

## **Exemption from Tender and Contract Variation - Operation and Maintenance of the Green Square Water Reuse Scheme**

**File No: X094239.001**

**Tender No: RFP-2022-724**

### **Summary**

This report seeks approval of an exemption from tender and a contract variation to increase the total contract value to enable the City to continue to deliver the Green Square Water Reuse Scheme (GSWRS) to the community.

The Green Square Water Reuse Scheme provides the Green Square Town Centre community with recycled water for various non-potable purposes, including toilet flushing, irrigation, laundry, and cooling towers. This initiative reduces potable (drinking) water demand for these activities, promoting water conservation.

The Green Square Water Reuse Scheme was built and operated by Altogether Pty Ltd under contract to the City and started operation in 2018. In 2022, Altogether advised the City that it did not wish to take up the option to continue to operate the scheme.

In October 2022, the City engaged Sydney Water Corporation to operate and maintain the Green Square Water Reuse Scheme for three years to ensure that there was no interruption in the supply of high standard recycled water to the Green Square Town Centre community. The engagement of Sydney Water Corporation to operate the Green Square Water Reuse Scheme brought valuable expertise and resources in improving efficiency, reliability, and long-term sustainability.

The City and Sydney Water Corporation have undertaken a major review of operations and maintenance of the scheme, given the infrastructure is now over five years old. The review recommends a proactive strategy to maintain essential spare parts on-site at the plant, coupled with initiating replacement orders several months before their anticipated end-of-life cycle. This approach aims to better guarantee the uninterrupted operation of the facility, particularly since supply times for filters/membranes and critical parts have worsened since Covid-19 and other recent world events.

To adopt this proactive strategy and to cover higher filter/membrane replacements as they reach end of design life (typically five to seven years), the City will need to vary the approved contract scope and increase to the current contract value with Sydney Water Corporation. The proposed increase in the contract value largely reflects the current asset condition, and no allowance for spare parts and membrane replacement in the original contract estimate. These constitute 80 per cent of the value of the recommended increase. The scheme has also been expanded to supply recycled water to future buildings outside to the Green Square Town Centre.

This report recommends that Council approve an exemption from tender and contract variation to increase the total contract value as outlined in Confidential Attachment A. This approval will ensure the continuation of service to the Green Square community.

## Recommendation

It is resolved that:

- (A) Council approve an exemption from tender in accordance with section 55(3)(i) of the Local Government Act 1993 for the contract to Sydney Water Corporation for the operation and maintenance of the Green Square Water Reuse Scheme (GSWRS);
- (B) Council note the reasons a satisfactory outcome would not be achieved by inviting tenders is due to the following extenuating circumstances:
  - (i) operators of water infrastructure and suppliers of water in NSW must hold relevant licences under the Water Industry Competition Act 2006 specific to the particular scheme, which take an estimated two years to obtain;
  - (ii) Sydney Water Corporation is the current operator of the Green Square Water Reuse Scheme and, as a nominated public water utility in the Water Industry Competition Act 2006, is exempt from the requirement to obtain licences for this scheme; and
  - (iii) it is not possible to procure an alternative operator prior to the exhaustion of the current total value, meaning the only other option is to cease operating the scheme;
- (C) Council approve the variation to increase the total contract value of the contract with Sydney Water Corporation for the operation and maintenance of the Green Square Water Reuse Scheme, as detailed at Confidential Attachment A to the subject report;
- (D) Council note that the revised total contract value for this contract is outlined in Confidential Attachment A to the subject report; and
- (E) authority be delegated to the Chief Executive Officer to finalise, execute and administer the variation to the contract to give effect to the resolutions above.

