

CITY OF KELOWNA**HIGHWAY 97 FLYOVER DEVELOPMENT WORKS AGREEMENT**

(Section 937.1, *Local Government Act*)

This Agreement made the 21st day of January, 2007.

BETWEEN:

THE CITY OF KELOWNA, a municipal corporation incorporated under the *Local Government Act* and having offices at 1435 Water Street, Kelowna B.C. V1Y 1J4

(the "City")

AND:

THE UNIVERSITY OF BRITISH COLUMBIA, a corporate body continued under the *University Act* and having offices at 6328 Memorial Road, Vancouver B.C. V6T 1Z2

("UBC")

WHEREAS:

- A. UBC intends to develop certain lands in the City in the vicinity of Highway 97;
- B. The City and UBC have agreed to share with the Ministry of Transportation of the Province of B.C. (the "Ministry") the cost of upgrading Highway 97 to accommodate additional traffic including traffic generated by UBC's development, which upgrading is generally described in Schedule A to this Agreement (the "Highway Works"), and the City and UBC have agreed to make provision for the payment of UBC's share of the cost of the Highway Works as set out in this Agreement; and
- C. A sufficient petition for this Agreement has been presented to the City's Council.

NOW THEREFORE UBC AND THE CITY, pursuant to s. 937.1 of the *Local Government Act*, and in consideration of the mutual covenants and agreements contained herein, agree as follows:

- 1. UBC's share of the cost of the Highway Works is one-third of the total cost of the Highway Works (the "UBC Share"). The UBC Share is currently estimated to be \$4,000,000. The City agrees to pay the UBC Share to the Ministry on behalf of UBC as set forth in Article 6 of this Agreement.

2. UBC shall repay to the City the amount of the UBC Share on the basis of supplementary site servicing costs to be charged by the City against the construction of Building V, identified and described on Schedule B to this Agreement (the "Engineering/Management Building").
3. The City will deliver an invoice to UBC in respect for these supplementary site servicing costs (the "City Invoice") prior to the issuance of any building permit authorizing construction of the Engineering/Management Building. UBC will pay the City Invoice within 30 days of receipt.
4. Commencing from the issuance of the City Invoice and until such time as UBC pays the City Invoice:
 - (a) no building inspector or other City official shall be under a duty or obligation to issue any building permit pertaining to, or provide plan review or inspection services in respect of, the Engineering/Management Building; and
 - (b) neither the City nor any municipal officer or employee shall be obliged to do anything necessary for the development of the lands on which the Engineering/Management Building is to be located, as depicted on Schedule B.
5. The supplementary site servicing costs are estimated to be \$390.45 per square meter of gross building area in the Engineering/Management Building based on the estimated gross building area of the Engineering/Management Building and the estimated amount of the UBC Share, but will be recalculated on the basis of the actual gross building area in the Engineering/Management Building and the actual amount of the UBC Share. If the actual amount of the UBC Share is not known until after the issuance of the building permit authorizing construction of the Engineering/Management Building, the City Invoice shall be calculated on the basis of the estimate set forth above and the City and UBC agree to make appropriate adjustments promptly after the actual amount of the UBC Share is known.
6. UBC will direct the Ministry to send bills in respect of the UBC Share (the "UBC Bills") directly to the City, with copies to UBC. The City will pay the UBC Bills by remitting funds directly to the Ministry on behalf of UBC within 30 days of receipt of each such UBC Bill. If the aggregate amount of the UBC Bills received at that date exceeds the aggregate amounts already paid by UBC to the City under Articles 3 and 4 of this Agreement, the City will advise UBC of the amount of the difference in writing within 15 days and UBC will deliver a cheque in that amount to the City within 15 further days. Such cheque will be treated as an advance on supplementary site servicing costs. The City will not be obliged to pay any UBC Bill unless and until it has received such cheque from UBC.

7. To the extent that the Ministry charges interest or penalties in respect of the UBC Share because the City does not receive any payment from UBC within the timeframes set forth in this Agreement, UBC shall reimburse the City for such interest or penalties and such amounts shall become a debt payable by UBC to the City.

IN WITNESS WHEREOF this Agreement has been executed by duly authorized representatives of the Parties.

