

enquiries refer

John Truman
in reply please quote

Trim No: 12/51891

26 November 2012



The Contractor
Mr Shane McCarthy
Murphy McCarthy & Associates Pty Ltd
PO Box 25
WESTGATE NSW 2048

Dear Mr McCarthy

**Re: Letter of Award
Recycled Water Distribution and Storage System Construction
Contract No. 1201101**

The Principal accepts your tender dated 23 October 2012 for the Recycled Water Distribution and Storage System Construction Project, Contract No. 1201101, for the Contract Price stated in Contract Information item 43.

Attached to this Letter of Award is your copy of the final Contract Information, in which items 8 to 11 inclusive, item 12, item 17 and item 43 have been completed.

The time period for possession of the Site is stated in Contract Information item 13.

Your attention is particularly drawn to clause 7, which deals with the make up of the Contract, and to the Contractor's obligation to provide:

- a program (clause 25)
- proof of insurance (clause 36); and
- Undertakings (clause 37).

If you have any enquiries in regard to this matter please contact me on 66861 256.

Yours faithfully

John Truman
**Group Manager
Civil Services
For the Principal**

Encl: Final Contract Information.

Contract Information

The *Contract Information* is part of the Contract. Words and phrases are defined in clause 83.

Project and Contract

Item

1 Project and Contract name

The Project and Contract name is:

Recycled Water Distribution and Storage System Construction

The Contract number is:

1201101

2 Site

The Site is:

Mentioned in clause 83

- Ballina Heights reservoirs site;
- Recycled water pipeline route from and including sections of the Ballina WWTP adjacent to the storm detention pond, to the Ballina Heights reservoirs;
- Recycled and drinking water pipeline routes from Rous water main to the reservoirs site, and from the reservoirs site to pipes connecting to the temporary drinking water reservoir site;
- The sewer transfer mains connections at the North Ballina pump station site;
- The sewer transfer mains route from the Ballina WWTP site to North Creek Canal;
- The recycled water extension section at Ferngrove Estate;
- The recycled water extension section at Aspen Retirement Village – North Ballina;
- The recycled water extension section at the Southern Cross Industrial Estate;
- Lennox Head RWP pumping station site;
- Kings Court reservoir site;
- The recycled water main route from the Lennox Head pumping station to Kings Court;
- The RW main route from North Creek Road to Skennars Head playing fields; and
- The RW main rout from Kings Court to Coastal Grove estate.

3 Description of the Works (including purpose)

The Works are:

Mentioned in clauses 10 & 83

Ballina Heights Recycled Water Scheme

- Construct a recycled water main from Ballina recycled water pumps to Ballina Heights recycled water reservoir;
- Construct Ballina Heights Recycled Water and Drinking Water reservoirs;
- Construct an inlet pipeline from Rous Water main to Ballina Heights drinking water reservoir;
- Construct a drinking water top-up line from the Rous Water main to the recycled water reservoir;
- Construct the Ballina Heights high lift pumping station building. The pumps, switchboard, switchgear and control system will not be procured under this Contract but will be procured later in Stage 2;
- Design, to the extent specified, and construct the sodium hypochlorite re-chlorination system at Ballina Heights;
- Construct the drinking water & recycled water gravity discharge lines, with pressure reducing valves, from the Drinking Water and Recycled Water reservoirs at Ballina Heights;
- Construct all inter-connecting and other associated pipework at the Ballina Heights reservoir site;
- Construct the pipelines to connect Ferngrove, Aspen Retirement Village, and the Southern Cross Industrial Estate to the recycled water system;
- Sewer catchment diversion mains from Ballina Heights, North Ballina and West Ballina sewer pumping stations, and
- Modifications to North Ballina Pump Station for diverting flow back through existing DN 300.

Lennox Head Recycled Water Scheme

- Construct the Lennox Head recycled water pumping station;
- Construct the recycled water pipeline from the pumping station to North Creek Road, including re-chlorination dosing point and equipment;
- Construct recycled water pipeline along North Creek Road;
- Construct recycled water pipeline along Skennars Head Road, from North Creek Road to Skennars Head playing fields;
- Construct Kings Court Reservoir;
- Construct drinking water top-up from

Basalt Court reservoir to Kings Court Reservoir;

- Construct recycled water pipeline from Kings Court Reservoir to Coastal Grove development;
- Construct pressure reducing valve on existing recycled water line to Angels Beach; and
- Sewer pipe disconnection works of the OD508 MSCL rising main from the entry to Lennox Head RWTP.

