

SERVICE LEVEL DEED

between

Dunedin City Council

and

The Carisbrook Stadium Charitable Trust

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Service Level Deed

Date: **27 JANUARY** 2010

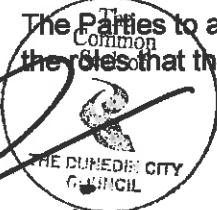
Parties

1. **Dunedin City Council a Territorial Local Authority under the Local Government Act 2002 ("DCC or "Council")**
2. **The Carisbrook Stadium Charitable Trust a Charitable Trust settled on the 9th August 2006 under the Charitable Trusts Act 1957 ("CST")**

Background

- A. DCC and other parties ("the Carisbrook Working Party") commenced investigations in 2003 into the possible upgrading or construction of a new facility to replace the existing Carisbrook stadium ("Carisbrook").
- B. In 2005, at the request of the DCC and ORC, it was agreed that an Independent Charitable Trust will be formed to investigate the options for Carisbrook that would have the most benefits for Dunedin and Otago.
- C. The Independent Trust was agreed as the best vehicle to allow optimum success by separating it from the then existing Working Party and the DCC
- D. The Carisbrook Stadium Charitable Trust (CST) was formed and launched in August 2006.
- E. The DCC by Resolutions on the 11th June 2007 and 10th December 2007 agreed to provide up to \$11.5m in the financial year ended 30th June 2008 to fund CST to consult and investigate on a multi purpose stadium with a covered roof adjacent to Logan Park in Dunedin.
- F. The early CST investigations indicated that an upgrade of Carisbrook would not provide optimum benefits for the city and region.
- G. The CST investigated the option of a multipurpose, roofed stadium in a joint venture with the University of Otago.
- H. CST presented the results of its investigation to the DCC, ORC and CTO. There were six options presented and the DCC followed by the ORC and CTO confirmed that the only option they wished to proceed with was Option 1A, being a new multipurpose stadium with a roof and in association with the University of Otago.
- I. The DCC and ORC requested the CST to continue its investigations and planning and based on a series of resolutions taken, the CST has continued to deliver on the requests made.
- J. Following initial investigations DCC subsequently agreed to fund the remainder of the Project subject to certain conditions as set out in the March Resolution (such March Resolution attached as Appendix I.).
- K. The purpose of this Service Level Deed is for:

- The Parties to acknowledge the various groups and parties involved in the Project, and the roles that they will play and the lines of reporting and accountability; and



- To identify the roles and responsibilities of CST as special agent of the DCC (DCC as the owner/developer of the Stadium).
- L. The Council on 31 August 2009 registered a company known as Dunedin Venues Management Ltd (DVML), a CCO, which will manage the stadium for the Council. In addition DVML will manage the Edgar Centre, Dunedin Centre and any other venues which may be added from time to time.

Operative Part

1. Definitions and Interpretation

Definitions

- 1.1 In this Deed unless inconsistent with the context, the following terms shall bear the following meanings:

"Deed" or "Service Level Deed" means this Deed.

"Misfeasance" means intentional default, dishonesty or criminal conduct, but expressly excluding negligence.

"the March Resolution" means the Resolution of the DCC passed at a Council meeting on the 17th March 2008 as amended by the DCC at a Council meeting on 29th September 2008 attached as Appendix I.

"the Master Plan" means the master plan and business plan for the Project as finally approved by DCC.

"the Parties" means DCC and The Carisbrook Stadium Charitable Trust

"the Project" means the construction of a multi purpose stadium with a covered roof adjacent to Logan Park in Dunedin and to be constructed in accordance with the Master Plan subject to fulfilment of the conditions as set out in the March Resolution.

"Project Delivery Team (PDT)" means the Project Delivery Team being one of the parties as shown on the Structure Plan having the functions as referred to in clause 2.2d.

"Significant" means a material upward or downward change/affect on the agreed design, budget, level of service, fitout, quality, external design and appearance of the Stadium or change in functionality including the multi purpose capability of the Stadium.

"the Stadium" means the Awatea Street Stadium constructed pursuant to the Project.

"Stakeholder Group" means the Stakeholder Group established in accordance with clause 2.2b and contains representatives from the parties, major funders and/or beneficiaries as shown in the Structure Plan of the project.

"the Structure Plan" means the diagram attached as Appendix II depicting the various organisations and parties involved in the Project.

"the Vision" means the Vision of the Project as set out in Schedule 1(a).

"Dunedin Venues Management Limited (DVML)" means the company incorporated on 31 August 2009 as a Council Controlled Organisation (CCO) to manage venues owned by Dunedin City Council.



Interpretation

- 1.2 Words which refer to the singular include the plural and vice versa; and words importing one gender include the other genders.
- 1.3 Headings are used in this Deed for convenience only and shall not affect the interpretation of this Deed.
- 1.4 References in this Deed to currency are references to New Zealand currency unless otherwise specified.
- 1.5 The word "person" includes any individual, company, corporation, corporation sole, company, firm, partnership, joint venture, syndicate, the Crown, any central or local government department, authority, association or group, and any other entity, or any other association of persons either corporate or unincorporated.
- 1.6 A month or year is a reference to a calendar month or year as the case may be.
- 1.7 Time references are references to New Zealand time unless otherwise specified.
- 1.8 A statute or regulation includes all amendments to that statute or regulation whether by subsequent statute or otherwise.

