



**Contract Description: *Hire of Plant & Equipment***

**Contract No: *CM0543***

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**STANDING OFFER AGREEMENT FOR THE HIRE OF EQUIPMENT (ONGOING)**

**FORMAL INSTRUMENT OF AGREEMENT**

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**BETWEEN**

**1 WEST WIMMERA SHIRE COUNCIL**  
having its municipal office at 49 Elizabeth Street, Edenhope, Victoria  
**(Principal)**

**2 CONTRACTOR**  
ABN  
of  
**(Contractor)**

**1 BACKGROUND**

- 1.1 The Principal may from time to time in accordance with its business needs require the Items on a temporary basis.
- 1.2 The Contractor makes a standing offer to lease the Items to the Principal from time to time under Approved Purchase Orders in accordance with the terms of this Agreement.

**2 AGREEMENT**

It is agreed that -

- 2.1 this Formal Instrument of Agreement;
- 2.2 the General Conditions;
- 2.3 the Schedules;
- 2.4 Purchase Order; and
- 2.5 any documents incorporated by reference -

together comprise and evidence the agreement between the parties **(Agreement)**.

Executed as a deed by the parties on the date set out at the commencement of this Formal Instrument of Agreement:

1 **Execution clause for the Principal**

1.1 Signed under delegation:

**SIGNED, SEALED AND DELIVERED** by \_\_\_\_\_ )  
 )  
on behalf of the Principal in the presence of: \_\_\_\_\_ )

\_\_\_\_\_  
[specify title]

\_\_\_\_\_  
Witness

2 **Execution clause for the Contractor (delete alternatives which are not applicable):**

2.1 If the Contractor is a company and it must execute documents under seal:

**SIGNED, SEALED AND DELIVERED** by \_\_\_\_\_ )  
 )  
in accordance with section 127(1) of the \_\_\_\_\_ )  
*Corporations Act 2001* by being signed \_\_\_\_\_ )  
by authorised persons: \_\_\_\_\_ )  
 )

\_\_\_\_\_  
Director

\_\_\_\_\_  
\*Director/company secretary

\_\_\_\_\_  
\*Delete whichever is inapplicable

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Usual Address

\_\_\_\_\_  
Usual Address

2.2 If the Contractor is a company and is not required to execute documents under seal, it must execute this Agreement by being signed by those persons who are authorised to sign for the company:

**SIGNED, SEALED AND DELIVERED** by \_\_\_\_\_ )  
\_\_\_\_\_ )

\_\_\_\_\_  
Director \*Director/company secretary  
\*Delete whichever is inapplicable

\_\_\_\_\_  
Full Name Full Name

\_\_\_\_\_  
Usual Address Usual Address

2.3 If the Contractor is an individual:

**SIGNED, SEALED AND DELIVERED** \_\_\_\_\_ )  
by \_\_\_\_\_ )  
in the presence of: \_\_\_\_\_ )

\_\_\_\_\_  
Witness

2.4 If the Contractor is a partnership (add extra execution clauses for each partner, as necessary):

**SIGNED, SEALED AND DELIVERED** \_\_\_\_\_ )  
by \_\_\_\_\_ )  
in the presence of: \_\_\_\_\_ )

\_\_\_\_\_  
Witness

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## General Conditions

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Agreement unless expressed or implied to the contrary:

- 1.1.1 **Agreement** has the meaning given in the Formal Instrument of Agreement.
- 1.1.2 **Agreement Material** means any Material created by the Contractor or its Personnel on or following the Commencement Date in the course of, or as a consequence of, performing its obligations under this Agreement or an Approved Purchase Order.
- 1.1.3 **Approved Purchase Order** means a Purchase Order approved and executed by the parties in accordance with clause 4.
- 1.1.4 **Authority** means a government or governmental, semi-governmental or judicial entity or authority.
- 1.1.5 **Business Day** means Monday to Friday excluding public holidays in Victoria.
- 1.1.6 **Claims** includes actions, proceedings, suits, causes of action, arbitrations, verdicts and judgments either at law (including negligence) or in equity or arising under a statute, debts, dues, demands, claims of any nature, costs and expenses.
- 1.1.7 **Code of Practice** means a code of practice as defined in, and approved under, the Privacy and Data Protection Act.
- 1.1.8 **Collection Point** means the location to which the Items are to be collected by the Contractor at the end of the Hire Period, as specified in an Approved Purchase Order.
- 1.1.9 **Commencement Date** means the date in Item 1 of Schedule 1.
- 1.1.10 **Confidential Information** means all information of the Principal of any nature and in any form which is disclosed, made available, communicated by the Principal or delivered to or obtained by the Contractor in connection with this Agreement, which is about the Principal or its operations, dealings, organisation, Personnel, business, strategies, ideas, designs, Intellectual Property Rights, trade secrets or know how or is otherwise designated by the Principal as confidential (including the terms of this Agreement) or is by its nature confidential, but excludes information which:
- (a) is in or which subsequently enters the public domain other than as a result of a breach of the Agreement or which the Contractor can demonstrate was in its possession prior to the Commencement Date;
  - (b) the Contractor can demonstrate was independently developed by the Contractor; or

- (c) is lawfully obtained by the Contractor from another person entitled to disclose such information.
- 1.1.11                **Conflict of Interest** includes any potential, perceived or actual conflict between:
- (a) the duties of the Contractor or any of its Personnel under this Agreement; and
  - (b) any personal, business, financial or other interest that the Contractor or any of its Personnel may have in relation to any of the Equipment.
- 1.1.12                **Consequential Loss** means loss or damage caused by a breach of contract, tort (including negligence), under statute or any other basis at law or equity limited to:
- (a) loss of, or diminution in, profits, revenue, overhead recovery, savings or anticipated savings; and
  - (b) loss of, or denial of, opportunity, anticipated or future business or anticipated or future contract or custom.
- 1.1.13                **Contract Manager** means the Personnel of each party described in Item 7 of Schedule 1 (or varied by either party under clause 13.1.2).
- 1.1.14                **Contractor** means the person described in the Formal Instrument of Agreement.
- 1.1.15                **Contractor Material** means all Existing Material provided to the Principal by the Contractor under this Agreement or an Approved Purchase Order.
- 1.1.16                **Contractor’s Depot** means the location the Principal is to pick-up or return the Equipment if applicable;
- 1.1.17                **Corporations Act** means the *Corporations Act 2001* (Cth).
- 1.1.18                **Date of Hire** means the date the Equipment is to be provided to the Contractor as set out in an Approved Purchase Order.
- 1.1.19                **Date of Return** has the meaning set out in clause 8.1.
- 1.1.20                **Defect** includes:
- (a) any failure of an Item to comply with its Specification; and
  - (b) any defect in Materials, manufacture, workmanship or design.
- 1.1.21                **Delivery Point** means the location to which the Equipment is to be delivered, as specified in an Approved Purchase Order.
- 1.1.22                **Dispute** means a dispute arising under or in connection with this Agreement.
- 1.1.23                **Dry Hire** means the hire of Equipment by the Customer to be operated without an Operator;

- 1.1.24        **Equipment** means the Items set out in an Approved Purchase Order.
- 1.1.25        **Equipment Fee** means the fee payable by the Principal to the Contractor for the hire of the Equipment in accordance with this Agreement and priced in accordance with the applicable Item Rates for the Items comprising the Equipment, and the length of the Hire Period and any applicable Transport Charges.
- 1.1.26        **Existing Material** means all Material, other than Agreement Material, which is made available by a party under this Agreement or an Approved Purchase Order, including Third Party Material.
- 1.1.27        **Formal Instrument of Agreement** means the document given that name evidencing the agreement of the parties.
- 1.1.28        **General Conditions** means clauses 1 to 26 of this Agreement.
- 1.1.29        **GST Law** has the meaning given to that term in the *A New Tax System (Equipment and Services Tax) Act 1999* (Cth).
- 1.1.30        **Health and Safety Laws** means all workplace, health and safety related Laws, codes of practice, other compliance codes, directions on safety or notices issued by any relevant Authority and standards applying where the Equipment are being supplied and includes the OH&S Act and OH&S Regulations.
- 1.1.31        **Hire Period** means, for the Equipment the period from the Date of Hire to the Date of Return.
- 1.1.32        **Indemnified Parties** means the Principal and each of its directors, officers, employees, contractors and agents individually or collectively, as the case may be.
- 1.1.33        **Information Privacy Principles** means the information privacy principles set out in the Privacy and Data Protection Act.
- 1.1.34        **Initial Term** means the period described in Item 2 of Schedule 1.
- 1.1.35        **Insolvency Event** means any of the following events:
- (a) the Contractor, its parent company or ultimate holding company becomes insolvent or unable to pay its debts as they fall due;
  - (b) a receiver, receiver and manager, administrator, controller, provisional liquidator or liquidator is appointed to the Contractor or its parent company or ultimate holding company or the Contractor or its parent or ultimate holding company enters into a scheme of arrangement with its creditors or is wound up;
  - (c) the Contractor, its parent company or ultimate holding company assigns any of its property for the benefit of creditors or any class of them;
  - (d) an encumbrancee takes any step towards taking possession or takes possession of any assets of the Contractor, its parent company or ultimate holding company or exercises any power of sale;



- (e) the Contractor, its parent company or ultimate holding company has a judgment or order given against it in an amount exceeding \$1,000 (or the equivalent in another currency) and that judgment or order is not satisfied or quashed or stayed within 20 Business Days after being given; or
- (f) an act is done or an event occurs which, under the laws from time to time of a country having jurisdiction in relation to the Contractor or its parent company or ultimate holding company, has an analogous or similar effect to any of the events in paragraphs (a) to (e) of this definition.

1.1.36 **Intellectual Property Rights** means all and any patents, patent applications, trade marks, service marks, trade names, domain names, registered designs, unregistered design rights, copyrights, know how, trade secrets and rights in confidential information, URLs and all and any other intellectual property rights, whether registered or unregistered, and including all applications and rights to apply for any of the same.

1.1.37 **Item** means any of the individual goods listed for lease by the Contractor in Schedule 3.

1.1.38 **Item Rate** means the rate for each Item listed in Schedule 3.

1.1.39 **Law** includes, as amended from time to time and whether or not existing at the Commencement Date, all applicable principles of law or equity, standards, codes and guidelines, industry standards and other industry standards to the extent that such standards, codes and guidelines are relevant to the Equipment, directions or notices issued by any Authority and fees, rates, taxes, levies and charges payable in respect of the things referred to in this definition.

1.1.40 **Licence** includes permits, licences, authorisations and accreditations.

1.1.41 **Loss** means any loss, cost, expense, damage or liability (including any fine or penalty) whether direct or indirect or consequential, present or future, fixed or unascertained, actual or contingent and whether arising under contract (including any breach of the Agreement), in equity (including breach of an equitable duty, breach of confidentiality or breach of fiduciary duty), under statute (including breach of statutory duty to the maximum extent possible), in tort (including for negligence or negligent misrepresentation) or otherwise (including in restitution), but excluding Consequential Loss.

1.1.42 **Materials** means anything in a material form including equipment, hardware, computer software, data, documentation, designs, drawings, reports, notes, calculations, specifications, photographs, audio-visual materials, recordings, manuals and tools (and includes information stored in an electronic form).

1.1.43 **Monthly Equipment Fee** means the monthly fee payable by the Principal to the Contractor for the hire of the Equipment in accordance with this Agreement and priced in accordance with the Item Rate, and the number of days of the Hire Period within the particular month and any applicable Transport Charge.

- 1.1.44 **Moral Rights** has the same meaning and effect as given to that expression in the *Copyright Act 1968* (Cth).
- 1.1.45 **OH&S Act** means the *Occupational Health and Safety Act 2004* (Vic).
- 1.1.46 **OH&S Incident** has the meaning given in Part 5 of the OH&S Act and, for the purpose of this Agreement, also means any event or circumstance relating to health or safety that causes or is likely to cause:
- (a) a lost time injury, medical treatment injury, first aid injury or a near miss;
  - (b) an interruption of services to customers;
  - (c) a threat to the Principal's systems or infrastructure;
  - (d) a threat to community health and safety;
  - (e) a threat to the environment;
  - (f) a threat to public or private property; or
  - (g) the creation of the need for urgent action under statute or legislation.
- 1.1.47 **OHS Plan** means a plan submitted in response to a Purchase Order that demonstrates that the Operator is qualified and skilled to operate the Equipment;
- 1.1.48 **OH&S Regulations** means the *Occupational Health and Safety Regulations 2017* (Vic).
- 1.1.49 **Operator** means any drivers or operators of the Equipment provided by the Contractor to the Principal, in accordance with an Approved Purchase Order;
- 1.1.50 **Optional Term** has the meaning given in clause 3.2.1.
- 1.1.51 **Overdue Amount** means an amount (or part thereof) that:
- (a) is not, or is no longer, disputed;
  - (b) is due and owing under an invoice properly rendered by the Contractor in accordance with this Agreement; and
  - (c) has been outstanding for more than 30 days from the date of receipt of the invoice (or the date the amount ceased to be disputed, as the case may be).
- 1.1.52 **Personal Information** has the meaning given in the Privacy and Data Protection Act.
- 1.1.53 **Personnel** means employees, agents, contractors or subcontractors including representatives.
- 1.1.54 **Principal** means the party described in the Formal Instrument of Agreement .