General

- Construction of electrical, instrumentation and control equipment for the operation of the scheme as specified in the Contract;
- Obtain WorkCover and other government authority approvals where necessary, on the design, supply and construction of the equipment supplied under this Contract.
- Test, demonstrate and commission provide Operators Training and O&M manuals for all works, carried out as part of the Contract;
- Provide Work-As-Executed Drawings;
- Establishment and disestablishment, including provision of site facilities; and
- Video and photographic record of the project.

Principal's details

4 Principal

The Principal is:

Ballina Shire Council

5 *Principal's Authorised Person*

The *Principal's Authorised Person* is:

Alex Manning

Mentioned in clause 2

6 Notices to the Principal

Mentioned in clause 30

Notices must go to the *Principal's Authorised Person* listed above, at the address or number shown here.

Office address:
(for delivery by hand)

NSW Public Works
120 Dalley Street
Lismore NSW 2480

Postal address:
(for delivery by post)

NSW Public Works
PO Box 73
Lismore NSW 2480

Facsimile number: 02 6626 5666

e-mail address alex.manning@services.nsw.gov.au

7 Senior executive

A - Principal's senior executive

The Principal's senior executive is: *Mentioned in clauses 73 & 74*
John Truman (Group Manager Civil Services)

B - Documents copied to the Principal's senior executive

Mentioned in clause 73
When notices must be copied to the Principal's senior executive the address is as follows:

Office address:
(for delivery by hand) Ballina Shire Council
Cnr Tamar and Cherry Streets
Ballina NSW 2478

Postal address:
(for delivery by post) Ballina Shire Council
Cnr Tamar and Cherry Streets
Ballina NSW 2478

Facsimile number: 0266 867035

e-mail address johnt@ballina.nsw.gov.au

Contractor's details

8 Contractor

The Contractor is: Murphy McCarthy & Associates Pty Ltd
ABN 23 086 673 136

9 Contractor's Authorised Person

The Contractor's Authorised Person is: *Mentioned in clause 2*
Conor Hassett

10 Senior executive

The Contractor's senior executive is: *Mentioned in clause 74*
Shane McCarthy

11 Notices to Contractor

Mentioned in clause 30
Notices must go to the personnel listed above, at the address or number shown here.

Office address:
(for delivery by hand) Level 1, 158 Norton Street
Leichhardt, NSW 2040

Postal address:
(for delivery by post) PO Box 25
Westgate, NSW 2048

Facsimile number: (02) 9550 9592

e-mail address

conor@mmacivil.com.au

Dates and times

12 Date of Contract

Mentioned in clause 83

This is the date the Principal signs the Contract after the Contractor has signed, or the date of the Principal's *Letter of Award* to the Contractor (as applicable).

Date of Contract is:

The date of the *Letter of Award*.

13 Contractual Completion Date and times

Mentioned in clause 83

The time periods for Completion include the 14 days or other time periods referred to in Clause 38.

Whole of the Works

Time period for possession of the Site is:

14 days from *Date of Contract*.

Time period for Completion is:

36 weeks from *Date of Contract*

NSW Government requirements

14 Codes

Mentioned in clause 13

The NSW Government codes that apply are:

NSW Government *Code of Practice for Procurement*

15 Principal contractor

Mentioned in clause 15.2

Is the Contractor appointed as principal contractor? (Yes/No)

Yes

16 NSW Government construction Guidelines requirements

A - WHS Management Plan

Mentioned in clause 15.3

Is the Contractor required to submit a Project WHS Management Plan? (Yes/No)

Yes

Is the Contractor required to submit a Site-specific Safety Management Plan? (Yes/No)

Yes

B - Industrial Relations Plan

Mentioned in clause 16.3

Is the Contractor required to submit a Project IR Plan? (Yes/No)

No

C - Environmental Management Plan

Mentioned in clause 18.2

Is the Contractor required to submit a
Environmental Management Plan?
(Yes/No)