2. Structure Plan

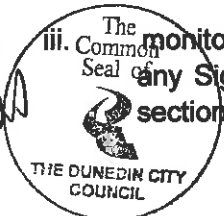
- 2.1 The Structure Plan depicts the main organisations and parties involved in the Project from a governance/implementation perspective (refer Appendix II).
- 2.2 The principal roles of the groups identified in the Structure Plan can be summarised as follows, namely:

a. **DCC as:**

- the party which has the final say on whether the conditions of the March Resolution have been met;
- the purchaser of the land, the developer and owner of the Stadium, a major funder, a member of the Stakeholder Group and the party to whom all groups shown on the Structure Plan are ultimately accountable in respect to their respective roles with regard to the Project.

- b. **The Stakeholder Group** which group comprises representatives from the major financial donor to the Project being DCC which must ensure its funding is applied in accordance with the approved Master Plan. The group also includes representatives of the CST and of the University of Otago and is chaired by the Mayor of Dunedin. The representatives shall be the persons who hold the respective positions named in the annexed Structure Plan. The Stakeholder Group's key roles are to:

- i. agree the proposed Vision and Master Plan and any proposed changes to it from the CST before the final approval of the Vision and Master Plan by DCC;
- ii. recommend to the Council the Vision and Master Plan, any Significant changes to it, after receiving advice from the CST;
- iii. **monitor implementation of the Vision and Master Plan, report to and recommend any Significant changes to the Council after receiving reports in accordance with section 4;**



- iv. agree to changes to the Master Plan that are not Significant;
- v. after considering advice from the CST received pursuant to clause 2.2 c.viii to confirm the appointment and removal of members to the Project Delivery Team, and any sub groups the PDT may establish, with the attributes referred to in Clause 2.2(d);
- vi. to receive and monitor reports monthly from CST (or more frequently if the Stakeholders Group agrees) for the first year after establishment and quarterly reports thereafter if the Stakeholders Group is satisfied this is frequent enough to ensure implementation of the Vision and the Master Plan are not compromised;
- vii. to agree a Stakeholders Group media protocol (refer to clause 6.1);
- viii. to agree a memorandum of understanding between members of the Stakeholder Group on its role, delegations and reporting;
- c. CST shall have the following roles:
 - i. A strategic role in the Project dealing with those strategic matters as set out in Schedule 1; and
 - ii. A member of the Stakeholder Group; and
 - iii. An implementation role, being responsible for construction of the Stadium as set out in Schedule 2 and Schedule 5; and
 - iv. Recommend to the Stakeholder Group methods to meet the March Resolution; and
 - v. Updating and confirm the GMP process is robust to the Stakeholder Group; and
 - vi. As the entity for receiving charitable donations, bequests and gifts noting that all other commercial contracts are managed by DVML; and
 - vii. Receiving reports from DVML on fund raising including ticket sales, head naming rights and membership products as set out in the Horwath and Horwath business plan as peer reviewed by PriceWaterhouseCoopers; and
 - viii. Advice to the Stakeholder Group on suitable members for appointment by CST to and removal by CST from the Project Delivery Team or any of its subgroups; and
 - ix. To consult with Dunedin City Council prior to the appointment or removal of Trustees.
- d. **Project Delivery Team ("PDT")** - The PDT shall be a subcommittee of CST and shall report to the CST and shall have the primary function to manage/oversee the construction of the Project as outlined in Part B of Schedule 4 under delegation from CST.

The Parties, and other representatives in the Stakeholder Group, agree that in every respect the members they appoint to the PDT and any sub groups it may appoint shall be persons who have significant experience in construction, procurement, project management, financial management and marketing so as to bring the requisite spread of skills to enable the PDT and any sub groups it may appoint to execute its functions.



- e. **The University of Otago:** the parties shall use their best endeavours to have the University of Otago accept the following roles:
- i. as a co-developer and owner of the land and buildings (to be constructed) adjacent to the Stadium forming an integral part of the Project and creating direct and indirect financial benefits/efficiencies for DCC in the construction of the Stadium more particularly set out in the Master Plan; and
 - ii. a member of the Stakeholder Group; and.
 - iii. implementing the development agreement with the DCC.

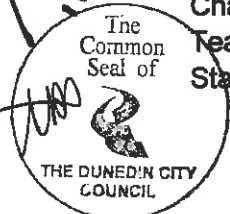
3. **Appointment of CST as Special Agent for DCC**

- 3.1 CST expressly acknowledges and agrees that, in carrying out its roles and responsibilities as set out in this Deed, it is at all times acting as a special agent (and not a general agent) of DCC strictly in accordance with the principles of the laws of agency and in doing so, shall not in any way hold itself out to any persons as the principal in any matter associated with the ownership and/or construction of the Project.
- 3.2 DCC accordingly appoints CST as its special agent and CST accepts the appointment.
- 3.3 CST in carrying out its roles and responsibilities as special agent of DCC shall always act in good faith to ensure that the Vision and the Master Plan is achieved for the overall benefit of all Parties. In particular, it shall not agree to any significant modification to the Master Plan which makes inferior the integrity of the Vision without input from the Stakeholder Group and the ultimate approval in writing of DCC.

