

OFFICIAL: Sensitive



Government  
of South Australia

Department for Infrastructure  
and Transport

In reply please quote #21478625

Enquiries to Ty Edwards – ty.edwards@sa.gov.au

Mr Michael Sedgman  
Acting Chief Executive Officer  
City of Adelaide  
GPO Box 2252  
Adelaide SA, 5001

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**TRANSPORT  
STRATEGY AND  
NETWORK  
PLANNING**

Level 7 83 Pirie Street  
Adelaide SA 5000  
Karna Country

GPO Box 1533  
Adelaide SA 5001  
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ABN 92 366 288 135

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**Build. Move.  
Connect.**

Dear Mr Sedgman

**2024-2025 AUSTRALIAN GOVERNMENT BLACK SPOT PROGRAM**

On 26 July 2024, the Australian Government announced the South Australian projects approved for funding under the 2024-2025 Australian Government Black Spot Program.

I am pleased to advise that the following projects were approved funding under this program:

- Hutt Street and South Terrace Intersection Improvements, Adelaide
  - Signal modification to control right turns.
  - Approved funding: \$ 148,500 (GST inclusive).
  - Completion by the end of June 2025.
- O'Connell Street and Archer Street intersection improvements, North Adelaide
  - Signal modification with scramble crossing and mast arms for O'Connell Street approaches.
  - Approved funding: \$ 385,000 (GST inclusive).
  - Completion by the end of June 2025.

A funding deed has been prepared for each project, containing information about the project funding, conditions, reporting and payment arrangements.

Two copies of the deed for each project are attached.

**Please insert the required details in item 2 of Schedule 1, attach the seal and sign on page 8 and return both copies within six weeks from the date of this letter to:**

*Mr Ty Edwards  
Road Safety Engineer  
Transport Strategy and Planning Division  
Department for Infrastructure and Transport  
GPO Box 1533  
ADELAIDE SA 5001*

It is important that the obligations and conditions in the funding deed are met. Work on the project must be undertaken in accordance with appropriate Austroads, Australian and Departmental Standards and the requirements of the Notes on Administration for the Infrastructure Investment Black Spot Program, which is available on the Department's website at

[https://www.dit.sa.gov.au/towardszerotogether/building\\_safer\\_roads/black\\_spot\\_program](https://www.dit.sa.gov.au/towardszerotogether/building_safer_roads/black_spot_program).

Unfortunately, the following project submitted by the City of Adelaide was not successful in gaining Australian Government Black Spot funding:

- Unley Road and South Terrace, Adelaide
  - Intersection Upgrade

For further information regarding project nominations, please contact Ty Edwards on telephone number (08) 7133 2893 or email [Ty.Edwards@sa.gov.au](mailto:Ty.Edwards@sa.gov.au).

Yours sincerely



Lillia Rozaklis  
Acting Manager, Road Network Planning

29 July 2024

**FUNDING DEED**

under

**2024-2025 COMMONWEALTH INFRASTRUCTURE INVESTMENT  
BLACK SPOT PROGRAM**

Project Number	<b>126128-24SA-BS</b>
Location	<b>Hutt Road and South Terrace, Adelaide</b>
Project Description	Modification of signals to control right turns.
Project Funding	\$148,500 (GST Inclusive)

between

**THE COMMISSIONER OF HIGHWAYS**  
**(Grantor)**

and

**THE COUNCIL NAMED IN SCHEDULE 1**  
**(Council)**

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**FUNDING DEED**

Between

**COMMISSIONER OF HIGHWAYS**, a body corporate pursuant to the *Highways Act 1926* (administered by the Department for Infrastructure and Transport) (ABN: 92 366 288 135).....(**Grantor**)

And

**THE COUNCIL NAMED IN SCHEDULE 1**, a body corporate under the *Local Government Act 1999*.....(**Council**)

It is agreed:

**1. BACKGROUND**

- 1.1 The Council has proposed to undertake the project (**Project**) described in item 3 of Schedule 1.
- 1.2 This deed sets out the terms and conditions under which the Grantor intends to provide funding to the Council solely for the purpose (**Purpose**) described in item 3 of Schedule 1 which includes the conduct of the Project.
- 1.3 The maximum amount that may be paid to the Council under this deed is set out in item 4 of Schedule 1 (**Funding**).
- 1.4 Item 3 of Schedule 1 indicates whether or not the Project is to be conducted on a road(s) under the care, control and management of the Commissioner of Highways (**Commissioner**).
- 1.5 If conducted on a road(s) under the care, control and management of the Commissioner the additional terms and conditions set out in Schedule 2 will also apply.

**2. FUNDING**

- 2.1 Subject to this deed, the Grantor will pay the Council up to the amount of the Funding.
- 2.2 The Council must only use the Funding for the Purpose.
- 2.3 For the purposes of this deed, the **Funding Period** is the period commencing on the Start Date and, subject to funding being available, will continue until the End Date. The **Start Date** and **End Date** are set out in item 4 of Schedule 1.
- 2.4 The Funding is payable by way of progress payments in arrears for work undertaken for the Purpose and may also be part payable (if indicated in item 5 of Schedule 1) by way of an Initial Instalment in Advance.
- 2.5 During the Funding Period, the Council is entitled in accordance with the conditions set out in item 5 of Schedule 1:
  - (a) to invoice the Grantor for the payment of the amount of any Initial Instalment in Advance set out in item 5 of Schedule 1 (if any); and
  - (b) once the amount of the Initial Instalment in Advance (if any) has been expended on work undertaken for the Purpose, to invoice the Grantor for progress payment(s) for work undertaken for the Purpose.

The total of any Initial Instalment in Advance (if any) and all progress payments must not exceed the amount of the Funding.

- 2.6 At the end of the Funding Period the Council must provide a report on the level of any unexpended Funding.
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- 2.7 The Council must repay any part of the Funding which is unexpended at the end of the Funding Period to the Grantor, unless the Grantor gives written approval for the Council to retain the money.
3. **GST**
- 3.1 The Funding (including any Initial Instalment in Advance or any progress payment) is all-inclusive and not subject to any adjustment for GST or any other tax or cost.
- 3.2 In this Deed "*Taxable Supply*", "*GST*" and "*Tax Invoice*" have the meaning attributed under the *A New Tax System (Goods and Services Tax) Act 1999 (GST Law)*.
4. **ADMINISTRATION OF DEED**
- 4.1 Any power or discretion exercisable by the Grantor under this deed may be exercised by the person (**Grantor's Representative**) for the time being in the position within the Department for Infrastructure and Transport (**Department**) set out in item 2 of Schedule 1.
- 4.2 Any power or discretion exercisable by the Council under this deed may be exercised by the person (**Council's Representative**) for the time being in the position within the Council set out in item 2 of Schedule 1.
5. **PROVISION OF FINANCIAL INFORMATION**
- 5.1 The Council must provide the Grantor with appropriate and regular information, records and reports as the Grantor may request from time to time about:
- (a) the administration and financial affairs of the Council;
  - (b) the progress of (and any change to) the authorised scope of the Purpose or the Project;
  - (c) any significant changes to the nature and scope of the activities conducted by the Council;
  - (d) any other matter relevant to the granting of assistance;
  - (e) any other funding or financial assistance promised or received from any source other than the Grantor;
  - (f) the Council's management of the Funding, including, but not limited to, the economic and efficient use of resources to achieve the outcomes of the Purpose; and
  - (g) the performance of the Council's undertakings and obligations under this deed.
- 5.2 The information provided by the Council must be sufficient for the Grantor to make an informed judgement about:
- (a) the Council's ongoing financial position and its resources and expertise in relation to the Purpose;
  - (b) the Council's performance in managing public moneys, acquiring and using resources economically and efficiently and in achieving specified objectives in relation to the Purpose;
  - (c) the overall effectiveness of the Funding throughout the Funding Period;
  - (d) compliance with legislation and generally accepted accounting principles; and
  - (e) compliance with the Council's constitution and the conditions of this deed.
- 5.3 The Council must permit any officer authorised by the Grantor:
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- (a) to enter the Council's premises and to have access to all accounting records, equipment, documents and information in possession of the Council; and
  - (b) to interview employees of the Council on matters pertaining to the operations of the Council.