- 1.1.55                **Principal Material** means all Existing Material provided to the Contractor by the Principal under this Agreement or an Approved Purchase Order.
- 1.1.56                **Principal Policies and Procedures** means the policies and procedures made available by the Principal to the Contractor from time to time.
- 1.1.57                **Privacy and Data Protection Act** means the *Privacy and Data Protection Act 2014* (Vic).
- 1.1.58                **Purchase Order** means an order for Equipment issued by the Principal under clause 4.1.
- 1.1.59                **Purchase Order Date of Return** means the date the Contractor proposes the lease of the Equipment to end means the date and time for pickup of Items as specified in an Approved Purchase Order (or alternately determined under clause 5.2.2).
- 1.1.60                **Records** means written records of the Contractor's performance of its obligations under this Agreement.
- 1.1.61                **Records Act** means the *Public Records Act 1973* (Vic).
- 1.1.62                **Required Insurance Policies** has the meaning given in clause 21.1.
- 1.1.63                **Specification** means the relevant technical, functional, performance and other specifications specified in Schedule 2 or an Approved Purchase Order that the Equipment is required to meet.
- 1.1.64                **Taxes** means any income (including payroll), land, indirect and other taxes, excise, levies, imposts, deductions, charges, duties, compulsory loadings and withholdings, including withholding payments, financial institutions duty, debits tax or other taxes whether incurred by, paid by return or passed on to another person and includes any interest, penalties, charges, fees, fines or other amounts imposed in respect of any of the above but does not include GST or stamp duty.
- 1.1.65                **Term** means the term of this Agreement, as determined under clause 3.
- 1.1.66                **Third Party Material** means Existing Material in which a third party has Intellectual Property Rights.
- 1.1.67                **Transport Charges** means the rates set out in Schedule 3 comprising of:
- (a) all transport, loading, unloading, storage, and all other costs of the Contractor to deliver the Equipment to the Delivery Point, including unloading the Equipment at the Delivery Point; and/or
  - (b) all transport, loading, unloading, storage, and all other costs of the Contractor to collect the Equipment at the Collection Point.
- 1.1.68                **Wet Hire** means the Contractor shall provide an Operator for the Equipment and pay for fuel.

## 1.2 Interpretation

1.2.1 This Agreement is governed by and is to be construed in accordance with the laws of Victoria.

1.2.2 In this Agreement, except where the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to:
  - (1) a clause, schedule, appendix or annexure is a reference to a clause, schedule, appendix or annexure in or to this Agreement all of which are deemed part of this Agreement;
  - (2) a person includes the legal personal representatives, successors and permitted assigns of that person;
  - (3) any body which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the first-mentioned body;
  - (4) '\$' or 'dollars' is a reference to Australian dollars;
  - (5) a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them; and
  - (6) this or any other document includes the document as varied or replaced regardless of any change in the identity of the parties;
- (d) headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Agreement;
- (e) where the expression **including** or **includes** is used it means 'including but not limited to' or 'including without limitation'; and
- (f) a payment or other act is required to be made or done on a day which is not a Business Day, must be made or done on the next following Business Day.

1.2.3 If a provision in this Agreement is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable. If it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Agreement.

### **1.3 Priority of documents**

If there is any inconsistency between any of the documents forming part of the Agreement entered into by the parties under clause 4.7, those documents will be interpreted in the following order of priority:

- 1.3.1 the Formal Instrument of Agreement;
- 1.3.2 the General Conditions;
- 1.3.3 the Schedules to this Agreement (in numerical order);
- 1.3.4 the Approved Purchase Order, including any terms and conditions attached to the Purchase Order; and
- 1.3.5 any other documents created under this Agreement or incorporated into it by reference or any special conditions referred to in Item 9 of Schedule 1.

## **2 Appointment**

### **2.1 Standing offer**

The Contractor makes a standing offer to:

- 2.1.1 lease the Items to the Principal during the Term; and
- 2.1.2 to perform all of its other obligations as stated in this Agreement and an Approved Purchase Order.

### **2.2 Non-exclusive appointment**

2.2.1 Nothing in this Agreement is to be taken to imply that the Principal:

- (a) may not acquire or hire equipment that is the same as or the same kind as the Items at any time from any other person; and
- (b) is obliged to issue any Purchase Orders to the Contractor or to hire any minimum volume of the Items from the Contractor.

2.2.2 The Contractor acknowledges and agrees that the Principal makes no undertaking, representation or warranty as to the amount of Items that may be required by the Principal from the Contractor.

### **2.3 Unavailability**

2.3.1 If, at any time during the Term, the Contractor is unable for whatever reason to accept a new Purchase Order from the Principal in accordance with clause 4.5 of this Agreement, the Contractor must immediately notify the Principal in writing. The written notice must specify the period during which the Contractor is unable to accept new Purchase Orders.

2.3.2 The Principal will not issue a Purchase Order to the Contractor under this Agreement during the period specified in a notice given by the Contractor under clause 2.3.1.

- 2.3.3 Nothing in this clause 2.3 limits or otherwise affects the Contractor's obligation to provide Equipment to the Principal under an Approved Purchase Order.

### **3 Term**

#### **3.1 Initial Term**

This Agreement starts on the Commencement Date and continues for the Initial Term, unless extended under clause 3.2 or terminated earlier in accordance with its terms.

#### **3.2 Extension of Term**

3.2.1 The Principal may extend the Initial Term for the further period or periods specified in Item 3 of Schedule 1 (each an Optional Term written), on the terms and conditions then in effect, by giving notice to the Contractor before expiry of the then current Term.

3.2.2 Any extension exercised by the Principal under clause 3.2.1 takes effect from the end of the then current Term.

### **4 Purchase Orders**

#### **4.1 Right to order Equipment**

The Principal may from time to time request to hire Equipment from the Contractor by issuing Purchase Orders to the Contractor in accordance with this clause 4.

#### **4.2 Form of Purchase Order**

A Purchase Order issued by the Principal under clause 4.1 will be in the form, or a substantially similar form to that contained in Schedule 4 and will include:

- 4.2.1 the Date of Hire and the Date of Return;
- 4.2.2 whether the Contractor is required to deliver the requested Items or the Principal will pick up the requested Items;
- 4.2.3 the Delivery Point for the Equipment if the Contractor is required to deliver the requested Items ;
- 4.2.4 the Collection Point for the Equipment if the Contractor is required to collect requested Items;
- 4.2.5 the Contractor's Depot if the Principal is to pick-up or return the Equipment;
- 4.2.6 the number of Items required;
- 4.2.7 whether it is to be a Wet Hire or a Dry Hire; and
- 4.2.8 any other requirements the Items must meet.

### **4.3 Response to Purchase Order**

4.3.1 The Contractor must issue a written response to a Purchase Order within 10 Business Days of the date of the Purchase Order (or a longer period if agreed by the Principal).

4.3.2 The Contractor's response must include:

- (a) the Contractor's proposal for delivering the requested Items, if appropriate, or the time and place for pick by the Principal;
- (b) the Contractor's proposal for collecting the requested Items, if appropriate, or the time and place for deposit by the Principal;
- (c) a project plan setting out timeframes for delivery of requested Items;
- (d) a quotation for the requested Items prepared in accordance with clause 4.4;
- (e) if the hire is a Wet Hire, an OHS Plan; and
- (f) any other information requested by the Principal.

### **4.4 Quotations**

All quotations prepared by the Contractor must:

4.4.1 be in writing; and

4.4.2 be calculated in accordance with Schedule 3.

### **4.5 Acceptance or rejection**

4.5.1 The Principal will, within 10 Business Days of the date of receipt of a response from the Contractor issued under clause 4.3.1, notify the Contractor in writing whether it:

- (a) accepts the response as submitted by the Contractor in which case clause 4.7 applies; or
- (b) rejects the response as submitted by the Contractor, in which case the Principal may direct the Contractor to resubmit the response in accordance with clause 4.6.

4.5.2 If the Principal fails to give notice under clause 4.5.1 within the required timeframe, it is deemed to have rejected the response.

### **4.6 Resubmission**

If the Principal directs the Contractor to resubmit a response, the Contractor must, within 5 Business Days of that direction (or a longer period if agreed by the Principal):

4.6.1 make such amendments to the response as the Principal reasonably requires; and

4.6.2 resubmit the response for acceptance or rejection under clause 4.5.

#### **4.7 Formation of a binding contract**

If the Principal accepts a response under clause 4.5.1(a), the Principal's Purchase Order and the Contractor's accepted response will be signed by the parties and thereafter will form an Approved Purchase Order for the purposes of this Agreement. The Approved Purchase Order is a binding legal contract between the Principal and the Contractor and forms part of, and is subject to, this Agreement.

#### **4.8 Period of an Approved Purchase Order**

4.8.1 An Approved Purchase Order commences on the date specified in the Approved Purchase Order (or, if no commencement date is specified, on the date the Approved Purchase Order is formed by the parties under clause 4.7).

4.8.2 Unless terminated earlier in accordance with this Agreement and subject to clause 4.8.3, an Approved Purchase Order will terminate on:

- (a) expiry of the term specified in the Approved Purchase Order; or
- (b) if the Approved Purchase Order does not specify a term, the date on which the Principal gives notice confirming that the Approved Purchase Order is complete.

4.8.3 The term of an Approved Purchase Order must not exceed the Term of this Agreement.

#### **4.9 Costs**

The Principal is not required to pay or reimburse the Contractor for any of its costs incurred to prepare or negotiate an Approved Purchase Order under this clause 4.

### **5 Equipment**

#### **5.1 Supply of Equipment**

5.1.1 The Contractor must lease the Equipment to the Principal for the Hire Period in accordance with the approved Purchase Order.

5.1.2 The Contractor must lease each Item comprising of the Equipment for the applicable Item Rates.

5.1.3 The Item Rates are fixed for the Term.

5.1.4 The Principal shall and the Principal will be liable to pay the Equipment Fee.

5.1.5 Except as expressly stated in Schedule 3, the Equipment Fee includes:

- (a) all applicable Taxes, insurance costs; and
- (b) if applicable:



- (1) all Transport Charges; and
- (2) if the hire is a Wet Hire all fees of the Operator and fuel costs of the Equipment.

## **5.2 Delivery or Pick up of Equipment**

5.2.1 If the Principal is to collect the Equipment in accordance with the Approved Purchase Order the Contractor must make the Equipment available for pick up by the Principal at the time and place set out in the Approved Purchase Order. If no specific time is specified in an Approved Purchase Order, delivery of the applicable Item must occur during business hours on the specified date.

5.2.2 If in accordance with the Approved Purchase Order the Contractor must deliver the Equipment it must deliver the Equipment to the Delivery Point on the Date for Delivery at the time specified in the Approved Purchase Order. If no specific time is specified in an Approved Purchase Order, delivery of the applicable Item must occur during business hours on the specified date. Delivery has not occurred until acknowledged in writing by an authorised representative of the Principal.

5.2.3 Written confirmation of delivery given by an authorised representative of the Principal in accordance with clause 5.2.2 is evidence only that an Item has been received. It is not evidence that the correct quantity of Items has been delivered.

## **5.3 Use of Equipment**

The Contractor grants the Principal exclusive use of the Equipment during the Hire Period.

## **5.4 Risk and title in Goods**

5.4.1 Except as detailed in clause 5.4.1, the Principal acknowledges that the Contractor owns the Equipment and in all circumstances retains title to the Equipment. The Principal's rights to use the Equipment are as a bailee only.

5.4.2 In no circumstances will the Equipment be deemed to be a fixture.

## **5.5 Performance standards**

The Contractor must supply the Equipment:

5.5.1 in compliance with the Principal Policies and Procedures;

5.5.2 so that the Equipment are fit for their intended purpose and in good working order; and

5.5.3 in accordance with this Agreement and an Approved Purchase Order, all applicable Laws and any reasonable directions given by the Principal from time to time.

## **5.6 Operator Responsibilities**

- 5.6.1 If the hire of the Equipment is a Wet Hire the Contractor must provide the Operator for the Hire Period.
- 5.6.2 The Operator must follow all reasonable directions of the Principal.
- 5.6.3 The Operator must be competent, skilled and experienced in operating the Equipment and hold all licences needed to operate the Equipment.
- 5.6.4 The Operator and Contractor must comply with the OHS Plan.

## **5.7 Other contractors**

If requested to do so by the Principal in writing, the Contractor must co-operate with other contractors engaged by the Principal as reasonably necessary to ensure that the Equipment are supplied efficiently and safely.

## **5.8 Contractor to protect the Principal's property**

The Contractor must ensure that all information and Materials of the Principal in the custody or control of the Contractor are protected at all times from unauthorised access or use by any person, and from misuse, damage or destruction by any person.

## **5.9 Progress reports**

The Contractor must provide to the Principal's Contract Manager:

- 5.9.1 a progress report in respect of the Contractor's performance under an Approved Purchase Order, to be provided at times and in the form required by the Principal from time to time; and
- 5.9.2 all other data or information that the Principal may request to enable it to adequately assess the performance of the Contractor.

# **6 Contractor's obligations regarding equipment**

## **6.1 Faults with equipment Period**

6.1.1 If the Principal becomes aware of an error, fault or defect in any Item(s) comprising the Equipment during the Hire Period it will notify the Contractor of that error, fault or defect as soon as possible and, upon receipt of that notice, the Contractor must at no cost to the Principal and in a way that causes the least amount of disruption possible to the business and usual activities of the Principal:

- (a) replace or repair any secondary damage incurred by the Principal that was caused by an error or defect in the Item(s) comprising the Equipment; and
- (b) either:
  - (1) replace the Item(s) comprising the Equipment; or
  - (2) correct all errors, fault and defects in the Item(s) comprising the Equipment by way of repair, replacement, modification or any other means.

6.1.2 When undertaking a repair, replacement or modification under this clause the Contractor must meet all costs incidental to the correction of any errors and defects including removal, freighting, packing, assembly and installation costs including any costs associated with transporting the Item(s) comprising the Equipment to an authorised repairer.

## **6.2 Principal not liable**

From the date that the Principal gives notice in clause 6.1.1 until the date that the Item(s) comprising the Equipment is repaired or replaced, the Principal shall not be liable to pay the portion of the Equipment Fee for the Item(s) subject to the notice.