4. **Reporting Lines/Accountability**

4.1 The Parties acknowledge that:

- a. The DCC has overall right of final approval as the owner, developer and a substantial funder of the Project, and is the party to whom all parties as shown on the Structure Plan are ultimately accountable in respect to their respective roles with regard to the Project.
- b. CST shall report to DCC through the Stakeholder Group at such times and on such matters as detailed in Schedule 3; and
- c. CST shall provide monthly reports to the PDT and Stakeholders Group and formally report to the Stakeholders Group as to construction progress quarterly or some other frequency when the Stakeholder Group decides; and
- d. CST shall report to the Stakeholder Group as and when required in respect to any Significant modifications to the Master Plan; and
- e. CST shall make available to the Stakeholder Group all the written reports which it needs to report to the DCC throughout the Project (as CST and/or DCC deems appropriate); and
- f. The PDT shall report to CST regularly on its roles and responsibilities. In the event of a disagreement between the Project Delivery Team and the Carisbrook Stadium Charitable Trust, which cannot be resolved then CST and the Project Delivery Team, or any one member may submit the disagreement directly to the Stakeholder Group; and



- g. The Stakeholder Group shall report to DCC for ultimate approval of the Master Plan and any changes thereto; and
- h. The Stakeholder Group will appoint and remove members from the PDT on advice of CST in accordance with clause 2.2b.v, 2.2c.v and 2.2d.

5. Responsibilities of the DCC

5.1 DCC shall have the following responsibilities:

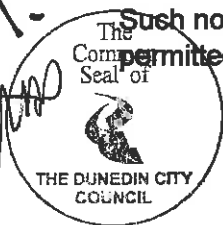
- a. To have the roles as set out in clause 2.2a;
- b. To be the principal of CST as recorded in this Deed; and
- c. To appoint three members to the Stakeholder Group, being the Mayor, Deputy Mayor, CEO or their nominees; and
- d. To provide CST with appropriate funding in accordance with the Master Plan and any approved Budget (and any approved variations thereto); and
- e. To use best endeavours to reduce the ratepayer contribution by \$20 million; and
- f. To ensure that the receipt of the charitable donations, bequests and gifts by the CST are applied for the purposes for which they were received; and
- g. To call special/extraordinary meetings, if necessary, to respond to Significant changes to the Master Plan or any other matters that may arise from time to time; and
- h. To work jointly with CST and DVML to develop a programme for the opening of the Stadium; and
- i. To consult with CST on the transitional arrangements regarding transferring ownership and DCC responsibilities for the Stadium to DVML but acknowledging the CST role as outlined in this document. After consultation the decision of DCC on such transitional matters will be final and binding. (Changes to this agreement reflect the transitional arrangements).

6. Joint Responsibility

- 6.1 The Parties shall work together to jointly develop a protocol for all media releases by the Stakeholder Group to be approved by the Stakeholder Group with regard to the Project. In the event the Parties cannot agree upon a media release protocol for the Stakeholder Group, DCC shall determine the protocol which shall be binding on the Stakeholder Group.
- 6.2 DCC and CST to provide each other with information in reasonable time to ensure reporting deadlines and statutory requirements are met.

7. Review and Variations

- 7.1 There will be an annual review between the Parties of the working of this document and any matters contained in the Deed.
- 7.2 The Parties may give notice anytime in writing of any amendments proposed to this Deed. Such notice shall set out the reasons for the changes requested. No amendment shall be permitted unless approved by both parties. Any amendment so approved shall be



recorded by way of variation to this Deed prepared or reviewed by DCC's solicitor and signed by the Parties.

8. Disputes

- 8.1 Any dispute on any matters arising under this Deed including but not limited to the roles and responsibilities of the Parties, will require them to meet to resolve their differences. Any differences should be raised at the weekly meeting of the Chief Executives of the Parties or their representatives and put in writing. If the Chief Executives cannot resolve their differences they will escalate their concerns to the Chairperson of the Stakeholder Group, and if still unresolved to the Stakeholder Group. Where it is not possible to resolve their differences using this process the DCC will make the decision which will be final and binding.
- 8.2 If following DCC's final and binding decision, either party considers their differences to be a "fundamental disagreement", then such party may terminate this Service Level Deed on three months written notice to the other party and the provisions for termination hereinafter appearing shall apply.
- 8.3 Following the receipt of a termination notice pursuant to the provisions of clause 8.2, the Parties shall at the expense of DCC take all steps as are reasonably required for the orderly handover of all matters (including but not by way of limitation), all contracts, records (electronic and hard copy), intellectual property, confidential information, plans, drawings and other documentation whether copyright or not and all knowledge and all assets and other matters relating to the Project to DCC or such other party as DCC may direct prior to the expiration of this three month notice period.

9. Partner Representatives

- 9.1 The Chief Executive of DCC or his nominee will administer all aspects of this Deed and is the official DCC representative to liaise with CST in undertaking it's the DCC's responsibilities.
- 9.2 A representative of CST will administer all aspects of this Deed on behalf of CST and will liaise with DCC in undertaking its responsibilities.

10. Assignment

- 10.1 The appointment by DCC of CST as its special agent pursuant to this Deed is personal to CST and may not be assigned or transferred in any manner without the prior written consent of DCC (which consent may be withheld at the discretion of DCC).
- 10.2 If however, CST (with the consent in writing of the DCC) assigns or transfers the whole or any part of its roles and responsibilities as the special agent of the DCC, then the obligations of CST in respect to such assignment/transfer as set out in this Deed, will cease forthwith from the Effective Date of the assignment/transfer.
- 10.3 CST agrees that if CST (with the prior consent in writing of the DCC which consent shall not be unreasonably withheld) subcontracts any of its responsibilities under this Deed, to any other person(s) or organisation(s), CST will (subject to any express arrangements with DCC at the time of such subcontracting) remain responsible and liable for complying with the provisions of this Deed.