## 6. GENERAL OBLIGATIONS OF THE COUNCIL

The Council must:

- 6.1 use the Funding only for the Purpose for which the Funding was made;
- 6.2 maintain accounting records of the Funding in accordance with generally accepted accounting principles;
- 6.3 ensure that any activity carried out by the Council in connection with the Council's use of the Funding complies with the laws from time to time in force in South Australia;
- 6.4 comply with its constitution;
- 6.5 comply with the additional reporting requirements set out in item 6 of Schedule 1;
- 6.6 prepare financial statements in accordance with Australian Accounting Standards at the end of the Funding Period and submit the financial statements, signed by a senior office holder of the Council, to the Grantor no later than one calendar month after the expiry of the Funding Period;  

(Note: for the purposes of compliance with Australian Accounting Standards ("AAS") this includes Tier 1 ASS and Tier 2 ASS – Reduced Disclosure Requirements)
- 6.7 where the Funding to Council is in excess of One Million Dollars (GST exclusive) prepare financial statements in the nature of General Purpose Financial Statements; and
- 6.8 where requested by the Grantor, provide to the Department management accounts, annual reports, financial statements and any other information or documents relevant to the Council's operations.

## 7. CONDUCT OF THE PROJECT

- 7.1 The Council must ensure that any works undertaken towards the Purpose and/or the Project are undertaken in accordance with (and to the standard required by) any applicable Standards published by Austroads and Standards Australia Limited.
- 7.2 If (as indicated in item 3 of Schedule 1) the Project is to be conducted on a Road(s) under the care, control and management of the Commissioner, the Council must comply with the additional terms and conditions set out in Schedule 2.
- 7.3 The Council must erect signs on each road approach to the Project that comply with Section 4.7.1 – "Signposting" of the Notes on **Administration for Land transport Infrastructure Projects** published by the Commonwealth.

## 8. TERMINATION

- 8.1 If the Council fails to comply with this deed and/or fails within 6 months from the Commencement of this deed to commence the works on the Project (or make sufficient progress to the satisfaction of the Grantor), the Grantor may:
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- (a) require the Council to repay either the whole or a portion of the Funding (whether expended or not);
  - (b) withhold all future funding from the Council;
  - (c) pursue any legal rights or remedies which may be available to the Grantor; and
  - (d) terminate or curtail any program or project conducted by the Grantor of which the Purpose conducted by the Council is part.
- 8.2 The Grantor may review any decision made pursuant to this clause if the Council is able to satisfy the Grantor within a period of 30 days from the decision that the Council has complied with the conditions of this deed.
- 8.3 Nothing in this deed is to be taken to limit the Grantor's discretion to determine whether and how any program or project of the Grantor is to be conducted, except if and to the extent that the Grantor gives an express undertaking in that regard.

## 9. GENERAL TERMS AND CONDITIONS

### 9.1 Insurance

The Council warrants that it is a member of the Local Government Association Mutual Liability Scheme (**Scheme**) and is bound by the Scheme pursuant to section 142 and Schedule 1, Part 2 of the *Local Government Act 1999* (SA) (**Act**) and in the event that the Council ceases to be a member of the Scheme it will forthwith, pursuant to Section 142(1) of the Act and the regulations under that Act, take out and maintain insurance to cover its civil liabilities at a minimum level of cover of AUD \$50 million.

### 9.2 Commonwealth Funded Project

The Council acknowledges that the Funding provided under this deed is (and remains) contingent upon the Commonwealth funding and despite any other clause of this deed, if the Commonwealth for any reason ceases its provision of funding then the Grantor may by notice to the Council cease its provision of Funding under this deed.

### 9.3 Audit

The Grantor may direct the Council to arrange for the financial accounts relating to the Funding to be audited at the Council's expense. The Grantor may specify the minimum qualifications to be held by a person appointed to conduct the audit.

### 9.4 Acknowledgements

The Council acknowledge that the Funding represents a one-off contribution by the Grantor towards the Purpose, and the Council agrees that any request for subsequent funding will require a new application to the Grantor. The Grantor is under no obligation to agree to pay any subsequent funding to the Council.

The Council further acknowledges and agrees that the Grantor will not be liable to reimburse the Council for any losses or cost over runs that may result from the operation of this deed or the carrying out of the Purpose or Project.

### 9.5 Indemnity

The Council acknowledges and agrees that it remains at all times solely responsible for the conduct of the Project and it releases and indemnifies the Grantor, the Commissioner and the Crown in right of the State of South Australia together with their employees, contractors and agents (**those indemnified**) from and against any loss or liability incurred or suffered

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by any of those indemnified as a result of any claim, suit, demand, action or proceeding brought by any person against any of those indemnified in respect to the works to complete the Project or otherwise caused by any breach or default of the Council under this Deed.

9.6 **Assignment**

The Council must not assign, novate or encumber any of its rights or obligations under this deed.

9.7 **Publicity**

The Council must not make (or permit a public announcement or media release to be made) about any aspect of this deed without first obtaining the Grantor's written consent.

9.8 **Consent**

If the Council requires the Grantor's consent under this deed, the Grantor may, in its absolute discretion, give or withhold its consent and if giving consent, the Grantor may impose any condition on that consent that it considers appropriate. The Grantor's consent will not be effective unless it is in writing and signed.

9.9 **Entire Deed**

This deed incorporates any attached schedules and annexures. This deed contains the entire agreement between the parties with respect to its subject matter and supersedes any prior agreement, understanding or representation of the parties on the subject matter.

9.10 **Proper Law**

The laws in force in South Australia apply to this deed.

9.11 **Jurisdiction of Courts**

The courts of South Australia have non-exclusive jurisdiction to determine any proceeding in relation to this deed. Any proceeding brought in a Federal Court must be instituted in (and remain with) the Adelaide Registry of that Federal Court.

