6.06 pm	6.11 pm
Cr Monica Harte	6.10 pm	6.11 pm
Cr Oscar Yildiz JP	6.06 pm	6.11 pm
Cr Sue Bolton	Apology	

OFFICERS

Chief Executive Officer – Cathy Henderson
Director Business Transformation – Sue Vujcevic
Director City Infrastructure – Anita Curnow
Director Community – Eamonn Fennessy
Director Place and Environment – Joseph Tabacco
Acting Manager Governance and Strategy – Sophie Barison
Team Leader Governance – Naomi Ellis

APOLOGIES/LEAVE OF ABSENCE

Cr Bolton, Cr Pavlidis and Cr Davidson were apologies to the meeting.

DISCLOSURES OF CONFLICTS OF INTEREST

Nil.

COUNCIL REPORTS

4.1 CONTRACT ST-2022-314 - 33 SAXON STREET REDEVELOPMENT PROJECT

Executive Summary

Council awarded Contract ST-2022-314 to McCorkell Constructions Pty Ltd on 19 December 2022, with the Chief Executive Officer to negotiate final terms of the Contract.

Negotiations have continued since that time, with complexity that has arisen from some of the Planning Conditions applied to the project (confirmed on 21 December 2022) causing some delay in finalisation of the contract before Execution.

In order to mitigate project delay resulting from this period of contract execution delay, under the authority of Council's resolution with respect to the Contract award, Council entered into a Letter of Intent with McCorkell Constructions Pty Ltd which authorised the Contractor to incur expenditure to a capped sum to progress detailed design and to begin procurement of long lead time items.

The Contract terms are very close to being finalised now, and parties are poised to execute the Contract before 21 April 2023.

Some of the matters that have come to light through the design process and the resolution of requirements to satisfy the town planning conditions and early works permitted by the Letter of Intent will add to the cost of the base contract. If the Contract had been executed these would have been managed as contingency items.

Legal advice has been provided that the Contract cannot be executed inclusive of amounts for additional work (for example, as pre-approved contingency items) as this effectively adds to the upfront contract sum contrary to Council's resolution the contract be executed for a fixed sum.

Accordingly, it is necessary to return to Council to seek approval to award the contract at a contract sum of \$25,147,116.00. The overall project budget remains the same, \$28,998,029.00.

Officer Recommendation

That Council:

1. Authorises the Chief Executive Officer to:
 - a) Amend the formal offer (\$24,967,260.00) previously made to McCorkell Constructions Pty Ltd (Contractor) for the contract ST-2022-314 for 33 Saxon Street Redevelopment Project (Contract) on the following terms and otherwise subject to and in accordance with paragraph 1(b) of this Resolution:
 - i. for a fixed price design and construction contract for the lump sum of \$25,147,116.00 being the revised value (excluding GST) and inclusive of any sum payable for Early Works as defined in the Letter of Intent dated 17 February 2023 and updated 6 April 2023; and
 - ii. approve any contract cost variation as delegated to the Chief Executive Officer in the Instrument of Delegation
 - b) Negotiate and finalise the terms of the Contract between Council and the Contractor provided that:
 - i. the terms specified in paragraph 1(a) of this Resolution shall not be altered without a further Resolution of Council; and

- ii. other than terms referred to in paragraph 1(a) of this Resolution, the terms of the Contract are acceptable to the Chief Executive Officer;
- 2. Conditional on acceptance of the Contract by the Contractor in accordance with the terms of this Resolution:
 - a) Authorises the Chief Executive Officer to do all things necessary to execute the Contract and any required documentation for the Contract;
 - b) Authorises the Chief Executive Officer to exercise the option to extend the Contract in accordance with the provisions within the Contract.

Resolution

Cr Riley moved, Cr Tapinos seconded -

That Council:

1. **Authorises the Chief Executive Officer to:**
 - a) **Amend the formal offer (\$24,967,260.00) previously made to McCorkell Constructions Pty Ltd (Contractor) for the contract ST-2022-314 for 33 Saxon Street Redevelopment Project (Contract) on the following terms and otherwise subject to and in accordance with paragraph 1(b) of this Resolution:**
 - i. **for a fixed price design and construction contract for the lump sum of \$25,147,116.00 being the revised value (excluding GST) and inclusive of any sum payable for Early Works as defined in the Letter of Intent dated 17 February 2023 and updated 6 April 2023; and**
 - ii. **approve any contract cost variation as delegated to the Chief Executive Officer in the Instrument of Delegation**
 - b) **Negotiate and finalise the terms of the Contract between Council and the Contractor provided that:**
 - i. **the terms specified in paragraph 1(a) of this Resolution shall not be altered without a further Resolution of Council; and**
 - ii. **other than terms referred to in paragraph 1(a) of this Resolution, the terms of the Contract are acceptable to the Chief Executive Officer;**
2. **Conditional on acceptance of the Contract by the Contractor in accordance with the terms of this Resolution:**
 - a) **Authorises the Chief Executive Officer to do all things necessary to execute the Contract and any required documentation for the Contract;**
 - b) **Authorises the Chief Executive Officer to exercise the option to extend the Contract in accordance with the provisions within the Contract.**

Carried unanimously

6.10 pm Cr Harte entered the meeting after the vote.

The meeting closed at 6.11 pm.