



Merri-bek City Council

Minutes of the Special Council Meeting

Held online via video conferencing
on Monday 19 December 2022

The Mayor opened the meeting at 6.03 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 | 6.03 pm | 6.10 pm |
| Cr Helen Davidson, Deputy Mayor | 6.05 pm | 6.10 pm |
| Cr Adam Pulford | 6.03 pm | 6.10 pm |
| Cr Annalivia Carli Hannan | Absent | |
| Cr Helen Pavlidis | Leave of absence | |
| Cr James Conlan | 6.03 pm | 6.10 pm |
| Cr Lambros Tapinos | 6.07 pm | 6.10 pm |
| Cr Mark Riley | 6.03 pm | 6.10 pm |
| Cr Monica Harte | 6.03 pm | 6.10 pm |
| Cr Oscar Yildiz JP | 6.03 pm | 6.10 pm |
| Cr Sue Bolton | 6.03 pm | 6.10 pm |

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
Manager Governance and Strategy – Yvonne Callanan
Team Leader Governance – Naomi Ellis

APOLOGIES/LEAVE OF ABSENCE

Cr Pavlidis was on an approved leave of absence - 19 December 2022 to 29 January 2023 inclusive.

Cr Carli Hannan was absent from the meeting.

6.05 pm Cr Davidson joined the meeting.

DISCLOSURES OF CONFLICTS OF INTEREST

Nil

COUNCIL REPORTS

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

Executive Summary

33 Saxon Street Redevelopment project is identified as a major project in Council's 2022-23, 2023-24 and 2024-25 capital works program. The scope of works is for a community facility that includes a creative production space, gallery exhibition, commercial café/hospitality and open space for events and recreation.

A two-step procurement process was adopted that started with a publicly advertised Expression of Interest (EOI) on 2 July 2022 that closed on 22 July 2022. Five Expressions of Interest were received and all were deemed suitable to be invited to tender. The request for tender (RFT) was issued to the selected tenderers on 26 August 2022 and closed on 28 October 2022 after approved extensions.

McCorkell Constructions Pty Ltd achieved the highest score through the evaluation process and has demonstrated its ability to deliver similar large scale projects to a very good standard. The total project cost will be \$28,998,029.00, with a \$24,967,260.00 total construction cost (as submitted by McCorkell Constructions Pty Ltd as its Best and Final Offer).

The tender complies with section 109(1) of the *Local Government Act 2020*.

Costs overall proved to be higher than the estimated costs from late 2021. A revised cost estimate by the Quantity Surveyor just prior to tendering anticipated an increase in costs compared to the budget, which proved to be of a similar magnitude to the incoming tenders. In awarding the contract to McCorkell Constructions Pty Ltd, additional budget of \$5,702,673 is required, and this figure can be supported from the Significant Project Reserve as recommended in this report.

Officer Recommendation

That Council:

1. Authorises the Chief Executive Officer to:
 - a) Make a formal offer to McCorkell Constructions Pty Ltd (Contractor) to award 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 \$24,967,260.00 (excluding GST)
 - ii. Approve a contingency sum for 10 per cent, being \$ 2,496,726.00 as provision for cost escalation, options proposed as part of Tender, and other unforeseen cost risk.
 - iii. Note additional sum of \$875,687 has been allowed for the costs associated with project management, building surveyor, Quantity Surveyor, legal matters etc.

- 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, subject to
 - i. the resolution of any town planning conditions that remain Council's responsibility as the applicant, and
 - ii. that the 28-day statutory period for appeals to VCAT has elapsed without appeal regarding the decision to grant a permit for the development
 - b) Authorises the Chief Executive Officer to exercise the option to extend contracts in accordance with the provisions within the Contract; and
 - c) Advises all tenderers of Council's decision in relation to the Contract
- 3. Approves an increase in budget for 33 Saxon St Redevelopment Project from \$23,295,356 to \$28,998,029 in the 4-year capital works program. The budget to support this increase is to be approved with the following adjustments by fund source: \$25,106,211 from the significant projects reserve (up from \$22,795,356); \$2,891,818 from the DCP Reserve (not included in previous budget); \$1,000,000 in Commonwealth Government pledge of grant funding (up from estimate previously of \$500,000). These sums are to be included and phased in the 2023-2027 4-year budget development.

Resolution

Cr Riley moved, Cr Bolton seconded -

That Council:

1. **Authorises the Chief Executive Officer to:**
 - a) **Make a formal offer to McCorkell Constructions Pty Ltd (Contractor) to award 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 \$24,967,260.00 (excluding GST)**
 - ii. **Approve a contingency sum for 10 per cent, being \$ 2,496,726.00 as provision for cost escalation, options proposed as part of Tender, and other unforeseen cost risk.**
 - iii. **Note additional sum of \$875,687 has been allowed for the costs associated with project management, building surveyor, Quantity Surveyor, legal matters etc.**
 - 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, subject to
 - i. the resolution of any town planning conditions that remain Council's responsibility as the applicant, and
 - ii. that the 28-day statutory period for appeals to VCAT has elapsed without appeal regarding the decision to grant a permit for the development
 - b) Authorises the Chief Executive Officer to exercise the option to extend contracts in accordance with the provisions within the Contract; and
 - c) Advises all tenderers of Council's decision in relation to the Contract
- 3. Approves an increase in budget for 33 Saxon St Redevelopment Project from \$23,295,356 to \$28,998,029 in the 4-year capital works program. The budget to support this increase is to be approved with the following adjustments by fund source: \$25,106,211 from the significant projects reserve (up from \$22,795,356); \$2,891,818 from the DCP Reserve (not included in previous budget); \$1,000,000 in Commonwealth Government pledge of grant funding (up from estimate previously of \$500,000). These sums are to be included and phased in the 2023-2027 4-year budget development.