THE CITY OF KELOWNA

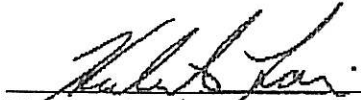
Name

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THE UNIVERSITY OF BRITISH COLUMBIA



Name Hubert Lai



Name J. SUMNER

University Counsel

Title

VP Admin & Finance

Title

SCHEDULE A

DESCRIPTION OF HIGHWAY WORKS

The project works include the construction of a flyover, roadways, storm drainage utility adjustments and relocations, signalization, illumination, and landscaping for the items of work shown on the design drawings prepared by R.F.Binnie and Associates Ltd. and CWMM Consulting Engineers LTD. and tendered on December 29, 2006;

1. Highway 97 from Ellison Overhead to University Way (L100 Sta. 101+00 to 111+60);
2. University Way from Highway 97 to Hollywood Road (L400 Sta.400 to 401+60 and L1200 Sta. 1200+00 to 1201+28);
3. the East/West Connector from Highway 97 to the main UBC Okanagan entrance (L200 Sta. 200+00 to 1202+26);
4. Hollywood Road from the East/West Connector to University Way (L500 Sta.503+03 to 509+44);
5. Highway 97 Off-ramp from Ellison Overhead to Hollywood Road (L700 Sta.700+01 to 705+10);
6. Highway 97 on-ramp from Hollywood Road to Ellison Overhead (L800 Sta.800+00 to 804+59);
7. Roadways within the UBC lands and fully funded by UBC (L900 Sta. 900+15 to 903+46 and L300 Sta.300+04 to 301+37);
8. Borrow supplied to the project free for the clearing and grubbing, stripping and excavation costs along the proposed extension of the East/West Connector west of Sta. 202+26;
9. Upon completion of the roadway construction, necessary landscaping agreed to by the three partners; and
10. Planning to insure linkage and continuity with features or land uses beyond the UBC Okanagan campus. Traffic analysis and functional design will ensure linkages from the components in 2.2.3 and 2.2.4 above extend to their ultimate limit on the UBC Okanagan campus.

SCHEDULE B

KEY PLAN TO BUILDING USE

Buildings in the 2010 Campus Plan are categorized as Academic, Residential, and Combined Use (Academic at lower levels with residential above). The intended uses of campus buildings are described in the chart as are the anticipated phases and total gross area in square meters.

BUILDING LEGEND

BUILDING #	USE	DESCRIPTION	PHASE	ESTIMATED AREA (M ²)
1	Academic	Expansion of existing library with an internal atrium	Phase 2	12,793
2	Academic	New building for Postgraduate School co-located with Engineering	Phase 2	1,899,400
3	Academic	Adaptive reuse of current Student Services Building for academic uses	Existing	-
4	Academic	Existing Arts Building with its third floor addition used for classroom and offices	Phase 1 Addition	-
5	Academic	Existing Science Building with its third floor addition and its supporting expansion	Phase 1 Addition	16,001,100
6	Academic	Artisan building (a expanded Arts and Health purpose building)	Donor	-
7	Academic	New building for music faculty and a 100 seat all-graduate lecture theatre	Phase 1	6,971,100
8	Academic	Existing building expanded for recreation, health, and wellness-related functions	Existing	-
9	Academic	Existing Gymnasium expanded for recreation, health, and wellness-related functions	Phase 1	17,410
10	Academic	Existing Gymnasium expanded for recreation, health, and wellness-related functions	Donor	4,981
11	Academic	Realigned campus on upper floor of Health, Wellness & Recreation	Phase 1	6,800
12	Academic	A 100 level academic resource centre	Phase 1	897,600
13	Academic	Building for research, drama, and other production	Donor	1,010
14	Academic	First phase of collection of many campus-wide and community facilities	Phase 2	2,119,600
15	Academic	Second phase of collection of campus wide and community facilities	Phase 2	2,119,600
16	Academic	Residential currently in design	Phase 1	1,311
17	Academic	Co-located academic on lower floors with residences above	Phase 2	5,810,116
18	Academic	Co-located academic on lower floors with residences above	Phase 3	1,137,116
19	Academic	Scholar's houses with zero-rental and social space	Donor	1,474
20	Academic	Reallocated currently in design	Phase 1	1,300
21	Academic	Construction for academic research purposes	Phase 1	1,170
22	Academic	Existing science facilities through 10th and 11th floor residential development area	Existing	-
23	Academic	Existing Member Office building adaptively reused for operations offices	Existing	-
24	Academic	New building for Engineering co-located with Faculty - new kind	Phase 2	112,440,000
25	Academic	Open air structure for social gathering	Donor	2,530
26	Academic	Existing infrastructure library	Existing	-

* Refer to the section on phasing for the assumptions and details of the above phases.



master plan 2005.09.29

PHILLIPS FAIRVAAG SHAALLENBERG • KENNEDY PAYNE MILLER & BLUMBERG