## Attachments

**Attachment A.** Financial Implications (Confidential)

## Background

1. Recycled water is integral to our Sustainable Sydney 2030 vision. Connecting to recycled water for non-potable uses such as toilets, cooling towers and irrigation reduces demand on drinking water. It also allows our parks and open spaces green and cool even during drought. The Green Square Water Reuse Scheme (GSWRS) is a key part of this vision and is one of Australia's largest residential stormwater harvesting and reuse schemes.
2. The water is treated on-site at the Green Infrastructure Centre before being sent to storage tanks hidden under the nearby Matron Ruby Grant Park. It is then delivered to the Green Square town centre and surrounding apartment buildings via a series of purple pipes – making it easy to distinguish from potable water – and is used to flush toilets and water green spaces.
3. This innovative system captures stormwater from the Green Square trunk drain. It treats it within the Green Infrastructure Centre, resulting in significant savings of up to 456 million litres of drinking water annually.
4. The Green Square Water Reuse Scheme was built and operated by Altogether Pty Ltd under contract to the City and started operation in 2018. In 2022, Altogether advised the City that it did not wish to take up the option to continue to operate the scheme due to other commitments on water schemes that they owned and key staffing shortages at the time. To leverage strategic growth opportunities, management of the treatment plant transitioned to Sydney Water Corporation in December 2022. Sydney Water Corporation are also nominated as the "provider of last choice" for water supply in Sydney under legislation.
5. The GSWRS was initially built to deliver recycled water for the Green Square Town Centre only. However, the City saw opportunities to expand the scheme and connect to residential and commercial premises outside the Green Square Town Centre, including two future affordable housing developments on Botany Road and Meriton's Sutton site development.
6. The Water Industry Competition Act 2006 (WICA) requires any person that operates and maintains any water industry infrastructure in NSW, or that supplies water, to hold relevant licences. Licences are specific to the particular infrastructure/scheme, and obtaining a new licence or amending an existing licence can take up to two years.
7. Under WICA, nominated public water utilities are exempt from holding licences in relation to water industry infrastructure within their area of operations. Sydney Water Corporation is a nominated public water utility and its area of operations include Green Square and the location of the GSWRS infrastructure.
8. The City plans to initiate the application process for the WICA license upon the commencement of the amended WICA Act framework, expected to be available in July 2024.
9. Once the City has a WICA licence, the City intends to go to market for the future operation and maintenance of the GSWRS.
10. Considering these constraints and the potential risk of supply disruption, the most viable option at this time was to engage Sydney Water Corporation as the operator of the GSWRS, ensuring full compliance with WICA.

11. The City entered into a Major Services Agreement with Sydney Water on 31 October 2022 for a term of three years. The engagement was approved under exceptional circumstances by delegated authority, based on the anticipated expenditure value at that time.
12. Following an initial transitional period with the previous contractor, Sydney Water Corporation assumed full responsibility for operating the scheme on 19 December 2022.
13. Sydney Water has demonstrated considerable expertise in assessing critical concerns pertaining to asset condition, spare parts and consumables.
14. The prior operational approach, wherein spare parts and consumables were procured exclusively after their failure, has become impractical and non-viable. This is primarily due to the progressive ageing of the assets and the substantial increase in lead times for securing necessary spare parts and consumables since the Covid-19 pandemic. This approach is no longer sustainable and presents a tangible risk of causing disruptions in recycled water supply to residents and could affect the plant's operational efficiency.
15. Considering these challenges, a proactive strategy has been adopted to maintain essential spare parts on-site at the plant, coupled with initiating replacement orders several months before their anticipated end-of-life cycle. This approach aims to guarantee the uninterrupted operation of the facility.
16. Major consumables like membranes are replaced every 5-7 years. Major consumables' end-of-life is predicted to happen within the next 12-18 months. Major consumables like membrane replacement were not anticipated in the original estimate when entering into the contract with Sydney Water Corporation.
17. Sydney Water leverages its substantial purchasing power, securing favourable prices and adhering to stringent quality standards. This presents a good value for money and an opportunity for the City of Sydney to benefit from incorporating spare parts and consumables into the contract with Sydney Water.
18. The City's operational budget holds sufficient funds to cover the additional funds for spare parts and consumables.