## **6.3 Principal Damage**

6.3.1 If the Equipment has broken down or become unsafe to use during the Hire Period as a result of the Principal's acts or omissions, (or the acts or omissions of the employees or contractors) or if the Equipment is lost, stolen or damaged beyond fair wear and tear during the Hire Period, the Principal will be liable for:

- (a) any costs incurred by the Contractor to recover and repair or replace the Equipment; and
- (b) the Hire Charges for that portion of the Hire Period during which the Equipment is being recovered and repaired or replaced

6.3.2 If the Principal pays the costs and charges described in clause 6.3.1, then the Contractor must return or replace the Equipment.

6.3.3 The Principal must continue to pay the Equipment Fee for the remainder of the Hire Period.

# **7 The Principal's obligations**

## **7.1 Obligations**

During the Hire Period the Principal must:

- 7.1.1 keep the Equipment secure;
- 7.1.2 comply with all relevant statutory requirements and regulations in relation to the use of the Equipment;
- 7.1.3 operate the Equipment in accordance with directions provided by the manufacturer or the Contractor;
- 7.1.4 maintain the Equipment in good order and condition;
- 7.1.5 not alter, modify or repair the Equipment without the Contractor's prior consent;
- 7.1.6 except in the circumstances set out in clause 7.3 not sell, transfer, assign, underlet, lend or in any way encumber the Equipment, including creating any form of security interest over the Equipment;
- 7.1.7 provided the Contractor provides reasonably notice, allow the Contractor to enter the Principal's premises and inspect and maintain

the Equipment from time to time during the Hire Period during normal working hours;

7.1.8 immediately notify the Contractor of any damage to or incurred by the Equipment.

## **7.2 Principal not required to provide resources**

Except as expressly stated in Item 4 of Schedule 1 or an Approved Purchase Order the Principal is not required to provide any resources, assistance or other items to the Contractor under this Agreement or an Approved Purchase Order.

## **7.3 Responsibility for Equipment**

The Principal is responsible for any loss, theft or damage to the Equipment during the Hire Period, except where such a loss, damage or theft was caused by the Contractor.

# **8 Return of Equipment**

## **8.1 Date of Return**

8.1.1 The Date of Return is the date set out in an Approved Purchase Order that the:

- (a) Contractor must return the Equipment; or
- (b) Contractor must collect the Equipment,

unless varied in accordance with clause 8.3, or if the Agreement is terminated, in which case the Date of Return is the date of termination.

8.1.2 The Date of Return must not exceed the Term.

## **8.2 Return by Principal or Collection of Equipment**

8.2.1 If the Principal is to return the Equipment in accordance with the Approved Purchase Order the Principal must return the Equipment at the Contractor's Depot on the Date of Return.

8.2.2 If the Contractor is to collect the Equipment on the Date of return in accordance with the Approved Purchase Order:

- (a) the Contractor will collect the Equipment from the Principal;
- (b) the Contractor must collect the Equipment at the Collection Point on the Date for Return. If no specific time is specified in an Approved Purchase Order, collection of the applicable Item must occur during business hours on the specified date. Collection has not occurred unless acknowledged in writing by an authorised representative of the Principal; and
- (c) regardless of whether the Contractor has collected the Equipment or not, the Hire Period will cease on the Date of Return. [

### 8.3 Variation

- 8.3.1 At any time the Principal may issue a notice to the Contractor requesting the Date for Return to be amended (**Proposed Date of Return**).
- 8.3.2 Upon receipt of the notice the, Contractor shall advise the Principal if the Equipment is available for hire until the Proposed Date of Return.
- 8.3.3 If the Equipment is available, the Proposed Date of Return shall be the new Date of Return, alternatively the parties may agree on a new Date of Return.

## 9 PPSA

### 9.1 Definitions

In this clause 9, unless inconsistent with the context, the following terms have the meanings indicated:

- 9.1.1 **PPSA** means the *Personal Property Securities Act 2009* (Cth) (as amended) and any other legislation and regulations in respect of it' and
- 9.1.2 the following words have the respective meanings given to them in the PPSA:
- (a) financing change statement;
  - (b) financing statement;
  - (c) purchase money security interest (or "PMSI");
  - (d) register, registration; and
  - (e) security interest.

### 9.2 PMSI

The Principal acknowledges that:

- 9.2.1 that the Contractor may register any actual or impending PMSI under the PPSA in respect of all Equipment; and
- 9.2.2 consents to the Contractor registering our PMSI under the PPSA and will do all reasonable things necessary to assist the Contractor to register Our security interest.

### 9.3 Contractor's responsibilities

- 9.3.1 The Contractor is responsible for:
- (a) the preparation and registration of the financing statement or financing change statement; and
  - (b) payment of any fees associated with the registration.

9.3.2 The Principal waives the right to receive from the Contractor verification of the registration pursuant to section 157(3)(b) of the PPSA.

## **9.4 Sub-Hire**

9.4.1 If the Principal sub-hires the Equipment to its agent, contractor subcontractor or any third party (**Sub-hire**) and the Sub-hire is a security interest under the PPSA, the Principal agrees that it will protect the Contactor's interests in the Equipment by:

- (a) registering a security interest itself; or
- (b) assigning, by this clause, to Us all rights as bailor, to enforce against an agent, contractor or subcontractor.

9.4.2 If the Principal grants any security interest in the Equipment to another party, that other party must acknowledge the priority of Our PMSI.

9.4.3 The Principal has an obligation to give the Contractor notice if another party with a security interest in the Equipment seizes or otherwise deals with the Contractor's PMSI in the Equipment.

## **9.5 Notice**

The parties agree that neither party is required to give notice to the other under the PPSA unless the obligation to give the notice cannot be excluded.

## **10 Payment**

### **10.1 Cost changes at Contractor's risk**

The Contractor must not claim any payment for any amount in addition to the Item Fees based on changes in labour, materials or other resourcing costs, exchange rate changes, changes in Law or any other changes to the costs incurred by the Contractor in acquiring the inputs that it requires to hire the Equipment.

### **10.2 Invoicing**

10.2.1 On the first day of each month, the Contractor may invoice the Principal the Monthly Equipment Fee for the previous month.

10.2.2 Invoices must:

- (a) include the full amount payable by the Principal;
- (b) reference the relevant Purchase Order;
- (c) provide a description of the Equipment supplied and the Monthly Equipment Fee charged;
- (d) be sent to the person identified at Item 5 of Schedule 1; and
- (e) comply with the requirements of the GST Law.

### **10.3 Payment of invoices**

Subject to the Contractor's compliance with this Agreement, the Principal will pay the Contractor within 20 Business Days of receiving an invoice complying with clause 10.2.

### **10.4 Disputed amounts**

If the Principal disputes the invoiced amount (whether in whole or in part), the Principal will pay the undisputed amount (if any) and notify the Contractor of the amount the Principal believes is due for payment. If the Principal and the Contractor cannot agree on the balance of the invoiced amount, the dispute will be managed under clause 21.

### **10.5 Payment is payment on account only**

Payment of an invoice by the Principal is payment on account only and does not constitute approval or acceptance of the Equipment.

### **10.6 Set off**

10.6.1 Any payment or debt owed by the Contractor to the Principal under this Agreement or otherwise or any Loss suffered or incurred by the Principal which, in the reasonable opinion of the Principal, is owed by the Contractor to the Principal under or in connection with this Agreement, may be deducted or set off against amounts payable by the Principal to the Contractor under this Agreement.

10.6.2 The Principal will notify the Contractor if making a deduction or set off under clause 10.6.1 when paying the affected invoice.

10.6.3 Any deduction or set off will not prevent the Principal from recovering the balance of the payment or debt owed by the Contractor.

### **10.7 Fair payments**

The Principal will, on demand by the Contractor, pay simple interest on a daily basis on any Overdue Amount at the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act 1983* (Vic).

## **11 Safety**

### **11.1 General obligations**

In performing its obligations under this Agreement and an Approved Purchase Order, the Contractor must strictly comply with:

11.1.1 all Health and Safety Laws; and

11.1.2 all directions from the Principal regarding the Principal's safety management system.

### **11.2 Specific obligations**

Without limiting clause 11.1, in performing its obligations under this Agreement and an Approved Purchase Order, the Contractor must work proactively to ensure, so far as is reasonably practicable, the safety and health of all persons involved in or affected by the supply of the Equipment, including by ensuring that:

- 11.2.1 each work environment (including any place of work or places near places of work that are under the Contractor's control and the systems of work operating in such locations) does not expose people to health or safety hazards;
- 11.2.2 the Contractor's Personnel receive appropriate safety training, information and supervision as is necessary to enable them to work in a manner that does not expose them to any health or safety hazard;
- 11.2.3 procedures are in place to deal with emergencies or OH&S Incidents that may arise during the supply of the Equipment;
- 11.2.4 all management and supervisory structures necessary to comply with occupational health and safety requirements are provided, including safety issue identification, resolution and response procedures, safe working systems, safety training requirements, access requirements and appropriate recording, reporting, inspection and auditing control measures relating to the supply of the Equipment; and
- 11.2.5 all things are provided and all measures taken as necessary, so far as is reasonably practicable, to protect and ensure the safety of people and property affected by the supply of the Equipment.

### **11.3 Health and safety on the Principal's sites**

While on sites owned or controlled by the Principal, the Contractor must, and must ensure that Contractor Personnel, at all times comply with the Principal's directions and any the Principal Policies and Procedures relating to occupational health and safety provided to the Contractor from time to time.

### **11.4 Reporting**

The Contractor must provide reports to the Principal's Contract Manager in relation to occupational health and safety in accordance with the Principal's requirements from time to time.

## **12 Personnel**

### **12.1 Responsibility for Personnel**

- 12.1.1 The Contractor must ensure that all Personnel including any Operators:
  - (a) have suitable qualifications, registration and licences, are suitably trained and experienced and are capable of supplying the Equipment; and
  - (b) comply with all the Contractor's obligations under this Agreement.
- 12.1.2 Without limiting clause 12.1.1, the Contractor must ensure that all of its Personnel involved in supplying, or supporting the supply of, Equipment:
  - (a) act with all proper diligence and in good faith, and in a manner which is consistent with the Contractor's obligations under this Agreement; and



(b) comply with all reasonable directions and instructions of the Principal while:

(1) on the Principal's premises; or

(2) working with the Principal Materials or the Principal's systems.

## **12.2 Unacceptable performance**

The Principal may require the replacement of any Personnel whose performance it considers is unacceptable by giving written notice to the Contactor.

## **12.3 Industrial requirements**

Without limiting any other obligations under this Agreement, the Contractor must comply with the terms of any relevant Law or agreement in respect of their Personnel.

## **12.4 Subcontracting**

12.4.1 The Contractor must not subcontract the performance of any of its obligations under this Agreement or an Approved Purchase Order without prior written approval from the Principal.

12.4.2 If the Contractor subcontracts the performance of any of its obligations under this Agreement or an Approved Purchase Order, the Contractor is responsible for ensuring the suitability of the subcontractor and ensuring that any work performed by the subcontractor meets the requirements of this Agreement.

12.4.3 The Principal may revoke its approval of a subcontractor at any time without cause by giving at least 10 Business Days notice to the Contractor (or such other period as agreed with the Principal), in which case the Contractor must immediately stop using the subcontractor and make alternative arrangements for supplying the Equipment being supplied by that subcontractor.

12.4.4 If the Principal revokes its approval of a subcontractor under clause 12.4.3, the Contractor will have no claim against the Principal and the Contractor will remain responsible for the Equipment the subject of the subcontract.

## **12.5 The Principal not responsible**

The Contractor acknowledges and agrees that:

12.5.1 the Principal is not and must not at any time be construed as the employer of any of the Contractor's Personnel for the purposes of any Law;

12.5.2 the Contractor is solely responsible and liable for the making of any payments in respect of superannuation, payroll or any other tax, WorkCover premium or any similar payments in relation to its Personnel; and

12.5.3 it remains fully responsible for the supply of all Equipment under this Agreement and for all costs incurred in respect of its Personnel.

## **13 Contract management**

### **13.1 Contract Managers**

13.1.1 Each Contract Manager:

- (a) manages and administer this Agreement on behalf of the party he or she is representing; and
- (b) has authority to give and receive notices under this Agreement.

13.1.2 A party may change its Contract Manager at any time by giving notice to the other party. The notice must include the name, address, phone number and email address of the new Contract Manager.

### **13.2 Notices**

13.2.1 A notice required or permitted to be given by one party to another under this Agreement must be in writing, addressed to the party to receive it, and:

- (a) handed to the person of that party;
- (b) delivered to that party's address;
- (c) sent by email to that party's email address; or
- (d) sent by pre-paid mail to that party's address.

13.2.2 A notice given to a party in accordance with clause 13.2.1 must be treated as having been duly given and received:

- (a) if posted:
  - (1) within Australia to an Australian postal address, – 5 Business Days after the date of posting; or
  - (2) outside of Australia to an Australian postal address or within Australia to an address outside of Australia, 10 Business Days after posting;
- (b) if delivered by hand during a Business Day – on the date of delivery;
- (c) if emailed – subject to clause 13.2.2(d) below, on the date recorded on the device from which the party sent the email, unless the sending party receives an automated message that the email has not been delivered; and
- (d) except that a delivery by hand or email received after 5:00pm (local time of the receiving party) will be deemed to be given on the next Business Day.

- 13.2.3 For the purposes of clause 13.2.1 the parties postal address and email address are set out in Item 7 of Schedule 1 (or as varied by any notice).

### **13.3 Consultation**

- 13.3.1 The parties must act in close consultation and cooperation with each other in relation to the performance of their obligations under this Agreement.
- 13.3.2 The Contractor must immediately inform the Principal of any event, activity, or OH&S Incident becoming known to the Contractor that will, or is reasonably likely to, prevent or materially limit supply of the Equipment by the Contractor.