9.12 **Compliance with Laws**

The Council must comply with the laws in force in South Australia in the course of performing its obligations under this deed.

9.13 **Notices**

A notice is properly given or served if the party delivers it by hand, posts it or transmits it by electronic mail or facsimile, to the address of the Representative of the other party. A notice is taken to be received:

- (a) if sent by post, at the time it would have been delivered in the ordinary course of the post to the address to which it was sent;
- (b) if sent by electronic mail, when the sender receives confirmation that the e-mail has been transmitted successfully to the correct e-mail address; or
- (c) if delivered by hand, the party who sent the notice holds a receipt for the notice signed by a person employed at the physical address for service.

9.14 **Performance and future proposals**

The satisfactory completion of the works for the Purpose, the making of regular progress payments (see note under item 5 of Schedule 1) and on-going compliance with reporting obligations, may be taken into account as a factor in assessing any applications by the Council for future funding.

9.15 **Waiver**

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Any waiver of any provision of this deed is ineffective unless it is in writing and signed by the party waiving its rights.

A waiver by either party in respect of a breach of a provision of this deed by the other party is not a waiver in respect of any other breach of that or any other provision.

The failure of either party to enforce any of the provisions of this deed at any time must not be interpreted as a waiver of that provision.

9.16 **Variation**

Any variation of this deed must be in writing and signed by each party (or its Representative). Any request by the Council for agreement to vary the Funding, the Purpose, the scheduled timing for the conduct of the works for the Project and/or the Funding Period must be accompanied by sufficient details explaining the reasons for the requested variation to enable the Grantor to have regard to its merits.

9.17 **Reading down and Severance**

In the event that any provision (or portion of any provision) of this deed is held to be unenforceable or invalid by a Court of competent jurisdiction, the validity and enforceability of the remaining provisions (or portions of such provisions) of this deed shall not be adversely affected.

The offending provision (or part of a provision) shall be read down to the extent necessary to give it legal effect, or shall be severed if it cannot be read down, and the remaining part and provisions of this deed shall remain in full force and effect.

9.18 **Auditor General**

Nothing in this deed derogates from the powers of the Auditor-General under the *Public Finance and Audit Act 1987* (South Australia). Without limiting this clause, the Council acknowledges the Auditor General's obligations and powers under sections 32 and 34 of the *Public Finance and Audit Act 1987* (South Australia).

9.19 **Public Disclosure**

The Grantor may disclose this deed (and/or information relating to this deed) in both printed or electronic form and either generally to the public or to a particular person as a result of a specific request.

Nothing in this clause derogates from the Council's obligations under any provision of this deed or the provisions of the *Freedom of Information Act, 1991*.

9.20 **Special Conditions**

The special conditions set out under item 7 of Schedule 1 (if any) form part of this deed.

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**EXECUTED as a DEED**

By the Grantor

**THE COMMON SEAL of the** )  
**COMMISSIONER OF HIGHWAYS** )  
)  
)  
)  
)  
)  
)  
)  
)  
)

was affixed on: .....  
*(Date above)*

*(Affix Seal Above)*

in the presence of:

Witness Signature:.....

Print Name: .....

By the Council

**THE COMMON SEAL of the** )  
**COUNCIL NAMED IN SCHEDULE 1** )  
)  
)  
)  
)  
)  
)  
)  
)  
)

was affixed on: .....  
*(Date above)*

*(Affix Seal Above)*

as attested by the Principal Member and  
Chief Executive Officer.

Signature:.....

Signature: .....

Print Name: .....

Print Name: .....

Principal Member

Chief Executive Officer

**SCHEDULE 1 - PARTICULARS**

**1. THE COUNCIL**

Name: **City of Adelaide**

Site Address: **Town Hall, Adelaide SA, 5000**

Postal Address: **GPO Box 2252, Adelaide SA, 5001**

ABN: **20 903 762 572**

**2. REPRESENTATIVES**

<b>Grantor's Representative</b>	<b>Council's Representative</b>
Name: <b>Russell Troup</b>	Name: _____
Position: <b>Director, Transport Strategy and Network Planning</b>	Position: _____
<b>Department for Infrastructure and Transport</b>	_____
Address: <b>GPO BOX 1533</b>	Address: _____
<b>ADELAIDE SA 5001</b>	_____
Telephone: <b>(08) 7133 2967</b>	Telephone: _____
E-mail: <a href="mailto:russell.troup@sa.gov.au">russell.troup@sa.gov.au</a>	E-mail: _____

**3. THE PURPOSE, DESCRIPTION OF PROJECT & DETAILS OF THE ROAD(S)**

The Purpose: The funding is provided for the purpose of the Council undertaking on the road(s) identified below (within the Funding Period) the Project described below (and in any plans and/or proposal attached to this deed) in accordance with (and to the standard required by) any applicable Standards published by Austroads and Standards Australia Limited.

Description of Project:	Project Number	<b>126128-24SA-BS</b>
	Project Description	<b>Modification of signals to control right turns.</b>

**Note:** Please ensure that a full description setting out all aspects of the Project is included (this is of particular importance for Projects undertaken on DIT maintained roads).

Details of the Road(s): **Intersection of Hutt Road and South Terrace**

Is the Road(s) under the care control and management of the Commissioner of Highways: **No**

**Note:** If under the care, control and management of the Commissioner then Schedule 2 will apply.

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#### 4. THE FUNDING

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The Funding: \$148,500 (GST Inclusive)

The Funding Period: Start Date: **1 July 2024**  
End Date: **30 June 2025**

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#### 5. MANNER & CONDITIONS OF PAYMENT

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##### Limit on payments

The Funding of \$148,500 (GST Inclusive) is the maximum total amount the Grantor may be liable to pay the Council under this deed.

##### Initial Instalment in Advance & Progress Payments

The following table sets out the details of payments comprising the Funding the Council may invoice the Grantor for in accordance with clause 2.5 of the deed.

Payment	Amount AUD (GST Inclusive)
Initial Instalment in Advance <small>(Note: If no amount is indicated then no Initial Instalment in Advance will be made and the Funding will be made entirely through Progress Payments in arrears)</small>	<b>\$nil</b>
Allocation for Progress Payments	\$148,500
Total Funding	\$148,500

##### Periodic Progress Payments

Except in relation to the last Quarter prior to an End Date of 30 June, the Council is entitled (provided any instalment in advance has been expended) to invoice the Grantor after the end of each Quarter (or after another interval agreed between the parties) for progress payments for work undertaken for the Purpose.

A "Quarter" is the 3 calendar month period ending on 31 March, 30 June, 30 September and 31 December of each year during the Funding Period.

Last Quarter: If the End Date is 30 June (to coincide with the end of the Financial Year) then the Council must by **1 June** issue the Grantor with the final invoice for all works undertaken for the Purpose. Late invoices will only be accepted with the written agreement of the Grantor.

