



---

**FINANCIAL ASSISTANCE AGREEMENT – ROYALTIES FOR REGIONS  
PROJECT**

---

**THE DEPARTMENT OF REGIONAL DEVELOPMENT AND LANDS**

**AND**

**SHIRE OF SERPENTINE JARRAHDALE  
ABN: 98 924 720 841**

**COUNTRY LOCAL GOVERNMENT FUND 2011/2012**

**INDIVIDUAL ALLOCATION**

## TABLE OF CONTENTS

<b>OPERATIVE PART</b>		<b>5</b>
<b>1. DEFINITIONS AND INTERPRETATION</b>		<b>5</b>
1.1 Definitions		5
1.2 Interpretation		8
<b>2. SCOPE OF THIS AGREEMENT</b>		<b>9</b>
<b>3. OBLIGATIONS OF RECIPIENT</b>		<b>10</b>
3.1 Use of Funding		10
3.2 No Changes		10
3.3 No Endorsement		10
3.4 Acknowledgement of Department		11
3.5 Accounts, Acquittal and Reporting		11
3.6 General Undertakings of Recipient		12
3.7 Negation of Employment, Partnership and Agency		13
<b>4. EVALUATION OR AUDIT RIGHTS</b>		<b>13</b>
<b>5. CONTACT OFFICERS</b>		<b>13</b>
<b>6. REPAYMENT AND RETENTION OF THE FUNDING</b>		<b>13</b>
<b>7. LIMITATION OF LIABILITY</b>		<b>13</b>
<b>8. INSURANCE AND INDEMNITY</b>		<b>14</b>
<b>9. FREEDOM OF INFORMATION ACT 1992 AND FINANCIAL MANAGEMENT ACT 2006</b>		<b>14</b>
<b>10. NOTICES</b>		<b>15</b>
<b>11. DEFAULT AND TERMINATION</b>		<b>15</b>
<b>12. GOODS AND SERVICES TAX (GST)</b>		<b>16</b>

<b>13. WAIVER</b>	<b>16</b>
<b>14. ENTIRE AGREEMENT</b>	<b>16</b>
<b>15. ASSIGNMENT</b>	<b>16</b>
<b>16. VARIATION</b>	<b>17</b>
<b>17. RIGHTS AND REMEDIES</b>	<b>17</b>
<b>18. LOCAL PRODUCTS AND SERVICES</b>	<b>17</b>
<b>19. GOVERNING LAW</b>	<b>17</b>
<b>20. SCHEDULES</b>	<b>17</b>
<b>SCHEDULE 1 – CONTACT OFFICERS</b>	<b>18</b>
<b>1. Notice Addresses</b>	<b>18</b>
<b>2. Contact Officers</b>	<b>18</b>
<b>SCHEDULE 2 – FINANCIAL REPORT</b>	<b>19</b>
<b>SCHEDULE 3 – EVALUATION REPORT</b>	<b>20</b>
<b>SCHEDULE 4 – ROYALTIES FOR REGIONS PROJECT DETAILS</b>	<b>21</b>
<b>1. Purpose</b>	<b>21</b>
<b>2. Funding Amount(s)</b>	<b>21</b>
<b>3. Manner in which Funding is to be Paid</b>	<b>21</b>
<b>4. Detailed Description of Project</b>	<b>21</b>
<b>5. Term of Agreement</b>	<b>25</b>
<b>SCHEDULE 5 – PAYMENT OF THE FUNDING</b>	<b>26</b>
<b>EXECUTION OF THIS AGREEMENT</b>	<b>27</b>
<b>DECLARATION BY REGIONAL GROUP MEMBERS</b>	<b>ERROR! BOOKMARK NOT DEFINED.</b>

Note: Do not fill in the date. This Agreement is dated when the Department representative signs the execution page.

**THIS Agreement is made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.**

**BETWEEN:**

**State of Western Australia via the Department of Regional Development and Lands, acting through the Director General, of Level 11, 140 William Street, Perth WA 6000 (“Department”)**

and

**Shire of Serpentine Jarrahdale, 6 Paterson Street, Mundijong WA 6123 (“Recipient”)**

**BACKGROUND**

Funds for Royalties for Regions are invested through the *Royalties for Regions Act 2009*. The Recipient has applied to the Department for financial assistance to undertake the Project and the Department has agreed to provide Funding subject to the terms and conditions of this Agreement.

- (a) The Department and the Recipient each have responsibilities relating to the successful delivery of the Royalties for Regions Project(s) referred to in this Agreement.
- (b) The Department’s role in relationship to Royalties for Regions is to administer and coordinate the implementation of Royalties for Regions.
- (c) The Parties agree that there is a shared responsibility to ensure the delivery of nominated Royalties for Regions’ initiatives referred to in this Agreement, with the overall aim of:
  - Building capacity in regional communities
  - Retaining benefits in regional communities
  - Improving services to regional communities
  - Attaining sustainability
  - Expanding opportunity
  - Growing prosperity.

