



SPECIAL MEETING OF COUNCIL

MINUTES

29 AUGUST 2023

These minutes were confirmed by Council as a true and correct record of proceedings by the Ordinary Council Meeting held on 21/9/23.

Presiding Member: *[Signature]* Date: 21 September 2023

Disclaimer

The purpose of this Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda.

Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25(e)) establish procedures for revocation or revision of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person.

The Shire of Brookton expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council Meeting.

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1.08.23 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President, Cr Crute, declared the Meeting open at 6:00pm.

On behalf of Council, I would like to acknowledge that this meeting is being held on the traditional lands of the Nyoongar People and pay respect to all Elders, past, present, and emerging. I wish to acknowledge and respect local people's continuing culture and the contribution they make to Country and its life.

2.08.23 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCEElected Members (Voting)

Cr KL Crute	(Shire President)
Cr NC Walker	(Deputy Shire President)
Cr HA Bell	
Cr CE Hartl	
Cr C Hayden	
Cr TD Lilly	

Staff (Non-Voting)

Gary Sherry	Chief Executive Officer
Deanne Sweeney	Manager Corporate and Community
Kevin D'Alton	Manager Projects
Sandie Spencer	Executive Governance Officer

Apologies

Les Vidovich	Manager Infrastructure and Works
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Leave of absence

Nil.

Members of the Public

Nil.

3.08.23 PUBLIC QUESTION TIME

Nil.

4.08.23 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

5.08.23 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

6.08.23 ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

7.08.23 DISCLOSURE OF INTERESTS

Nil.

8.08.23 TECHNICAL & DEVELOPMENT SERVICES REPORTS**8.08.23.01 ADDITIONAL COSTING BROOKTON MEMORIAL HALL REFURBISHMENT**

File No:	FIN013
Date of Meeting:	7 September 2023
Location/Address:	Brookton Memorial Hall
Name of Applicant:	N/A
Name of Owner:	N/A
Author/s:	Kevin D'Alton Manager Projects
Authorising Officer:	Gary Sherry – Chief Executive Officer
Declaration of Interest:	The author and authorising officer do not have an interest in this item
Voting Requirements:	Simple Majority
Previous Report:	N/A

Summary of Report:

Council is to consider the approval of additional cost of \$80,440.50 to secure and reinforce the ceiling of the Brookton Memorial in addition to contracted works to replace the Memorial Hall Roof.

Description of Proposal:

During the subsequent contract startup inspections, Colgan Industries identified that the condition of the strapping/scrimming of the ceiling had failed in many areas and there was a potential risk of sections of the ceiling collapsing during the proposed work e.g., the removal of roof sheets, vibrations caused by staff walking on roof structure, wind uplift, and installation of ceiling insulation.

Colgan Industries have offered the following solution that will be treated as a Variation to the Tendered price as they were not included in the original Scope of Work:

Vacuum the ceilings prior to works to provide good keying for the plaster over the joists and ceiling.	\$ 19,940.00
Supply and install screws from bottom and patch ready for painting	\$ 17,480.00
Restrap/lagging ceilings incl. material	\$ 25,184.00
Preliminaries including additional accommodation, meals, insurance, administration	\$ 17,836.50
TOTAL	\$ 80,440.50
GST	\$ 8,044.05
TOTAL - GST Inclusive	\$ 88,484.55

A detailed breakdown of the project costings is included at attachment 8.08.23.01A.

These works will renovate the existing ceiling and extend the life of the ceiling significantly. Should there be a future ceiling failure due to further deterioration, the estimated cost of a standalone contract for ceiling replacement is estimated at \$250,000.

Conducting these works at this stage will potentially save the Shire in the future, as estimated cost of replacing the ceiling would be in the region of \$250,000.

Background:

Council accepted the tender from Colgan Industries to replace the Brookton Memorial Hall at their June 2023 Meeting for a cost of \$484,150.00 (GST Exclusive).

Consultation:

Stephen Carrick Architects
Colgan Industries

Statutory Environment: Nil

Relevant Plans and Policy: Nil

Financial Implications:

The additional ceilings works in the Memorial Hall are an additional cost to original Tender RFT 02/2023 of \$484,150.00 (GST Exclusive).

The additional works are within the Shire of Brookton 2023/24 Budget allocation.

Risk Assessment:

If this work is not conducted as per the recommendation of Colgan Industries there is the potential for additional damage due to the condition of the existing infrastructure.

Consequence Likelihood	Insignificant	Minor	Moderate	Major	Extreme
Almost Certain	Medium	High	High	Severe	Severe
Likely	Low	Medium	High	High	Severe
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Low	Medium

Risk Rating	Action
LOW	Monitor for continuous improvement.
MEDIUM	Comply with risk reduction measures to keep risk as low as reasonably practical.
HIGH	Review risk reduction and take additional measures to ensure risk is as low as reasonably achievable.
SEVERE	Unacceptable. Risk reduction measures must be implemented before proceeding.

Community & Strategic Objectives:

Refurbish Memorial Hall

Comment

The request for additional funding to complete the works on the ceiling is crucial to ensuring the stability and longevity of the Memorial Hall ceiling and ensuring that the building is safe for use and occupancy.

OFFICER'S RECOMMENDATION

That Council approves the contract variation with Colgan Industries Pty Ltd to complete additional ceiling repairs in the memorial hall at a cost of \$80,440.50 (GST Exclusive).

(Simple majority vote required)

SCM 08.23-01

COUNCIL RESOLUTION

MOVED Cr Bell

SECONDED Cr Hartl

That Council approves the contract variation with Colgan Industries Pty Ltd to complete additional ceiling repairs in the memorial hall at a cost of \$80,440.50 (GST Exclusive).