Note on Regular Invoices: The Grantor expects that works for the Purpose will be undertaken promptly during the Funding Period and expects to receive the invoice for any instalment in advance (if any) soon after the commencement of this deed and then regular subsequent receipt of invoices for progress payments.

##### Invoices

The Grantor is **not** obligated to pay an invoice unless properly rendered. An invoice is properly rendered if it:

- (a) is issued in respect of a payment for which the Council is entitled to invoice for under this deed;
  - (b) quotes the relevant purchase order number allocated by the Grantor;
  - (c) is accompanied by a Claim Form and invoices (if any) from the Council's contractor(s) undertaking work for the Purpose;
  - (d) reflects the correct amount for payment under this deed; and
  - (e) is a valid Tax Invoice in accordance with GST Law.
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The **Claim Form** must set out:

- (a) The progress of the work towards the Purpose.
- (b) Project expenditure report from Council's financial management system and a summary schedule of expenditure.
- (c) Statement of the amount of any under or over expenditure of the Funding.

A pro-forma Claims Form is available from web-link:

[https://www.dit.sa.gov.au/towardszerotogether/building\\_safer\\_roads/black\\_spot\\_program](https://www.dit.sa.gov.au/towardszerotogether/building_safer_roads/black_spot_program)

### Payment Term

Provided that the total amount of the Funding has not been (or will be) exceeded, the Grantor must pay the amount of a properly rendered invoice for an Initial Instalment in Advance (if indicated above) and a progress payment for work undertaken towards the Purpose issued by the Council, within 30 days of receiving the Council's invoice.

## 6. ADDITIONAL REPORTING REQUIREMENTS

Report (Title)	Frequency (By when)	Requirements (Information and applicable standard)
<b>Project Report</b>	1 <sup>st</sup> Report- 1 <sup>st</sup> August  2 <sup>nd</sup> Report-1 <sup>st</sup> November  3 <sup>rd</sup> Report-1 <sup>st</sup> February  4 <sup>th</sup> Report- 1 <sup>st</sup> May  <b>or 7 days from request</b>	<ul style="list-style-type: none"> <li>• The progress of the Project and scheduling of works.</li> <li>• Updated Expenditure forecasts during the term of the funding period.</li> <li>• The management of the Funding (i.e. break down of expenditure of the Funding).</li> <li>• Any changes to the authorised scope of the Project.</li> <li>• Any significant changes to the nature, scope and cost of the activities conducted by the Council.</li> <li>• Any operational matters requested from time to time by the Grantor for inclusion in the Project Report.</li> <li>• Use Template as per <a href="https://www.dit.sa.gov.au/towardszerotogether/building_safer_roads/black_spot_program">https://www.dit.sa.gov.au/towardszerotogether/building_safer_roads/black_spot_program</a></li> </ul>
<b>Completion Report</b>	Within 30 days from the completing the works for the Project.	Use Template as per <a href="https://www.dit.sa.gov.au/towardszerotogether/building_safer_roads/black_spot_program">https://www.dit.sa.gov.au/towardszerotogether/building_safer_roads/black_spot_program</a>
<b>Financial Statements</b> (As referred to in clauses 6.6 and 6.7 of the Deed)	Within 30 days from the expiry of the Funding Period.	<p>Financial Statements prepared in accordance with Australian Accounting Standards setting out in detail the Council's expenditure of the Funding (with invoices attached from any contractors engaged for the Purpose) and signed by a senior office holder of the Council.</p> <p><b>Standard:</b> If the Funding is in excess of \$1 M (GST exclusive) <u>then</u> the recipient must prepare its Financial Statements in the nature of General Purpose Financial Statements.</p> <p>(Note: for the purposes of compliance with Australian Accounting Standards ("AAS") this includes Tier 1 ASS and Tier 2 ASS – Reduced Disclosure Requirements)</p>

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**7. SPECIAL CONDITIONS**

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- 7.1 The Transport Strategy and Network Planning Directorate will contact Council for a commencement meeting or other meetings as required.

## **SCHEDULE 2 – WORKS ON COMMISSIONER MAINTAINED ROAD(S)**

### **1. APPLICATION OF THIS SCHEDULE 2**

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The Council must comply with the terms and conditions set out in this Schedule 2 if (as indicated in item 3 of Schedule 1) the Council's proposed Project funded under this deed involves work on (or alterations to) a road ("**Road**") that is under the care, control and management of the Commissioner of Highways ("**Commissioner**").

### **2. LEGAL REQUIREMENT TO GAIN COMMISSIONER'S APPROVAL**

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Subsection 26(7) of the *Highways Act 1926* (SA) provides that a council must not exercise its powers under Part 2 of Chapter 11 of the *Local Government Act 1999* (SA) (e.g. the powers to conduct roadwork) in relation to a road under the care, control and management of the Commissioner except to the extent (if any) as the Commissioner may approve by written notice to the council.

The Council therefore acknowledges that prior to undertaking any works on the Road it will first need to gain the written approval of the Commissioner pursuant to section 26(7) of the *Highways Act 1926*.

### **3. TERMS AND CONDITIONS FOR WORKS ON COMMISSIONER'S ROAD**

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3.1 The Commissioner makes no warranties or representations concerning the suitability of the Road for the Purpose or the presence of third party installations on, in, along, over, under or near the Road. The Council must arrange for any required relocation or alteration of third party installations at its own cost.

In this Deed "third party installations" means any rail, gas, electrical, telecommunications, stormwater, water or other underground or overground installation on, in, along, over, under or near the Road.

3.2 The Council must:

- (a) not less than one calendar month prior to the commencement of works for the Purpose, submit the detailed design(s), any applicable drawings and plans and its Traffic Management Plan(s) to the Commissioner (acting through the Department) for its comment;
  - (b) modify the documents submitted in accordance with the preceding item 3.2(a) in accordance with any comments received from the Commissioner (or the Department);
  - (c) give prior notification to the Commissioner before commencing any works on the Road and abide by (and ensure that its contractor also abides by) any requirements imposed as to the times for access to the Road;
  - (d) undertake (and ensure that its contractor undertakes) the works on the Road in accordance with:
    - (i) the Department's requirements as per the DIT Master Specification available at [Works on Roads by Other Organisations - Department for Infrastructure and Transport - South Australia](#);
    - and
    - (ii) the detailed design(s), drawings and plans and Traffic Management Plan agreed to by the Commissioner,unless a variation is first agreed in writing by the Commissioner;
  - (e) ensure that any works undertaken do not disrupt (or impede) any activity undertaken by the Commissioner (or the Department) on the Road;
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- (f) ensure that a defect liability period of not less than 24 calendar months applies to the works and the Council must invite (and make provision for) a representative of the Commissioner to attend inspections to assess both practical completion and final completion of the works;
  - (g) ensure that any additional works required to reach practical completion or any remediation (or repair of) defects that are required to allow for final completion, identified by either the Council or the Commissioner, are promptly carried out by the Council (or its contractor);
  - (h) at its cost, comply with any written direction by the Commissioner in relation to the conduct of the works, any alteration or removal of any infrastructure installed, the removal or minimisation of any risks to safety identified, the reinstatement of pavements, traffic management, the public's access to the Road or partial road closures;
  - (i) undertake such reasonable safety measures necessary to protect its employees, contractors, the public and commuters [including without limitation compliance with (and ensuring its contractor complies with) the *Work Health and Safety Act, 2012 (SA)* and the *Work Health and Safety Regulations, 2012 (SA)*];
  - (j) notify the Commissioner of any safety risk posed by the works or any infrastructure installed or any activity undertaken by the Council (or its employees, contractors and agents), on the Road; and
  - (k) following practical completion of the works [and following any further modifications undertaken by the Council (or its contractor)] provide at the Council's cost, the Commissioner with as constructed drawings and plans accurately depicting the type and location of the works and any infrastructure installed in accordance with Departmental standards available at:  
[http://www.dit.sa.gov.au/contractor\\_documents](http://www.dit.sa.gov.au/contractor_documents) (intellectual property in the plans and drawings vests in the Commissioner).
- 3.3 If the Council fails to comply with the requirements of item 3.2(g) or fails to carry out a direction of the Commissioner issued in accordance with item 3.2(h) then the Commissioner may (without being obliged to) carry out (or engage a contractor to carry out) the necessary work and the Council promises to pay to the Commissioner the cost it incurs in doing so.
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**FUNDING DEED**