## OPERATIVE PART

Do not alter any Clauses contained in the Operative part of this Agreement (pages 5-17 inclusive)

**THE PARTIES AGREE as follows:**

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Agreement, unless repugnant to the context:

**Agreement** means this Financial Assistance Agreement, including its recitals and any schedules or annexures.

**Acquittal** occurs when the Department has advised the Recipient that the reports and financial information provided by the Recipient in accordance with clause 3.5 (c) are satisfactory.

**Approved Budget** means the budget approved by the Department and set out in Schedule 4.

**Auditor** means a person who is an approved auditor for the purposes of the Local Government Act 1995 or a Registered Company Auditor and who is independent of the Recipient.

**Auditor General** means the Auditor General for the State of Western Australia.

**Business Day** means a day, not being a Saturday, Sunday or public holiday, on which banks are open for general banking business in Western Australia.

**Commencement Date** means the execution date of this Agreement.

**Completion Date** means that date for completion of the Project as specified in, or ascertainable from, Schedule 4.

**Commonwealth** means Commonwealth of Australia.

**Department** means the Department of Regional Development and Lands or such other body or instrumentality that is charged with the administration of this Agreement from time to time on behalf of the State.

**Evaluation or Audit** includes to audit, examine, investigate, inspect, review or evaluate.

**Funding** means the amount specified in Schedule 4.

**Guidelines** means the Royalties for Regions Country Local Government Fund Guidelines as properly varied from time to time

**Insolvency Event** means the happening of any of these events:

- (a) an order is made, or an application is made to a court for an order, that a body corporate be wound up; or
- (b) except to reconstruct or amalgamate while solvent, a body corporate:
  - (i) is wound up or dissolved; or
  - (ii) resolves to wind itself up or otherwise dissolve itself, or gives notice of intention to do so; or
  - (iii) enters into, or resolves to enter into, any form of formal or informal arrangement for the benefit of all or any class of its creditors, including a scheme of arrangement, deed of company arrangement, compromise or composition with, or assignment for the benefit of, all or any class of its creditors; or
- (c) a liquidator or provisional liquidator is appointed (whether or not under an order), or an application is made to a court for an order, or a meeting is convened or a resolution is passed, to make such an appointment, in respect of a body corporate; or
- (d) a receiver, manager, receiver and manager, trustee, administrator, controller (as defined in section 9 of the Corporations Act 2001 (Cth)) or similar officer is appointed, or an application is made to a court for an order, or a meeting is convened or a resolution is passed, to make such an appointment, in respect of a body corporate; or
- (e) any step is taken to enforce security over, or a distress, attachment, execution or other similar process is levied, enforced or served out against, any asset or undertaking of a body corporate; or
- (f) the process of any court or authority is invoked against a body corporate, or any asset or undertaking of a body corporate, to enforce any judgment or order for the payment of money or the recovery of any property;
- (g) a body corporate:
  - (iv) takes any step to obtain protection, or is granted protection, from its creditors under any applicable legislation; or
  - (v) stops or suspends payment of all, or a class of, its debts; or

- (vi) is or is taken by any applicable legislation to be, or states that it is, or makes a statement from which it may be reasonably deduced that it is:
  - (vii) insolvent or unable to pay its debts when they fall due; or
  - (viii) the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act 2001 (Cth); or
  - (ix) is taken to have failed to comply with a statutory demand as a result of the operation of section 459F(1) of the Corporations Act 2001 (Cth); or
  - (x) ceases, or threatens to cease, to carry on all or a material part of its business; or
- (h) a person becomes an insolvent under administration as defined in section 9 of the Corporations Act 2001 (Cth) or action is taken which could result in that event;
  - (i) anything analogous or having a similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

**Milestones** means the milestones set out in Schedule 4.

**Obligation** means obligation under this Agreement.

**Party** means each of the Department or the Recipient as the context requires and **Parties** means both of them.

**Project** means the initiative or activities funded for the Purpose described in Schedule 4.

**Purpose** means the purpose of carrying out the Project.

**Regional Group** refers to the Local Government Authorities that have agreed to become members of a group specifically for the purpose of undertaking the Project as outlined in this Agreement.

**Registered Company Auditor** means a person who is, for the time being, registered as an auditor or taken to be registered as an auditor under Part 9.2 of the Corporations Act 2001 of the Commonwealth.

**Royalties for Regions** means the Royalties for Regions programs of the State Government, administered under the Royalties for Regions Act 2009.