CARRIED BY SIMPLE MAJORITY VOTE 6/0

For: Cr Crute, Cr Walker, Cr Bell, Cr Hartl, Cr Hayden, Cr Lilly

Against: Nil

Attachments

Attachment 8.08.23.01A – Memorial Hall Costings

ATTACHMENT 8.08.23.01A

01	Preliminaries	
	Supervision, administration, management	\$ 27,968.00
	Accommodation, food, travel expenses	\$ 26,059.00
	Fencing, tooling, PPE	\$ 6,256.00
	Scaffolding, access	\$ 40,480.00
	Cleaning, make good	\$ 3,450.00
	Insurance	\$ 2,875.00
01	Preliminaries TOTAL	\$ 107,088.00
02	Demolition	
	Asbestos removal including accommodation, food and travel	\$ 8,855.00
	Transport and disposal of all other waste	\$ 5,060.00
02	Demolition TOTAL	\$ 13,915.00
03	Tie downs	
	Material	\$ 5,060.00
	Labour to install	\$ 16,560.00
	Make good excl. painting	\$ 2,530.00
03	Tie downs TOTAL	\$ 24,150.00
04	Roofing	
	Roofing works including accommodation, food, travel	\$ 234,404.50
04	Roofing TOTAL	\$ 234,404.50
05	Ceilings and insulation	
	Repairs of ceiling and cornice allowance	\$ 3,600.00
	Supply and install ceiling insulation incl. travel, accommodation and food	\$ 17,215.00
05	Ceilings and insulation TOTAL	\$ 20,815.00
06	Carpentry	
	New soffit lining material and labour	\$ 13,555.63
	Gable lining material and labour	\$ 5,281.38
	New battens material and labour	\$ 17,267.25
	New fascia and barge boards material and labour	\$ 22,833.25
06	Carpentry TOTAL	\$ 58,937.50
07	Painting	
	Internal (incl. food and travel)	\$ 8,970.00
	External (incl. food and travel)	\$ 11,730.00
	Accommodation	\$ 2,760.00
	Touch ups only where tie downs will be installed	\$ 1,380.00
07	Painting TOTAL	\$ 24,840.00
	GRAND TOTAL	\$ 484,150.00
	GST	\$ 48,415.00
	TOTAL value (incl. GST)	\$ 532,565.00
	Additional Works	
01	Preliminaries	
	Supervision, management, administration	\$ 2,300.00
	Access in roof	\$ 1,725.00
	Accommodation, food, travel expenses	\$ 10,407.50
	Insurance	\$ 1,104.00
	Additional protection of flooring	\$ 2,300.00
01	Preliminaries TOTAL	\$ 17,836.50
02	Vacuum the ceilings prior to works to provide good keying for the plaster over the joists and ceiling.	\$ 19,940.00
03	Supply and install screws from bottom and patch ready for painting	\$ 17,480.00
04	Restrap/lagging ceilings incl. material	\$ 25,184.00
	GRAND TOTAL	\$ 80,440.50
	GST	\$ 8,044.05
	TOTAL value (incl. GST)	\$ 88,484.55

8.08.23.02 BROOKTON RAILWAY STATION – EARLY ENGAGEMENT AGREEMENT

File No:	PRO016 Brookton Railway Station
Date of Meeting:	21 September 2023
Location/Address:	Robinson Road, Brookton
Name of Applicant:	Shire of Brookton
Name of Owner:	Shire of Brookton/ Arc Infrastructure Pty Ltd
Author/s:	Gary Sherry – Chief Executive Officer
Authorising Officer:	Gary Sherry – Chief Executive Officer
Declaration of Interest:	The author and authorising officer do not have an interest in this item
Voting Requirements:	Simple Majority
Previous Report:	N/A

Summary of Report:

Council is to consider entering into an agreement with Arc Infrastructure Pty Ltd (ARC) to provide services as part of the refurbishment of the Brookton Railway Station.

Description of Proposal:

The Brookton Railway Station building is located outside the rail corridor however some works require the scaffolds to be constructed onto ARC's rail line therefore in-depth discussions around risk and safety are mandatory between the Shire and Arc to accomplish the job without any incidents to the rail operations and the public.

ARC has provided the Shire of Brookton with an Early Engagement Agreement (EEA) that is intended to facilitate the discussions on the design and project requirements as requested by the Shire.

ARC seeks the EEA seeks to be executed using the Common Seal as per section 9.49A(4) of the Local Government Act 1995. The EEA is included at Attachment 8.08.23.02A.

The services anticipated to be provided by ARC in this agreement include the following

1. liaise with the Shire and its contractors;
2. attend site visits;
3. facilitate and/or attend internal Arc workshops and meetings;
4. facilitate and/or attend external workshops and meetings;
5. prepare, review, and negotiate agreements and other related documentation (where required by Arc, this will include input from advisory areas of the business such as legal, finance, commercial and health and safety);
6. review design drawings and plans that has any potential to affect rail corridor including environmental provided by the Shire
7. facilitate rail safety workshops; and
8. provide such information in relation to existing Arc infrastructure, operations, and services that is not deemed by Arc as being commercially sensitive, confidential in nature or Arc does not own the intellectual property rights to

The EEA provides a breakdown of costs that ARC will charge the Shire of Brookton for providing these services.

Background:

The Shire of Brookton are seeking to perform refurbishment works on the Brookton Railway Station building. These works include replacing the roof tiles, repair of the platform area, access ramp and fencing. These works will be very near to the active railway line and require input from ARC into safe work practices.

Consultation:

ARC
Public Transport Authority
Stephen Carrick Architects

Statutory Environment:

Local Government Act (1995)

9.49A. Execution of documents

- (1) A document is duly executed by a local government if —
 - (a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or
 - (b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.
- (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.
- (3) The common seal of the local government is to be affixed to a document in the presence of —
 - (a) the mayor or president; and
 - (b) the CEO,each of whom is to sign the document to attest that the common seal was so affixed.
- (4) A local government may, by resolution, authorise the CEO, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.

Council has delegated authority, via delegation *1.38 Common Seal*, to authorise the CEO:

1. To affix the common seal to documents and execute formal documents that accord with a Council resolution.
2. The following wording must be used for Council motions in relation to affixing the Common Seal:

“That Council authorise the Shire President and the Chief Executive Officer to execute the relevant documentation and affix the common seal of the Shire of Brookton on this documentation.”

Relevant Plans and Policy: Nil.

Financial Implications:

There are no direct financial implications in regards to this matter. The costs arising from services purchased under the EEA will make up part of the approved project cost.

Risk Assessment:

Should the Council not support this item, it is almost certain that the Railway Station Refurbishment project will be delayed by safety issues arising from the active railway line. These delays could have major or extreme cost implications for the total project cost.