11. Limitation of Trustee Liability



- 12.1 Subject to the provisions of clause 12.3 the Trustees of CST ("the Trustees") enter into and execute this Deed and covenant whether expressly or impliedly as Trustees of **THE CARISBROOK STADIUM CHARITABLE TRUST** ("the Trust") solely but no further and not in their personal capacity or otherwise and with the intent to bind only the person or persons for the time being filling the office of trustee during their holding such office and not thereafter.
- 12.2 Subject to the provisions of clause 12.3, the liabilities and obligations of the Trustees hereunder (if any) whether for payment of any sum or performance or observance of any covenant or provision herein contained or implied shall at all times and for all purposes be counted not as an unlimited personal liability or obligation but only as a liability or obligation to pay any moneys and/or perform and observe any covenant and provision out of and so far as will extend to the assets of the Trust and coming into the hands of the Trustees in the course of their administration of the Trust.
- 12.3 Where DCC incurs any loss as a result of breach of Trust by any Trustee due to Misfeasance, on the part of that Trustee this limitation of liability will not apply to that Trustee and that Trustee will be personally liable to DCC to the extent the Trust assets do not satisfy all that Trustee's obligations to DCC.
- 12.4 Subject to clause 12.3, any suits or proceedings in respect of this Deed shall be instituted against CST and any judgment, order or decree shall be limited to such body and execution thereon shall at all times and for all purposes be limited to the assets of the Trust in the ordinary course of its administration.

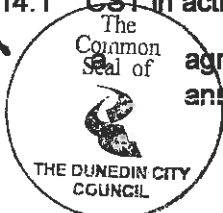
13. Indemnity

- 13.1 CST will indemnify DCC and will keep DCC fully indemnified in respect of any claim, loss, damage or expense of whatever nature incurred by DCC by reason of any breach of this Deed by the Trust.
- 13.2 CST will not be liable for any claim, damage or expense incurred by the DCC where such claim, loss, damage or expense is incurred by virtue of any act or omission whether negligent or otherwise of the DCC, and its officers or employees.
- 13.3 DCC will indemnify CST and will keep CST fully indemnified in respect of any claim, loss, damage or expense of whatever nature incurred by CST by reason of any breach of this Deed by DCC.
- 13.4 DCC shall indemnify CST's employees, and shall keep them indemnified, against the outcome of legal action taken by third parties against CST's employees based upon any act, error or omission or statement made in carrying out CST's obligations under this Service Level Deed, provided that the employee has acted in good faith and with reasonable care, and provided that such act, error or statement does not arise from any Misfeasance on the part of the employee.
- 13.5 DCC will fully indemnify and keep fully indemnified any Trustee of CST at any time from and against all costs, claims, demands, actions, loss, damage or expense of whatever nature arising by reason of or relative to any act or omission, negligent or otherwise on the part of CST or any Trustee but excluding Misfeasance on the part of that Trustee.

14.1 Conflict of Interest

- 14.1 CST in acting as DCC's special agent under this Deed:

agrees to be bound by the Protocols for Trustee Disclosure and Participation annexed attached as Appendix III to this Deed, in respect to dealing with conflicts



of interest arising in respect to any contract, arrangement or other transaction, or proposed contract, arrangement or other transaction, arising out of the CST's appointment as special agent of DCC under this Service Level Deed;

- b. agrees that as between DCC and CST, the provisions of the Local Authorities (Members' Interests) Act 1968 ("the Act") in so far as they are applicable shall be deemed to apply to CST's Trustees as if they were "members" as that expression is used in the Act.

15. Entire Agreement

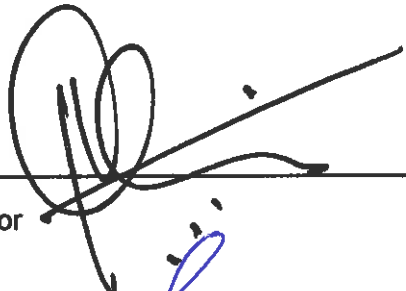
- 15.1 This Deed constitutes the entire agreement between the parties with respect to the transactions and supersedes any previous deed, agreement(s) and understandings between the parties relating to such transactions.

Execution

This Deed was executed on the 27 day of JANUARY 2010.

THE COMMON SEAL of
THE DUNEDIN CITY COUNCIL
was hereunto affixed in the
presence of






Mayor



Authorised Signatory

THE COMMON SEAL of)
THE CARISBROOK STADIUM)
CHARITABLE TRUST)
was hereunto affixed in the)
presence of:)



Trustee

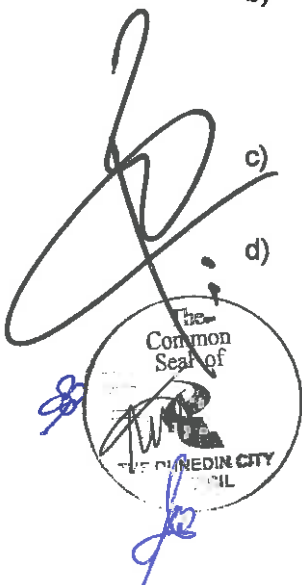


Trustee

Appendix I – DCC March Resolution Council Meeting 17th March 2008 and amendments from the Council meeting 29th September 2008 (Clause Reference Background E)