**Schedule** means any schedule to, and forming part of, this Agreement.

**Special Conditions** means any conditions specified as such in Schedule 4.

**State** means the State of Western Australia.

**Term** means the currency of this Agreement.

## 1.2 Interpretation

In this Agreement unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include corporations;
- (d) references to a person include the legal personal representatives, successors and assigns of that person;
- (e) a reference to a statute, ordinance, code, or other law includes regulations, by-laws, rules and other statutory instruments under it for the time being in force and consolidations, amendments, re-enactments, or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);
- (f) references to this Agreement or any other instrument include this Agreement or other instrument as varied or replaced, and notwithstanding any change in the identity of the Parties;
- (g) references to writing include any mode of representing or reproducing words in tangible and permanently visible form, and include e-mail and facsimile transmission;
- (h) an Obligation incurred in favour of two or more persons is enforceable by them jointly and severally;
- (i) if a word or a phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (j) references to this Agreement include its recitals, schedules and annexures;
- (k) headings are inserted for ease of reference only and are to be ignored in construing this Agreement;
- (l) references to time are local time in Perth, Western Australia;
- (m) where time is to be reckoned from a day or event, that day or the day of that event is to be included;
- (n) references to currency are to Australian currency unless otherwise stated;



- (o) no rule of construction applies to the disadvantage of a Party on the basis that the Party put forward this Agreement or any part thereof;
- (p) a reference to any thing is a reference to the whole and each part of it, and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (q) when the day or last day for doing an act is not a Business Day, then the day or last day for doing the act will be the directly preceding Business Day;
- (r) if the word "including" or "includes" is used, the words, "without limitation" are taken to immediately follow; and
- (s) the phrases "described in", "set out" and "specified in" shall all read as if the words "expressly or impliedly" appeared immediately before them.

## **2. SCOPE OF THIS AGREEMENT**

- (a) The Recipient shall:
  - (i) use the Funding for the Purpose, and only for the Purpose;
  - (ii) carry out all aspects of the Project and acquit all aspects of the Purpose in a competent, diligent, satisfactory and professional manner, and to a high standard;
  - (iii) comply with all the conditions and obligations as outlined in the Guidelines;
  - (iv) provide appropriate Funding and other resources, including staff with the capacity to meet its Obligations;
  - (v) provide leverage with wider stakeholders to facilitate strong stakeholder ownership and involvement where required in the Project; and
  - (vi) seek to facilitate additional financial investment in the Project.
- (b) The Department shall:
  - (i) pay to the Recipient the Funding in the manner set out in Schedule 4 and Schedule 5;
  - (ii) indemnify and keep indemnified the Recipient for any liability for GST and any related penalty or interest charge that may arise from a statement of GST payable on the supply for which the Department issues a recipient-created tax invoice under this Agreement; and

- (iii) provide to the Recipient reporting templates to fulfil clause 3.5 and the reporting requirements outlined in Schedule 2 and Schedule 3.
- (c) Regarding the Project, the Recipient must:
- (i) notify the Department of legal proceedings, arbitration or administrative proceedings or debt recovery actions pending or threatened against the funding agent as soon as practicable after the institution of those proceedings or that debt recovery action;
  - (ii) notify the Department immediately if the Recipient is in breach of any law or act, receives an audit qualification or is under scrutiny through an inquiry or decree or any consent, registration, approval, licence or permit or agreement, order or award binding on the Recipient;
  - (iii) keep and maintain accurate, complete, up-to-date, properly detailed written records of income, expenditure, work, activities, progress, setbacks, problems and business and commercial arrangements and dealings in relation to either or both of this Agreement and the Project, and promptly provide the Department with information or documentation (relating in any way to the Project or this Agreement) requested by the Department. The Recipient will ensure that all such information or documentation (as the case may be) is accurate, complete, up-to-date, properly detailed and not in any way misleading or deceptive;
  - (iv) establish a separate account or cost centre within its financial system solely for the Funding.

### **3. OBLIGATIONS OF RECIPIENT**

#### **3.1 Use of Funding**

The Recipient will use the Funding for the carrying out of the Project in accordance with this Agreement and the Approved Budget and expend such funds by the Completion Date. All such expenditure must be effected in a commercially prudent, sensible and reasonable manner. Furthermore, the Recipient shall properly comply with and deliver all Milestones in accordance with Schedule 4.

#### **3.2 No Changes**

The Recipient will not make any changes to the Project or any agreed budget (including the Approved Budget) without the prior written consent of the Department, which consent may be withheld at the Department's discretion.

#### **3.3 No Endorsement**

The Recipient agrees that nothing in this Agreement constitutes an endorsement by the Department of any goods or services provided by the Recipient.

