
**Multi Party Funding Agreement
For Contributions from Road Controlling Authorities and
Approved Organisations**

Between

Transit New Zealand

and

Christchurch City Council

and

Canterbury Regional Council

and

Waimakariri District Council

**In respect of the Christchurch Transportation Model
Update (2006 Census)**

1.0 Date of Agreement

1.1 This Agreement is made2005

2.0 Funding Partners

- 2.1 Canterbury Regional Council (“ECan”), a regional authority constituted under the Local Government Act 2002 and an approved organisation under the Land Transport Management Act 2003.
- 2.2 Christchurch City Council (“CCC”), a territorial authority constituted under the Local Government Act 2002 and an approved organisation and road controlling authority under the Land Transport Management Act 2003.
- 2.3 Transit New Zealand (“Transit”), a Crown entity continued under section 75 of the Land Transport Management Act 2003 and an approved organisation and road controlling authority under the Land Transport Management Act 2003.
- 2.4 Waimakariri District Council (“WDC”), a territorial authority constituted under the Local Government Act 2002 and an approved organisation and road controlling authority under the Land Transport Management Act 2003.

3.0 Recitals

- 3.1 Section 3.2.10 of Land Transport New Zealand’s Programme and Funding Manual stipulates that multi-party projects involving more than one road controlling authority or approved organisation receiving financial assistance from Land Transport New Zealand for the activity is conditional on the Funding Partners entering into a formal funding agreement developed in consultation with the appropriate Land Transport New Zealand regional manager.
- 3.2 Transit, CCC, and ECan are the joint owners of the current Greater Christchurch Transportation Model (“the Model”)
- 3.3 Transit, CCC, ECan and WDC are together involved in the update of the Model (“the Project”) and have applied to receive or are receiving Land Transport New Zealand financial assistance to fund the Project.
- 3.4 Transit, CCC, ECan and WDC have agreed to enter into a formal funding agreement in compliance with the requirements of Land Transport New Zealand specified in Recital 3.1 in relation to the Project and wish to record the terms of that agreement in writing.

4.0 The Model Update Project – General Obligations

- 4.1 Transit, CCC, and ECan are defined herein the Agreement as (“the Parties”).
- 4.2 The full scope and detail of the Project and the tasks to be completed as part of it are as specified in the supporting documentation submitted to the Land Transport New Zealand allocation program in relation to the Project and the Canterbury Freight Transport Study (“the Scope Documents”).
- 4.3 The Parties agree to:
- 4.3.1 undertake the Project in terms of this Agreement;

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- 4.3.2 use reasonable endeavours to complete the Project on or before 30 September 2008;
 - 4.3.3 work together co-operatively and in good faith in respect of all ownership and management decisions required in respect of the Project;
 - 4.3.4 keep each other fully informed of all matters relating to the Project and to act promptly and reasonably in conducting all matters relating to the Project;
 - 4.3.5 identify all Parties and include WDC as a contributing partner in the Project, whenever called for in public statements and in any written publications relating to the Project;
 - 4.3.6 agree on any statement on funding to be made to the media prior to its release, notwithstanding the right for the media to report on any public meeting;
 - 4.3.7 not make public statements or release documentation relating to the Project without having due regard to obligations under clauses 4.3.2 – 4.3.5 inclusive and clause 7.
- 4.4 Ownership of the updated Model shall vest with CCC, Ecan, Transit and WDC jointly.

5.0 Funding and Costs

- 5.1 The total cost of the Project is estimated to be \$2,410,000.00 excluding GST (“Project Cost”) as identified and enumerated in the Scope Documents.
- 5.2 WDC agrees to contribute to the Project Cost the sum of \$100,000.00 excluding GST. For the remainder of the Project Cost Transit, CCC and ECan agree to contribute to the Project Cost on an equal basis so that each of the Parties shall contribute the sum of \$770,000.00 excluding GST.
- 5.3 WDC agrees to pay the Parties from its contribution sum, up to a maximum of \$50,000 a year, on receipt of invoices from any of the Parties in respect of the Project Cost.
- 5.4 Notwithstanding anything else in this Agreement, any variation in the Project Cost as specified in clause 5.1, or any part of it, and any variation in the Parties’ contributions to the Project Cost specified in clause 5.2 shall require the prior written agreement of the Parties before being implemented.
- 5.5 Each of the Funding Partners shall bear its own administration costs, which may be incurred in relation to the Project, which cost shall not be included within the Project Cost.
- 5.6 The Parties shall each be entitled to incur costs as shall be contemplated or permitted by the Scope Documents or as shall be permitted by the Parties by unanimous agreement which costs shall form part of the Project Cost (such costs referred to in this agreement individually as a “Joint Cost” or collectively as “Joint Costs”), but not otherwise incur costs that they wish to have treated as Joint Costs unless specified in this Agreement. Any of the Parties incurring a Joint Cost shall be entitled to reimbursement upon demand from the other Parties of such cost to the extent that each of the Parties shall be liable for a one third (1/3) share of each cost.
- 5.7 Where any amount expressed in this Agreement is stated to exclude GST, GST shall be added to that amount.
- 5.8 This Agreement is subject, as a condition precedent, to all the Funding Partners obtaining on terms and conditions satisfactory to themselves sufficient funding from Land Transport New Zealand to enable each to participate in the Project, such funding to be obtained within three (3) months of the date of this Agreement.