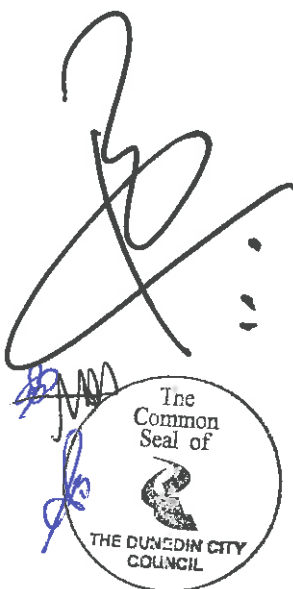
"That the Dunedin City Council commits to the Awatea Street Stadium project on the following terms and conditions:

1. The project cost is confirmed at not exceeding \$188 million. The Council's share of the projected budget cost from 1 July 2008 is a further \$79.9 million made up of \$73.5 million plus \$6.4 million as a depreciation allowance. It is noted that the sum of \$11.5 million was committed in the current year to 30 June 2008 making a total Council commitment of \$91.4 million to the project.
2.
 - a) The Mayor in consultation with the Deputy Mayor and CEO confirm within seven working days that property contracts are satisfactory in all respects and will enable the Council to meet its commitments arising from these resolutions.
 - b) The Council notes that in two property transaction there are conditions imposed by the vendors which need to be removed because the Council has no power to consider them under the provisions of the Local Government Act 2002.
3. That a public tender process which meets the requirements of the agreed Council Procurement Process is entered into to obtain a guaranteed maximum price for construction.
4. That a contract is entered into with the University of Otago in relation to the land it is to purchase and written confirmation be given by the University of Otago as to the facilities that are proposed to be built on the land.
5. A satisfactory conclusion to the planning process and adoption of a Plan Change.
6. That a Service Level Agreement, based on the draft that is included in the "public excluded" part of the agenda of this meeting, is signed as soon as possible and that a project control group will be established in accordance with that agreement and that the Council will be represented by personnel with significant experience in construction, project management and financial marketing. It is noted that the Service Level Agreement will provide inter alia that the Trust reports regularly to the Finance and Strategy Committee.
7. The acceptance by the Council of a tender price is subject to:
 - a) confirmation of Otago Regional Council funding of not less than \$37.5 million.
 - b) the sighting and approval of agreements negotiated by the Carisbrook Stadium Charitable Trust and the Otago Ruby Football Union for the sale and purchase of the Union's property assets, in time for consideration by the Finance and Strategy Committee at its meeting on 1 December 2008.
 - c) the sighting and approval of occupation and revenue agreements between the Carisbrook Stadium Trust and the Otago Rugby Football Union.
 - d) that a minimum of 60% of the private sector funding target of \$45.5 million and Council's satisfaction as to progress in achieving the balance and any further funds including those required for the servicing of any bridging finance arranged by the Council for the Carisbrook Stadium Charitable Trust is confirmed, with signed contracts conditional on the stadium proceeding. This information is to be provided