Consequence	Insignificant	Minor	Moderate	Major	Extreme
Likelihood					
Almost Certain	Medium	High	High	Severe	Severe
Likely	Low	Medium	High	High	Severe
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Low	Medium

Risk Rating	Action
LOW	Monitor for continuous improvement.
MEDIUM	Comply with risk reduction measures to keep risk as low as reasonably practical.
HIGH	Review risk reduction and take additional measures to ensure risk is as low as reasonably achievable.
SEVERE	Unacceptable. Risk reduction measures must be implemented before proceeding.

Community & Strategic Objectives:

The community support the Brookton Railway Station refurbishment project.

Comment: Nil

OFFICER'S RECOMMENDATION

That Council authorise the Shire President and the Chief Executive Officer to execute the Early Engagement Agreement included at Attachment 8.08.23.02A and affix the common seal of the Shire of Brookton on this Early Engagement Agreement.

(Simple majority vote required)

SCM 08.23-02

COUNCIL RESOLUTION

MOVED Cr Lilly

SECONDED Cr Hayden

That Council authorise the Shire President and the Chief Executive Officer to execute the Early Engagement Agreement included at Attachment 8.08.23.02A and affix the common seal of the Shire of Brookton on this Early Engagement Agreement.

CARRIED BY SIMPLE MAJORITY VOTE 6/0

***For: Cr Crute, Cr Walker, Cr Bell, Cr Hartl, Cr Hayden, Cr Lilly
Against: Nil***

Attachments

Attachment 8.08.23.02A - Early Engagement Agreement

EARLY ENGAGEMENT AGREEMENT

This Agreement is executed on

Between the parties

Arc Infrastructure Pty Ltd
ABN 42 094 721 301
of Level 3, 1 George Wiencke Drive, Perth Airport, WA 6105
(Arc)

and

Shire of Brookton
ABN 74 164 408 055
of 14 White Street, Brookton WA 6036
(User)

Background

- 1 Arc manages and is responsible for rail safety in respect of Corridor Land and Railway Infrastructure and is an accredited rail transport operator under the *Rail Safety National Law (WA) Act 2015*.
 - 2 The User is the proponent of, or has been engaged to provide services to the proponent of, a Third Party Project affecting Corridor Land and/or Railway Infrastructure managed and operated by Arc.
 - 3 At the User's request, Arc has agreed to provide the Services in connection with the Corridor Land and/or Railway Infrastructure on the terms and conditions set out in this Agreement.
 - 4 The User has agreed to pay Arc's costs of providing the Services on the terms set out in this Agreement.
-

The parties agree as follows:

Bravo Building
1 George Wiencke Drive
Perth Airport Western Australia 6105
GPO Box 51411 Perth WA 6845

T - +61 8 9212 2800
E - ask@arcinfra.com

Arc Infrastructure Pty Ltd
ABN 42 094 721 301

arcinfra.com

1 Definitions and Interpretation

1.1 Definitions

In this Agreement:

- (1) **Agreement** means this document, including any schedule or annexure to it.
- (2) **Arc Key Personnel** means the persons performing the roles and at the rates set out in Schedule 3.
- (3) **Arc Indemnified Parties** means:
 - (a) Arc and its officers, directors, employees, agents and contractors; and
 - (b) each Related Body Corporate of Arc and its officers, directors, employees, agents and contractors.
- (4) **Arc's Network Rules** means the *Brookfield Rail Network Safeworking Rules and Procedures* as revised from time to time.
- (5) **Business** means the business of Arc incorporating the management, operation and maintenance of rail assets and any other business in which Arc is engaged from time to time.
- (6) **Business Day** means a day on which banks are open for general banking business in Perth, Western Australia excluding a Saturday, Sunday or public holiday.
- (7) **Change in Law** means either changes in any existing, or introduction of any new, Law, changes to Arc's Network Rules or standards and procedures, or changes in any Australian Standard or applicable industry best practice, which come into effect after the date of execution of this Agreement.
- (8) **Commencement Date** means]the date on which the last of the parties to this Agreement signs this Agreement.
- (9) **Confidential Information** means, in respect of a party, the terms of this Agreement, all information provided by that party to the other under this Agreement and any information that concerns the business, operations, finances, plans or customers of that (or that party's Related Bodies Corporate) which is disclosed to, or otherwise acquired by, the other party and which:
 - (a) is by its nature confidential;
 - (b) is stated in this Agreement to be confidential;
 - (c) is designated by a party in writing as being confidential; or
 - (d) the receiving party knows or ought to know is confidential,
 but excludes information which:
 - (e) is in the public domain at the time of disclosure other than through the fault of the party receiving it or of anyone to whom the party receiving it has disclosed it;
 - (f) is in the possession of the receiving party without restriction in relation to disclosure on or before the date on which it is disclosed to or acquired by that party; or

- (g) has been independently developed or acquired by the receiving party.
- (10) **Consequential Loss** means any indirect or consequential loss, including any loss of or damage to any property (including the User's property), loss of contract, loss of profit, economic loss (except to the limited extent set out below in this definition), loss of use, loss of business reputation, loss of opportunities, loss of anticipated savings or wasted overheads, loss of production, loss of revenue, any port, shipping or demurrage costs or fees, or any special, indirect or consequential loss or damage (except to the limited extent set out below in this definition), howsoever arising and whether in an action in contract, tort (including negligence), in equity, product liability, under statute or any other basis but does not include:
- (a) in respect of any personal injury claim, special loss or economic loss as those terms are used in the context of personal injury claims;
 - (b) the User's liability to pay Arc any amount expressly provided for in this Agreement; or
 - (c) any loss, damage or cost arising out of or in connection with fraud or Wilful Default.
- (11) **Corporations Act** means the *Corporations Act 2001 (Cth)*.
- (12) **Corridor Land** means land designated as corridor land under Part 3 of the Rail Freight System Act 2000 (WA).
- (13) **Default Rate** means, at a relevant time, the cash rate target then prevailing and published by the Reserve Bank of Australia on its website (www.rba.gov.au) at that time plus 5% per annum.
- (14) **Document** includes any note, memorandum, record, report, financial information, summary, analysis, calculation, strategic assessment, market survey, business plan, computer program, computer record, circuit, circuit layout, drawing, specification, material, photocopy, scanned copy or any other means by which information may be stored or reproduced.
- (15) **GST** means any tax calculated by reference to the value of goods or services provided, calculated and levied at the point of sale or supply of the goods or services and includes GST as that term is used in the GST Act
- (16) **GST Act** means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and includes other GST related legislation.
- (17) **Insolvency Event** means the occurrence of any of the following events in relation to a party:
- (a) the party suspends payment of its debts generally, or is or becomes unable to pay its debts when they are due, or is or becomes unable to pay its debts within the meaning of the Corporations Act;
 - (b) the party enters into, or resolves to enter into, any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them, other than for purpose of a bona fide reconstruction or amalgamation;
 - (c) a receiver, receiver and manager, administrator, liquidator, trustee or similar official is appointed, or a resolution to appoint is passed, to a party or over any of the party's assets or undertakings;
 - (d) an application or order is made for the winding up or dissolution of the party (other than an application which is stayed, withdrawn or dismissed within 14 days), or a resolution is passed or any steps are taken to pass a resolution for