#### **Request for Increasing the Contract Value**

19. The current approved contract amount will not be enough to cover GSWRS operation until the end of the contract term on 30 October 2025, if there is a major breakdown or a need for membrane replacement, with estimated costs surpassing the remaining contract sum.
20. The reasons for the variation to increase the total contract value of the contract with Sydney Water Corporation for the operation and maintenance of the Green Square Water Reuse Scheme are:
  - (a) Spare Parts: Ensuring the scheme's uninterrupted operation necessitates critical and non-critical spare parts, particularly due to uncovered asset condition and their extended lead times. Stocking critical spare parts in the plant will ensure uninterrupted service to the community.

- (b) Consumables: Vital consumables such as Ultrafiltration membranes and reverse osmosis membranes are replaced every 5-7 years and are approaching their end of life and will require replacement within the next 12-18 months, justifying their procurement for the plant's continued operation.
  - (c) Future Expansion: Expanding the scheme increases the volume of recycled water supplied beyond the Green Square Town Centre, offering environmental benefits and enhancing the scheme's economies of scale. This expansion necessitates additional infrastructure maintenance and extends services to new areas to support the overall growth.
  - (d) Additional Reactive Maintenance: Unforeseen needs for reactive maintenance and emergency work have arisen, compelling the need for additional financial resources.
21. The GSWRS represents a significant initiative that contributes toward bolstering community resilience during droughts, preserving potable water resources and reducing operational costs. Leveraging Sydney Water's expertise in this realm will ensure a robust foundation and lay the groundwork necessary for the GSWRS' expansion and growth.
22. This report recommends that Council approve an exemption from tender and variation of the contract with Sydney Water Corporation, including the increase to the total contract value, as detailed in Confidential Attachment A.

### **Performance Measurement**

23. Operational and financial performance targets are monitored monthly, quarterly and annually through a combination of meetings, audits, inspections and reporting.

### **Financial Implications**

24. There are sufficient funds allocated for this project within the current year's operating budget and future years' forward estimates.

### **Relevant Legislation**

25. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
26. Attachment A contains confidential commercial information which, if disclosed, would:
- (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
  - (b) prejudice the commercial position of the person who supplied it.

27. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.
28. Sydney Water Corporation is exempt from the requirement to hold licences to operate the GSWRS under the Water Industry Competition Act 2006.

### **Critical Dates / Time Frames**

29. The end of the current contract is 30 October 2025.
30. The City plans to initiate the application process for the WICA license upon the commencement of the amended WICA Act framework, expected to be available in July 2024.
31. Once the City has a WICA licence, the City intends to go to market for the operation and maintenance of the GSWRS (noting this will be well in advance of the 30 October 2025 contract end date).

### **Options**

32. The three options available to the City for operating the GSWRS are:
33. Option 1: Use a licensed WICA operator and secure WICA scheme approval: this option involves contracting the services of a licensed WICA operator and obtaining scheme approval under WICA. Historically, this was the arrangement with the previous contractor. However, a limited number of qualified WICA operators are in the market. Most of these operators obtain WICA licenses primarily for their schemes and have no interest in operating schemes they do not own. Additionally, obtaining a WICA operator license and scheme approval can be time-consuming, potentially taking up to two years. This option is not possible at this time.
34. Option 2: City obtain WICA license and scheme approval: this option involves the City obtaining its own WICA operational license and securing scheme approval under WICA. With this option, the City would have control over the WICA license. However, this option would require approximately two years to complete the WICA licensing process, perform the tender process to secure contractors to operate, and transition the scheme's operation. This option is not possible at this time.
35. Option 3 - The recommended option to increase the total contract value of the existing contract with Sydney Water Corporation for the operation and maintenance of the Green Square Water Reuse Scheme, as outlined in this report.

**KIM WOODBURY**

Chief Operating Officer

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