

**OUTCOME OF CONSIDERATION OF CERTAIN CONFIDENTIAL ITEMS****Item 12.1****Crs Hyams/Lipshutz**

1. That Council appoints A and G Concrete Constructions Pty Ltd, ACN No 104 665 189 as a contractor under tender number 2012.022 in accordance with the schedule of rates submitted.
2. That Council appoints Russo Paving Constructions Pty Ltd, ACN No 076 352 200 as a contractor under tender number 2012.022 in accordance with the schedule of rates submitted.
3. That Council appoints Orlando Crest Pty Ltd, ACN No 006 826 348 as a contractor under tender number 2012.022 in accordance with the schedule of rates submitted.
4. That Contracts be prepared in accordance with the Conditions included in the tender.
5. That the Contracts be executed in an appropriate manner including by affixing of the Council Seal.
6. That this resolution be incorporated in the public minutes of this Meeting.

The MOTION was put and CARRIED unanimously.

**Item 10 (A) (i) – Urgent Business in-camera.****Crs Esakoff/Hyams**

That Council now consider a replacement delegation to the CEO Contractual Arrangements Special Committee (“Committee”), in-camera pursuant to s.89(2) (a) “personnel” and (d) “contractual”.

In exercise of the powers conferred by Section 86 of the Local Government Act 1989, Council resolves that:-

- 1.1 The Instrument of Delegation authorised by Council resolution on 20 September 2011 be revoked effective immediately.
- 1.2 There be delegated to the Committee the powers, discretions and authorities set out in the attached Instrument of Delegation marked “A” (“Instrument”).
- 1.3 The Instrument is to be sealed.
- 1.4 The Instrument:

- 1.4.1 comes into force immediately the Common Seal of Council is affixed to it; and
- 1.4.2 remains in force until Council determines to vary or revoke it.
- 1.5 Meetings of the Committee shall be held on 20 October 2011 at 7.00 pm and on 25 October 2011 at 7.30pm in the Council Chamber, Glen Eira Town Hall, Corner Hawthorn Road and Glen Eira Road, Caulfield.
- 1.6 This Resolution and the Instrument be incorporated in the public minutes of this meeting.
- 1.7 That the Resolution of Council made on 20 September 2011 establishing the Committee and the Instrument of Delegation authorised by that Resolution be made public and a copy incorporated in the public minutes of this meeting.

#### **ANNEXURE “A”**

#### **GLEN EIRA CITY COUNCIL**

#### **INSTRUMENT OF DELEGATION**

#### **CEO CONTRACTUAL ARRANGEMENTS SPECIAL COMMITTEE**

Glen Eira City Council (“Council”) delegates to the Special Committee established by resolution of Council passed on 20 September 2011 and known as the CEO Contractual Arrangements Special Committee (“Committee”), the powers, discretions and authorities set out in the Schedule, and declare that:

1. This Instrument of Delegation is authorised by a resolution of Council passed on 11 October 2011.
- 2 THE DELEGATION:
  - a. comes into force immediately the Common Seal of Council is affixed to this Instrument of Delegation;
  - b. remains in force until Council resolves to vary or revoke it; and
  - c. is to be exercised in accordance with the exceptions, conditions and limitations set out in the Schedule and with the guidelines or policies which Council from time to time adopts.
3. The Mayor of the day shall be the Chairperson of the Committee.
4. The Committee is required to meet at times as determined by the Committee and in the absence of such determination by the Chairperson.