### **13.4 Conflict of interest**

- 13.4.1 The Contractor must promptly notify the Principal if, at any time during the Term, a Conflict of Interest arises relating to the performance of this Agreement by the Contractor or any of its Personnel.
- 13.4.2 If the Contractor notifies the Principal under clause 13.4.1 of a Conflict of Interest, or the Principal otherwise becomes aware of a Conflict of Interest, the Principal will consult with the Contractor to determine an appropriate course for managing the Conflict of Interest and the Contractor must implement any course of action that the Principal determines appropriate as soon as possible.
- 13.4.3 The Principal may terminate this Agreement under clause 23.2.1 if a Conflict of Interest is not managed or resolved by the Contractor to the Principal's reasonable satisfaction.

### **13.5 Investigations and FOI requests**

At the request of the Principal, the Contractor must, at its own cost, cooperate with and assist the Principal in connection with any request made to the Principal about or relating to the Equipment or this Agreement under the *Freedom of Information Act 1982* (Vic).

## **14 Records and audit**

### **14.1 Obligation to maintain records**

The Contractor must maintain complete and accurate Records and securely store and ensure the integrity of those records in accordance with all applicable standards issued under the Records Act.

### **14.2 Audit**

During the Term and for 12 months after termination or expiry of this Agreement, the Contractor must, within 5 Business Days of receiving notice from the Principal, allow the Principal and its representatives to access the Contractor's premises, facilities, systems and any information or documentation in the Contractor's possession or control which is connected to the Equipment or this Agreement (including the Records) for the purpose of the Principal or its nominee performing an audit to verify the Contractor's compliance with this Agreement. Access must be provided at no cost to the Principal, and the Contractor must permit the Principal to take copies of documentation (including Records).

## **15 Confidential Information**

### **15.1 Contractor's duty of confidentiality**

The Contractor must not, during or after this Agreement, disclose, or cause or permit the disclosure to any person of, any of the Confidential Information (or any opinion in respect of it) except as permitted under clause 15.2.

### **15.2 Use and disclosure by the Contractor**

Subject to clause 16, the Contractor may:

15.2.1 use the Confidential Information only for the purposes of this Agreement (including to exercise rights and perform obligations in connection with this Agreement); and

15.2.2 disclose or permit the disclosure of the Confidential Information only:

- (a) to its legal advisors, auditors or insurance advisors on a confidential basis for the purpose of providing information or advice to the Contractor in connection with this Agreement;
- (b) to its Personnel on a needs to know basis for the purposes of this Agreement; and
- (c) if required by Law in connection with any legal proceedings connected to this Agreement, but only after notifying the court or relevant Authority or person of the obligations of confidence the Contractor owes to the Principal and using reasonable endeavours to have the relevant information disclosed on a confidential basis,

provided that the Contractor first notifies the Principal in writing of its intention to disclose the Confidential Information as soon as reasonably practicable.

### **15.3 Return of Confidential Information**

On termination or expiry of this Agreement or at the request of the Principal, the Contractor must return or destroy (at the Principal's election) all Confidential Information including any copies of the Confidential Information (stored in any medium) which is in its or its Personnel's possession or control.

## **16 Privacy**

### **16.1 Privacy Principles**

The Contractor agrees to be bound by the Information Privacy Principles and any Code of Practice (**Principles**) with respect to any act done or practice engaged in by the Contractor under or in connection with this Agreement in the same way and to the same extent as the Principal would have been bound by the Principles in respect of that act or practice had it been directly done or engaged in by the Principal.

### **16.2 Compliance with privacy laws**

The Contractor must not (and will ensure that its Personnel do not) collect, use, disclose, store, transfer or otherwise handle Personal Information collected in connection with this Agreement except to the extent reasonably necessary to

perform its obligations under this Agreement, and only in compliance with the Privacy and Data Protection Act or any other privacy Law applying to the Principal.

### **16.3 Notice**

The Contractor must immediately notify the Principal when it becomes aware of any breach of (or potential breach of) this clause 16 by any of the Contractor's Personnel.

## **17 Publicity**

### **17.1 Public statements**

The Contractor must not make any public statements, including issuing any media release, in connection with this Agreement without the prior written consent of the Principal.

### **17.2 Reputation**

The Contractor must not do or omit to do anything which may:

17.2.1 damage, bring into disrepute or ridicule the Principal's name, messages or reputation; or

17.2.2 attract public or media attention which may be prejudicial or otherwise detrimental to the Principal's name, messages or reputation.

### **17.3 Advertising**

The Contractor must not use the Principal's name in any of its advertising material without the prior written consent of the Principal.

## **18 Intellectual Property Rights**

### **18.1 Agreement Material**

18.1.1 All Intellectual Property Rights in the Agreement Material vest in the Principal with effect from the date of creation and the Contractor irrevocably and unconditionally assigns to the Principal, including by way of an assignment of future Intellectual Property Rights, all of its Intellectual Property Rights in Agreement Material on creation.

18.1.2 On request, or on expiry or termination of this Agreement, the Contractor must promptly provide the Principal with a complete copy of the Agreement Material.

### **18.2 Existing Material**

This clause 18 does not affect the ownership of the Intellectual Property Rights in any Existing Material.

### **18.3 Licences**

18.3.1 The Contractor grants to, or must obtain for, the Principal a non-exclusive, perpetual, irrevocable, world-wide, royalty-free licence (including the right to sub-license) to use, copy, modify, reproduce, publish, adapt, distribute, communicate and create derivative works from

the Contractor Material to the extent required for the Principal to receive the full benefit of the Equipment.

18.3.2 The Principal grants the Contractor a non-exclusive, royalty-free licence for the Term to use the Agreement Material and the Principal Material solely for the purpose of performing its obligations under this Agreement. This licence expires on termination or expiry of this Agreement and does not allow any further distribution or exploitation of the Principal Material by the Contractor unless the Principal agrees otherwise in writing.

18.3.3 The Contractor must comply with any directions of, or conditions imposed by, the Principal (including conditions imposed on the Principal by a third party owner or licensor of the Principal Material) in relation to the Principal Material.

## **18.4 Intellectual Property Rights in Equipment**

The Contractor grants the Principal a non-exclusive, perpetual, royalty-free, transferable licence to use any Intellectual Property Rights in the Equipment to the extent necessary to allow the Principal the full use and enjoyment of the Equipment for the Hire Period.

## **18.5 Third Party Material**

Before using any Third Party Material under this Agreement, the Contractor must obtain all necessary copyright and other Intellectual Property Right permissions required by the Contractor to use the Third Party Material in compliance with this clause 18.

## **18.6 Moral Rights**

The Contractor warrants that each of its Personnel has or, on request, will consent in writing to the Principal using the Agreement Material in any manner required by the Principal (including failing to identify authorship of any part of the Agreement Material or materially altering the Agreement Material), even if the use would otherwise infringe their Moral Rights.

# **19 Warranties**

## **19.1 Warranties**

The Contractor warrants and represents to the Principal that:

19.1.1 it has full legal capacity and power to enter into and to perform its obligations under this Agreement;

19.1.2 it holds all Licences required for it to perform its obligations under this Agreement;

19.1.3 while on premises owned or controlled by the Principal, it will comply with the Principal's lawful directions and the Principal Policies and Procedures;

19.1.4 the Equipment will be supplied in a timely and professional manner in accordance with this Agreement using appropriately trained and experienced Personnel;

- 19.1.5 it has the right to grant the Principal an exclusive license to use the Equipment; and
- 19.1.6 each Item:
- (a) is fit for the purpose stated in the Specification (or, if no purpose is stated, the purpose for which the Item would ordinarily be used);
  - (b) conforms to the description, model number and the sample (if any) provided by the Contractor and in all other respects with the requirements of this Agreement (including the Specification); and
  - (c) is free from Defects and of merchantable quality and complies with all applicable Laws;
- 19.1.7 the Contractor will not contract with any suppliers that will bring the reputation of the Principal into disrepute.
- 19.1.8 it will not attempt to provide any the Principal's Personnel with any kickback, payment, gift or anything of value in connection with this Agreement;
- 19.1.9 it has policies and procedures in place designed to ensure that it and its Personnel at all times comply with the Health and Safety Laws;
- 19.1.10 the Agreement Material and the Contractor Material, and the Principal and its Personnel's use of those Materials as permitted under this Agreement, will not infringe the Intellectual Property Rights or Moral Rights of any person; and
- 19.1.11 it has entered into this Agreement in reliance on its own investigations and enquiries and does not rely on any information or documentation provided by or on behalf of the Principal other than as expressly set out in this Agreement.

## **19.2 Duration**

The warranties given by the Contractor in this Agreement are given with effect on the date of this Agreement and at all times during the Term.

## **19.3 Reliance**

The Contractor acknowledges that the Principal has entered into this Agreement in reliance on the warranties given by the Contractor in this Agreement.

## **20 Liability**

### **20.1 Indemnity**

20.1.1 The Contractor indemnifies each of the Indemnified Parties from and against any Loss suffered or incurred by the Indemnified Party (including any Losses incurred or sustained in connection with a third party Claim) arising out of or in connection with this Agreement and:

- (a) the death of, disease or injury to, any person caused or contributed to by the Contractor or the Contractor's Personnel including any Operator;

- (b) the loss of, or damage to, any property caused or contributed to by the Contractor or the Contractor's Personnel including any Operator;
- (c) any breach of Law by the Contractor or any of the Contractor's Personnel;
- (d) any negligent, fraudulent, unlawful, reckless or wilfully wrongful act or omission of the Contractor or the Contractor's Personnel;
- (e) any breach of this Agreement by the Contractor or any of the Contractor's Personnel; and
- (f) any Claim that the Principal's use of the Agreement Material or Contractor Material as permitted by this Agreement infringes the Intellectual Property Rights of any third party.

20.1.2 The Contractor's obligation to indemnify an Indemnified Party under clause 20.1.1 will be reduced proportionally to the extent that a negligent act or omission of, or breach of this Agreement, by the Indemnified Party has contributed to the Loss.

20.1.3 Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the parties and does not limit any other right of an Indemnified Party or require an Indemnified Party to incur expense or make payment before enforcing the right of indemnity.

20.1.4 The Contractor acknowledges and agrees that any indemnity under this Agreement in favour of an Indemnified Party other than the Principal is held on trust by the Principal and may be enforced or recovered by an Indemnified Party in any manner acceptable to the Principal and the Indemnified Party.

## 20.2 Consequential Loss

Notwithstanding any other provision in this Agreement, neither party will have any liability to make any payment to the other party, by way of indemnity, damages or otherwise, in respect of any Consequential Loss incurred or suffered by the other party as a result of any act, omission or neglect of the first party.

## 20.3 Effect of legislation

Nothing in this Agreement is to be read as excluding, restricting or modifying the application of any legislation which cannot by Law be excluded, restricted or modified.

## 21 Insurance

### 21.1 Required Insurance Policies

21.1.1 The Contractor must effect and maintain:

- (a) the insurances specified in Item 6 of Schedule 1 (**Required Insurance Policies**); and
- (b) any other insurance policy on terms and conditions reasonably requested by the Principal.



- 21.1.2 The Required Insurance Policies must be maintained at all times during the Term and ~~for a period of six years after expiry or termination of this Agreement unless Item 6 of Schedule 1 states otherwise.~~

## **21.2 Requirements for Required Insurance Policies**

The Contractor must:

- 21.2.1 obtain all Required Insurance Policies with a reputable insurer holding a minimum Standard and Poor's A rating;
- 21.2.2 ensure that each Subcontractor will maintain and effect insurance policies of the same, or substantially the same, type and extent and term as the Required Insurance Policies, unless otherwise agreed;
- 21.2.3 not do anything to invalidate an indemnity under any of the Required Insurance Policies;
- 21.2.4 immediately notify the Principal if:
- (a) it loses insurance cover under a Required Insurance Policy; or
  - (b) an insurer refuses to indemnify it under a Required Insurance Policy; and
- 21.2.5 ensure that each Required Insurance Policy notes this Agreement.

## **21.3 Evidence**

On request from the Principal, the Contractor must provide evidence that the Required Insurance Policies have been effected and are being maintained. Evidence the Principal may request includes a copy of the certificate of currency.

## **21.4 Failure to maintain Required Insurance Policy**

If the Contractor fails to maintain any Required Insurance Policy as required by this clause 21, the Principal may:

- 21.4.1 suspend its obligation to make any further payment to the Contractor under this Agreement until the Principal is satisfied that such insurance is in place and compliant, with the suspension to have effect from the date the Principal provides written notice to the Contractor; or
- 21.4.2 terminate this Agreement with immediate effect by giving notice to the Contractor under clause 23.2.

## **22 Dispute resolution**

### **22.1 Notice of Dispute**

In the event of any dispute or difference arising between the Principal and the Contractor, either during the period of this Agreement or after the termination, abandonment or breach of this Agreement, as to any matter or thing connected with

this Agreement or arising under this Agreement, the Principal or the Contractor may give to the other party notice of the dispute or difference. Such notice must:

- 22.1.1 not be unreasonably given;
- 22.1.2 indicate that it is a notice under this clause; and
- 22.1.3 give sufficient details of the dispute or difference as to enable the party receiving the notice to ascertain the nature of the dispute or difference alleged.

## **22.2 Alternative Dispute Resolution**

Within seven (7) days of the receipt of any notice of dispute under clause 22.1 by either party, a representative of each party nominated in Item 8 of Schedule 1 must meet to discuss ways of resolving the dispute or difference. The representatives may resolve the dispute or difference themselves or refer the dispute or difference to any form of alternative dispute resolution procedure on which they agree. The representatives must be authorised by the parties to resolve the dispute or difference on their behalf.

## **22.3 Referral to Litigation**

Unless a dispute or difference of which notice has been given under clause 22.1 is settled, either party may, not less than seven (7) days after meeting referred to in clause 22.2 or 14 days after the notice has been given under clause 22.1, whatever is earlier, refer the dispute or difference to litigation.