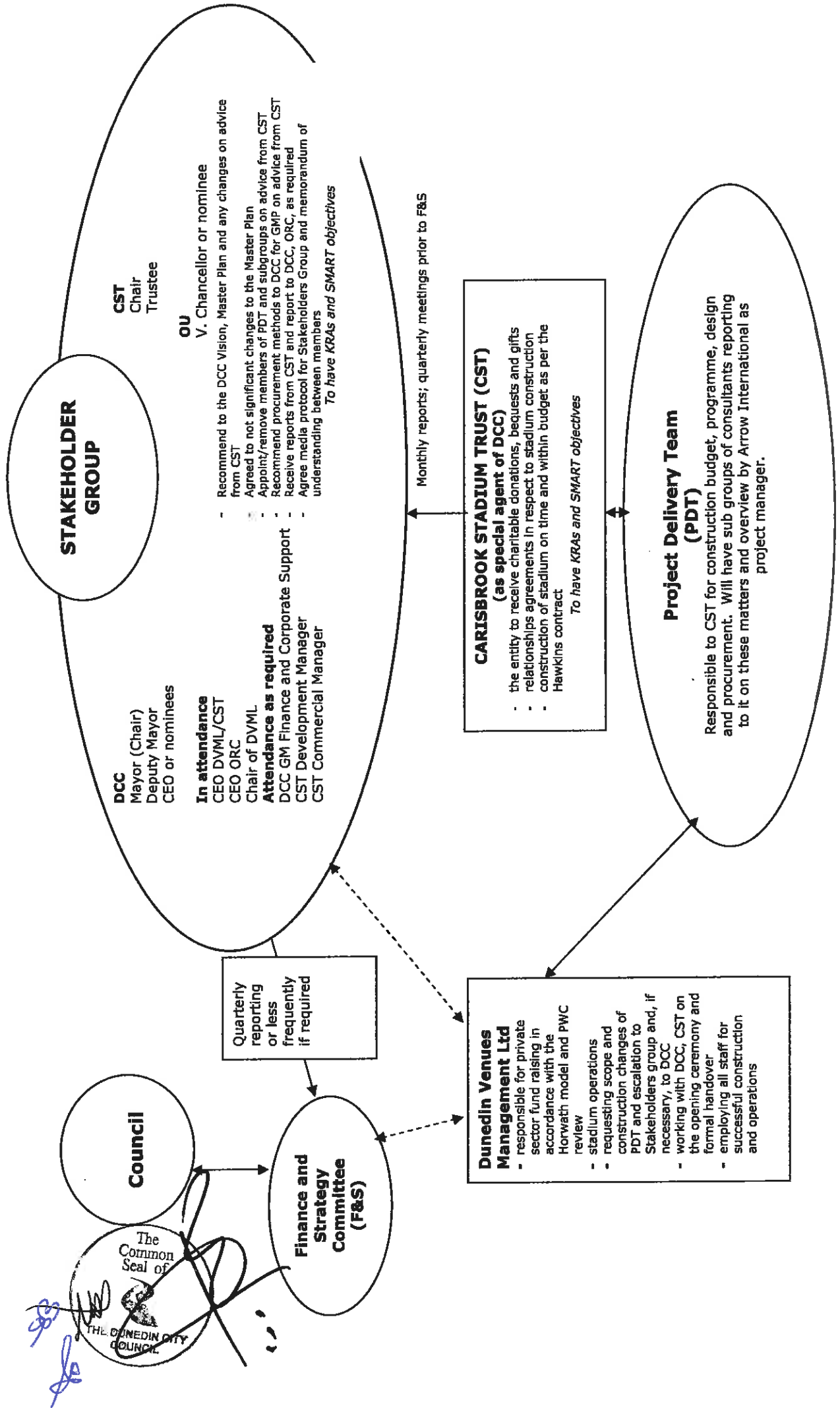


in time for consideration at the Finance and Strategy Committee meeting on 9 February 2009.

- e) the Rates and Funding Working Party continues to identify ways in which the ratepayers' contributions to the capital cost of the stadium can be reduced by \$20 million providing it comes from sources other than the Holding Company and in that regard regular reports will be made available to the Finance and Strategy Committee.
- 8 The Council will receive written confirmation from the Community Trust of Otago (as set out in the Council's cashflow information) that they will provide funding in accordance with the following programme prior to the signing of the guaranteed maximum price (GMP) contract for construction of the stadium:
- | | | |
|--------------------------|-------------------|---------------|
| Community Trust of Otago | 31 March 2009 | \$2.5m |
| | 31 December 2009 | \$2.5m |
| | 30 September 2010 | \$2.5m |
| | 30 April 2011 | <u>\$2.5m</u> |
| | | \$10.0m |
9. That where resolutions 1-8 above conflict or are inconsistent with any prior resolutions of the Council the above resolutions 1-8 prevail."



Appendix II – Structure Plan (refer to clause 2.2 of the Deed)



Appendix III

The Carisbrook Stadium Charitable Trust Protocols for Trustee Disclosure and Participation

Disclosure of Interest

A Trustee must disclose any interest, whether direct or indirect, in any contract, arrangement or other transaction, or proposed contract, arrangement or other transaction with the Trust at a meeting of the Trustees.

The Trustee must disclose both the nature and the extent of the interest.

Conflict of Interest

A Trustee has an interest in any contract, arrangement or other transaction in which the Trustee would reasonably be regarded as likely to be influenced materially to prefer interests other than those of the Trust, or any other affected party, for reasons of personal advantage or the advantage of business or family associates.

Without in anyway limiting the generality of the requirement to disclose any interest in a contract, arrangement or other transaction a Trustee will be considered to be interested in any contract, arrangement or other transaction involving:

- the sale or purchase, or acquisition or disposal by other means of any asset of the Trust to or from any Related Party; or
- the investing or lodging with any Related Party any asset of the Trust comprising cash; or
- the entering into any contract, agreement or other arrangement with any Related Party to provide management, administration, or other services to the Trust; or
- the Trust entering into any other transaction with any Related Party; or
- Any company, partnership, trust or other entity of which the Trustee is a director, partner, trustee, or officer where there that company, partnership trust or other party will or may drive material financial benefit from the contract, arrangement, or other transaction.

Related Party means:

- Any Trustee;
- Any company, partnership, trust, or other entity in which the Trustee or any spouse or any common law or de facto partner or child of the Trustee is interested whether as a shareholder, partner, director, employee, beneficiary, or otherwise;
- Any spouse or any common law or de facto partner or child of a Trustee.



Entry in Interests Register

When a Trustee discloses an interest in any contract, arrangement or transaction, or proposed contract, arrangement or transaction, that disclosure shall be recorded in an Interests Register maintained for that purpose.

The Interests Register shall record the following details with respect to the disclosure of an interest by a Trustee:

- the date of disclosure;
- the name of the Trustee making the disclosure;
- the nature of the disclosed interest; and
- the extent of the disclosed interest.

The Interests Register shall form part of the financial statements of the Trust.

No Participation at Meetings

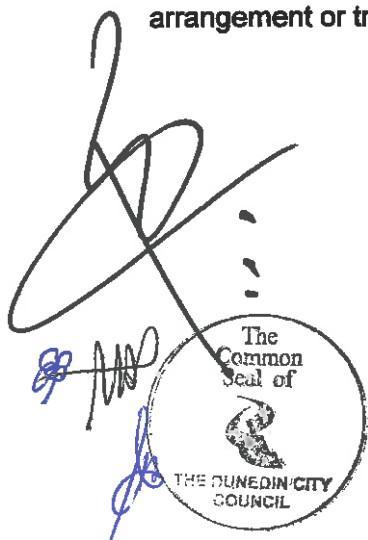
A Trustee that has an interest in any contract, arrangement or transaction, or proposed contract, arrangement or transaction with the Trust shall not participate in any discussion regarding that matter and shall withdraw from the meeting of the Trustees while such matter is the subject of discussion.