6.0 Project Management

6.1 The Project shall be managed as follows:

6.1.1 **Management Steering Group.** A Management Steering Group (“MSG”) shall be established by the Funding Partners and shall be comprised of at least one representative of each of the Parties. Each of the Parties shall be entitled to personally nominate one member of the MSG and replace that member from time to time. Additional members of the MSG shall be appointed by agreement of all of the Parties. The function of the MSG is to provide the main governance function in relation to the Project and be the conduit through which the Parties, and Land Transport New Zealand, will exercise control over the Project.

6.1.2 **Technical Steering Group.** A Technical Steering Group (“TSG”), which shall report to the MSG, shall be established by the Funding Partners and be comprised of such persons as the Funding Partners shall nominate and agree from time to time. The TSG shall provide the technical leadership of the Project through the Project Manager and will provide intellectual leadership, and ‘local’ understanding of technical aspects such as model details, implementation, software and survey requirements.

6.1.3 **Project Manager.** A Project Manager (“PM”) may be appointed by the Parties, by agreement, to oversee the day to day management of the Project. The PM will report to the MSG and liaise regularly as required with a designated representative of the MSG and the TSG.

6.2 **Quorum.** Meetings of the MSG shall require a quorum of not less than three members, which must include a representative of each of the Parties.

6.3 **Lead Authorities.** The Parties, may from time to time by agreement in respect of each component part of the Project, appoint one of their number to be the leader of that component part of the Project (“Lead Authority”). Each Lead Authority shall be responsible for the overall management of that component part of the Project. Each Lead Authority shall clearly identify the employee of the Lead Authority who shall act as manager of that Lead Authority’s activity. The Lead Authority shall be entitled to incur those costs, which are contemplated or permitted by the Scope Documents or permitted by the Parties by unanimous agreement in relation to the Project, which costs shall form part of the Project Cost and shall be Joint Costs in terms of clause 5.5 above.

6.4 The Project Manager may act as the Project representative in relation to specific tasks agreed by the MSG, but the Project Manager shall not be entitled to incur costs in relation to the Project without the prior consent or authorisation of the MSG. The Project Manager shall be responsible for maintaining adherence to the agreed scope, timeframes and budgets relating to the Project and the Scope Documents. Any amendments or variations required outside or beyond the matters set down in the Scope Documents must be first referred to the MSG for approval.

6.5 Notwithstanding anything else, any work or activity which shall fall outside what is provided or contemplated by the Scope Documents must not be undertaken until and unless agreed to by the Parties.

7.0 Official Information and Release

7.1 The Funding Partners recognise that:

7.1.1 Transit is subject to the Official Information Act 1982;

7.1.2 CCC, ECan and WDC are subject to the Local Government Official Information and Meetings Act 1987; and

7.1.3 This Agreement, the Model, the Project, the Scope Documents, the MSG and TSG and meetings in relation to them are likely to be subject to those Acts.

7.2 The Funding Partners agree to co-operate fully and promptly in assessing any request to one or more of them for the release of information under any of those Acts, with particular regard to the time limits for transfer of requests and responding to requests under those Acts.

8.0 Other persons

8.1 This Agreement does not and is not intended to offer any benefit or create any obligation enforceable at the suit of any person not a party to this Agreement.

9.0 Activity Change Reporting to Land Transport New Zealand

9.1 Each of the Parties, as it may affect them, will make such requests to Land Transport New Zealand for changes to the activity funding from Land Transport New Zealand as and when necessary.

9.2 Changes in any member of the Parties' Land Transport New Zealand funding shall be made as a review request and advised to the other parties.

10.0 Termination

10.1 This Agreement will terminate upon the completion of the Project. For the purposes of this clause the Project shall be completed when payment of all costs forming part of the Project Cost is made, all contracts relating to the Project have been completed and all of the Funding Partners to this agreement have complied with their obligations under this Agreement.