## **22.4 Work to Continue**

If reasonably possible, performance of obligations under the Agreement must continue during legal proceedings, and no payment due or payable by the Principal that is not in dispute must be withheld on account of the legal proceedings, unless so authorised by the Contractor or by this Agreement.

## **22.5 Confidentiality**

Any information or documents disclosed by a party during the dispute resolution process:

- 22.5.1 must be kept confidential; and
- 22.5.2 may only be used to attempt to resolve the Dispute.

## **23 Termination**

### **23.1 Termination for convenience**

The Principal may terminate this Agreement or any Approved Purchase Order at any time without cause and without needing to provide reasons by giving the Contractor 20 Business Days notice.

### **23.2 Termination by the Principal**

The Principal may terminate this Agreement or any Approved Purchase Order immediately by notice to the Contractor if:

23.2.1 the Contractor commits a breach of this Agreement or the Approved Purchase Order which, in the opinion of the Principal, cannot be remedied;

23.2.2 the Contractor commits a breach of this Agreement or the Approved Purchase Order and the Contractor:

- (a) fails to commence action to remedy the breach within 10 Business Days after the Principal has served notice requiring it to do so; or
- (b) having commenced action to remedy the breach, fails to complete that action as soon as possible and in any event, within 20 Business Days of the Principal's notice; or

23.2.3 an Insolvency Event occurs in relation to the Contractor.

### **23.3 Rights upon termination**

If the Agreement is terminated pursuant to clause 23.2, the parties' remedies, rights and liabilities shall be the same as they would have been under the law governing the Agreement had the defaulting party repudiated the Agreement and the other party elected to treat the Agreement as at an end and recover damages.

### **23.4 Contractor's obligations and entitlements after termination**

23.4.1 Upon termination, the Contractor must immediately hand over to the Principal all copies of the Agreement Material prepared by the Contractor to the date of termination (whether complete or not).

23.4.2 If this Agreement is terminated under clause 23.1, subject to the Contractor mitigating any Loss arising from the termination, the Contractor will be entitled to payment for the Equipment Fee up to the date of termination.

23.4.3 The amount to which the Contractor is entitled under this clause 23.4 will be a limitation upon the Principal's liability to the Contractor arising out of, or in any way in connection with, the termination of the Agreement.

### **23.5 Effect of termination or expiry on Approved Purchase Order**

On termination or expiry of this Agreement for any reason, each Approved Purchase Order then in effect is also automatically terminated.

### **23.6 Effect of termination or expiry**

Termination or expiry of this Agreement will not affect the operation of clauses 10.6, 13.4, 15, 16, 17, 18, 19, 20, 23.3, 23.4, 24, 26 and this clause 23.6 or any other provision which, by its nature, are intended to survive termination or expiry of this Agreement.

## **24 Transition out**

From the expiry or termination of this Agreement, the Contractor must provide all reasonable assistance and cooperation to the Principal or any new contractor appointed by the Principal to lease the Equipment to ensure the orderly transfer of the supply, including:

24.1.1 responding to all requests for information and advice by the Principal and providing the information and advice to the Principal within 5 Business Days of receiving a request from the Principal; and

24.1.2 permitting the Principal to assign its Personnel or any Personnel of the new contractor to work with the Contractor's Personnel to facilitate the transfer of any information and Materials that the Principal believes is required.

## **25 GST**

### **25.1 Definitions**

In this clause words that are defined in the GST Law have the same meaning as in that Act.

### **25.2 GST exclusive**

Except as otherwise provided in this Agreement, all consideration payable under this Agreement in relation to any supply is exclusive of GST.

### **25.3 Payment of GST**

If GST is payable in respect of any supply made by a supplier under this Agreement, the recipient will pay to the supplier an amount equal to the GST payable on the supply at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement, subject to the recipient receiving a tax invoice in respect of the supply.

## **26 General**

### **26.1 Amendment**

This Agreement may only be amended or replaced by a document executed by the parties.

### **26.2 Entire understanding**

This Agreement contains the entire understanding between the parties as to the subject matter contained in it. All previous Contracts, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Agreement and have no effect.

### **26.3 Further assurance**

Each party must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this Agreement.

### **26.4 Consents and approvals**

If the doing of any act, matter or thing under this Agreement is dependent on the consent or approval of the Principal or is within the discretion of the Principal, then consent or approval may be given or the discretion exercised conditionally or unconditionally or withheld by the Principal in its absolute discretion unless express provision to the contrary is made.

## **26.5 Legal costs and expenses**

Each party must pay its own legal costs and expenses in relation to the negotiation, preparation and execution of this Agreement and other documents referred to in it, unless expressly stated otherwise.

## **26.6 Waiver and exercise of rights**

A right relating to this Agreement may only be waived by a written notice signed by the party waiving the right. A single or partial exercise or waiver of a right relating to this Agreement does not prevent any other exercise of that right or the exercise of any other right.

## **26.7 Rights and remedies**

The rights and remedies conferred on a party by this Agreement are in addition to all other rights and remedies of that party.

## **26.8 Assignment**

26.8.1 The Contractor must not assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the Principal.

26.8.2 The Principal may assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the Contractor to any State government department, administrative office or other entity in the event of a State government restructure or other reorganisation. The Contractor must execute such documents and do such things as the Principal may reasonably require to give effect to any such assignment, novation or transfer by the Principal.

## **26.9 Insolvency Event**

The Contractor must immediately notify the Principal in writing if it experiences an Insolvency Event.

## **26.10 No relationship**

No party to this Agreement has the power to obligate or bind any other party. Nothing in this Agreement will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between any of the parties. Nothing in this Agreement will be deemed to authorise or empower any of the parties to act as agent for or with any other party.

## **26.11 No merger**

The warranties, undertakings, contracts and continuing obligations in this Agreement do not merge on completion.

## **26.12 Rule of construction**

In the interpretation of this Agreement, no rule of construction applies to the disadvantage of the party preparing the document on the basis that it prepared or put forward this Agreement or any part of it.

### **26.13 Counterparts**

This Agreement may be executed in any number of counterparts all of which taken together constitute one instrument.

### **26.14 Lodgement of Tenders**

Tender submissions shall be lodged in accordance with this Clause, to be received no later than the date and time stated in the 'Advertisement of Tender'. Submissions are to be placed in a sealed envelope (if not sent through email) and addressed as described:

- (a) Postal address: CM0543 Hire of Plant & Equipment 2021  
West Wimmera Shire Council  
Mrs. Taryn Carter  
PO Box 15  
KANIVA VIC 3419
  
- (b) Hand delivered to the tender box located at:  
Edenhope Office  
49 Elizabeth Street  
EDENHOPE VIC 3318 or  
  
Kaniva Office  
25 Baker Street  
KANIVA VIC 3419
  
- (c) Electronic:  
[taryncarter@westwimmera.vic.gov.au](mailto:taryncarter@westwimmera.vic.gov.au)

## Schedule 1 – Agreement Details

Item	Description	Details		
1.	<b>Commencement Date</b>	1 July 2021		
2.	<b>Initial Term</b>	12 months		
3.	<b>Option Term/s</b>	Not applicable		
4.	<b>Principal's obligations</b>	Except as expressly stated in Item 4 of Schedule 1 or an Approved Purchase Order the Principal is not required to provide any resources, assistance or other items to the Contractor under this Agreement or an Approved Purchase Order.		
5.	<b>Invoice details</b>	Subject to the Contractor's compliance with this Agreement, the Principal will pay the Contractor within 20 Business Days of receiving an invoice complying with clause 10.2.		
6.	<b>Insurance</b>	<p><b>Motor Vehicle</b></p> <p>Insured: Third Party Insurance  <del>Any variation to this limit must be signed off by</del></p> <p><b>Public liability</b></p> <p>Insured amount: \$20,000,000  <del>Period to be maintained after Term:</del>  <del>Any variation to this limit must be signed off by</del></p> <p><b>Workers compensation</b></p> <p>The amount required by applicable State or Territory Laws.</p>		
7.	<b>Notices</b>			
	<b>The Principal</b>	Address:	49 Elizabeth Street Edenhope, Victoria 3318	
		Email:	taryncarter@westwimmera.vic.gov.au	
		Contract Manager:	Bernie Maddern	
	<b>The Contractor</b>	Business Name:		
		ABN:		
		Manager:		
		Address:		
		Email:		
		Mobile:		

Item	Description	Details
8.	<b>Dispute contacts</b>	<p><b>The Principal</b></p> <p>Director Infrastructure, Development and Works</p> <p><b>The Contractor</b></p> <p>Manager</p>
9.	<b>Special Conditions</b>	<p>1 Any quarrying work carried out under this Contract shall be subject to strict quality controls and requirements set down by the Principal.</p> <p>2 The Contractor shall be responsible for ensuring that the appropriate measures are taken to prevent the spreading of noxious weeds and the pollution of any stream or watercourse as a consequence of any works being carried out under this contract. The cost of such measures shall be borne by the Contractor.</p>



## Schedule 2 – Specifications

### 1. Scope of Work

Work to be carried out with the hire plant may include any or all of the following:

- Earthworks
- Loading
- Trenching and excavating
- General municipal civil works

The Principals main areas of work under this part of the specification are civil construction and maintenance works.

The work to be carried out by hire plant will generally be located throughout the Shire as required.

### 2. Plant & Equipment

This contract is for the hire of equipment and other items of plant for the period from the acceptance of the tender to the 30 June 2022. Where required a competent and suitably qualified operator is to be provided, otherwise the rates shown will be for dry hire only.

Works to be carried out with the hire plant may include any or all of the following: Earthworks, Loading, Trenching, Excavating and general municipal civil works.

The general types of plant and equipment required are listed below, however this list should only be regarded as indicative and does not limit the range of plant hire services a contractor may wish to submit for consideration.

**Table – Examples of commonly hired Plant & Equipment**

Plant / Equipment Type	
Bulldozers	Excavators
Trenchers	Mini Diggers
Tractors	Water Trucks
Scrapers	Combination Rollers
Bobcats	Graders
Loaders	Generators

### 3. Hire Rates

The plant and equipment hired under this agreement may either be hired on a short-term casual basis, ie for half day or full day(s), or a longer term, ie weekly or monthly.

Due to the range of equipment hired under this agreement the Principal has not specified all the types of plant and equipment it may require to hire. Tenderers are therefore required to provide full details of plant and equipment available and, where applicable, minimum hire rates, extended hire rates, delivery / pick up charges etc. as part of their tender submission.

All charges applicable to the hire must be stated in the tender. The Principal will not accept additional charges not contained in the tender. All rates to be GST inclusive.

#### **4. Hired Plant List**

The Principal intends to accept a number of conforming tenders to form a hired plant list. Selection of Plant for Hire from the list will be on the basis of Plant that represents the best overall value to the Principal, that is, the Hire rate and additional charges, the conditions and the type of plant / equipment and the location of the Service Provider.

#### **5. Continuity and Exclusivity**

No guarantee of continuity or the quantity of work can be given. West Wimmera Shire Council depending on availability may hire plant from different sources/suppliers and in this regard nothing in the contract shall imply that the Contractor shall be used exclusively.

#### **6. Noxious Weeds and Pollution**

The Contractor shall be responsible for ensuring that the appropriate measures are taken to prevent the spreading of noxious weeds and the pollution of any stream or watercourse as a consequence of any works being carried out under this contract. The cost of such measures shall be borne by the Contractor.

#### **7. Service Providers Responsibilities**

The Service Provider shall be available to commence Hire of Plant and Equipment at the commencement of the contract period and maintain their availability for Hire throughout the contract period.

Without limiting the Service Providers responsibilities under this agreement, the Service Provider shall also be responsible for the following:

- (a) To ensure that the plant and Equipment complies with OHS Act
- (b) To maintain the items of plant and equipment in accordance with the manufacturer's recommendation
- (c) To ensure the plant and equipment is hired in good working order and in a safe condition
- (d) To provide written Operational Manuals and/or Safe Operating Procedures for plant and equipment when requested
- (e) To repair equipment and/or replace parts where such repair/replacement is necessary due to normal "wear and tear" during the Hire period

#### **8. Principal's Responsibilities**

Without limiting the Principal's responsibilities under this agreement, the Principal shall also be responsible for the following:

- (a) To use the plant and equipment for the purpose for which it was originally manufactured
- (b) To provide, when necessary, a competent operator for the plant during the Hire period
- (c) To replace consumables on the plant and equipment during the period of Hire such as fuel, lubricants, blades, cutting edges, etc.