- the winding up or dissolution of the party, except for the purpose of an amalgamation or reconstruction;
- (e) the party is deregistered or any steps are taken to deregister the party, under the Corporations Act;
 - (f) the party ceases to carry on business; or
 - (g) anything analogous or having a substantially similar effect to any of the events described above happens in connection with that party.
- (18) **Intellectual Property Rights** means all current and future industrial and intellectual property rights and interests, including:
- (a) patents, utility models, trade marks, topographical rights, copyrights, eligible layout rights, designs and other like rights;
 - (b) inventions, discovery, trade secret, know-how, computer software and confidential information; and
 - (c) any business, scientific, technical and product information, including proprietary information relating to the development of new products,
- whether registered, registrable or unregistered, throughout the world and for the duration of the rights and interests.
- (19) **Law** means any:
- (a) Commonwealth, state and local government legislation, including regulations and by-laws;
 - (b) legislation of any other jurisdiction with which the relevant party must comply;
 - (c) law or legal requirement at common law or in equity;
 - (d) Government Agency requirements and consents, certificates, licences, permits and approvals (including conditions in respect of those consents, certificates, licences, permits and approvals); and
 - (e) decision, rule, ruling, binding order, interpretative decision, directive, guideline, request or requirement of any Government Agency or other authority with which the relevant party is legally required to comply.
- (20) **Liability** means:
- (a) any cost, expense, liability, claim, charge, loss, outgoing or payment of any kind, including legal fees and disbursements (on a full indemnity basis) and interest; and
 - (b) any diminution in value or deficiency of any kind or character that a party pays, suffers or incurs or is liable for,
- and, if the context permits also includes any claim or demand for the payment of money, whether liquidated or not.
- (21) **Network** means the railway network and associated infrastructure in Western Australia under the management or control of Arc or its Related Bodies Corporate and any other railway network and associated infrastructure owned and controlled by Arc.
- (22) **Railway Infrastructure** means all facilities in Corridor Land used in connection with the operation of a railway including:

- (a) railway track, ballast, sleepers, associated track structures, over or under track structures, supports (including supports for equipment or items associated with the use of a railway);
 - (b) tunnels, bridges, viaducts, culverts, pipes, conduits and drains;
 - (c) stations and platforms;
 - (d) train control systems, signalling systems and communication systems;
 - (e) electric traction infrastructure;
 - (f) buildings and workshops; and
 - (g) associated plant machinery and equipment.
- (23) **Related Body Corporate** has the meaning given to that expression in the Corporations Act.
- (24) **Services** means the services detailed in Schedule 2 and includes any Variation.
- (25) **Services Costs** means the actual costs of Arc undertaking the Services, which may include but are not limited to:
- (a) engineering, design, project management, rail safety liaison, legal and financial services, undertaken by or on behalf of Arc; and
 - (b) third party consultant costs.
- (26) **Termination Costs** means all Liabilities which are reasonably and actually incurred by Arc in connection with the termination of this Agreement, including the Liabilities incurred by Arc:
- (a) in the expectation of completing its obligations under this Agreement including the cost of any services or materials procured by Arc in relation to the Services and including any Liability which Arc is obliged to pay to third parties;
 - (b) in terminating the contracts between Arc and suppliers of those services or materials which are required to undertake the Services; and
 - (c) in terminating the contracts between Arc and any sub-contractor or consultant engaged to undertake a portion of the Services.
- (27) **Third Party Project** means the project identified in Schedule 1.
- (28) **Variation** means a written notice given by the User to Arc in accordance with clause 8 to vary the nature and extent of, or increase, decrease or omit any part of, the Services.
- (29) **Wilful Default** means any wilful, intentional, wanton or reckless act or omission carried out or omitted to be done with a reckless disregard for and knowledge of the consequences of the act or omission.

1.2 Interpretation

In this Agreement, headings are for convenience only and do not affect the interpretation of this Agreement and, unless the context otherwise requires:

- (1) words importing the singular include the plural and vice versa;
- (2) words importing a gender include any gender;

- (3) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (4) other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
- (5) a reference to a document includes all amendments or supplements to, or replacement or novation of, that document;
- (6) a reference to \$ is to Australian currency unless denominated otherwise;
- (7) if an act prescribed under this Agreement to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day;
- (8) a reference to time is a reference to Australian Western Standard Time;
- (9) where time is to be reckoned by reference to a day or event, that day or the day of the event will be excluded; and
- (10) specifying anything in this Agreement after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included unless there is express wording to the contrary.

2 Provision of Services

- (1) The User engages Arc to provide the Services specified in Schedule 2.
- (2) The fees chargeable by Arc for the provision of the Services will be calculated in accordance with the rates set out in Schedule 3.
- (3) Arc must use all reasonable endeavours to procure that the Services are performed with due care and skill, to a standard reasonably expected of a diligent railway infrastructure manager.
- (4) Subject to the remainder of this clause 2, and to clauses 4 and 13, Arc will procure and manage the performance of the Services.
- (5) Arc will not be liable to the User for any delay in the completion of the Services.
- (6) Arc will not make any material change to the scope of the Services without the prior written consent of the User.

3 Invoices and Payment

3.1 Payment

- (1) Arc will invoice the User on a monthly basis for the Services performed during that period or any preceding payment period.
- (2) The User must pay the amount specified (without deduction or set-off) in each invoice issued by Arc within 21 days of the date of that invoice.
- (3) Payment of all amounts by the User under this Agreement must be made:
 - (a) in immediately available funds and without deductions, counter claims, conditions, set off or withholdings;
 - (b) to Arc or any other person nominated by Arc; and

- (c) at the place and in the manner reasonably required by Arc.