### 3.4 Acknowledgement of Department

- (a) Any Royalties for Regions communication activity including presentations, publications, signage, articles, newsletters, or other literary works relating to the Project shall:
  - (i) give equal representation to the Parties in the display of Royalties for Regions' logos, the Recipient's logos and party names where agreed and as deemed appropriate; and
  - (ii) be consistent with the Department's Marketing, Communications and Acknowledgements Policy.
- (b) The respective roles of the Parties must be acknowledged at relevant fora, conferences, and project launches where the Project is promoted.
- (c) The Parties shall:
  - (i) work cooperatively at the senior management and officer levels;
  - (ii) maintain open communication, both formal and informal, to progress the objectives of this Agreement;
  - (iii) share information and knowledge as practicable; and
  - (iv) advise any shared stakeholders about arrangements between the Parties.
- (d) The Parties shall coordinate joint communications when dealing with the media and shared stakeholders in relation to the Project referred to in this Agreement on issues of significance or mutual concern, including circulating draft media statements, advertising proposals and advertisements between the Parties for comment prior to publication.
- (e) The Recipient shall coordinate joint communications with the Department prior to the release of any media statement, advertising proposal and advertisement by the Recipient in relation to the Project.

### 3.5 Accounts, Acquittal and Reporting

- (a) The Recipient is to provide to the Department progress reports on a quarterly basis (as at 30 September, 31 December, 31 March and 30 June), or as determined from time to time by the Department, until the completion of the Project, which shall include:
  - (i) a financial report (certified by the Chief Financial Officer or Accountable Officer of the Recipient), as detailed in Schedule 2; and
  - (ii) an evaluation report as per Schedule 3, showing how and to what extent the Funding was spent and the extent to which the Milestones and outcomes were achieved.

Note – quarterly reports are to be submitted within one (1) month after the end of each quarter.

- (b) The Recipient will provide to the Department an annual report on the Project based on a financial year ending 30 June which shall include:
- (i) a financial report (certified by the Chief Financial Officer or Accountable Officer of the Recipient and audited by an Auditor), outlining income and expenditure in respect to the Project, as detailed in Schedule 2; and
  - (ii) an evaluation report as per Schedule 3 showing how and to what extent the Funding was spent and the extent to which the Milestones and outcomes were achieved.

Note – the annual report on the Project is to be submitted within three (3) months after the end of the financial year.

- (c) The Recipient is to provide to the Department a report (the Acquittal) at the completion of the Project or the conclusion of this Agreement (whichever occurs first), which shall include:
- (i) a financial report (certified by the Chief Financial Officer or Accountable Officer of the Recipient and audited by an Auditor) certifying that the Funding was used for the Project, such certification to address the issues itemised in Schedule 2; and
  - (ii) an evaluation report as per Schedule 3, showing how and to what extent the Funding was spent and the extent to which the Milestones were achieved.

Note – The Acquittal is to be submitted within three (3) months after the completion of the Project.

- (d) The Department shall provide reporting templates to assist the Recipient with its reporting Obligations set out in clause 3.5.

### **3.6 General Undertakings of the Recipient**

The Recipient must:

- (a) at all times duly perform and observe its Obligations and will promptly inform the Department of any occurrence that might adversely affect its ability to do so in a material way;
- (b) undertake its Obligations with integrity, good faith and probity in accordance with good corporate governance practices;
- (c) not, nor attempt to, sell, transfer, assign, mortgage, charge or otherwise dispose of or deal with any of its rights, entitlements and powers or obligations under this Agreement;
- (d) comply with all State and Commonwealth laws; and
- (e) cooperate fully with the Department in the administration of this Agreement.

### **3.7 Negation of Employment, Partnership and Agency**

- (a) The Recipient must not represent itself, and must ensure that its employees, contractors, sub-contractors or agents do not represent themselves, as being an employee, partner or agent of the State or the Department or as otherwise able to bind or represent the State or Department.
- (b) The Recipient will not by virtue of this Agreement be, or for any purpose be deemed to be, an employee, partner, or agent of the State or the Department, or have any power or authority to bind or represent the State or Department.

### **4. EVALUATION OR AUDIT RIGHTS**

- (a) The Department may arrange for an Evaluation or Audit to be carried out in respect of the Project. If the Department arranges for an Evaluation or Audit:
  - (i) the Department must notify the Recipient that the Department has arranged or will arrange for an Evaluation or Audit to be carried out; and
  - (ii) the Recipient must allow all persons appointed by the Department to carry out the Evaluation or Audit to have full access to the records and premises in the control or possession of the Recipient for the purpose of carrying out the Evaluation or Audit.
- (b) Clause 4 survives the end of this Agreement by five (5) years.

### **5. CONTACT OFFICERS**

- (a) The Parties agree to appoint Contact Officers. The Contact Officer for each Party is authorised to act for that Party in relation to this Agreement and is the first point of contact for the other Party in relation to any disputes arising under the Agreement.
- (b) The details of each Party's Contact Officer are set out in Schedule 1.
- (c) If a Party changes its Contact Officer that Party will notify the other Party in writing of the new contact details within five (5) Business Days after the change.

### **6. REPAYMENT AND RETENTION OF THE FUNDING**

At the completion of the Project or the conclusion of this Agreement (whichever occurs first) the Recipient must remit to the Department within twenty (20) Business Days any Funding that the Department has paid and that has not been used or committed in accordance with this Agreement.