Yes

D - Training Management Plan

Mentioned in clause 19.3

Is the Contractor required to submit a
Project Training Management Plan?
(Yes/No)

No

E - Aboriginal Participation Plan

Mentioned in clauses 20.1

The Aboriginal Participation Project
Category is:

NA

Are a Statement of Opportunities for
Aboriginal Participation and Aboriginal
Participation Plan required? (Yes/No)

No

Reference Contract Documents

17 Reference Contract Documents

Mentioned in clause 7.1.5

The Reference Contract
Documents are:

Letter of Award; and

Tender Document, Volumes 1, 2 and 3, plus:

- Addendum 1 issued 8/10/2012 (4 pages);
- Addendum 2 issued (5 pages and 5 Drawings);

Tender dated 23rd October 2012 including:

- Tender Form (1 page);
- Schedule of Mandatory Alternative Tenders (1 page);
- Schedule of Quality Management Information (1 page);
- Schedule of Work Health and Safety Information (3 pages);
- Schedule of Environmental Management Information (4 pages);
- MMA Civil Company Profile (19 pages);
- Certificate of 3rd Party Accreditation for AS/NZS 4801: 2001 OH&S Management Systems (1 page);
- Certificate of 3rd Party Accreditation for ISO 9001:2008 Quality Management Systems (1 page);
- Certificate of 3rd Party Accreditation for ISO 14001:2004 Environmental Management Systems (1 page);
- Certificate of OHSMS Accreditation from NSW Government (1 page);

- MMA Previous Work Portfolio (23 pages);
- MMA Key Personnel (3 pages);
- MMA Organisation Chart (1 page);
- OHS Management System Manual – Table of Contents Only (3 pages);
- Plant and Equipment Schedule (1 page);
- Quality Assurance Plan – Table of Contents Only (2 pages); and
- Community Relations Policy Statement (3 pages).

Post Tender Correspondence including:

- NSW PW email dated 24/10/2012 requesting further information, including the schedules marked “Submit When Requested”, and a signed copy of all of the returnable schedules (2 pages);
- MMA email dated 30/10/2012 containing updated signed Schedules (42 pages) and signed copies of Addendums 1 and 2 (9 pages);
- MMA document transfer via “ShareFile” dated 30/10/2012 which included the following additional documents : Contract Organisational Chart (1 page), Experience and Referees (2 pages), and List of Current Projects (1 page);
- MMA email dated 30/10/2012 containing a construction program (10 pages), and a document on the past projects for Subcontractor Hornick Constructions Pty Ltd (5 pages);
- NSW PW email dated 1/11/2012 seeking further clarifications following the MMA submission of 30/10/2012 (1 page);
- NSW PW email dated 5/11/2012 seeking further acknowledgement in writing from MMA that they fully understand the nature and extent of the contract work, and seeking further supporting information for Schedule 9 – Schedule of Environmental Management Information (1 page);
- MMA email dated 7/11/2012 confirming that a 36 week duration will be met, and also contained updated tender schedules (42 pages), Confirmation of Understanding of Contract Letter (1 page), draft CEMP (11 pages), QMS internal audit report (9 pages), example Site Safety Audit Checklist (4 pages);
- NSW PW email dated 8/11/2012 – again seeking further supporting information for Schedule 9 – Schedule of Environmental Management Information (1 page);
- MMA email dated 8/11/2012 confirming that MMA has begun the process of submitting an application to obtain EMS accreditation with relation to NSW Government EMS Guidelines (1 page);

- NSW PW email dated 13/11/2012 seeking further clarification on Schedule 5 – Schedule of Technical Data where some items that did not match the specified data (1 page); and
- MMA email dated 15/11/2012 containing Lennox Head Pumping Station Duty Pump Information (6 pages), Lennox Head Pumping Station Switchboard Arrangement (1 Drawing), Schedule 9 – Environmental Management Information (4 pages), Company Profile of JWA Ecological Consultants (16 pages), and CV of James Warren of JWA Ecological Consultants (15 pages).