6.07 pm Cr Tapinos joined the meeting during the debate.

Carried unanimously

4.2 CONTRACT ST-2022-307 FAWKNER LEISURE CENTRE REDEVELOPMENT

Executive Summary

Council endorsed the project scope for the Fawkner Leisure Centre Redevelopment with an estimated cost of \$28 million on 8 December 2021.

Following a public Expression of Interest (EOI) process, a Select Tender (ST) was issued on 12 September 2022 to five shortlisted tenderers and concluded on 24 October 2022. Three compliant submissions were received, with two tenderers withdrawing due to competing project commitments.

The tender review has concluded with a recommendation agreed by the Tender Evaluation Panel on a preferred contractor.

This report provides recommendations on the appointment of the preferred contractor under a Design and Construct contract for the Fawkner Leisure Centre Redevelopment including an allocation of the project construction contingencies. In addition to this the report recommends the novation of the design team (Co-Op) to the recommended tenderer and novation back of the Registered Building Surveyor (RBS Krneta) to Council as per new legislation requirements.

The recommended tenderer's best and final offer is \$30,332,185. A 15 per cent contingency of \$4,549,828 is recommended to be allocated based on risks associated with refurbishment of an existing building, unknown ground condition components unable to be fully assessed due to current infrastructure and potential contaminated soil.

The tender complies with section 109(1) of the *Local Government Act 2020*.

Costs overall proved to be higher than the estimated costs from late 2021. A revised cost estimate by the Quantity Surveyor just prior to tendering anticipated an increase in costs compared to the budget, which proved to be of a similar magnitude to the incoming tenders. In awarding the contract to Built Environs Pty Ltd, additional budget of \$8,616,825 is required, and this figure can be supported from the Significant Project Reserve as recommended in this report.

Officer Recommendation

That Council:

1. Authorises the Chief Executive Officer to:
 - a) Make a formal offer to Built Environs Pty Ltd (ACN 008 125 111) (Contractor) to award to the Contractor Contract ST-2022-307 for the Fawkner Leisure Centre Redevelopment (Contract) on the following terms and otherwise subject to and in accordance with paragraph 1(b) of this Resolution:
 - i. For a Design and Construct Contract for the fixed lump sum of \$29,892,185 (excluding GST) plus provisional sum of \$440,000 (excluding GST), totalling \$30,332,185 (excluding GST).
 - ii. Allocates a contingency of \$4,549,828 (excluding GST) for unforeseeable variations and latent conditions that may occur during the construction period and authority costs for a new substation.
 - 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; ST-2022-307.
 - b) Authorises the Chief Executive Officer to exercise the option(s) to extend contracts in accordance with the provisions within the Contract; and]
 - c) Advises all tenderers of Council's decision in relation to the Contract.
3. Approves novation of ST-2021-179 – Fawkner Leisure Centre Redevelopment, Co-Op Multi-Disciplinary Consultant Services from Council to Built Environs for the balance of the remaining fees following tender design works.
4. Approves novation of the Registered Building Surveyor services from Co-Op to Merri-bek City Council as per legislative requirements for the contract value of \$53,100 (excluding GST).
5. Approves an increase in the budget for Fawkner Leisure Centre Redevelopment from \$28,237,609 to \$36,854,434 in the 4 year capital works program. The budget to support this increase is to be approved with the following adjustments by fund source: \$25,790,085 from the significant projects reserve (up from \$19,737,609); \$2,564,349 from the DCP Reserve (not included in previous budget). These sums are to be included and phased in the 2023-2027 4-year budget development.

Resolution

Cr Bolton moved, Cr Harte seconded -

That Council:

- 1. Authorises the Chief Executive Officer to:**
 - a) Make a formal offer to Built Environs Pty Ltd (ACN 008 125 111) (Contractor) to award to the Contractor Contract ST-2022-307 for the Fawkner Leisure Centre Redevelopment (Contract) on the following terms and otherwise subject to and in accordance with paragraph 1(b) of this Resolution:**
 - i. For a Design and Construct Contract for the fixed lump sum of \$29,892,185 (excluding GST) plus provisional sum of \$440,000 (excluding GST), totalling \$30,332,185 (excluding GST).**
 - ii. Allocates a contingency of \$4,549,828 (excluding GST) for unforeseeable variations and latent conditions that may occur during the construction period and authority costs for a new substation.**
 - 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; ST-2022-307.**
 - b) Authorises the Chief Executive Officer to exercise the option(s) to extend contracts in accordance with the provisions within the Contract; and]**
 - c) Advises all tenderers of Council's decision in relation to the Contract.**
- 3. Approves novation of ST-2021-179 – Fawkner Leisure Centre Redevelopment, Co-Op Multi-Disciplinary Consultant Services from Council to Built Environs for the balance of the remaining fees following tender design works.**
- 4. Approves novation of the Registered Building Surveyor services from Co-Op to Merri-bek City Council as per legislative requirements for the contract value of \$53,100 (excluding GST).**
- 5. Approves an increase in the budget for Fawkner Leisure Centre Redevelopment from \$28,237,609 to \$36,854,434 in the 4 year capital works program. The budget to support this increase is to be approved with the following adjustments by fund source: \$25,790,085 from the significant projects reserve (up from \$19,737,609); \$2,564,349 from the DCP Reserve (not included in previous budget). These sums are to be included and phased in the 2023-2027 4-year budget development.**

Carried unanimously

The meeting closed at 6.10 pm.