### **7. LIMITATION OF LIABILITY**

The Department shall have no responsibility or liability for the success or otherwise of the Project and is not liable for any losses suffered by the

Recipient in undertaking the Project. If the Funding is insufficient for the Recipient to properly meet all of its Obligations, then the Recipient is solely responsible for funding any shortfall.

## **8. INSURANCE AND INDEMNITY**

- (a) The Recipient shall effect and maintain throughout the Term adequate insurance, with a reputable insurer, to provide cover for the Project undertaken by the Recipient, including Public Liability and Workers' Compensation insurances and property insurance covering loss of or damage to any equipment that the Recipient provides for use on the Project, for its full replacement value.

If and when requested by the Department, the Recipient must provide either or both of the following:

- (i) A written statement of the applicable insurance cover held by the Recipient; and
  - (ii) A copy of any policy of insurance, a Certificate of Currency, and receipts for premiums in connection with any policy of insurance.
- (b) The Recipient hereby indemnifies and shall keep indemnified the State and the Department and to hold them and their respective officers, employees and agents harmless from and against all reasonably foreseeable damages, losses, liabilities, cost and expenses (including legal fees) claimed, suffered or incurred by the State or the Department or any of their respective officers, employees and agents whether before or after the date of this Agreement to the extent caused by any:
- (i) breach of any Obligation by the Recipient;
  - (ii) act or omission of the Recipient or its employees, contractors, officers or agents; or
  - (iii) breach of a State or Commonwealth law by the Recipient or any of its employees, contractors, officers or agents.
- (c) This indemnity shall survive expiration or termination of this Agreement.

## **9. FREEDOM OF INFORMATION ACT 1992 AND FINANCIAL MANAGEMENT ACT 2006**

- (a) This Agreement and information regarding it is subject to the Freedom of Information Act 1992. The Department may publicly disclose information in relation to this Agreement, including its terms and the details of the Recipient.
- (b) Despite any express or implied provision of this Agreement to the contrary, the powers and responsibilities of the Auditor General under the Financial Management Act 2006 and the Auditor General Act 2006 are not limited or affected by this Agreement. The Recipient must allow the Auditor General, or an authorised representative, to have access to

and examine the Recipient's records and information concerning this Agreement.

## **10. NOTICES**

Any notice or other communication that may or must be given under this Agreement:

- (a) must be in writing;
- (b) may be given by an authorised officer of the Party giving notice;
- (c) must be:
  - (i) hand-delivered or sent by prepaid post to the address of the Party receiving the notice as set out in item 1 of Schedule 1; or
  - (ii) sent by facsimile to the facsimile number of the Party receiving the notice as set out in item 1 of Schedule 1;
- (d) subject to paragraph (e), is taken to be received:
  - (i) in the case of hand delivery, on the date of delivery;
  - (ii) in the case of post, on the third Business Day after posting; and
  - (iii) in the case of facsimile, on the date of transmission; and
- (e) if received after 5.00 pm or on a day other than a Business Day, is taken to be received on the next Business Day.

## **11. DEFAULT AND TERMINATION**

### **11.1 Event of Default by the Recipient**

An Event of Default occurs if:

- (a) the Recipient breaches any Obligation which (if remediable) continues without remedy for five (5) Business Days after notice in writing has been served on the Recipient by the Department;
- (b) the Recipient breaches this Agreement and such breach cannot be remedied;
- (c) the Recipient suffers or is or becomes subject to an Insolvency Event;
- (d) the Department has reasonable grounds to believe that the Recipient is unwilling or unable to comply with its Obligations;
- (e) any aspect of this Agreement is or is held to be void, unenforceable, or invalid for whatever reason; or
- (f) the Recipient persistently, regularly, consistently or continually breaches this Agreement.

### **11.2 Effect of Event of Default**

- (a) If an Event of Default occurs, the Department may terminate the Agreement by providing further notice in writing to the Recipient.

- (b) Whilst a Party is in breach of this Agreement, the other Party may suspend the performance of its Obligations.

## **12. GOODS AND SERVICES TAX (GST)**

- (a) For the purposes of clause 12 and Schedule 5:
  - (i) “GST” means the goods and services tax applicable to any taxable supplies as determined by the GST Act;
  - (ii) “GST Act” means A New Tax System (Goods and Services Tax) Act 1999 (Cth) and includes all associated legislation and regulations; and
  - (iii) the terms “supply”, “tax invoice”, “taxable supply” and “value” have the same meanings as in the GST Act.
- (b) If the supply of anything under this Agreement is a taxable supply under the GST Act, the Funding shall be inclusive of GST.
- (c) The Obligation of the Department to pay the GST on any supply by the Recipient under this Agreement is conditional upon the prior issue by the Recipient to the Department of a tax invoice that complies with the GST Act. This provision applies notwithstanding any law to the contrary.