Principal's Documents

18 Copies of *Principal's Documents*

The number of copies of the *Principal's Documents* to be provided to the Contractor is:

1 printed copy and;
1 electronic copy

Mentioned in clause 7.4

Contractor's Documents

19 Copies of *Contractor's Documents*

The number of copies of the *Contractor's Documents* to be provided to the Principal is:

3 printed copies and;
3 electronic copies

Mentioned in clause 45.1

Subcontract work

20 Use of GC21 Subcontract

Subcontract value requiring use of GC21 Subcontract is:

\$100,000.00

Mentioned in clause 31.3

21 Use of equivalent clauses

Subcontract value requiring use of equivalent clauses is:

\$25,000.00

Mentioned in clauses 31.3 & 31.4

22 Payment for minor Subcontract

Maximum period before payment for minor Subcontract:

15 Business Days

Mentioned in clause 31.3

23 Preferred Subcontractors

Preferred Subcontractors referred to in clause 32 are:

Not Applicable

Mentioned in clause 32

24 Prequalified Contractors

Trades or areas of work requiring use of
Prequalified Contractors are

Not Applicable

Mentioned in clause 32

25 Subcontractor's warranty

Trades or areas of work requiring a
Subcontractor's warranty are:

Pipes and Fittings (45 years)
Air Conditioning (5 years)

Mentioned in clause 33.1

Insurance - General

Mentioned in clauses 36.1 & 36.2

26 Works insurance

Minimum cover:

\$30 Million for any one occurrence

Insurer:

Chartis Australia Insurance Ltd

Policy Terms and Conditions:

Terms and Conditions not less favourable to the Contractor than those shown for the relevant period at
<http://www.nswprocurement.com.au/Procurement-System-for-Construction/Contract-management/Insurance-Policies.aspx>

Period of cover:

Until the earlier of 12 months after Completion of all of the Works specified in the Contract (excluding maintenance or post completion defect rectification) or the issue of the Final Payment Schedule..

27 Public liability insurance

Minimum cover:

\$ 20 Million

Insurer:

Chartis Australia Insurance Ltd

Policy Terms and Conditions:

Terms and Conditions not less favourable to the Contractor than those shown for the relevant period at
<http://www.nswprocurement.com.au/Procurement-System-for-Construction/Contract-management/Insurance-Policies.aspx>

Period of cover:

Until the earlier of 12 months after Completion of all of the Works specified in the Contract (excluding maintenance or post completion defect rectification) or the issue of the Final Payment Schedule.

28 Workers compensation insurance

Minimum cover:

As required by law.

29 Personal accident insurance

Minimum cover:

Death and permanent disability \$400,000-00
Temporary disablement: \$800-00 each week

Insurance - Specific

Mentioned in clauses 36.1.4, 36.3 and 36.4

30 Professional indemnity insurance	
Is a professional indemnity policy to be held by the Contractor?	No
Minimum cover:	\$500,000 or 20% of the <i>Contract Price</i> , whichever is the greater, to a maximum of \$5 million.
31 Asbestos liability insurance	
Minimum cover:	Asbestos related insurance only as required by law.
32 Marine liability insurance	
Minimum cover:	\$5 million for any one occurrence.
Period of cover:	The whole of the period of use of waterborne craft of 8 or more metres in length on work for or in connection with the Contract.

Security

33 <i>Completion Undertaking</i>	
Percentage of the <i>Contract Price</i> at the Date of Contract is:	<i>Mentioned in clause 37.1</i> 4% for the first \$10 million plus 2% for any amount of the <i>Contract Price</i> over \$10 million.
34 <i>Post-Completion Undertaking</i>	
Percentage of the <i>Contract Price</i> at the Date of Contract is:	<i>Mentioned in clause 37.1</i> 1%
35 Return of <i>Post-Completion Undertaking</i>	
Period for return of <i>Post-Completion Undertaking</i> is:	<i>Mentioned in clause 37.2.2</i> 12 months

Site information

36 Site information	
	<i>Mentioned in clause 40</i> <i>Information contained in the documents listed in Contract Information items 36A and 36B does not form part of the Contract.</i>
A - Documents not guaranteed for completeness	
Documents not guaranteed for completeness are:	
B - Documents not guaranteed for accuracy, quality or completeness	
Documents not	The following appendices in Volume 2: <ul style="list-style-type: none"> Ballina Recycled Water Scheme, Ballina Heights Reservoirs,

guaranteed for accuracy, quality or completeness are:

- Geotechnical Investigation, Report No. 11-GQ24A/2-T, September 2011.
- Ballina Recycled Water Scheme, Kings Court Reservoir and Pumping Station at Lennox Head RWF, Geotechnical Investigation, Report No. 11-GQ24A/3-T, September 2011.
 - Ballina Recycled Water Scheme, Recycled Water Rising Mains and Sewer Catchment Diversion Pipelines, Geotechnical Investigation, Report No. 11-GQ24A/4-T, October 2011.
 - Ballina Recycled Water Scheme, Recycled Water Connection Mains and Duplication Main, Geotechnical Investigation, Report No. 11-GQ24A/5-T, August 2012.
 - Ballina and Lennox Head Recycled Water Storage and Distribution Systems, CHAIR 1 – Report, December 2011. (Safety In Design Reporting, Minutes of CHAIR Meetings).
 - Ballina Recycled Water Distribution System, Trenchless Feasibility and Concept Design, July 2011 (Horizontal Directional Drilling Report).

Scope of activities

37 Scope of *Design* activities

Mentioned in clause 1.1.1

A - Extent of *Design* by the Contractor

Mentioned in clauses 1.1.1 and 43.1

Extent of *Design* by the Contractor is:

All necessary design for or in respect of the Works not already performed by the Principal, as described in the *Principal's Documents* including but not limited to all design development, documentation and coordination of the design of the various engineering and architectural disciplines, workshop detailing and finalisation of the *Design* of the Works in all respects, in accordance with the *Contract Documents*.

The Contractor must complete *Design* which includes but is not limited to : *Workshop Drawings & Underbore Systems* and the interaction between all these and other components of the Principal's design, as referred to in the *Principal's Documents*.

The Contractor must amend the *Principal's Documents* to ensure that the Contractor's design where required is compatible with all other components of the Works.

Any such changes to the *Principal's Documents* must not adversely impact upon the required performance and fitness for purpose of the Works

Amendments to the *Principal's Documents* become part of the *Contractor's Documents*.

Under no circumstances may the Contractor otherwise change the Principal's design without the Principal's prior written approval.

If the Principal's design is required to be changed with the Principal's approval, the provisions of clause 43.2 will apply and the *Variation* is to be valued under clause 52.

The only exception to the provisions of clause 43.2 with *Variations* is as follows:

- Notwithstanding clauses 43.4 and 48.2, any change to the Works resulting from the Contractor's development of the *Principal's Documents* in respect of Workshop Drawings and the Design of the Underboring Systems and the interaction between these and other components of the Principal's design in the *Principal's Documents*, is not a *Variation* and the Contractor has no entitlement whatsoever to an extension of time, costs or to any other adjustment of the *Contract Price*.

B - Building Code of Australia

Is the Building Code of Australia to apply to the *Design* in the *Contractor's Documents* (clause 43.4) and to the *Materials* used in the construction of the Works (clause 48)? (Yes/No)

Mentioned in clauses 43.1 & 48

No

38 Responsibility for *Design*

Is the Contractor to assume responsibility for design carried out by the Principal before the Date of Contract and does clause 44 apply? (Yes/No)

Mentioned in clause 44

No

39 Working days and hours of work

Working days and hours of work:

Mentioned in clause 26

Monday to Friday 7:00 am to 5:00 pm
Saturday 8:00 am to 1:00 pm

40 Rise or fall adjustments

Are rise or fall adjustments applicable to the Contract (excluding *Daywork*)? (Yes/No)

Mentioned in clause 59.1

No

41 *Site Conditions*

Is the Contractor to bear the full risk, including cost and time implications, of

Mentioned in clause 41.8

No

encountering and dealing with
materially adverse *Site Conditions*?
(Yes/No)

Innovation

42 Innovation

Mentioned in clause 46.8

Do the parties agree to share the savings
in the cost to the Contractor of the
Works resulting from changes accepted
by the Principal? (Yes/No)

Yes

If “No”, the Contractor keeps the direct saving in the cost to the Contractor of the Works,
as provided in clause 46.5.