3.2 Interest

- (1) The User must pay interest on any amounts due to Arc under this Agreement (including all amounts properly included in an invoice) which are not paid by the User when due.
- (2) Interest:
 - (a) will accrue daily at the rate per annum equal to the Default Rate;
 - (b) will be computed from and including the day when the money on which interest is payable becomes owing to Arc by the User until but excluding the day of payment of that money; and
 - (c) must be paid by the User to Arc on demand.

4 Agents and Contractors

- (1) Arc may appoint or engage any third party as its agent or contractor in relation to the exercise of any rights or the performance of any obligations under this Agreement (including the performance of any part of, or the whole of the Services).
- (2) The appointment of a third party as agent or contractor in accordance with clause 4(1) does not operate to relieve Arc of any of its obligations or liabilities under this Agreement and Arc is liable to the User as if the acts and omissions of any agent or contractor it appoints or engages were its own acts or omissions.

5 Suspension and Termination

5.1 Suspension

- (1) If the User fails to pay any invoice rendered in accordance with clause 3 by the due date, Arc may notify the User in writing that it will suspend the Services if payment of the amount specified in the invoice is not received within 3 days of the written notice (**Suspension Date**).
- (2) If the User fails to pay the relevant overdue funds by the Suspension Date, Arc may suspend the Services via written notice to the User.
- (3) Arc shall make all reasonable attempts to recommence the Services within 5 Business Days of receiving the relevant overdue funds from the User.

5.2 Termination by Arc for convenience

Notwithstanding any other provision of the Agreement, Arc may at any time, in its absolute discretion, terminate the Agreement in whole or in part by giving the User 30 days' written notice to that effect.

5.3 Termination by Arc for default

- (1) If the User fails to pay an amount specified in an invoice by the due date, Arc may, in addition to suspending the Services under clause 5.1, notify the User in writing (a "Warning Notice") that it will terminate this Agreement on a date no earlier than the date that is 20 Business Days from the date of the Warning Notice, provided that the Warning Notice specifies the amounts due and payable. If the amounts specified in a Warning Notice are not paid within such time, Arc may by further notice in writing to the User terminate this Agreement with immediate effect and issue an invoice to the

User for the amount of the total Termination Costs incurred by Arc and not yet paid by the User.

- (2) Without limiting any other rights of termination contained elsewhere in this Agreement or at Law, Arc may immediately terminate this Agreement by written notice to the User if:
 - (a) the User fails to comply with any of its material obligations under this Agreement and that failure is not remedied within 14 days of Arc giving notice to the User requiring that failure to be remedied; or
 - (b) an Insolvency Event occurs in respect of the User,
and the User will be liable for the Termination Costs.

5.4 Termination by User for convenience

The User may terminate this Agreement at any time, upon which termination Arc will issue a tax invoice to the User for the Termination Costs.

5.5 Effect of termination

Termination of this Agreement under no circumstances will abrogate, impair, release or extinguish any debt, obligation or liability of one party to the other which may have accrued under this Agreement, including any such debt, obligation or liability which was the cause of termination or arose out of such cause.

6 Goods and Services Tax

- (1) Except where the context suggests otherwise, terms used in this clause 6 have the meanings ascribed to those terms by the GST Act.
- (2) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 6.
- (3) Unless otherwise expressly stated, the Services Costs and all other amounts stated as due and payable under this Agreement are exclusive of GST. Any amounts that are specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purposes of this clause 6.
- (4) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.
- (5) Any payment or reimbursement required to be made under this Agreement that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.
- (6) If GST is payable on a supply made by a party (Supplier) under or in connection with this Agreement, the party providing consideration for that supply (Recipient) must pay an additional amount to the Supplier equal to the GST payable in relation to the supply.
- (7) Any additional amount referred to in clause 6(6) must be paid by the Recipient at the same time as any other consideration is to be first provided for that supply and the Supplier must promptly provide to the Recipient a tax invoice complying with the relevant Law relating to that GST.

- (8) Where this Agreement requires the Recipient to reimburse the Supplier for any loss, cost or expense, the Recipient must also at the same time pay and indemnify the Supplier against all GST incurred by the Supplier in respect of that loss, cost or expense to the extent the Supplier reasonably determines that it is not entitled to repayment or credit in respect of the GST.
- (9) If the GST payable on a supply made under or in connection with this Agreement (not taking into account any consideration that is inclusive of GST) varies from the additional amount paid by the Recipient under clause 6(6) in respect of that supply (as adjusted to take account of any previous payment made pursuant to this clause 6(9)) then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any amount payable under this clause 6(9) must be paid no later than 14 days after the Supplier provides an adjustment note to the other party.

7 Intellectual Property

- (1) Nothing in this Agreement affects the ownership of either party's pre-existing Intellectual Property Rights;
- (2) As between the User and Arc, Arc owns all Intellectual Property Rights created during or arising out of the performance of the Services.
- (3) All Documents provided or developed by Arc during the performance of the Services are the property of Arc.
- (4) Subject to the User having fully and finally paid all amounts payable by the User to Arc under this Agreement, Arc will grant, or procure the grant of, a non-transferrable, non-exclusive, revocable, royalty-free licence to the User to the extent necessary to enable the User to utilise the Services for the Project.

8 Variation to Services

- (1) The User may give notice in writing to Arc to vary the nature and extent of, or increase, decrease or omit any part of, the Services.
- (2) The form of notice must be substantially in form set out at Annexure A.
- (3) Variations will be priced in accordance with the applicable rates set out in Schedule 3.

9 Duty to Deliver Up Documents

The User, whenever requested by Arc in writing, will deliver up to Arc all Arc Documents, (including Confidential Information) which have been provided to the User by Arc and are in the possession or custody or under the control of the User relating in whole or in part to the affairs of Arc or its Business. Without in any way limiting the operation of the foregoing provisions of this clause, the User may retain one (1) record set of any documents brought into existence by the User for the purposes of this Agreement, subject always to confidentiality requirements of this Agreement.