under

**2024-2025 COMMONWEALTH INFRASTRUCTURE INVESTMENT  
BLACK SPOT PROGRAM**

Project Number	<b>126134-24SA-BS</b>
Location	<b>O'Connell Street and Archer Street, North Adelaide</b>
Project Description	Installation of scramble crossing at the intersection with signal modification, and mast arms for O'Connell Street approaches.
Project Funding	\$385,000 (GST Inclusive)

between

**THE COMMISSIONER OF HIGHWAYS**

**(Grantor)**

and

**THE COUNCIL NAMED IN SCHEDULE 1**

**(Council)**

**FUNDING DEED**

Between

**COMMISSIONER OF HIGHWAYS**, a body corporate pursuant to the *Highways Act 1926* (administered by the Department for Infrastructure and Transport) (ABN: 92 366 288 135).....(**Grantor**)

And

**THE COUNCIL NAMED IN SCHEDULE 1**, a body corporate under the *Local Government Act 1999*.....(**Council**)

It is agreed:

**1. BACKGROUND**

- 1.1 The Council has proposed to undertake the project (**Project**) described in item 3 of Schedule 1.
- 1.2 This deed sets out the terms and conditions under which the Grantor intends to provide funding to the Council solely for the purpose (**Purpose**) described in item 3 of Schedule 1 which includes the conduct of the Project.
- 1.3 The maximum amount that may be paid to the Council under this deed is set out in item 4 of Schedule 1 (**Funding**).
- 1.4 Item 3 of Schedule 1 indicates whether or not the Project is to be conducted on a road(s) under the care, control and management of the Commissioner of Highways (**Commissioner**).
- 1.5 If conducted on a road(s) under the care, control and management of the Commissioner the additional terms and conditions set out in Schedule 2 will also apply.

**2. FUNDING**

- 2.1 Subject to this deed, the Grantor will pay the Council up to the amount of the Funding.
- 2.2 The Council must only use the Funding for the Purpose.
- 2.3 For the purposes of this deed, the **Funding Period** is the period commencing on the Start Date and, subject to funding being available, will continue until the End Date. The **Start Date** and **End Date** are set out in item 4 of Schedule 1.
- 2.4 The Funding is payable by way of progress payments in arrears for work undertaken for the Purpose and may also be part payable (if indicated in item 5 of Schedule 1) by way of an Initial Instalment in Advance.
- 2.5 During the Funding Period, the Council is entitled in accordance with the conditions set out in item 5 of Schedule 1:
  - (a) to invoice the Grantor for the payment of the amount of any Initial Instalment in Advance set out in item 5 of Schedule 1 (if any); and
  - (b) once the amount of the Initial Instalment in Advance (if any) has been expended on work undertaken for the Purpose, to invoice the Grantor for progress payment(s) for work undertaken for the Purpose.

The total of any Initial Instalment in Advance (if any) and all progress payments must not exceed the amount of the Funding.
- 2.6 At the end of the Funding Period the Council must provide a report on the level of any unexpended Funding.

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- 2.7 The Council must repay any part of the Funding which is unexpended at the end of the Funding Period to the Grantor, unless the Grantor gives written approval for the Council to retain the money.
3. **GST**
- 3.1 The Funding (including any Initial Instalment in Advance or any progress payment) is all-inclusive and not subject to any adjustment for GST or any other tax or cost.
- 3.2 In this Deed "*Taxable Supply*", "*GST*" and "*Tax Invoice*" have the meaning attributed under the *A New Tax System (Goods and Services Tax) Act 1999 (GST Law)*.
4. **ADMINISTRATION OF DEED**
- 4.1 Any power or discretion exercisable by the Grantor under this deed may be exercised by the person (**Grantor's Representative**) for the time being in the position within the Department for Infrastructure and Transport (**Department**) set out in item 2 of Schedule 1.
- 4.2 Any power or discretion exercisable by the Council under this deed may be exercised by the person (**Council's Representative**) for the time being in the position within the Council set out in item 2 of Schedule 1.
5. **PROVISION OF FINANCIAL INFORMATION**
- 5.1 The Council must provide the Grantor with appropriate and regular information, records and reports as the Grantor may request from time to time about:
- (a) the administration and financial affairs of the Council;
  - (b) the progress of (and any change to) the authorised scope of the Purpose or the Project;
  - (c) any significant changes to the nature and scope of the activities conducted by the Council;
  - (d) any other matter relevant to the granting of assistance;
  - (e) any other funding or financial assistance promised or received from any source other than the Grantor;
  - (f) the Council's management of the Funding, including, but not limited to, the economic and efficient use of resources to achieve the outcomes of the Purpose; and
  - (g) the performance of the Council's undertakings and obligations under this deed.
- 5.2 The information provided by the Council must be sufficient for the Grantor to make an informed judgement about:
- (a) the Council's ongoing financial position and its resources and expertise in relation to the Purpose;
  - (b) the Council's performance in managing public moneys, acquiring and using resources economically and efficiently and in achieving specified objectives in relation to the Purpose;
  - (c) the overall effectiveness of the Funding throughout the Funding Period;
  - (d) compliance with legislation and generally accepted accounting principles; and
  - (e) compliance with the Council's constitution and the conditions of this deed.
- 5.3 The Council must permit any officer authorised by the Grantor:
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- (a) to enter the Council's premises and to have access to all accounting records, equipment, documents and information in possession of the Council; and
  - (b) to interview employees of the Council on matters pertaining to the operations of the Council.