- 5. If the Chairperson is absent from a meeting of the Committee, the Deputy Mayor of the day be the Chairperson of the Committee.
- 6. If both the Mayor of the day and the Deputy Mayor of the day shall be absent from a meeting of the Committee the members of the Committee shall appoint a Chairperson for that meeting.
- 7. A quorum for the Committee is five (5) members.
- 8. All members of the Committee have voting rights.
- 9. The Committee shall attempt to reach all decisions by way of consensus between members.
- 10. Failing consensus, any questions required to be resolved by the Committee shall be resolved by a majority of votes in accordance with the following rules:
  - a. Each member of the Committee present must vote;
  - b. Each member of the Committee present is entitled to one vote;
  - c. Voting must be by show of hands;
  - d. If there is an equality of votes the Chairperson shall be entitled to a second vote
- 11. Each member must declare at the commencement of each meeting of the Committee any conflict of interest regarding any items appearing on the agenda.
- 12. If any member of the Committee has a conflict of interest in any item of business arising before the Committee, that member must while the matter is being considered or any vote is being taken in relation to the matter, leave the room and notify the Chairperson that he or she is doing so and must remain outside the room and any gallery or other area in view or hearing of the room until notified that he or she may return.

THE SEAL OF THE GLEN EIRA CITY        )  
 COUNCIL WAS AFFIXED HERETO IN        )  
 THE PRESENCE OF:                                )

..... Councillor

..... Chief Executive Officer

**SCHEDULE**

All of Council's powers, discretions and authorities conferred or imposed by:-

- the Local Government Act 1989;
- the Occupational Health and Safety Act 2004; and
- any other Act,

in so far as such legislation has application to any matter relating to or affecting the employment of the Chief Executive Officer and including the authority to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.

Without limiting the foregoing delegation the Special Committee is expressly authorised to exercise:-

- all Council powers, discretions and authorities under the contract of employment between Council and the Chief Executive Officer; and
- all Council powers, discretions and authorities in relation to the Chief Executive Officer under s94 and s95A of the Local Government Act 1989.

**EXCEPTIONS, CONDITIONS AND LIMITATIONS:**

The Special Committee may by resolution determine to obtain legal advice in relation to matters within its delegation from law firms determined by it from time to time and may nominate one or more of its members to provide instructions and receive communications on behalf of the Committee. Legal fees and disbursements incurred by a nominee must not exceed \$5000 (GST exclusive) in respect of any one matter without the prior consent of the Committee.

10.28PM Cr Magee left the Chamber.

10.29PM Cr Magee returned to the Chamber

**DIVISION**

Cr Esakoff called for a Division on the voting of the Motion.

<b>FOR</b>	<b>AGAINST</b>
Cr Esakoff	Cr Penhalluriack
Cr Hyams	Cr Forge
Cr Lipshutz	Cr Magee
Cr Lobo	Cr Pilling
Cr Tang	

On the basis of the Division the Chairperson declared the Motion CARRIED.

Pursuant to Part 1.7 of the Council Resolution at Item 10 (A) (i) – Urgent Business in-camera of this Council Meeting, herewith is a copy of the Resolution of Council made on 20 September 2011 establishing the Committee and the Instrument of Delegation authorised by that Resolution.

### **Crs Lipshutz/Hyams**

**That Council now consider the creation of a Special Committee to deal with all matters involving the Chief Executive Officer’s Contract of Employment including but not limited to his performance review and exercise of Council’s option to renew his Contract of Employment.**

**In exercise of the powers conferred by Section 86 of the Local Government Act 1989, Council resolves that:-**

- 1.1 From the date of this resolution there be established as a Special Committee to be known as the CEO Contractual Arrangements Special Committee (“Committee”).**
- 1.2 The Committee shall be comprised of the following Councillors:**
  - Cr. Margaret Esakoff;**
  - Cr. Jamie Hyams;**
  - Cr. Cheryl Forge;**
  - Cr. Michael Lipshutz;**
  - Cr. Oscar Lobo;**
  - Cr. Jim Magee;**
  - Cr. Neil Pilling; and**
  - Cr. Steven Tang.**
- 1.3 There be delegated to the Committee the powers, discretions and authorities set out in the attached Instrument of Delegation marked “A” (“Instrument”).**
- 1.4 The Instrument also set out procedures in relation to the determining the time and place of meetings of the Committee, the quorum, appointment of Chairperson and temporary Chairperson and the voting and decision making procedures of the Committee.**
- 1.5 The powers, discretions and authorities conferred on the Committee by the Instrument must be exercised in accordance with the delegations, procedures and limitations set out in the Instrument and with any guidelines or policies Council may from time to time adopt.**
- 1.6 The Instrument is to be sealed.**
- 1.7 The Instrument:**
  - 1.7.1 comes into force immediately the Common Seal of Council is affixed to it; and**

- 1.7.2 remains in force until Council determines to vary or revoke it.
- 1.8 The first meeting of the Committee shall be held on 4 October 2011 at 8.00 pm in the Council Chamber, Glen Eira Town Hall, Corner Hawthorn Road and Glen Eira Road, Caulfield.