10 User's Acknowledgements

In entering into this Agreement, the User acknowledges that:

- (1) nothing in this agreement provides the User access to the Network;
- (2) Arc will have no liability to the User for any Document provided as part of this Agreement;

- (3) the information contained in Documents provided to the User pursuant to this Agreement:
 - (a) is current as at the date it is provided;
 - (b) is subject to change;
 - (c) subject to any Change in Law, will only be valid for a period of two (2) years from the date it is provided to the User by Arc;
 - (d) to the extent prepared in reliance on information provided by third parties, is limited to the accuracy of that information and Arc is not liable for any errors, inaccuracies or defects resulting from any deficiency in the information provided to Arc; and
- (4) Arc reserves the right not to release any of its design documentation in relation to its Railway Infrastructure.

11 Use only for Third Party Project

The User warrants that it will not use the Services or any Arc Documents other than in connection with the Project.

12 Indemnities

12.1 Indemnity by User

- (1) Subject to the other provisions of this clause 12.1(1) and clause 13, the User must promptly on demand indemnify and keep indemnified each Arc Indemnified Party in respect of any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment that an Arc Indemnified Party pays, suffers, incurs or is liable for arising out of or as a consequence of:
 - (a) any breach or non-performance of this Agreement, any negligent act or omission, fraud or Wilful Default of the User, its officers, directors, employees, agents, contractors and sub-contractors; or
 - (b) any claim by a third party against Arc arising in connection with the User's performance of this Agreement or any Intellectual Property supplied by the User, whether or not the loss arises in connection with a breach of duty or other wrongful conduct by the User.
- (2) The indemnity in clause 12.1(1) shall be reduced proportionately to the extent that the loss or claim was caused by the acts or omissions of Arc or Arc's personnel, agents or representatives.

12.2 Indemnity by Arc

- (1) Subject to the other provisions of this clause 12.2(1) and clause 13, Arc must promptly on demand indemnify and keep indemnified the User in respect of any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment that the User pays, suffers, incurs or is liable for arising out of or as a consequence of:
 - (a) any breach or non-performance of this Agreement, any negligent act or omission, fraud or Wilful Default of Arc or, its officers, directors, employees, agents, contractors and sub-contractors; or
 - (b) any claim by a third party against the User arising in connection with Arc's performance of this Agreement or any Intellectual Property supplied by the Arc,

whether or not the loss arises in connection with a breach of duty or other wrongful conduct by Arc.

- (2) The indemnity in clause 12.2(1) shall be reduced proportionately to the extent that the loss or claim was caused by the acts or omissions of the User or the User's personnel, agents or representatives.

13 Limit of Liability

13.1 Arc not liable

The User acknowledges and agrees that, in providing the Services, Arc will not accept responsibility or liability for, and no right of action against Arc will exist in relation to the Services.

13.2 Arc's limit of liability

- (1) The User acknowledges and agrees that, to the extent permitted by Law and subject to clauses 12.2 and 13.2(2), the total liability of the Arc Indemnified Parties to the User for all claims in connection with this Agreement is limited in aggregate to an amount equal to the aggregate amount actually received by Arc in providing the Services over the term of this Agreement.
- (2) The limit of liability in clause 13.2(1) does not apply to a Claim made by the User against Arc:
 - (a) under any provision of any Law which expressly prohibits the limitation of liability for Liability arising from a breach of that Law; or
 - (b) in respect of Liability arising from the death of or personal injury to any person or any criminal acts, fraud or Wilful Default by Arc or its personnel.

13.3 Liability for Consequential Loss

Notwithstanding any other provisions to the contrary in this Agreement and to the extent permitted by Law, neither party is liable to the other party in any circumstances for any Consequential Loss.

14 Confidentiality

14.1 Confidentiality obligations

A party must:

- (1) hold any Confidential Information in strict confidence and not disclose, or cause or permit the disclosure of, any Confidential Information, except as permitted under this Agreement or with the prior written consent of the other party;
- (2) keep any Confidential Information secure and protected from loss and any use, disclosure, modification or access that is inconsistent with this Agreement; and
- (3) promptly notify the other party if it suspects, or becomes aware of, any loss or any unauthorised use, storage, copying or disclosure of any Confidential Information.

14.2 Use and disclosure of Confidential Information

A party must:

- (1) only access and use any Confidential Information for the performance of this Agreement and must not otherwise use any Confidential Information to the disadvantage of the other party;
- (2) only create, or cause or permit to be created, a Document that reproduces, is based on, utilises or relates to Confidential Information if that creation is solely for, and is necessary for, the performance of this Agreement;
- (3) to the extent permitted at Law, give the other party reasonable written notice of the full circumstances of any disclosure it is required to make pursuant to clause 14.2(4) and any Confidential Information that it proposes to disclose;
- (4) only disclose Confidential Information (including as contained in a Document created in accordance with clause 14.2(2)):
 - (a) to its Personnel solely for the performance of this Agreement and where such disclosure is necessary for the performance of this Agreement or to make or defend any claim under this Agreement;
 - (b) to the extent that the recipient is legally required to disclose by any applicable law or legally binding order of any court, government or semi-government authority, administrative or judicial body; or
 - (c) with the prior written consent of the discloser; and
- (5) use reasonable endeavours to ensure that the recipient of any Confidential Information is made aware that any Confidential Information must remain confidential at all times in accordance with this clause 14.2.

14.3 Acknowledgment of confidentiality

- (1) Each party acknowledges that the terms of this Agreement and all information provided by one party to the other under this Agreement are secret and must be treated as confidential. Any Confidential Information provided by a party to the other remains the property of the party providing it.
- (2) A party must not advertise or issue any information, publication, document or article (including corporate logos, photographs or film) for publication or media release or other publicity relating to the other party's Confidential Information without the prior written consent of the other party which consent shall not unreasonably be withheld

14.4 Survival

This clause 14 survives termination of this Agreement.

15 Exclusion of Warranties

- (1) To the extent permitted at Law, and except for the express terms and warranties set out in this Agreement or given in writing to the User by Arc directly, Arc gives no warranties and all other terms, conditions, warranties, stipulations or other statements whatsoever, whether express or implied, by Law, or otherwise howsoever, are expressly excluded.
- (2) Where any other statute implies any term or warranty into this Agreement, and that statute does not permit or makes void any provisions in a contract excluding or modifying that term or warranty (except in certain cases), that term or warranty will be deemed to be included in this Agreement, but Arc's liability to the User for breach of that term or warranty will be limited, so far as permitted by that statute, to either the minimum liability pursuant to that statute or where Arc has an option as to the means of satisfying that liability, the limit under the option selected by Arc in its discretion.