## Occupational Health and Safety Management

1	OHS Policy and Management	Yes/No	Attached
1.1	Does the tenderer have a written organisation health and safety policy? <i>If yes, provide a copy of policy.</i>		<input type="checkbox"/>
1.2	Does the tenderer have an OH&S management system certified by a recognised independent authority (eg: Safety MAP)? <i>If yes, please provide a copy of the certificate</i>		<input type="checkbox"/>
1.3	Does the tenderer have an OH&S management system manual or plan? <i>If yes, provide a copy of the manual or plan</i>		<input type="checkbox"/>
1.4	Are health and safety responsibilities clearly identified for all levels of staff? <i>If yes, please provide details</i> .....		<input type="checkbox"/>
2	Safe Work Practices and Procedures	Yes/No	Attached
2.1	Has the tenderer prepared safe operating procedures or specific safety instructions relevant to its operations? <i>If yes, provide a summary listing of procedures or instructions.</i>		<input type="checkbox"/>
2.2	Does the tenderer have any permit to work systems? <i>If yes, provide a summary listing or permits:.....</i> ..... .....		<input type="checkbox"/>
2.3	Is there a documented incident investigation procedure? <i>If yes, provide a copy of the report form.</i>		<input type="checkbox"/>
2.4	Are there procedures for maintaining, inspecting and assessing the hazards of plant operated/owned by the tenderer? <i>If yes, provide details</i> .....		<input type="checkbox"/>
2.5	Are there procedures for storing and handling hazardous substances? (If applicable) <i>If yes, provide details.....</i> .....		<input type="checkbox"/>
2.6	Are there procedures for identifying, assessing and controlling risks associated with manual handling? <i>If yes, provide details.</i> .....		<input type="checkbox"/>
3	OHS Training	Yes/No	Attached
3.1	Is Health and Safety Training conducted in your company? <i>If yes, please describe.</i> ..... .....		<input type="checkbox"/>

3.2	Is a record maintained of all training and induction programs undertaken for employees by the tenderer? <i>If yes, provide examples of safety training records.....</i> .....		<input type="checkbox"/>
<b>4</b>	<b>Health and Safety Workplace Inspection</b>	<b>Yes/No</b>	<b>Attached</b>
4.1	Are regular health and safety inspections at worksites undertaken? <i>If yes, provide details: .....</i> .....		<input type="checkbox"/>
4.2	Are standard workplace inspection checklists used to conduct health and safety inspections? <i>If yes, provide details or examples: .....</i> .....		<input type="checkbox"/>
4.3	Is there a procedure by which employees can report hazards at workplaces? <i>If yes, provide details .....</i> .....		<input type="checkbox"/>
<b>5</b>	<b>Health and Safety Consultation</b>	<b>Yes/No</b>	<b>Attached</b>
5.1	Is there a workplace health and safety committee? <i>If yes, provide a copy of the most meeting minutes</i>		<input type="checkbox"/>
5.2	Are employees involved in decision making over OH&S matters? <i>If yes, please provide details.....</i> .....		<input type="checkbox"/>
5.3	Are there employee elected health and safety representatives? <i>Comments.....</i> .....		<input type="checkbox"/>
<b>6</b>	<b>OH&amp;S Performance Monitoring</b>	<b>Yes/No</b>	<b>Attached</b>
6.1	Is there a system for recording and analysing health and safety performance statistics? <i>If yes, provide details: .....</i> .....		<input type="checkbox"/>
6.2	Are employees regularly provided with information on the tenderer's health and safety performance? <i>If yes, provide details. ....</i> .....		<input type="checkbox"/>





## Schedule 4 – Purchase Order



**West Wimmera Shire Council**

49 Elizabeth St.  
EDENHOPE, 3318

PH (03) 5585 9900  
Fax (03) 55859950

ABN: 17 283 765 673

### PURCHASE ORDER

Order No: Page: 1

Order Type:

Date:

Bus Phone

Please Quote Order Number on  
Delivery Docket & Tax Invoice.  
All Prices include GST Where  
Applicable.

**Due By:**

ITEM DESCRIPTION	PRODUCT CODE	PART NUMBER	QUANTITY	UNIT	UNIT PRICE	ORDER VALUE
------------------	--------------	-------------	----------	------	------------	-------------

Total Order Value

Purchasing Contact:

Authorised by:

Page: Last of 1

Gender Impact Assessments on WWSC COVID-19 Financial Hardship Rates Recovery Policy  
Gender Lens Checklist (source CoRE WHG)

WWSC Document Review	Revenue and Rating Plan
Project Status/Due	August Council Meeting
CONSULTATION: Are both men and women, including those from diverse backgrounds, consulted during the planning process? Is there balance?	Community consultation through advertising on Council website. Equally accessible to all genders,
DATA: Is data collected and broken down by gender, to identify gaps/differences and inform planning?	No data is currently collected for this policy proposal.
BUDGET: Have you conducted a gendered assessment of the funding proposal/program budget to ensure funds will benefit people of all genders equitably?	Council communication is delivered in a non-gender specific way
SAFETY: Have the safety needs of women and men been incorporated into the planning process? (Examples - Car parking, Lighting, Time of day of services and activities)	There are no safety implications with this policy
ACCESS: Have barriers to participation for women been considered and procedures put in place to enable women to participate? (Examples: Child care available to all people regardless of gender identity, Time of day)	Communications are delivered without barriers to access
MESSAGING: Are 'gender equity' and 'prevention of violence against women' messages included in the program where appropriate?	Yes
GENDER BALANCE: Is there gender balance among program managers/participants/reference group?	Communication is addressed to the whole population
GENDER STEREOTYPES: Have program staff challenged assumptions and gender stereotypes associated with the program area? (Eg – who is bringing in catering/cleaning up/taking notes)	Not applicable
LANGUAGE: If needed, does the program include clear agreements about language and behaviour that is considered unacceptable? (Examples - sexism, discrimination or harassment)	Council communication only includes acceptable language
MARKETING: Do communications and marketing materials about the program depict diversity in terms of gender, cultural background, and ability; and challenge traditional stereotypes? (Examples: Are a diverse range of people represented in materials? Do images challenge traditional gender roles?)	Council will build this into future communications
MONITORING: Are there mechanisms in place to monitor gender balance and opportunities available to rectify this where needed?	No

WWSC Document Review	
DATA COLLECTION: Is evaluation data collected in a way that enables it to be separated by sex, cultural background, age and ability?	No data is currently collected. When data is collected in future, it will be collected in this way.
ANALYSIS: Is data analysed as a total, as well as by sex, to highlight any differences that might be linked to gender? Where there are differences, is analysis undertaken to explore potential causes – cultural norms, physical barriers, unconscious expectations etc; so these can be addressed?	No data is currently collected and analysed. When data is collected in future, it will be collected and analysed in this way.
REPORTING: Are participation rates always separated by sex? Does the report demonstrate a commitment to achieving gender balance and equality, highlighting key findings from the gendered analysis?	No participation data is currently collected. When data is collected in future, it will be collected in this way.
RECOMMENDATIONS: Are recommendations/learnings included to ensure future projects/programs improve the way they achieve gender balance, equity and diversity?	Yes





QUARTERLY  
BUDGET  
REPORT

June 2021



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## INTRODUCTION

Section 97 of the *Local Government Act 2020* requires that Council be presented with a Quarterly Budget Report comparing actual to budgeted revenue and expenditure at the conclusion of each quarter of the financial year.

This report provides financial information for the period 1 July 2020 to 30 June 2021.

It provides information on Council's operating performance via the Operating Statement and Council's financial position as at 30 June 2021 via the Balance Sheet. A summary statement of Capital Works and Employee Costs are also included for Council's information.

Figures included in these statements are for the financial year ended 30 June 2021. Where the annual actuals vary from the annual budget by more than 10% **and** \$20,000, **or** more than \$100,000, a variance explanation is given.

Information is also provided on some of the more pertinent financial indicators, including:

- Cash and investments
- Working capital
- Rates debtors outstanding
- Sundry debtors outstanding

It is noted that the information provided in this report is **PRELIMINARY** only. It has been compiled before end of financial year accruals and adjustments have been made. As such, it is subject to change and should not be relied on for use in end of financial year analysis. A more detailed analysis of the annual results will be completed with the Annual Financial Statements.

## OPERATING STATEMENT

The year to date Operating Statement is presented as per the AASB101 format for Council's information. Variances are calculated as YTD actuals less the YTD current budget, with the variance also being displayed as a percentage of the YTD current budget.

### West Wimmera Shire Council

### Comprehensive Income Statement

1 July 2020 to 30 June 2021

	YTD Actual \$	Original Annual Budget \$	Revised Annual Budget \$	Annual Revised Budget Met %	YTD Budget \$	YTD Variance \$	YTD Variance %	Notes
<b>Income</b>								
Rates & Charges	7,937,027	7,935,637	7,935,637	100.02%	7,935,637	1,390	0.0%	
Statutory Fees & Fines	162,413	145,160	145,160	111.89%	145,160	17,253	11.9%	
User Fees	349,994	395,140	378,140	92.56%	378,140	(28,146)	-7.4%	
Grants - Operating	9,551,251	7,406,636	7,591,185	125.82%	7,591,185	1,960,066	25.8%	1
Grants - Capital	3,747,697	3,474,522	3,729,522	100.49%	3,729,522	18,175	0.5%	
Contributions - Monetary	94,500	6,000	6,000	1575.00%	6,000	88,500	1475.0%	2
Net Gain/(Loss) on Sale of Assets	56,060	95,000	95,000	59.01%	95,000	(38,940)	-41.0%	3
Other Income	3,634,710	2,143,890	2,083,890	174.42%	2,083,890	1,550,820	74.4%	4
<b>Total Income</b>	<b>25,533,652</b>	<b>21,601,985</b>	<b>21,964,534</b>	<b>116.25%</b>	<b>21,964,534</b>	<b>3,569,118</b>	<b>16.2%</b>	
<b>Expenses</b>								
Employee Costs	8,578,584	7,880,999	7,948,981	107.92%	7,948,981	629,603	7.9%	5
Materials & Services	7,787,046	5,476,997	5,829,071	133.59%	5,829,071	1,957,975	33.6%	6
Depreciation	6,783,810	6,783,810	6,783,810	100.00%	6,783,810	-	0.0%	
Other Expenses	282,554	279,174	281,674	100.31%	281,674	880	0.3%	
<b>Total Expenses</b>	<b>23,431,994</b>	<b>20,420,980</b>	<b>20,843,536</b>	<b>112.42%</b>	<b>20,843,536</b>	<b>2,588,458</b>	<b>12.4%</b>	
<b>Surplus/(Deficit) from Operations</b>	<b>2,101,658</b>	<b>1,181,005</b>	<b>1,120,998</b>		<b>1,120,998</b>	<b>980,660</b>	<b>87.5%</b>	
<b>Total Comprehensive Result</b>	<b>2,101,658</b>	<b>1,181,005</b>	<b>1,120,998</b>		<b>1,120,998</b>	<b>980,660</b>	<b>87.5%</b>	

## EMPLOYEE COSTS

### Employee Costs

1 July 2020 - 30 June 2021

CAPITAL EXPENDITURE					
	YTD Actuals	Original Annual Budget	Revised Annual Budget	YTD Variance \$	YTD Variance %
Salaries	873,122	1,096,972	1,096,972	-223,850	-20.41%

OPERATING EXPENDITURE					
	YTD Actuals	Original Annual Budget	Revised Annual Budget	YTD Variance \$	YTD Variance %
Salaries	5,952,849	5,648,294	5,715,110	237,739	4.16%
Fringe Benefit Taxes	73,501	73,600	73,600	-99	-0.13%
Annual Leave	703,195	752,434	752,434	-49,239	-6.54%
Sick Leave	389,951	132,485	132,485	257,466	194.34%
Long Service Leave	286,242	192,082	193,248	92,994	48.12%
Other Leave Expenses	26,538	20,000	20,000	6,538	32.69%
Superannuation - Council Contribution	722,735	736,159	736,159	-13,424	-1.82%
Workers Compensation Insurance	172,883	156,038	156,038	16,845	10.80%
Income Protection Insurance	250,690	169,907	169,907	80,783	47.55%
	<b>8,578,584</b>	<b>7,880,999</b>	<b>7,948,981</b>	<b>629,603</b>	<b>7.92%</b>

OPERATING INCOME - EMPLOYEE COST REIMBURSEMENTS					
	YTD Actuals	Original Annual Budget	Revised Annual Budget	YTD Variance \$	YTD Variance %
Income Protection Reimbursement	142,237	0	0	142,237	100.00%
Workers Compensation Reimbursement	53,557	0	0	53,557	100.00%
Other - Maternity Leave Reimbursement	27,140	0	0	27,140	100.00%
	<b>222,934</b>	<b>0</b>	<b>0</b>	<b>222,934</b>	<b>100.00%</b>

	YTD Actuals	Original Annual Budget	Revised Annual Budget	YTD Variance \$
<b>TOTAL EMPLOYEE COSTS</b>	<b>9,228,772</b>	<b>8,977,971</b>	<b>9,045,953</b>	<b>182,819</b>
<b>TOTAL EMPLOYEE COSTS ANNUAL BUDGET MET</b>		<b>102.79%</b>		

Notes	
1. Grants - Operating	<p>Operating grants are \$1.96mil (25.8%) above budgeted amount for the year ended 30 June 2021. This variance is attributed to the following receipts which were not included in the budget;</p> <ul style="list-style-type: none"> <li>- \$1,579,500 for Goroke Recreation Reserve Pavilion project</li> <li>- \$141,777 for Goroke Silo Art</li> <li>- \$214,000 from Regional Development Victoria for various projects including Mallee Silo Trial Project, Destination West Wimmera, Business Concierge &amp; Hospitality, &amp; Reimagining Possibilities for West Wimmera</li> </ul>
2. Contributions - Monetary	<p>Contributions are \$88,500 above budgeted annual amount. This is due to the following contributions received;</p> <ul style="list-style-type: none"> <li>- \$145,000 for Goroke Recreation Reserve Pavilion project</li> <li>- \$100,000 from AFL for Harrow &amp; District Recreation Reserve</li> </ul> <p>These are somewhat offset by the writing-off of the loan for the Kaniva Hub (\$160,000) as resolved by Council in December 2020.</p>
3. Net Gain/(Loss) on Sale of Assets	<p>Net Gain/(Loss) on Sale of Assets are \$38,940 (41%) below budgeted amount for the year ended 30 June 2021. Several vehicles which were due to be traded-in with replacements purchased during the year have not yet occurred due to significant waiting times for new vehicles.</p>
4. Other Income	<p>Other Income is \$1.55mil (74.4%) above budget for the 2021 financial year. This is due to the following;</p> <ul style="list-style-type: none"> <li>- Reimbursements from roadworks (VicRoads) \$1.24mil over budget</li> <li>- Income protection, WorkCover &amp; Maternity Leave reimbursements of \$223,000</li> <li>- Quarry reimbursements \$71,000 over budget (in line with increased roadworks)</li> </ul>
5. Employee Costs	<p>Employee costs are broken down in the above table to capture the whole picture, being operating costs, capital costs and related reimbursements. Overall operating employee costs are 7.92% above budget. The main variances are;</p> <ul style="list-style-type: none"> <li>- WorkCover and Income Protection insurance - \$98,000 above budget</li> <li>- Sick Leave - \$257,000 above budget. Reimbursements received of \$196,000 result in a net variance of \$61,000</li> </ul>