Percentage of saving to be allocated to
the Contractor is:

50%

Percentage of saving to be allocated to
the Principal is:

50%

Payments

43 *Contract Price* at the Date of Contract

Mentioned in clause 59

Contract Price at the Date of Contract
is:

\$ 11,053,113.00

Basis of payment:

Basis of payment is:
(Lump sum / *Schedule of Rates* /
Schedule of Rates and lump sums)

Lump Sum

44 Amount of *Prepayment*

Mentioned in clause 61.1.1

Amount of *Prepayment* is:

\$ 1,000,000

45 *Completion Amount*

Mentioned in clauses 62.4.2 & 64

The *Completion Amount* is:

\$ 350,000

46 *Provisional Sums*

Mentioned in clause 59

Provisional Sums items referred to in
clause 59:

Not Applicable

47 *Provisional Sum* margin

Mentioned in clause 59.6.2

The *Provisional Sum* margin percentage
is:

10%

48 *Contractor's Margin* on *Variations*

Mentioned in clause 83 and Schedule 5 - clause 3.1.3.

The percentage for *Contractor's Margin* on *Variations* is:

10%

49 Payment date and method

A - Date for *Payment Claims*

Mentioned in clause 62.1

Date in month for making *Payment Claims* is:

The last *Business Day* prior to the end of each calendar month.

B - Type of payment

Mentioned in clause 62.2

The method of payment will be by:
(*Progress Payment / Milestone Payment*)

Monthly *Progress Payments*.

C - Time for payment

Mentioned in clause 63.5

Time that a payment becomes payable subject to clause 63.5 is:

10 *Business Days*.

50 Interest on late payments

Mentioned in clause 66

<http://www.westpac.com.au/internet/publish.nsf/Content/PBHLHCPI+Interest+Rates>

Rate of interest per annum is:

8%

Delay costs

51 Delay costs

Mentioned in clauses 55.1 to 55.3

A - Delay costs

The rate per day for delay costs for the whole of the Works is:

\$ 6,250

B - Delay to *Completion* and liquidated damages

Mentioned in clauses 55.4 to 55.9

Clause 55.4 applies to this Contract?
(Yes/No)

No.
If "No" applies, the Principal reserves its rights to claim general damages if the Contractor fails to achieve *Completion* by the *Contractual Completion Date*).

The rate per day for liquidated damages for the whole of the Works* is:

Not applicable.

** The rates for each are separate and distinct from each other.*

Engagement of Valuer

52 Engagement of Valuer

A - Engagement of Valuer

The Valuer must be engaged? (Yes/No)

Yes

Mentioned in clauses 39.1& 39.2

B - Person to nominate the Valuer

The person to nominate the Valuer is:

National President
Institution of Engineers, Australia
11 National Circuit
Barton ACT 2600

Mentioned in clause 39.1.1

Telephone (02) 6270 6555
Facsimile (02) 6273 1950

C - Litigation Threshold

Threshold amount for litigation
following a Valuer's determination is:

\$100,000-00

Mentioned in clause 39.1.5

Expert Determination

53 Time to refer *Issue* to *Expert Determination*

Maximum number of days for either
party to refer an *Issue* to *Expert*
Determination is:

Within 28 days of becoming entitled to refer
an *Issue* to *Expert Determination* under
clause 74.2.

Mentioned in clause 74.3

54 *Expert Determination* representative

The name of the representative of the
Principal for all of the purposes in
clause 75, to whom all documents must
be copied under Schedule 6 (Expert
Determination Procedure) is:

Manager,
Dispute Resolution Unit,
Policy Support Services,
Department of Finance and Services.

Mentioned in clause 75

Office address:
(for delivery by hand)

Policy Support Services,
Level 10, McKell Building,
2-24 Rawson Place
Sydney, NSW, 2000.

Postal address:
(for delivery by post)

Department of Finance and Services
Policy Support Services,
Level 10, McKell Building,
2-24 Rawson Place,
Sydney, NSW, 2000.

Facsimile number:

(02) 9372 8033

e-mail address:

Manager.cdru@services.nsw.gov.au

55 Person to nominate *Expert*

Mentioned in clause 75.1

Person to nominate *Expert* is:

Chief Executive Officer,
Australian Commercial Disputes Centre,
Level 6,
50 Park Street,
Sydney, NSW, 2000

Telephone number:

(02) 9267 1000

Facsimile number:

(02) 9267 3125

56 Threshold amount for litigation

Mentioned in clause 75.6

Threshold amount for litigation
following a determination is:

\$500,000.00