16 Resolution of Disputes

16.1 Procedure to settle disputes

- (1) If a bona fide dispute arises between the parties in connection with this Agreement (Dispute), a party claiming that a Dispute has arisen must give notice to the other party or parties to the Dispute specifying the Dispute and requiring its resolution in accordance with this clause 16 (Notice of Dispute).
- (2) Subject to clause 16.1(3) the procedure that the parties must strictly follow to settle a Dispute is as follows:
 - (a) first, negotiation of the Dispute in accordance with clause 16.2;
 - (b) second, mediation of the Dispute in accordance with clause 16.3; and
 - (c) third, litigation of the Dispute in accordance with clause 16.4
- (3) Nothing in this clause 16:
 - (a) prevents either party seeking urgent injunctive or declaratory relief from a court in connection with the Dispute without first having to attempt to negotiate and settle the Dispute in accordance with this clause 16; or
 - (b) requires a party to do anything which may have an adverse effect on, or compromise that party's position under, any policy of insurance effected by that party.
- (4) The parties' obligations under this Agreement will continue notwithstanding any Dispute between the parties or the submission of a Dispute to mediation or referral of a Dispute to arbitration under this clause 16.
- (5) This clause 16 continues in force even where this Agreement has been fully performed, terminated or rescinded or where the parties or any of them have been discharged from the obligation to further perform this Agreement for any reason.
- (6) This clause 16 applies even where this Agreement is otherwise void or voidable.

16.2 Negotiation

- (1) Senior representatives from each party must meet, within 14 days after the Notice of Dispute is given, and act in good faith to try and resolve the Dispute by joint discussions.
- (2) If the Dispute is not resolved within 21 days after the Notice of Dispute is given, the Dispute will be referred to the chief executive officers of the parties who must meet, within 35 days after the Notice of Dispute is given, and act in good faith to try and resolve the Dispute by joint discussions.

16.3 Mediation

- (1) If the Dispute is not resolved within 2 calendar months after the Notice of Dispute is given, the Dispute is by this clause referred to mediation.
- (2) The mediation must be conducted in Perth, Western Australia by a single mediator. The *Resolution Institute Arbitration Rules (2023)* apply to the mediation, except where they conflict with this clause 16.
- (3) If the parties have not agreed upon the mediator and the mediator's remuneration within 5 Business Days of the Dispute being referred to mediation:
 - (a) the mediator is the person appointed by; and

- (b) the remuneration of the mediator is the amount or rate determined by, the chair of the Resolution Institute (Principal Appointor) or the Principal Appointor's nominee, acting on the request of either party.
- (4) Unless the parties otherwise agree:
 - (a) each party may appoint a person, including a legally qualified person to represent it or assist it in the meditations;
 - (b) each party must bear its own costs relating to the preparation for and attendance at the mediation; and
 - (c) the costs of the mediator will be borne equally by the parties.

16.4 Litigation

If the Dispute is not resolved within 2 calendar months of the appointment of the mediator, either party may commence legal proceedings in respect of the Dispute in a Court of competent jurisdiction.

17 General

- (1) Clauses 1 (Definitions and Interpretation), 5 (Suspension and Termination), 7 (Intellectual Property), 9 (Duty to Deliver Up Documents), 12 (Indemnities), 13 (Limit of Liability), 14 (Confidentiality), 16 (Resolution of Disputes) and this clause 17 (General) survive expiry or termination of this Agreement and will continue in full force and effect.
- (2) The rights, powers and remedies provided in this Agreement are cumulative with and not exclusive of the rights powers or remedies provided by Law independently of this Agreement.
- (3) This Agreement is governed by the laws of Western Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of Western Australia.
- (4) Each party must pay its own costs (including legal costs) and expenses in connection with the negotiation, preparation, execution and delivery of this Agreement.
- (5) No party has relied on any statement by any other party not expressly included in this Agreement.
- (6) A provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or the inclusion of the provision in this Agreement.
- (7) This Agreement may not be varied except in writing signed by all parties.
- (8) No party is the partner, agent, employee or representative of the other party and no party has the power to incur any obligations on behalf of, or pledge the credit of, the other party.
- (9) If any provision of this Agreement is voidable, void, illegal, or unenforceable, or if this Agreement would, if a particular provision were not omitted be void, voidable, illegal or unenforceable, that provision must (without in any way affecting the validity, legality and enforceability of the remainder of this Agreement) be severed from this Agreement and this Agreement must be read and construed and take effect for all purposes as if that provision were not contained in this Agreement.
- (10) This Agreement may be signed in any number of separate counterparts, which taken together are deemed to comprise the one instrument.

- (11) Any Notice, demand, invoice or claim (Notice) to be given under this Agreement:
- (a) must be in legible writing and in English and must be addressed as follows, or as specified to the sender by a party by Notice:
 - (i) if to Arc:
 - Attention: Chief Executive Officer
 - Address: Level 3, 1 George Wiencke Drive, Perth Airport, Western Australia 6105
 - Email: thirdparty.projects@arcinfra.com
cc: legal@arcinfra.com
 - (ii) if to the User:
 - Attention: Chief Executive Officer
 - Address: 14 White Street Brookton WA 6303
 - Email: gary.sherry@brookton.wa.gov.au
 - (b) and may be given by:
 - (i) email, in which case the Notice is regarded as given by the sender and received by the addressee upon delivery, provided that no notice of rejection is received by the sender;
 - (ii) delivery in person, in which case the Notice is regarded as given by the sender and received by the addressee when delivered to the addressee;
 - (iii) post, in which case the Notice is regarded as given by the sender and received by the addressee 2 Business Days from the date of postage; or
 - (iv) a copy of the Notice may be sent by email, in which case the Notice is regarded as being given by the sender and received by the addressee when the email 'read receipt' is received by the sender, which 'read receipt' must be retained to evidence receipt of the email Notice,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time) it is regarded as received at 9.00 am on the following Business Day; and
 - (c) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee reasonably believes it to be genuine, correct and authorised by the sender.
- (12) This Agreement contains the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements and understandings between the parties in connection with it.