## 6. GENERAL OBLIGATIONS OF THE COUNCIL

The Council must:

- 6.1 use the Funding only for the Purpose for which the Funding was made;
- 6.2 maintain accounting records of the Funding in accordance with generally accepted accounting principles;
- 6.3 ensure that any activity carried out by the Council in connection with the Council's use of the Funding complies with the laws from time to time in force in South Australia;
- 6.4 comply with its constitution;
- 6.5 comply with the additional reporting requirements set out in item 6 of Schedule 1;
- 6.6 prepare financial statements in accordance with Australian Accounting Standards at the end of the Funding Period and submit the financial statements, signed by a senior office holder of the Council, to the Grantor no later than one calendar month after the expiry of the Funding Period;  

(Note: for the purposes of compliance with Australian Accounting Standards ("AAS") this includes Tier 1 ASS and Tier 2 ASS – Reduced Disclosure Requirements)
- 6.7 where the Funding to Council is in excess of One Million Dollars (GST exclusive) prepare financial statements in the nature of General Purpose Financial Statements; and
- 6.8 where requested by the Grantor, provide to the Department management accounts, annual reports, financial statements and any other information or documents relevant to the Council's operations.

## 7. CONDUCT OF THE PROJECT

- 7.1 The Council must ensure that any works undertaken towards the Purpose and/or the Project are undertaken in accordance with (and to the standard required by) any applicable Standards published by Austroads and Standards Australia Limited.
- 7.2 If (as indicated in item 3 of Schedule 1) the Project is to be conducted on a Road(s) under the care, control and management of the Commissioner, the Council must comply with the additional terms and conditions set out in Schedule 2.
- 7.3 The Council must erect signs on each road approach to the Project that comply with Section 4.7.1 – "Signposting" of the Notes on **Administration for Land transport Infrastructure Projects** published by the Commonwealth.

## 8. TERMINATION

- 8.1 If the Council fails to comply with this deed and/or fails within 6 months from the Commencement of this deed to commence the works on the Project (or make sufficient progress to the satisfaction of the Grantor), the Grantor may:
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- (a) require the Council to repay either the whole or a portion of the Funding (whether expended or not);
  - (b) withhold all future funding from the Council;
  - (c) pursue any legal rights or remedies which may be available to the Grantor; and
  - (d) terminate or curtail any program or project conducted by the Grantor of which the Purpose conducted by the Council is part.
- 8.2 The Grantor may review any decision made pursuant to this clause if the Council is able to satisfy the Grantor within a period of 30 days from the decision that the Council has complied with the conditions of this deed.
- 8.3 Nothing in this deed is to be taken to limit the Grantor's discretion to determine whether and how any program or project of the Grantor is to be conducted, except if and to the extent that the Grantor gives an express undertaking in that regard.

## 9. GENERAL TERMS AND CONDITIONS

### 9.1 Insurance

The Council warrants that it is a member of the Local Government Association Mutual Liability Scheme (**Scheme**) and is bound by the Scheme pursuant to section 142 and Schedule 1, Part 2 of the *Local Government Act 1999* (SA) (**Act**) and in the event that the Council ceases to be a member of the Scheme it will forthwith, pursuant to Section 142(1) of the Act and the regulations under that Act, take out and maintain insurance to cover its civil liabilities at a minimum level of cover of AUD \$50 million.

### 9.2 Commonwealth Funded Project

The Council acknowledges that the Funding provided under this deed is (and remains) contingent upon the Commonwealth funding and despite any other clause of this deed, if the Commonwealth for any reason ceases its provision of funding then the Grantor may by notice to the Council cease its provision of Funding under this deed.

### 9.3 Audit

The Grantor may direct the Council to arrange for the financial accounts relating to the Funding to be audited at the Council's expense. The Grantor may specify the minimum qualifications to be held by a person appointed to conduct the audit.

### 9.4 Acknowledgements

The Council acknowledge that the Funding represents a one-off contribution by the Grantor towards the Purpose, and the Council agrees that any request for subsequent funding will require a new application to the Grantor. The Grantor is under no obligation to agree to pay any subsequent funding to the Council.

The Council further acknowledges and agrees that the Grantor will not be liable to reimburse the Council for any losses or cost over runs that may result from the operation of this deed or the carrying out of the Purpose or Project.

### 9.5 Indemnity

The Council acknowledges and agrees that it remains at all times solely responsible for the conduct of the Project and it releases and indemnifies the Grantor, the Commissioner and the Crown in right of the State of South Australia together with their employees, contractors and agents (**those indemnified**) from and against any loss or liability incurred or suffered

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by any of those indemnified as a result of any claim, suit, demand, action or proceeding brought by any person against any of those indemnified in respect to the works to complete the Project or otherwise caused by any breach or default of the Council under this Deed.

9.6 **Assignment**

The Council must not assign, novate or encumber any of its rights or obligations under this deed.

9.7 **Publicity**

The Council must not make (or permit a public announcement or media release to be made) about any aspect of this deed without first obtaining the Grantor's written consent.

9.8 **Consent**

If the Council requires the Grantor's consent under this deed, the Grantor may, in its absolute discretion, give or withhold its consent and if giving consent, the Grantor may impose any condition on that consent that it considers appropriate. The Grantor's consent will not be effective unless it is in writing and signed.

9.9 **Entire Deed**

This deed incorporates any attached schedules and annexures. This deed contains the entire agreement between the parties with respect to its subject matter and supersedes any prior agreement, understanding or representation of the parties on the subject matter.

9.10 **Proper Law**

The laws in force in South Australia apply to this deed.

9.11 **Jurisdiction of Courts**

The courts of South Australia have non-exclusive jurisdiction to determine any proceeding in relation to this deed. Any proceeding brought in a Federal Court must be instituted in (and remain with) the Adelaide Registry of that Federal Court.

9.12 **Compliance with Laws**

The Council must comply with the laws in force in South Australia in the course of performing its obligations under this deed.

9.13 **Notices**

A notice is properly given or served if the party delivers it by hand, posts it or transmits it by electronic mail or facsimile, to the address of the Representative of the other party. A notice is taken to be received:

- (a) if sent by post, at the time it would have been delivered in the ordinary course of the post to the address to which it was sent;
- (b) if sent by electronic mail, when the sender receives confirmation that the e-mail has been transmitted successfully to the correct e-mail address; or
- (c) if delivered by hand, the party who sent the notice holds a receipt for the notice signed by a person employed at the physical address for service.

9.14 **Performance and future proposals**

The satisfactory completion of the works for the Purpose, the making of regular progress payments (see note under item 5 of Schedule 1) and on-going compliance with reporting obligations, may be taken into account as a factor in assessing any applications by the Council for future funding.

9.15 **Waiver**

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Any waiver of any provision of this deed is ineffective unless it is in writing and signed by the party waiving its rights.

A waiver by either party in respect of a breach of a provision of this deed by the other party is not a waiver in respect of any other breach of that or any other provision.

The failure of either party to enforce any of the provisions of this deed at any time must not be interpreted as a waiver of that provision.