No Right to Vote

A Trustee that has an interest in any contract, arrangement or transaction, or proposed contract, arrangement or transaction with the Trust shall not be entitled to vote on any issue related to the contract, arrangement or transaction, or proposed contract, arrangement or transaction.

Not Part of Quorum

A Trustee that has an interest in any contract, arrangement or transaction, or proposed contract, arrangement or transaction with the Trust shall not be counted in the quorum.



Schedule 1 – CST Strategic Involvement in the Project

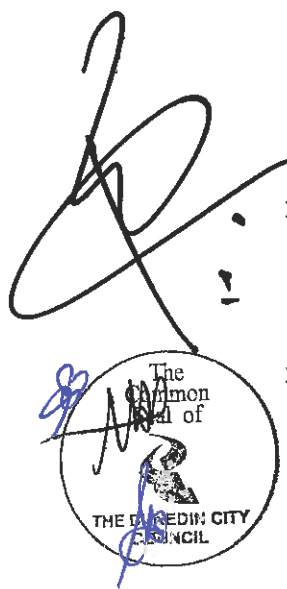
1. Master Plan

The preparation of a draft construction Master Plan for the Project setting out (inter alia) in detail the following matters including specific milestone dates for project completion (where relevant) having due regard to the contents of the March 2008 Resolution:

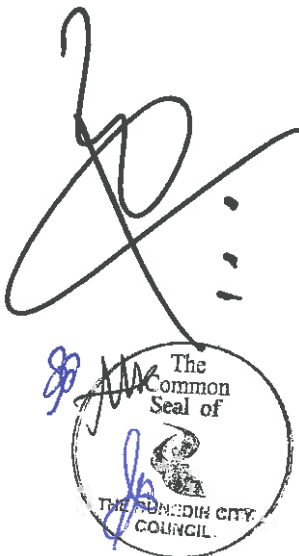
a) Vision: The Vision of the Project as set out below:

Construction of a multi-purpose stadium located at Awatea Street opposite Logan Park and associated spaces and facilities which has a minimum of the following qualities:

- i. Multi-purpose capability so that the spaces within the complex are capable of hosting sporting events which require an international standard grass surface as well as in addition to other spaces, exhibitions, entertainment, education, conferences and the specific integration of the University or some academic research institutions
- ii. Spectator facilities in accordance with quality standards and the operational projections prepared by CST and its consultants which were initially accepted by the Council in March 2008 and updated during the developed design stage and tendered for by Hawkins Construction under the GMP.
- iii.
 - a) Fully roofed with an ETFE covering or similar
 - b) Inclusion of a grass pitch capable of meeting international rugby, soccer and other sporting codes that may use the surface
- iv. Maximum capacity of 30,000 patrons to meet NZRU category B requirements as set out in 2008
- v. A minimum permanent seating capacity of approximately 18,000 with an ability through temporary seating or other methods (eg standing terraces) to increase the capacity to at least 30,000 patrons
- vi. Inclusion of a public plaza in front of the Stadium and University buildings fronting Anzac Avenue which is capable of 24/7 access
- vii. meets quality environmental design principles
- viii. Design and construction budget of \$165.4 million including a DCC approved design, construction and escalation contingency with a completion date of May 2011
- ix. Inclusion of corporate members and other requirements for private sector revenue opportunities
- x. Stadium design to reflect the Master Plan and the operational projections as assessed by the Council's architectural and financial peer review undertaken by Creative Spaces and PriceWaterhouseCoopers respectively on 7 March 2008 or any agreed changes by DCC
- xi. Team, officials and venue hire facilities to be provided to meet their requirements as specified



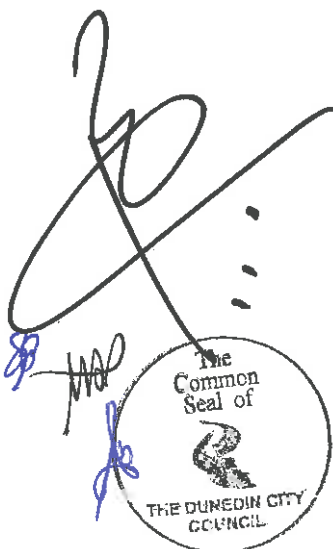
- xii. Media facilities to be provided to meet the broadcaster requirements as envisaged at present, eg Sky for television, radio, print media
- xiii. Environmental sustainable design principles to be used in the design and operation of the facility which are to be detailed in the March Plan to be prepared and agreed by the Council.
- b) strategies to control indirect costs such as associated infrastructure works into and out of the site including pedestrians, services, infrastructure, transportation and roading effects
 - c) techniques to control professional and technical fees
 - d) methods/strategies to monitor and control contractor performance
 - e) a budget for the main elements of the project with associated cash flows and funding sources including site costs, geotech and civil engineering, architecture, acoustics, structural engineering, building services and traffic/transport
 - f) a health and safety plan
 - g) process for dealing with amendments to the designs/variations to the contract
 - h) commissioning relating to the building, its services and opening ceremony in consultation with DVML and DCC.
 - i) relationship with the University of Otago relating to construction of their buildings, the stadium, carpark and University Plaza.
 - j) project management structure
 - k) procurement plan for all consultants and contractors.