Executed as an agreement

Executed by
Arc Infrastructure Pty Ltd
ABN 42 094 721 301
in accordance with section 127 of the *Corporations Act 2001*

Signature of Director

Signature of Director/Company Secretary

Print Name

Print Name

Executed by
Shire of Brookton
ABN 98 924 720 841
by the Chief Executive Officer duly authorised by the Shire
pursuant to section 9.49A(4) of the *Local Government Act 1995*
for that purpose in the presence of:

Signature of Chief Executive Officer/ President

Witness Signature

Print Name

Print Name

Schedule 1 Agreement Specifics

Item 1 User Details

- (1) Name: Shire of Brookton
- (2) ABN: 74 164 408 055
- (3) Address: 14 White Street Brookton WA 6306

Item 2 Third Party Project

Brookton railway station building refurbishment works

Item 3 Commencement Date

The date on which the last party signs this Agreement

Item 4 Arc Representative

Stella Seo – Project Engineer – Arc Infrastructure Pty Ltd

Item 5 User Representative

Kevin D'Alton- Manager Projects – Shire of Brookton

Item 6 Time for payment of invoices

21 days from receipt of the relevant invoice

Schedule 2 Scope of work

1 Introduction

Shire of Brookton are performing refurbishment works on the railway station building, located on line 31 at approximately 105.38km. The works include replacing the roof tiles, repair of the platform area, access ramp and fencing.

The building is located outside the rail corridor however some works require the scaffolds to be constructed onto Arc's rail line therefore in-depth discussions around risk and safety are mandatory between the Shire and Arc to accomplish the job without any incidents to the rail operations and the public.



All the above works in relation to Arc Railway Infrastructure and Corridor Land are referred to as the Project Works.

2 Scope of Services

This Early Engagement Agreement is intended to facilitate the discussions on the design and project requirements as requested by the Shire only. The services anticipated to be provided by Arc in this agreement include the following:

2.1 Services

- a. In relation to the Project Works and, as required by the Shire or deemed necessary by Arc, Arc shall;
 - i. liaise with the Shire and its contractors;
 - ii. attend site visits;
 - iii. facilitate and/or attend internal Arc workshops and meetings;
 - iv. facilitate and/or attend external workshops and meetings;

- v. prepare, review, and negotiate agreements and other related documentation (where required by Arc, this will include input from advisory areas of the business such as legal, finance, commercial and health and safety);
 - vi. review design drawings and plans that has any potential to affect rail corridor including environmental provided by the Shire
 - vii. facilitate rail safety workshops; and
 - viii. provide such information in relation to existing Arc infrastructure, operations, and services that is not deemed by Arc as being commercially sensitive, confidential in nature or Arc does not own the intellectual property rights to.
- b. In relation to Arc Railway Infrastructure and Corridor Land, Arc will provide other services as may be required to progress the Project Works, which are either requested by the Shire or which Arc, at its discretion, deems necessary.

2.2 Sub-contracting of Services

Arc may at its discretion engage the services of a sub-contractor to fulfil any of the Services, which shall be at the Shire's cost, which may include, but are not limited to, external engineering consultants and legal advisors.

2.3 Limitation of Scope of Services

- a. For the avoidance of doubt the scope of services does not include Arc providing design services to the Shire or Arc providing physical construction activities.
- b. For the avoidance of doubt, Arc will only provide the Services set out in Schedule 2 – Part 2 – Scope of Services.

2.4 Program of Service

- a. Arc will aim to deliver the Services in a timely manner however a number of factors will determine the length of time taken, including but not limited to;
 - i. availability of Arc resources;
 - ii. complexity and volume of project documentation already under review/development by Arc; and
 - iii. competing third party projects.

Schedule 3 Schedule of Rates

Item 1 Schedule of Arc Key Personnel and Rates

Resource	Rate per hour
Management / Regional Leads / Principal Engineers / Legal	\$210
Project Lead / Supervisor	\$180
Engineer Specialist	\$145
Senior Technician / Senior IT Support / Senior HSE Partner	\$125
Technician / Trainer / Plant / Communications	\$105
Safety Advisor / Design Drafter / Inspector	\$155
Planner / Patroller / Corridor Officer / IT Support / Electrician	\$120
Signal Maintainer / Administration	\$100
External Facilitator – Rail Safety Workshop	At Cost

Item 2 Third party costs:

All third party costs will be charged at cost plus a 10% administration fee.

Item 3 Special Conditions

- (1) Hourly rates are valid to 31 December 2023, and subject to escalation from January 1 each year, commencing 1 January 2024, in accordance with the following formula:

$$R_n = R_o \times \left(1 + \left(\frac{CPI_n - CPI_o}{CPI_o} \right) \right)$$

where:

- R_n = the hourly rate to apply from 1 January of the applicable year.
- R_o = the hourly rate applying on 1 January of the year prior to the applicable year.
- CPI_n = the All Capitals Consumer Price Index (All Groups) for the quarter ending 30 September in the year prior to the applicable year.
- CPI_o = the All Capitals Consumer Price Index (All Groups) for the quarter ending 30 September in the year two years prior to the applicable year.

- (2) Hourly rates exclude GST.
- (3) Resources and any nominated personnel are subject to availability.

- (4) Travelling time is charged at the applicable hourly rate on a 'door to door' basis.
- (5) Out-of-pocket expenses will be charged at cost plus a 10% administration fee.

Annexure A Form of Variation

To:

Arc Infrastructure Pty Ltd
ABN 42 094 721 301
Level 3, 1 George Wiencke Drive
Perth Airport, Western Australia 6105
(Arc)

[User name]
[User ABN]
[User address]
(User)

[Project name] (Project)

The User gives this notice of Variation in accordance with clause 8 of the Early Engagement Agreement entered into between Arc and the User on [insert date of Agreement] in connection with the Project (Agreement).

The User requires Arc to vary the Services, as defined in the Agreement, as follows:

[insert variation]

In all other respects, the terms and conditions contained in the Agreement remain unchanged.

sign here ► _____
User Representative/Authorised Representative

print name _____

date signed _____

9.08.23 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

10.08.23 CONFIDENTIAL REPORTS

Nil

11.08.23 NEXT MEETING & CLOSURE

The next Ordinary meeting of the Council will be held on Thursday 21st September 2023 commencing at 6.00 pm.

There being no further business, the Shire President, Cr Crute, declared the meeting closed at 6:07pm.