9.16 **Variation**

Any variation of this deed must be in writing and signed by each party (or its Representative). Any request by the Council for agreement to vary the Funding, the Purpose, the scheduled timing for the conduct of the works for the Project and/or the Funding Period must be accompanied by sufficient details explaining the reasons for the requested variation to enable the Grantor to have regard to its merits.

9.17 **Reading down and Severance**

In the event that any provision (or portion of any provision) of this deed is held to be unenforceable or invalid by a Court of competent jurisdiction, the validity and enforceability of the remaining provisions (or portions of such provisions) of this deed shall not be adversely affected.

The offending provision (or part of a provision) shall be read down to the extent necessary to give it legal effect, or shall be severed if it cannot be read down, and the remaining part and provisions of this deed shall remain in full force and effect.

9.18 **Auditor General**

Nothing in this deed derogates from the powers of the Auditor-General under the *Public Finance and Audit Act 1987* (South Australia). Without limiting this clause, the Council acknowledges the Auditor General's obligations and powers under sections 32 and 34 of the *Public Finance and Audit Act 1987* (South Australia).

9.19 **Public Disclosure**

The Grantor may disclose this deed (and/or information relating to this deed) in both printed or electronic form and either generally to the public or to a particular person as a result of a specific request.

Nothing in this clause derogates from the Council's obligations under any provision of this deed or the provisions of the *Freedom of Information Act, 1991*.

9.20 **Special Conditions**

The special conditions set out under item 7 of Schedule 1 (if any) form part of this deed.

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**EXECUTED as a DEED**

By the Grantor

**THE COMMON SEAL of the** )  
**COMMISSIONER OF HIGHWAYS** )  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

was affixed on: .....  
(Date above)

(Affix Seal Above)

in the presence of:

Witness Signature:.....

Print Name: .....

By the Council

**THE COMMON SEAL of the** )  
**COUNCIL NAMED IN SCHEDULE 1** )  
)  
)  
)  
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)  
)

was affixed on: .....  
(Date above)

(Affix Seal Above)

as attested by the Principal Member and  
Chief Executive Officer.

Signature:.....

Signature: .....

Print Name: .....

Print Name: .....

Principal Member

Chief Executive Officer



**SCHEDULE 1 - PARTICULARS**

**1. THE COUNCIL**

Name: **City of Adelaide**

Site Address: **Town Hall, Adelaide SA, 5000**

Postal Address: **GPO Box 2252, Adelaide SA, 5001**

ABN: **20 903 762 572**

**2. REPRESENTATIVES**

<b>Grantor's Representative</b>	<b>Council's Representative</b>
Name: <b>Russell Troup</b>	Name: _____
Position: <b>Director, Transport Strategy and Network Planning</b>	Position: _____
<b>Department for Infrastructure and Transport</b>	_____
Address: <b>GPO BOX 1533</b>	Address: _____
<b>ADELAIDE SA 5001</b>	_____
Telephone: <b>(08) 7133 2967</b>	Telephone: _____
E-mail: <a href="mailto:russell.troup@sa.gov.au">russell.troup@sa.gov.au</a>	E-mail _____

**3. THE PURPOSE, DESCRIPTION OF PROJECT & DETAILS OF THE ROAD(S)**

The Purpose: The funding is provided for the purpose of the Council undertaking on the road(s) identified below (within the Funding Period) the Project described below (and in any plans and/or proposal attached to this deed) in accordance with (and to the standard required by) any applicable Standards published by Austroads and Standards Australia Limited.

Description of Project:	Project Number	<b>126134-24SA-BS</b>
	Project Description	<b>Installation of scramble crossing at the intersection with signal modification, and mast arms for O'Connell Street approaches.</b>

**Note:** Please ensure that a full description setting out all aspects of the Project is included (this is of particular importance for Projects undertaken on DIT maintained roads).

Details of the Road(s): **Intersection of O'Connell Street and Archer Street**

Is the Road(s) under the care control and management of the Commissioner of Highways: **No**

**Note:** If under the care, control and management of the Commissioner then Schedule 2 will apply.

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#### 4. THE FUNDING

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The Funding: \$385,000 (GST Inclusive)

The Funding Period: Start Date: **1 July 2024**

End Date: **30 June 2025**

#### 5. MANNER & CONDITIONS OF PAYMENT

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##### Limit on payments

The Funding of \$385,000 (GST Inclusive) is the maximum total amount the Grantor may be liable to pay the Council under this deed.

##### Initial Instalment in Advance & Progress Payments

The following table sets out the details of payments comprising the Funding the Council may invoice the Grantor for in accordance with clause 2.5 of the deed.

Payment	Amount AUD (GST Inclusive)
Initial Instalment in Advance  <small>(Note: If no amount is indicated then no Initial Instalment in Advance will be made and the Funding will be made entirely through Progress Payments in arrears)</small>	\$nil
Allocation for Progress Payments	\$385,000
Total Funding	\$385,000

##### Periodic Progress Payments

Except in relation to the last Quarter prior to an End Date of 30 June, the Council is entitled (provided any instalment in advance has been expended) to invoice the Grantor after the end of each Quarter (or after another interval agreed between the parties) for progress payments for work undertaken for the Purpose.

A “Quarter” is the 3 calendar month period ending on 31 March, 30 June, 30 September and 31 December of each year during the Funding Period.

Last Quarter: If the End Date is 30 June (to coincide with the end of the Financial Year) then the Council must by **1 June** issue the Grantor with the final invoice for all works undertaken for the Purpose. Late invoices will only be accepted with the written agreement of the Grantor.

Note on Regular Invoices: The Grantor expects that works for the Purpose will be undertaken promptly during the Funding Period and expects to receive the invoice for any instalment in advance (if any) soon after the commencement of this deed and then regular subsequent receipt of invoices for progress payments.

##### Invoices

The Grantor is **not** obligated to pay an invoice unless properly rendered. An invoice is properly rendered if it:

- (a) is issued in respect of a payment for which the Council is entitled to invoice for under this deed;
  - (b) quotes the relevant purchase order number allocated by the Grantor;
  - (c) is accompanied by a Claim Form and invoices (if any) from the Council’s contractor(s) undertaking work for the Purpose;
  - (d) reflects the correct amount for payment under this deed; and
  - (e) is a valid Tax Invoice in accordance with GST Law.
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The **Claim Form** must set out:

- (a) The progress of the work towards the Purpose.
- (b) Project expenditure report from Council's financial management system and a summary schedule of expenditure.
- (c) Statement of the amount of any under or over expenditure of the Funding.

A pro-forma Claims Form is available from web-link:

[https://www.dit.sa.gov.au/towardszerotogether/building\\_safer\\_roads/black\\_spot\\_program](https://www.dit.sa.gov.au/towardszerotogether/building_safer_roads/black_spot_program)

### Payment Term

Provided that the total amount of the Funding has not been (or will be) exceeded, the Grantor must pay the amount of a properly rendered invoice for an Initial Instalment in Advance (if indicated above) and a progress payment for work undertaken towards the Purpose issued by the Council, within 30 days of receiving the Council's invoice.