	<ul style="list-style-type: none"> <li>- Long Service Leave - \$93,000 above budget</li> </ul> <p>Capital wages are \$224,000 below budget which largely offsets the amount that operating wages are above budget.</p>
6. Materials & Services	<p>Materials &amp; Services are \$1.96mil (33.6%) above budgeted annual amount. This is largely offset by additional income and is attributed to the following areas:</p> <ul style="list-style-type: none"> <li>- Contractors - \$952,000 above budget. The main variances here include contractors for the Goroke Recreation Reserve Pavilion project and road maintenance contractors</li> <li>- Consultants - \$231,000 above budget. The main variances here include CEO recruitment, Governance consultant &amp; Council Plan consultation</li> <li>- Materials purchased - \$388,539 above budget, predominantly in relation to project costs</li> <li>- Telephone charges - \$223,000 above budget due to a significant network upgrade performed by Telstra during the year. Council is continuing to work with Telstra in relation to the ongoing costs as initial discussions indicated Council's costs would not increase</li> <li>- Legal expenses – predominantly in relation to CEO contracts and recruitment costs</li> <li>- Public Liability Insurance - \$125,000 above budget</li> <li>- Other materials &amp; service expenses are slightly over budget due to additional Covid-safe cleaning costs at Kinders, free public pool initiative, Community Activation initiative &amp; Preliminary Grant/Project costs</li> </ul>



## BALANCE SHEET

# West Wimmera Shire Council

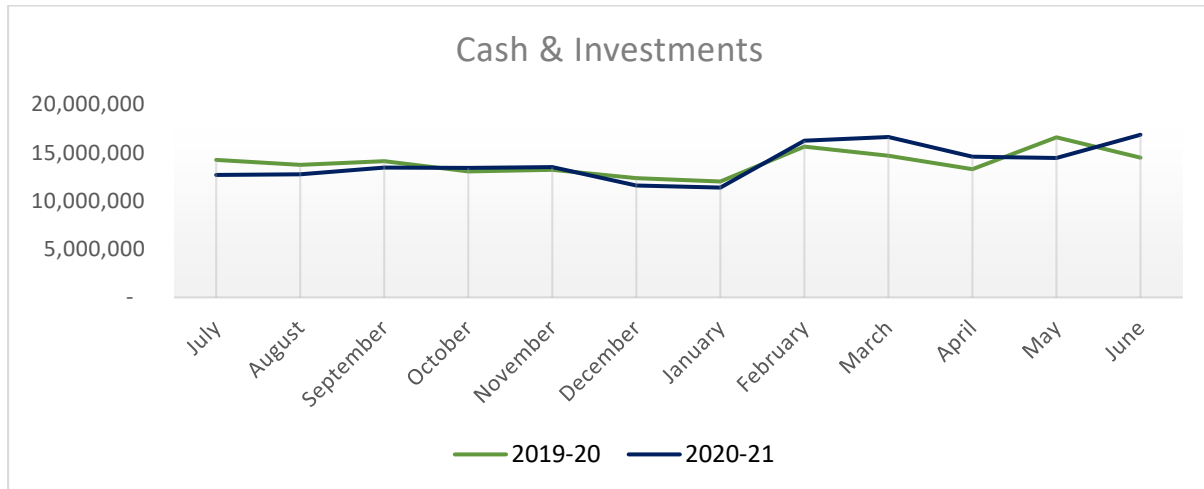
## Balance Sheet

### As at 30 June 2021

	\$ 30-Jun-21	\$ 30-Jun-20
<b>ASSETS</b>		
<b>Current Assets</b>		
Cash & Investments	16,850,868	14,476,815
Rate Debtors	208,919	190,548
Sundry Debtors	799,148	63,553
Other Financial Assets	154,518	356,117
Inventories	107,710	154,769
<b>Current Assets Total</b>	<b>18,121,163</b>	<b>15,241,802</b>
<b>Non Current Assets</b>		
Investments in Associates	435,500	435,500
Other Non-Current Assets	0	160,000
Property, Infrastructure, Plant & Equipment	194,706,773	194,964,094
<b>Non Current Assets Total</b>	<b>195,142,273</b>	<b>195,559,594</b>
<b>TOTAL ASSETS</b>	<b>213,263,436</b>	<b>210,801,396</b>
<b>LIABILITIES</b>		
<b>Current Liabilities</b>		
Trade & Other Payables	1,358,553	992,633
Trust Funds & Deposits	26,822	24,319
Provisions	2,233,594	2,242,800
<b>Current Liabilities Total</b>	<b>3,618,969</b>	<b>3,259,752</b>
<b>Non Current Liabilities</b>		
Provisions	601,097	599,934
<b>Non Current Liabilities Total</b>	<b>601,097</b>	<b>599,934</b>
<b>TOTAL LIABILITIES</b>	<b>4,220,066</b>	<b>3,859,686</b>
<b>NET ASSETS</b>	<b>209,043,370</b>	<b>206,941,710</b>
<b>EQUITY</b>		
Accumulated Surplus/(Deficit)	46,935,924	44,834,266
Reserves	162,107,446	162,107,444
<b>TOTAL EQUITY</b>	<b>209,043,370</b>	<b>206,941,710</b>

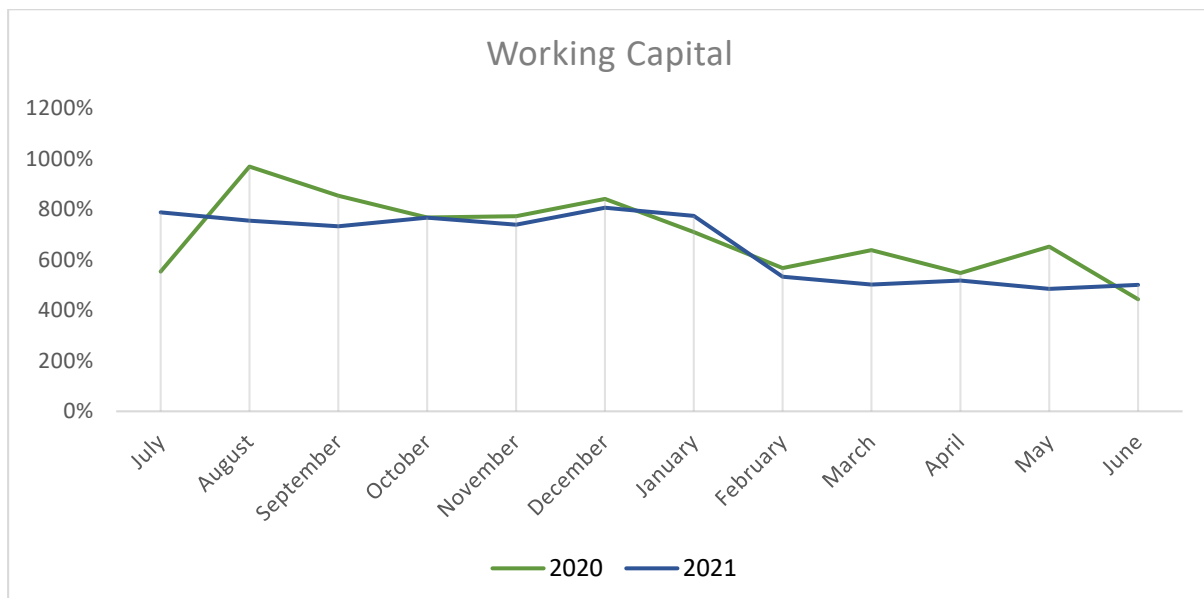


## CASH AND INVESTMENTS



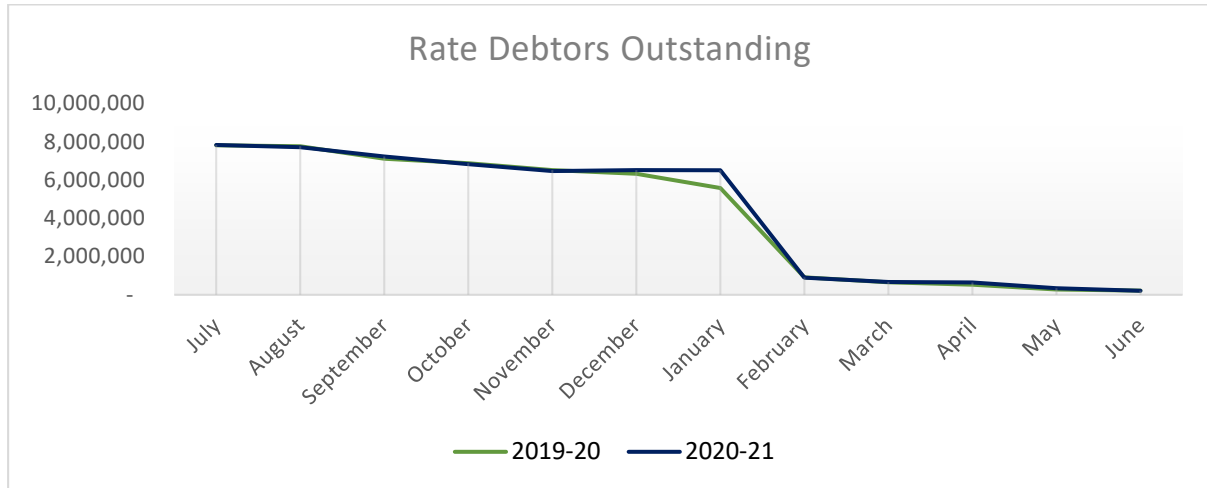
As at 30 June 2021, Council was holding a total of \$16.85m in cash and investments. As seen in the above graph, the trend line of Council’s cash position is very consistent with the prior financial year. The increase of cash and investments held at year-end is largely due to an increase in payables captured at 30 June 2021, as reflected in the Balance Sheet.

## WORKING CAPITAL



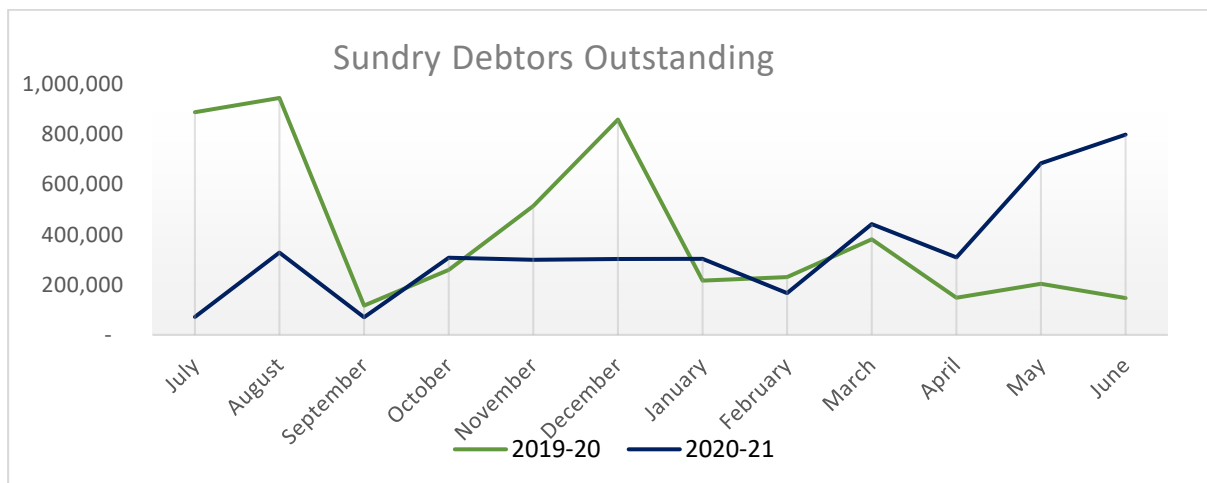
Council continues to hold a strong working capital level, with current assets at 501% of current liabilities as at 30 June 2021. The trend line is consistent with the prior financial year, with working capital levels ending slightly higher for the year ended 30 June 2021.

## RATE DEBTORS



Council raised \$7.32 million in rates and charges in July 2020. Approximately 65% of Council's ratepayers opt not to pay through the instalment option – for these ratepayers 100% of their rates are due by the end of February 2021. Council shows a rate debtor amount at 30 June 2021 of \$0.21m, a decrease of \$5,000 from the end of last financial year.

## SUNDRY DEBTORS



The total outstanding sundry debtors at 30 June 2021 was \$0.80m, an increase of \$0.65m than at the same time last financial year. This predominantly relates to a VicRoads contract amount of \$0.76m that was raised on 25<sup>th</sup> June 2021.

## CAPITAL WORKS

A summary of Council's capital works as at 30 June 2021 is presented. As with the Operating Statement, variances are calculated as annual actuals less the annual current budget, with the variance also being displayed as a percentage of the YTD current budget.

Notes and explanations are provided where the variances exceed 10% and \$20,000, or where the \$ variance is greater than \$100,000.