10.2 This Agreement may be terminated:

10.2.1 If any of the Funding Partners to this Agreement cannot obtain sufficient funds, to be determined at its discretion, to participate in the Project from Land Transport New Zealand then that party may terminate this Agreement immediately. In that event the costs for work completed up to that time shall be met equally by the Parties less any equal share from WDC limited to their total contribution in Clause 5.2.

10.2.2 If tenders received for any contract forming part of the Project shall exceed the estimates for the Project and any of the Parties is unable to obtain the necessary funds to cover the excess required to be paid by it then it may immediately terminate this Agreement. In that event the costs for work completed up to that time shall be met equally by the Parties less any equal share from WDC limited to their total contribution in Clause 5.2.

10.2.3 If the Project Cost shall at any time exceed the funding available to any of the Parties which is unable to obtain the necessary additional funds to meet the excess cost then it may immediately terminate this Agreement. In that event the costs for work completed up to that time shall be met equally by the Parties less any equal share from WDC limited to their total contribution in Clause 5.2.

10.3 Termination of this Agreement shall be without prejudice to the rights of the Funding Partners against each other.

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- 10.4 Should any of the Funding Partners terminate this Agreement, then the remaining Funding Partners may resolve to continue the relationship specified in this Agreement without the terminating party by entering into a new Agreement.
- 10.5 Amendments to this Agreement shall only be effective if agreed by all the Funding Partners in writing.
- 10.6 Amendments to the Scope Documents shall only be effective if agreed by all the Parties in writing.

11.0 General

- 11.1 **No Partnership.** Nothing in this Agreement is intended to create or be construed as creating the relationship of partnership, principal and agent, or joint venture between the Funding Partners and neither party has fiduciary duties to the other.
- 11.2 **Statutory Obligations of Parties.** Each Funding Partner recognises that the other(s) has statutory accountabilities and obligations, including reporting obligations, and that each must perform them without improper influence of or consideration for the other(s).
- 11.3 **Severability.** If any part of this Agreement or its application to any person or circumstances is or becomes invalid or unenforceable the remaining provisions shall remain valid and enforceable to the fullest extent permitted by law.
- 11.4 **Disputes.** All differences and disputes between the Funding Partners concerning this Agreement shall be dealt with as follows:
- 11.4.1 The Funding Partners shall meet and discuss in good faith any dispute between them arising out of this Agreement.
- 11.4.2 If the discussions referred to in clause 11.4.1 shall fail to resolve the issue at hand within 30 days of first being raised in writing, the issues shall be elevated to a meeting between the Chief Executives of the respective Funding Partners or their nominees
- 11.4.3 If the discussions referred to in clauses 11.4.1 and 11.4.2 shall fail to resolve the relevant dispute within 60 days of first being raised in writing, either party may (by written notice to the other party) require that the dispute be submitted for mediation by a single mediator between the Funding Partners. In the event of any such submission to mediation:
- (a) The mediator shall be deemed to be not acting as an expert but as an arbitrator;
- (b) The mediator shall determine the procedure and timetable for the mediation; and
- (c) The cost of the mediation shall be shared equally between the Funding Partners involved.
- 11.4.4 No legal proceedings shall be issued in respect of any such dispute, unless all reasonable steps have been made to comply with clauses 11.4.1 to 11.4.3
- 11.5 **Further Assurances.** Each of the Funding Partners agrees to execute and deliver any documents and do all things as may reasonably be required by one or other of the Parties to obtain the full benefit of this Agreement to its true intent.

- 11.6 **Reliance on Own Judgment.** Each of the Funding Partners confirms that it is acting on its own judgment and not in reliance upon any representation or warranty made by one or more of the other Parties or their employees or agents.
- 11.7 **No assignment.** There shall be no assignment, transfer or creation of any encumbrance over any rights or obligations in this Agreement.
- 11.8 **No waiver.** A waiver of any provision of this Agreement shall not be effective unless given in writing, and then it shall be effective only to the extent that is expressly stated to be given. A failure, delay or indulgence by any of the Funding Partners in exercising any power or right shall not operate as a waiver of that power or right.

12.0 Signing

IN WITNESS THEREOF this Agreement has been signed on the date above written:

Signed for
Transit New Zealand
by:

Signed for
**Christchurch City
Council**
by:

Signed for
**Environment
Canterbury**
by:

Signed for
**Waimakariri District
Council**
by:

Rick van Barneveld
Chief Executive

Leslie McTurk
**Chief Executive
Officer**

Bryan Jenkins
Chief Executive

Jim Palmer
Chief Executive

In the presence of:

In the presence of:

In the presence of:

In the presence of:

Name:

Name:

Name:

Name:

Occupation:

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