## 6. ADDITIONAL REPORTING REQUIREMENTS

Report (Title)	Frequency (By when)	Requirements (Information and applicable standard)
<b>Project Report</b>	1 <sup>st</sup> Report- 1 <sup>st</sup> August  2 <sup>nd</sup> Report-1 <sup>st</sup> November  3 <sup>rd</sup> Report-1 <sup>st</sup> February  4 <sup>th</sup> Report- 1 <sup>st</sup> May  <b>or 7 days from request</b>	<ul style="list-style-type: none"> <li>• The progress of the Project and scheduling of works.</li> <li>• Updated Expenditure forecasts during the term of the funding period.</li> <li>• The management of the Funding (i.e. break down of expenditure of the Funding).</li> <li>• Any changes to the authorised scope of the Project.</li> <li>• Any significant changes to the nature, scope and cost of the activities conducted by the Council.</li> <li>• Any operational matters requested from time to time by the Grantor for inclusion in the Project Report.</li> <li>• Use Template as per <a href="https://www.dit.sa.gov.au/towardszerotogether/building_safer_roads/black_spot_program">https://www.dit.sa.gov.au/towardszerotogether/building_safer_roads/black_spot_program</a></li> </ul>
<b>Completion Report</b>	Within 30 days from the completing the works for the Project.	Use Template as per <a href="https://www.dit.sa.gov.au/towardszerotogether/building_safer_roads/black_spot_program">https://www.dit.sa.gov.au/towardszerotogether/building_safer_roads/black_spot_program</a>
<b>Financial Statements</b> (As referred to in clauses 6.6 and 6.7 of the Deed)	Within 30 days from the expiry of the Funding Period.	<p>Financial Statements prepared in accordance with Australian Accounting Standards setting out in detail the Council's expenditure of the Funding (with invoices attached from any contractors engaged for the Purpose) and signed by a senior office holder of the Council.</p> <p><b>Standard:</b> <u>If</u> the Funding is in excess of \$1 M (GST exclusive) <u>then</u> the recipient must prepare its Financial Statements in the nature of General Purpose Financial Statements.</p> <p>(Note: for the purposes of compliance with Australian Accounting Standards ("AAS") this includes Tier 1 ASS and Tier 2 ASS – Reduced Disclosure Requirements)</p>

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## **7. SPECIAL CONDITIONS**

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- 7.1 The Transport Strategy and Network Planning Directorate will contact Council for a commencement meeting or other meetings as required.

## **SCHEDULE 2 – WORKS ON COMMISSIONER MAINTAINED ROAD(S)**

### **1. APPLICATION OF THIS SCHEDULE 2**

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The Council must comply with the terms and conditions set out in this Schedule 2 if (as indicated in item 3 of Schedule 1) the Council's proposed Project funded under this deed involves work on (or alterations to) a road ("**Road**") that is under the care, control and management of the Commissioner of Highways ("**Commissioner**").

### **2. LEGAL REQUIREMENT TO GAIN COMMISSIONER'S APPROVAL**

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Subsection 26(7) of the *Highways Act 1926* (SA) provides that a council must not exercise its powers under Part 2 of Chapter 11 of the *Local Government Act 1999* (SA) (e.g. the powers to conduct roadwork) in relation to a road under the care, control and management of the Commissioner except to the extent (if any) as the Commissioner may approve by written notice to the council.

The Council therefore acknowledges that prior to undertaking any works on the Road it will first need to gain the written approval of the Commissioner pursuant to section 26(7) of the *Highways Act 1926*.

### **3. TERMS AND CONDITIONS FOR WORKS ON COMMISSIONER'S ROAD**

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3.1 The Commissioner makes no warranties or representations concerning the suitability of the Road for the Purpose or the presence of third party installations on, in, along, over, under or near the Road. The Council must arrange for any required relocation or alteration of third party installations at its own cost.

In this Deed "third party installations" means any rail, gas, electrical, telecommunications, stormwater, water or other underground or overground installation on, in, along, over, under or near the Road.

3.2 The Council must:

- (a) not less than one calendar month prior to the commencement of works for the Purpose, submit the detailed design(s), any applicable drawings and plans and its Traffic Management Plan(s) to the Commissioner (acting through the Department) for its comment;
  - (b) modify the documents submitted in accordance with the preceding item 3.2(a) in accordance with any comments received from the Commissioner (or the Department);
  - (c) give prior notification to the Commissioner before commencing any works on the Road and abide by (and ensure that its contractor also abides by) any requirements imposed as to the times for access to the Road;
  - (d) undertake (and ensure that its contractor undertakes) the works on the Road in accordance with:
    - (i) the Department's requirements as per the DIT Master Specification available at [Works on Roads by Other Organisations - Department for Infrastructure and Transport - South Australia](#);
    - and
    - (ii) the detailed design(s), drawings and plans and Traffic Management Plan agreed to by the Commissioner,unless a variation is first agreed in writing by the Commissioner;
  - (e) ensure that any works undertaken do not disrupt (or impede) any activity undertaken by the Commissioner (or the Department) on the Road;
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- (f) ensure that a defect liability period of not less than 24 calendar months applies to the works and the Council must invite (and make provision for) a representative of the Commissioner to attend inspections to assess both practical completion and final completion of the works;
- (g) ensure that any additional works required to reach practical completion or any remediation (or repair of) defects that are required to allow for final completion, identified by either the Council or the Commissioner, are promptly carried out by the Council (or its contractor);
- (h) at its cost, comply with any written direction by the Commissioner in relation to the conduct of the works, any alteration or removal of any infrastructure installed, the removal or minimisation of any risks to safety identified, the reinstatement of pavements, traffic management, the public's access to the Road or partial road closures;
- (i) undertake such reasonable safety measures necessary to protect its employees, contractors, the public and commuters [including without limitation compliance with (and ensuring its contractor complies with) the *Work Health and Safety Act, 2012 (SA)* and the *Work Health and Safety Regulations, 2012 (SA)*];
- (j) notify the Commissioner of any safety risk posed by the works or any infrastructure installed or any activity undertaken by the Council (or its employees, contractors and agents), on the Road; and
- (k) following practical completion of the works [and following any further modifications undertaken by the Council (or its contractor)] provide at the Council's cost, the Commissioner with as constructed drawings and plans accurately depicting the type and location of the works and any infrastructure installed in accordance with Departmental standards available at:  
[http://www.dit.sa.gov.au/contractor\\_documents](http://www.dit.sa.gov.au/contractor_documents) (intellectual property in the plans and drawings vests in the Commissioner).

3.3 If the Council fails to comply with the requirements of item 3.2(g) or fails to carry out a direction of the Commissioner issued in accordance with item 3.2(h) then the Commissioner may (without being obliged to) carry out (or engage a contractor to carry out) the necessary work and the Council promises to pay to the Commissioner the cost it incurs in doing so.

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