## **13. WAIVER**

- (a) No right under this Agreement shall be deemed to be waived except by notice in writing signed by both Parties.
- (b) A waiver by either Party will not prejudice that Party’s rights in relation to any further breach of this Agreement by the other Party.
- (c) Any failure to enforce this Agreement, or any forbearance, delay or indulgence granted by one Party to the other Party, will not be construed as a waiver of any rights.

## **14. ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement between the Parties and supersedes all communications, negotiations, arrangements and agreements between the Parties with respect to the subject matter of this Agreement.

## **15. ASSIGNMENT**

- (a) This Agreement is personal to the Recipient and may not be assigned by the Recipient without the Department’s consent, which may be withheld at the Department’s discretion. The Department may assign its rights and Obligations under this Agreement as it sees fit.
- (b) For the purposes of this clause 15, the Recipient shall be deemed to have assigned this Agreement if any act, matter or thing is done or occurs, the effect of which is, in the opinion of the Department, to transfer, directly or indirectly, the management or control of the Recipient.



**16. VARIATION**

Any modification, amendment or other variation to this Agreement must be made in writing, duly executed by both Parties.

**17. RIGHTS AND REMEDIES**

The rights, powers and remedies in this Agreement are in addition to, and not exclusive of, the rights, powers and remedies existing at law or in equity.

**18. LOCAL PRODUCTS AND SERVICES**

The Recipient agrees to comply with the Western Australian Government's Buy Local policy when purchasing goods and services for the Project.

**19. GOVERNING LAW**

This Agreement is governed by the laws of Western Australia. Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of Western Australia.

**20. SCHEDULES**

- (a) Any express or implied provision of any schedule hereto is hereby deemed to be a provision of this Agreement and therefore must be complied with (by the relevant Party) in accordance with its terms.
- (b) In clause 20(a), "provision" includes term, condition, warranty, stipulation, right, obligation, representation and the like.
- (c) Without limiting the preceding provisions of this clause 20, the Recipient agrees to comply with the Special Conditions, if any.

**SCHEDULE 1 – CONTACT OFFICERS****1. Notice Addresses****1.1 Department**

Registered Mail:	PO Box 1143 WEST PERTH WA 6872
Facsimile:	(08) 6552 4417

**1.2 Recipient**

Registered Mail:	6 PATERSON STREET MUNDIJONG WA 6123
Facsimile:	(08) 9525 5445

**2. Contact Officers****2.1 Department**

<b>Name:</b>	
<b>Job Title:</b>	
<b>Phone:</b>	
<b>Facsimile:</b>	
<b>Email:</b>	
<b>Postal Address:</b>	
<b>Street Address:</b>	
<b>Supervisor:</b>	

**2.2 Recipient**

<b>Name:</b>	Alan Hart
<b>Job Title:</b>	Director Corporate Services
<b>Phone:</b>	(08) 9526 1111
<b>Facsimile:</b>	(08) 9525 5445
<b>Email:</b>	<a href="mailto:ahart@sjshire.wa.gov.au">ahart@sjshire.wa.gov.au</a>
<b>Postal Address:</b>	6 Paterson Street, MUNDIJONG WA 6123
<b>Street Address:</b>	6 Paterson Street, MUNDIJONG WA 6123
<b>Supervisor:</b>	Joanne Abbiss, Chief Executive Officer

**2.3 Recipient financial contact**

<b>Name:</b>	Casey Mihovilovich
<b>Job Title:</b>	Executive Manager Financial Services
<b>Phone:</b>	(08) 9526 1102
<b>Email:</b>	<a href="mailto:cmihovilovich@sjshire.wa.gov.au">cmihovilovich@sjshire.wa.gov.au</a>

**SCHEDULE 2 – FINANCIAL REPORT**

*The Department will provide relevant reporting templates to assist the Recipient in completing its reporting Obligations under this schedule as per Clause 3.5 of the Agreement.*

*The information listed below, is indicative of the information requested by the Department and may be properly varied from time to time.*

1. Total approved Royalties for Regions Budget for the current financial year.
2. Balance brought forward from previous reporting period.
3. Royalties for Regions payments received from the Department to date.
4. Total committed in the current period from Royalties for Regions funds received.
5. Actual expenditure to date.
6. Initial estimated cost of the Project.
7. Amount of funding leveraged from other sources.
8. Forecast cost to complete the Project.
9. Use of funds: Infrastructure/Services/Administration

### **SCHEDULE 3 – EVALUATION REPORT**

*The Department will provide relevant reporting templates to assist the Recipient in completing its reporting Obligations under this schedule as per Clause 3.5 of the Agreement.*

*The information listed below, is indicative of the information requested by the Department and may be properly varied from time to time.*

1. Project outputs/outcomes (Key Performance Indicators).
2. Linkage to Royalties for Regions' outcomes.
3. Project indicators.
4. Milestones/achievements target for the reporting period.
5. Milestones/actual achievements for the reporting period.
6. Explanation of variances between target and actual achievements, including impediments encountered, action taken to overcome these and potential future impediments if any.
7. Funding allocation by project category.
8. What precisely the Funding received has been spent on.