Schedule 2 – CST Implementation Role in the Project

1. CST shall be responsible for the construction phase of the Project on time, within budget and fit for purpose as per the tender documents and Hawkins GMP pricing and shall be subject to the reporting duties and accountability back to the Stakeholder Group and the DCC as set out in the Deed.
2. CST will carry out its responsibilities as set out in paragraph 1 of this Schedule with the assistance of the PDT. The composition of the PDT and its functions are as set out in Part B of Schedule 4 (reference clause 2.2 d.).

The PDT shall report and be responsible directly to CST as per clause 4.
3. CST shall have the freedom to negotiate and enter into contracts that bind the other party subject to the final approval of the Stakeholders Group in respect to:
 - a. Receiving donations, bequests and gifts;
 - b. the Hawkins construction contract;
 - c. The University of Otago in relation to construction matters relating to their buildings, the stadium, carpark and University Plaza.
5. CST shall be able to commit to payments that are within the budget approved under the Master Plan and any alterations thereto.
6. CST will work jointly with DCC, and DVML to develop a programme for the opening of the Stadium.



Schedule 3 – Reporting Lines/Accountability

1. CST shall report to DCC through the Stakeholder Group at the following times on the following matters, namely:
 - i. Provide the various reports as set out in clause 4.1 of the Deed.
 - ii. Representatives of the CST to meet as necessary with the Chief Executive of the DCC and/or his representative(s). These meetings will have a set agenda as determined by the Parties and shall occur throughout the duration of the Project.
 - iii. CST will send a monthly report to the Stakeholder Group with a formal quarterly report on progress against the Master Plan to an appropriate level of detail agreed with the Stakeholder Group and the Council's Chief Executive.
 - v. The Trust will prepare an annual construction plan (from the Master Plan) which will detail all revenue and expenditure for the next financial year and each of the following years until the completion of the project including the matters referred to in Schedule 1. This annual construction plan will identify any deviations from the Master Plan budget for approval of the Stakeholder Group and the DCC.
 - vi. CST shall otherwise report to DCC through the Stakeholder Group on such matters and at such times as determined by them in accordance with this Deed.
 - v. The Trust will prepare annually an updated register of donations, bequests and gifts.



Schedule 4

Part A – Members of Project Delivery Team and Appointees

- i. A minimum of six representatives including those in attendance whose appointment shall be approved by the Stakeholder Group; and
- ii. An appointee of the University of Otago Property Manager
- iii. Members of subgroups as required.

Part B – Responsibilities of Project Delivery Team (PDT)

The Project Delivery Team shall, on delegated authority from CST, have the following responsibilities:

- i. to manage, supervise, administer control the construction of the Stadium consultants and all associated works and supplies (including but not limited to) the following:
 - to manage cashflows in accordance with the Business Plan and the reporting arrangements agreed to in the Master Plan and in this Deed; and
 - to authorise progress payments under the Construction Contracts Act and to provide sufficient supporting documentation to enable the DCC to approve and make payments (including dealing with GST payments and issues) that will stand the level of scrutiny usually accorded to expenditures of public money; and
 - analyse expenditures in such manner and to such level of detail that permits DCC to calculate the depreciation attributable to the Stadium (in electronic form).
 - ii. to report and be accountable in the first instance to CST. In the event of a disagreement between the Project Delivery Team and the Carisbrook Stadium Trust, the Project Delivery Team, or any representative, can submit their concerns through its Chair directly to the Stakeholder Group;
 - iii. to report as requested with such information as required to the DCC;
 - iv. to appoint subgroups of its representatives and/or consultants, contractors or suppliers of works and services necessary to ensure the stadium is built on time and budget.
 - v. to report as requested with such information as required to the Stakeholder Group.
 - vi. Notwithstanding the above clauses the PDT will as a minimum report as follows:
 - a) monthly to CST, DVML and Stakeholders Group. Reports include:
 - i. updated construction risk register
 - ii. confirmation that all known material risks have been disclosed
- reports resourced by DVML staff.

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Schedule 5 - Resources/Administration

- 1 DVML is to be the employer of all CST transferred staff and the CST will have non-executive trustees.
- 2 The CEO of DVML is to oversee the office and all staff will report to him.
- 3 All files, records and other information held by the CST and DVML will be held at the offices of DVML and made available to CST and DVML Board members and staff as required.
- 4 Any correspondence/action pertaining to the CST Trustees to be handled and a draft reply, etc to be written up and sent through Executive Assistant, Paula Holden for the Chairman of CST to approve. The Executive Assistant, Paula Holden will also act as secretary to the Board of CST.
- 5 Discussion/alterations will be handled between the Chairman and the person replying.
- 6 Any speech materials, etc will be made available to each party in advance.
- 7 Press releases from time to time will be attributed to the CST when appropriate.
- 8 All parties agree that the CST be resourced to perform its functions under this Deed.
- 9 The staff of CST will be transferred to DVML on 2 February 2010 and the CEO of DVML will make available to CST relevant staff to ensure the orderly transfer of all relevant matters to DVML, such work to be completed by no later than 20 February 2010.