## **ANNEXURE “A”**

### **GLEN EIRA CITY COUNCIL**

#### **INSTRUMENT OF DELEGATION**

##### **CEO CONTRACTUAL ARRANGEMENTS SPECIAL COMMITTEE**

Glen Eira City Council (“Council”) delegates to the Special Committee established by resolution of Council passed on 20 September 2011 and known as the CEO Contractual Arrangements Special Committee (“Committee”), the powers, discretions and authorities set out in the Schedule, and declare that:

1. This Instrument of Delegation is authorised by a resolution of Council passed on 20 September 2011.
2. THE DELEGATION:
  - 2.1 comes into force immediately the Common Seal of Council is affixed to this Instrument of Delegation;
  - 2.2 remains in force until Council resolves to vary or revoke it; and
  - 2.3 is to be exercised in accordance with the exceptions, conditions and limitations set out in the Schedule and with the guidelines or policies which Council from time to time adopts.
3. The Mayor of the day shall be the Chairperson of the Committee.
4. The Committee is required to meet at times as determined by the Committee and in the absence of such determination by the Chairperson.
5. If the Chairperson is absent from a meeting of the Committee, the Deputy Mayor of the day be the Chairperson of the Committee.
6. If both the Mayor of the day and the Deputy Mayor of the day shall be absent from a meeting of the Committee the members of the Committee shall appoint a Chairperson for that meeting.
7. A quorum for the Committee is five (5) members.
8. All members of the Committee have voting rights.
9. The Committee shall attempt to reach all decisions by way of consensus between members.

- 10. Failing consensus, any questions required to be resolved by the Committee shall be resolved by a majority of votes in accordance with the following rules:
  - 10.1 Each member of the Committee present must vote;
  - 10.2 Each member of the Committee present is entitled to one vote;
  - 10.3 Voting must be by show of hands;
  - 10.4 If there is an equality of votes the Chairperson shall be entitled to a second vote
  
- 11. Each member must declare at the commencement of each meeting of the Committee any conflict of interest regarding any items appearing on the agenda.
  
- 12. If any member of the Committee has a conflict of interest in any item of business arising before the Committee, that member must while the matter is being considered or any vote is being taken in relation to the matter, leave the room and notify the Chairperson that he or she is doing so and must remain outside the room and any gallery or other area in view or hearing of the room until notified that he or she may return.

THE SEAL OF THE GLEN EIRA CITY            )  
 COUNCIL WAS AFFIXED HERETO IN            )  
 THE PRESENCE OF:                                )

..... Councillor

..... Chief Executive Officer

**SCHEDULE****PURPOSE**

To exercise Council's powers, discretions and authorities to perform Council's functions under the Local Government Act 1989 with respect to all matters involving the Chief Executive Officer's Contract including but not limited to his performance review and exercise of Council's option to renew his Contract of Employment and do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.

**EXCEPTIONS, CONDITIONS AND LIMITATIONS:**

Nil

**DIVISION**

A Division on the voting of the Motion was called.

<b>FOR</b>	<b>AGAINST</b>
Cr Esakoff	Cr Penhalluriack
Cr Lobo	Cr Forge
Cr Lipshutz	Cr Magee
Cr Tang	
Cr Hyams	
Cr Pilling	

On the basis of the Division the Chairperson declared the Motion **CARRIED**.

**Crs Hyams/Lipshutz**

**That the meeting be resumed in open Council.**

**The MOTION was put and CARRIED unanimously.**