## SCHEDULE 4 – ROYALTIES FOR REGIONS PROJECT DETAILS

### 1. Purpose

The Funding is provided for reasonable direct wages, contracts and capital works designated as Country Local Government Fund projects in the 2011/2012 financial year component of the Forward Capital Works Plan submitted by the Recipient and approved by the Department. This Project involves activities and capital works as detailed in Clause 4 of this schedule.

### 2. Funding Amount(s)

\$753,918 will be provided for the Purpose noted in Clause 1 above.

The payment of the Funding will be subject to assessment of Project expenditure by the Department for consistency with the Guidelines.

### 3. Manner in which Funding is to be Paid

After this Agreement has been executed by both Parties, the Department will authorise the payment of the full amount of Funding of \$753,918 to the Recipient in the manner described in Schedule 5.

### 4. Detailed Description of Project

#### 4.1. Project/s Description

Projects	Objectives of the Project
Briggs Park Storage Facilities	Sporting groups are regularly seeking storage for their equipment, and this should be provided as part of the sports ground development.
SJ Civic Centre (Stage 1)	Conversion of Mundijong Hall into Civic Centre. Construction of Civic Centre complex. Stage 1 consists of construction of meeting rooms for the public to use.
Mundijong Pavilion Roof Replacement	Replace existing roof.
Byford Central Oval Ablution/Storage Facility (Stage 2)	Construction of a new toilet block and storage facility in order for the community and sporting groups can utilise the oval to its full capacity. Stage 2 is to build the storage

	room.
Clem Kentish Playground	The playground unit installed adjacent to the public toilets is designed for primary children but is largely used as a hang out space by adolescents using the hall and participating in PCYC programs. The playground equipment needs to be updated for younger children and additional all ages equipment should be installed in the same location for the youth who attend the area.

#### 4.2. Project Objective

Project	Outcomes and Outputs	Performance Measures
Briggs Park Storage Facilities	Storage Facility to provide sporting clubs with sufficient storage space. It links with the strategic objective in the vision category of People & Community (Places) - Plan and facilitate the provision of a range of facilities and services that meet community needs.	Completed in accordance with Building Code of Australia and Public Building Regulations  Completed within budget  Satisfaction of sporting clubs
SJ Civic Centre (Stage 1)	Construction of Civic Centre complex. It links with the strategic objective in the vision category Built Environment (Land Use Planning) - Plan for the creation and preservation of iconic buildings and places that add to our sense of identity.	Completed in accordance with Building Code of Australia and Public Building Regulations  Completed within budget  Number of bookings from community groups

Mundijong Pavilion Roof Replacement	Replace existing roof to Pavilion. It links with the strategic objective in the vision category People & Community (Places) - Plan and facilitate the provision of a range of facilities and services that meet community needs.	Completed in accordance with Building Code of Australia and Public Building Regulations  Completed within budget  Maintenance requests reduced as a result of replacement
Byford Central Oval Ablution/Storage Facility (Stage 2)	Revitalisation would allow it to be put to a variety of uses for community groups and other services for the community. It links with the strategic objective in the vision category People & Community (Places) - Plan and facilitate the provision of a range of facilities and services that meet community needs.	Completed in accordance with Building Code of Australia and Public Building Regulations  Completed within budget  Number of bookings from sporting and other community groups  Survey to demonstrate community needs being met and group numbers have increased
Clem Kentish Playground	Installation of a playground unit for primary children. It links with the strategic objective in the vision category People & Community (Wellbeing) - Enable the provision of a range of facilities and services for families and children	Completed in accordance with Building Code of Australia and Public Building Regulations  Completed within budget

#### 4.3. Project Timeframe

The Recipient agrees to commence the Project within six months after the date this Agreement is entered into and to complete the Project in accordance with the milestone dates noted in the table below, unless otherwise agreed to in writing by the Department.

<b>Project</b>	<b>Main Activities / Milestones</b>	<b>Milestone Date</b>
Briggs Park Storage Facilities	Design & consultation	<b>30 June 2012</b>
	Commence construction	<b>31 August 2012</b>
	Practical completion	<b>28 February 2013</b>
	Integration (including acquittal)	<b>31 March 2013</b>
SJ Civic Centre (Stage 1)	Design & consultation	<b>28 February 2012</b>
	Commence construction	<b>30 April 2012</b>
	Practical completion	<b>31 August 2012</b>
	Integration (including acquittal)	<b>30 September 2012</b>
Mundijong Pavilion Roof Replacement	Design & consultation	<b>31 January 2012</b>
	Commence construction	<b>28 February 2012</b>
	Practical completion	<b>30 April 2012</b>
	Integration (including acquittal)	<b>31 May 2012</b>
Clem Kentish Playground	Design & consultation	<b>31 May 2012</b>
	Commence construction	<b>30 September 2012</b>
	Practical completion	<b>31 December 2012</b>
	Integration (including acquittal)	<b>31 January 2013</b>
Byford Central Oval Ablution/Storage Facility (Stage 2)	Design & consultation	<b>28 February 2012</b>
	Commence construction	<b>15 May 2012</b>
	Practical completion	<b>15 September 2012</b>
	Integration (including acquittal)	<b>15 October 2012</b>

