

Attachment A

**ROC 7.4 - 27 June 2016 - Ashmore Precinct
Trunk Stormwater Project - Project
Agreement with Sydney Water**

Resolution of Council

27 JUNE 2016

**ITEM 7.4 ASHMORE PRECINCT TRUNK STORMWATER PROJECT –
PROJECT AGREEMENT WITH SYDNEY WATER (X005007)**

It is resolved that:

- (A) Council approve the substantive terms of the draft Project Agreement between the City and Sydney Water Corporation for the Ashmore Precinct Trunk Stormwater Project, as detailed in confidential Attachment C to the subject report;
- (B) authority be delegated to the Chief Executive Officer (CEO) to finalise negotiations, execute and administer the Project Agreement, based on the same terms shown at confidential Attachment C to the subject report;
- (C) Council not invite tenders in accordance with the tendering requirements set out in section 55 of the Local Government Act 1993 for procuring third party service providers or to deliver the works because a satisfactory result would not be achieved by inviting such tenders, given the following extenuating circumstances:
 - (i) the procurement process for these works will be undertaken by Sydney Water. Sydney Water may procure services through a process of negotiation once shortlisted proponents have been selected. However, the tendering requirements prescribed by section 55 of the Local Government Act 1993, and the Local Government (General) Regulation 2005, do not allow for direct negotiations with shortlisted proponents; and
 - (ii) Council can achieve a commitment to a fair and accountable procurement process that achieves value for money, has competitive tension, manages probity risks and is a public process by adopting the process that Sydney Water follows. Sydney Water's procurement is conducted in accordance with the NSW Procurement Policy Framework for NSW Government Agencies 2015;

- (D) Council note that, on execution of the Project Agreement, the City and Sydney Water will engage relevant third party service providers to provide services to support the delivery of the project. As detailed in the draft Project Agreement, shown at confidential Attachment C to the subject report, the City is to pay 50 per cent of third party service provider costs, the cost of the works and Sydney Water's related internal costs;
- (E) authority be delegated to the CEO to negotiate and approve the engagement of third party service providers as required for the project, and to make the necessary payments to them and to Sydney Water for the external consultant costs and its related internal costs, as described in clauses (C) and (D) above; and
- (F) Council note that the tendering process for works will be undertaken jointly by the City and Sydney Water and that a report detailing the outcomes of the tendering process will be presented to Council for approval.

Carried unanimously.