### West Wimmera Shire Council Capital Works As at 30 June 2021

Program	YTD Actuals (\$)	Annual Current Budget (\$)	YTD Current Budget (\$)	YTD Variance (\$)	YTD Variance (%)	Note
Roads	5,326,714	5,926,570	5,926,570	-599,856	-10.1%	1
Kerb & Gutter	59,007	168,948	168,948	-109,941	-65.1%	2
Bridges	137,770	502,140	502,140	-364,370	-72.6%	3
Footpaths	95,598	236,756	236,756	-141,158	-59.6%	4
Buildings	399,006	909,040	909,040	-510,034	-56.1%	5
Plant	394,286	749,396	749,396	-355,110	-47.4%	6
Furniture & Equipment	178,278	148,604	148,604	29,674	20.0%	7
Parks, Gardens, Other	70,147	192,439	192,439	-122,292	-63.5%	8
<b>Total</b>	<b>6,660,806</b>	<b>8,833,893</b>	<b>8,833,893</b>	<b>-2,173,087</b>	<b>-25%</b>	

Capital Works - Variance Notes		
1.	Roads	Capital spend on Roads is 10.1% (\$599,856) below budget for the 2021 financial year. Savings in the road program have been identified as around \$350,000, with three major jobs not yet completed and to be carried forward; <ul style="list-style-type: none"> <li>- Kadnook - Connewirricoo Rd</li> <li>- Mooree Rd</li> <li>- Border Road Construction</li> </ul>
2.	Kerb & Gutter	Kerb & Gutter capital expenditure is \$109,941 below budget – funds of around \$90,000 will be included in carried forward amount.
3.	Bridges	Bridge capital works is \$364,370 below budget due to the Harrow-Clear Lake Bridge over Salt Creek being a 2-year project. Funds will be carried forward.

4.	Footpaths	Capital spend on footpaths is \$141,158 below budget for the 2021 year. Some savings were identified, but some works are yet to be completed and carried forward funds are expected to be around \$86,000.
5.	Buildings	Buildings capital spend is \$510,034 (56.1%) below budget. Several projects have not been completed and funds will be carried forward, including: <ul style="list-style-type: none"> <li>- Old Toilet Block - Tennis club removal and replacement</li> <li>- Edenhope and District Community Centre completion</li> <li>- Edenhope Pound - Upgrade due to compliance issues</li> <li>- Edenhope Council Office (design and refurbish)</li> <li>- Kaniva Depot Meeting / tea room</li> </ul> Projects budgeted for but not progressing due to unsuccessful funding or other reasons are: <ul style="list-style-type: none"> <li>- Apsley Rusty Rattlers (\$25,000)</li> <li>- Toilet Block Goroke (\$100,000)</li> </ul>
6.	Plant	Capital spend on plant is \$355,110 under budget due to several pieces of plant not purchased including the Flocon Spray unit and 3 vehicles. Funds will be carried forward where required.
7.	Furniture & Equipment	Furniture & Equipment is \$29,674 over budget for the 2021 year due to the brought-forward purchase of Hiper VR Survey Equipment. This equipment is budgeted in the 2022 year but in order to secure a discounted price, the purchase needed to occur in 2021.
8.	Parks, Gardens, Other	Capital expenditure on Parks, Garden & Other is \$122,292 below budget, attributable to several projects which will be carried forward, including; <ul style="list-style-type: none"> <li>- Johnny Mullagh Rec Reserve septic tank</li> <li>- Kaniva Township watering system</li> <li>- Toilet Block Connection to sewer Kaniva Showgrounds</li> </ul>

Gender Impact Assessments on WWSC Policy Review  
Gender Lens Checklist (source CoRE WHG)

WWSC Policy Reviews	Communications Policy
Project Status/Due	N/A
CONSULTATION: Are both men and women, including those from diverse backgrounds, consulted during the planning process? Is there balance?	No consultation undertaken
DATA: Is data collected and broken down by gender, to identify gaps/differences and inform planning?	No
BUDGET: Have you conducted a gendered assessment of the funding proposal/program budget to ensure funds will benefit people of all genders equitably?	N/A
SAFETY: Have the safety needs of women and men been incorporated into the planning process? (Examples - Car parking, Lighting, Time of day of services and activities)	N/A
ACCESS: Have barriers to participation for women been considered and procedures put in place to enable women to participate? (Examples: Child care available to all people regardless of gender identity, Time of day)	N/A
MESSAGING: Are 'gender equity' and 'prevention of violence against women' messages included in the program where appropriate?	N/A
GENDER BALANCE: Is there gender balance among program managers/participants/reference group?	Yes
GENDER STEREOTYPES: Have program staff challenged assumptions and gender stereotypes associated with the program area? (Eg – who is bringing in catering/cleaning up/taking notes)	Yes
LANGUAGE: If needed, does the program include clear agreements about language and behaviour that is considered unacceptable? (Examples - sexism, discrimination or harassment)	Council communication only includes acceptable language
MARKETING: Do communications and marketing materials about the program depict diversity in terms of gender, cultural background, and ability; and challenge traditional stereotypes? (Examples: Are a diverse range of people represented in materials? Do images challenge traditional gender roles?)	Communications are accessible to all genders.
MONITORING: Are there mechanisms in place to monitor gender balance and opportunities available to rectify this where needed?	No

WWSC Major Projects	
DATA COLLECTION: Is evaluation data collected in a way that enables it to be separated by sex, cultural background, age and ability?	No
ANALYSIS: Is data analysed as a total, as well as by sex, to highlight any differences that might be linked to gender? Where there are differences, is analysis undertaken to explore potential causes – cultural norms, physical barriers, unconscious expectations etc; so these can be addressed?	No
REPORTING: Are participation rates always separated by sex? Does the report demonstrate a commitment to achieving gender balance and equality, highlighting key findings from the gendered analysis?	No
RECOMMENDATIONS: Are recommendations/learnings included to ensure future projects/programs improve the way they achieve gender balance, equity and diversity?	No



# Council Policy Manual

## WEST WIMMERA SHIRE COUNCIL

<b>COUNCIL POLICY</b>							
<b>COVID-19 FINANCIAL HARDSHIP RATE RECOVERY POLICY</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Policy No:</td> <td style="width: 100px;"></td> </tr> <tr> <td style="padding: 2px;">Adopted by Council:</td> <td></td> </tr> <tr> <td style="padding: 2px;">Next review date:</td> <td style="text-align: center;">September 2022</td> </tr> </table>	Policy No:		Adopted by Council:		Next review date:	September 2022
Policy No:							
Adopted by Council:							
Next review date:	September 2022						
Senior Manager:	Vin McKay, Director Corporate & Community Services						
Responsible Officer:	Leilani Dawes, Rates Coordinator						
Functional Area:	Rates						
<b>Introduction &amp; Background</b>	<p>COVID-19 is a respiratory illness caused by a new virus. Symptoms include fever, coughing, a sore throat and shortness of breath. The virus can spread from person to person, but good hygiene can prevent infection.</p> <p>COVID-19 was declared a global pandemic on 30 January 2020 and a State of Emergency was declared in Victoria on 16 March 2020. In response to the impact of the COVID-19 pandemic on the community, the West Wimmera Shire Council is committed to helping residents, ratepayers and businesses facing financial hardship.</p> <p>Outbreaks of COVID-19 can lead to swift 'lockdown' action. As at July 2021 Victoria and Australia have not reached a level of vaccination which indicates 'lockdowns' will be phased out as a control measure. Accordingly, businesses and individuals may find themselves experiencing financial hardship.</p> <p>Financial hardship is a circumstance of experiencing a lack of financial means, which may be either ongoing or temporary. If you are facing financial difficulty on a personal level, you may wish to obtain advice from a community financial counsellor.</p> <p>You can talk to a financial counsellor from anywhere in Australia by calling 1800 007 007 (Monday to Friday, 9.30 am – 4.30 pm). This number will automatically switch through to the service in the State or Territory closest to you, or you can visit the National Debt Helpline at <a href="http://www.ndh.org.au">www.ndh.org.au</a>.</p>						
<b>Purpose &amp; Objectives</b>	<p>National and State funded support programs remain the first-tier support system. This policy is to address temporary financial hardship due to impacts of COVID-19. The existing Rate Recovery &amp; Financial Hardship Policy allows for financial hardship experienced by a ratepayer however the COVID-19 policy will enable efficient, transparent application of relief options for those impacted directly by COVID-19.</p>						
<b>Definitions</b>	<p><b>Debt</b> means an amount of money owed, including an alleged debt</p>						



# Council Policy Manual

## WEST WIMMERA SHIRE COUNCIL

	<p><b>Deferral</b> means the postponement of payment in whole or in part for a specified period</p> <p><b>Payment Arrangement</b> means spreading the outstanding amount owed over an agreed period, allowing for additional time to make the payment without any legal action being taken (e.g. regular repayments which will clear the amount owing).</p>
<b>Policy Details</b>	
<b>1.</b>	<p><b>PAYMENT ARRANGEMENT AND INTEREST HOLD</b></p> <p>Council's aim is to provide assistance to ratepayers through the COVID-19 event without creating additional financial stress when the pandemic has been resolved. Instead of deferring all financial responsibilities due to this event (which could cause further hardship and financial stress when the event is over and bills are owed) Council is encouraging ratepayers to set up a payment arrangement tailored specifically to their needs. This is aligned with National Cabinet Advice Principles issued 09/04/2020.</p> <p>Eligible applicants will be able to enter into a payment arrangement which will reduce the amount of debt owing after the pandemic. Interest will be held on debt accumulated during the COVID-19 pandemic. The interest hold will be for the duration of the payment arrangement. Payment arrangements will be reviewed 6 monthly and term and interest hold may be extended provided eligibility criteria is still met. If any debt is still outstanding at an arrangement end date, the existing Rate Recovery &amp; Financial Hardship Policy will apply.</p> <p>Rate Notices will continue to be issued while payment arrangements are in place.</p>
<b>2.</b>	<p><b>RATES DEFERRAL AND INTEREST HOLD</b></p> <p>If the ratepayer is unable to enter into a payment arrangement immediately, they may be eligible for deferral with an interest hold from the date of application to an agreed end date tailored to the specific deferral and repayment plan. Initial deferral periods will be for up to 6 months, and a review of the applicant's status will be undertaken at this time to determine if:</p> <ul style="list-style-type: none"> <li>- A payment arrangement can be commenced.</li> <li>- A further deferral and interest hold is required due to continued restrictions.</li> </ul> <p>If any debt is still outstanding at a deferral end date, and no payment arrangement has been approved, the existing Rate Recovery &amp; Financial Hardship Policy will apply. Reasonable attempts to contact a customer, and the negotiation of a payment arrangement may be conducted at this time.</p> <p>Rate Notices will continue to be issued while deferrals are in place.</p>
<b>3.</b>	<p><b>DEBT RECOVERY</b></p> <p>A reasonable attempt will be made to contact a customer about their overdue account. This may include a reminder letter, account statement, email, text message or phone call.</p>



# Council Policy Manual

## WEST WIMMERA SHIRE COUNCIL

	<p>If a payment arrangement is in place, and proves to be unsustainable, please contact Council for review. Failure to notify Council of changes to repayment ability with regards to a payment arrangement may result in referral to debt collection as detailed in the West Wimmera Shire Council Rate Recovery &amp; Financial Hardship Policy.</p> <p>The debtor will be liable for all legal costs incurred by Council in the debt collection process.</p>
<b>4.</b>	<p><b>ELIGIBILITY</b></p> <p>All ratepayers with a rateable property within West Wimmera Shire are eligible to apply for hardship assistance under this policy.</p> <p>Assistance shall not be dependent upon the type or class of property. Assistance under this policy will be extended to cover rates and charges on Residential, Rural, Commercial and Industrial properties regardless of whether the property is the ratepayer's principal place of residence.</p> <p>Where a ratepayer derives income from rental sources, that ratepayer should show that an attempt has been made under the Victorian Government's rent rescue package for assistance before Council can consider providing any additional assistance.</p>
<b>5.</b>	<p><b>EVIDENCE REQUIRED</b></p> <p>An application for assistance under this policy must be accompanied by evidence of a link between Covid-19 and their financial circumstances. This shall be at the discretion of the Director Corporate and Community Services and Chief Executive Officer, but should include:</p> <ul style="list-style-type: none"> <li>• For an individual – a statement showing that the applicant has lost employment and/or income arising from the Covid-19 lockdown</li> <li>• For a business – a statement stating a reduction in income of 15% or more arising from the Covid-19 lockdown (in accordance with the requirements to access the expired Commonwealth JobKeeper program).</li> </ul>
<b>6.</b>	<p><b>ASSOCIATED DOCUMENTS</b></p> <p>Rate Recovery &amp; Financial Hardship Policy Covid-19 Financial Hardship Application Form</p>

<b>Policy Adopted:</b>	Council Meeting 20/05/20	Minute Book Page [number]	RecFind E20/000098
<b>Policy Reviewed:</b>	Council Meeting 19/08/20	Minute Book Page [number]	RecFind E20/000283





# COVID-19 Financial Hardship Application Form WEST WIMMERA SHIRE COUNCIL

Applicant Name:	
Assessment Number/s:	
Property Address:	
Mailing Address:	
Email:	
Phone Number:	
Amount Outstanding:	

<p><b>Details of COVID-19 impacts:</b> <i>To be eligible for the relief options of the COVID-19 Financial Hardship Policy, the hardship must be directly related to the impacts of COVID-19 pandemic. Reasonable evidence of reduced income may be required to progress your application. Please include information of any Government Assistance Entitlements.</i></p>	
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<b>Payment Arrangement or Deferral</b>	
Payment Arrangement and Interest Hold Outstanding rates balance to be paid in negotiated instalments, with no interest during agreed term.	<input type="checkbox"/>
Deferral and Interest Hold Outstanding rates balance to be delayed, with no interest during agreed term.	<input type="checkbox"/>

I hereby acknowledge that I have read and comply with the privacy notice shown below and by submitting this agreement form I agree to the payment arrangement outlined above.	
Signature:	Date:
Name:	

*PRIVACY: Personal information collected by Council is used for municipal purposes as specified in the Local Government Act 1989. The personal information will be used solely for municipal purposes. Council may disclose this information to other organisations if required by legislation. I understand that the personal information provided is for the above purpose and that I may apply to Council for access to and/or amendment of the information. Any requests for access and/or correction should be made to Council's Privacy Officer.*