#### 4.4. Project Budget

<b>Item of Expenditure</b>	<b>Item Cost (\$)</b>	<b>Source of Funds (Specify CLGF funds both Regional Group and individual, Recipient, name of other sources and the amount of funding from each source)</b>
Briggs Park Storage Facilities	<b>\$360,000</b>	<b>\$120,000 Individual CLGF \$120,000 CSRFF State Govt \$120,000 Shire</b>

Royalties for Regions - Country Local Government Fund – Individual Financial Assistance Agreement - (Shire of Serpentine Jarrahdale)



<b>Item of Expenditure</b>	<b>Item Cost (\$)</b>	<b>Source of Funds (Specify CLGF funds both Regional Group and individual, Recipient, name of other sources and the amount of funding from each source)</b>
SJ Civic Centre	<b>\$350,000</b>	<b>\$350,000 Individual CLGF</b>
Mundijong Pavilion Roof Replacement	<b>\$93,918</b>	<b>\$93,918 Individual CLGF</b>
Byford Central Oval Ablution/Storage (Stage 2) Facility	<b>\$110,000</b>	<b>\$110,000 Individual CLGF</b>
Clem Kentish Playground	<b>\$80,000</b>	<b>\$80,000 Individual CLGF</b>
<b>Total CLGF Funding <u>under this Agreement</u></b>	<b>\$753,918</b>	
<b>Total Recipient Funding</b>		
<b>Total Other Funding</b>	<b>\$240,000</b>	
<b>Total Cost</b>	<b>\$993,918</b>	

## **5. Term of Agreement**

The Term of this Agreement commences on the execution date of this Agreement and ends 24 months after the execution date. The previous sentence is subject to those provisions of this Agreement that expressly or impliedly survive the expiration of this Agreement.

## **6. Special Conditions**

**SCHEDULE 5 – PAYMENT OF THE FUNDING**

Funding will be made available as a conditional grant specifically for the delivery of the Project outlined in Schedule 4. The Recipient will forward an invoice to the Department for the amount of the Funding outlined in Schedule 4. The payment will be processed by the Department and the payment cheque to the Recipient will then be electronic funds transferred to:

<b>Account name:</b>	Shire of Serpentine Jarrahdale
<b>BSB:</b>	016-253
<b>Account number:</b>	424651229

The Department through its internal process may raise a recipient-created invoice for the Funding amount identified in Schedule 4. The terms of the invoice are governed by the following:

- (a) The Recipient warrants that it has an Australian Business Number and is registered for GST.
- (b) The Recipient will immediately notify the Department in writing of any change to the Recipient's registration.
- (c) The Department warrants that it is registered for GST.
- (d) The Department will immediately notify the Recipient in writing of any change to the Department's Registration.
- (e) If any supply is made by the Recipient after the date of this Agreement in connection with the Funding, the Department may issue a recipient-created tax invoice in respect of the supply and the Recipient will not issue a tax invoice in respect of that supply.
- (f) The Recipient and the Department may agree that the provisions of the agreement to use recipient-created tax invoices will not apply in respect of a particular supply, in which case the Recipient will issue a tax invoice in respect of that supply.
- (g) The Department or the Recipient may terminate agreement to use recipient-created tax invoices at any time by giving written notice to the other Party.
- (h) In this Agreement the terms "supply", "registered", "tax invoice", "recipient-created tax invoice" and "GST" have the same meaning as in the GST Act and "GST Act" means the A New Tax System (Goods and Services Tax) Act 1999.

**EXECUTION OF THIS AGREEMENT**

**EXECUTED** by the Parties as an Agreement.

**SIGNED** for and on behalf of the **STATE** )  
**OF WESTERN AUSTRALIA** by Linda )  
Leonard, Manager Reporting and )  
Evaluation of the **DEPARTMENT OF** )  
**REGIONAL DEVELOPMENT AND** )  
**LANDS** in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Full name and position of witness

Signed for and on behalf of Shire of Serpentine Jarrahdale

The Common Seal of the Recipient was hereunto affixed by authority of the Council in the presence of:

\_\_\_\_\_  
Signature

Shire President

\_\_\_\_\_  
Print full name of Authorised Person

\_\_\_\_\_  
Signature

Chief Executive Officer

\_\_\_\_\_  
Print full name of Authorised Person