

<b>SUBJECT</b>	<b>FOLLOW-UP ACTIONS REGARDING CAPITAL PROJECTS AND INTERNAL LOANS</b>
<b>MEETING DATE</b>	<b>FEBRUARY 14, 2017</b>

Forwarded to the Board of Governors on the Recommendation of the President

**APPROVED FOR  
SUBMISSION**



\_\_\_\_\_  
 Santa J. Ono, President and Vice-Chancellor

<b>DECISION REQUESTED</b>	<p><b>IT IS HEREBY REQUESTED that <i>the UBC Board of Governors:</i></b></p> <ul style="list-style-type: none"> <li><i>i. Receive for information proposed Policy #126 (Capital Projects, Capital Purchases and Internal Loans);</i></li> <li><i>ii. Approve proposed revisions to Policy #125 (Retained Risk Fund for Major Capital Projects) in the form attached hereto;</i></li> <li><i>iii. Authorize the Administration to enter into an agency agreement with UBC Properties Investments Ltd, as trustee of the UBC Properties Trust (“UBCPT”), substantially in the form attached hereto, for the purpose of granting UBCPT authority to enter into assignments and tri-partite agreements with respect to market developments, on behalf of UBC;</i></li> <li><i>iv. Repeal Signing Resolution No. 10 (Major Construction and Real Estate Activities: UBC Properties Trust Activities &amp; Short Term Leases); and,</i></li> <li><i>v. Authorize the Administration to enter into an agency agreement with UBCPT, substantially in the form attached hereto, and resulting Statements of Work with respect to capital projects approved by the Board, for the purposes of granting UBCPT the authority to enter contracts in connection with the development and construction of capital projects, on UBC’s behalf.</i></li> </ul>
-------------------------------	--

<b>Report Date</b>	January 13, 2017
--------------------	------------------

**Presented By** Hubert Lai, Q.C., University Counsel  
 Andrew Simpson, Vice-President Finance and Operations  
 John Metras, Managing Director, Infrastructure Development

**EXECUTIVE SUMMARY**

On June 14, 2016, the Board of Governors approved measures to ensure that the Board of Governors’ efforts are focused on major capital projects with significant campus impact.

Since then, the University Administration has reviewed the administrative aspects of the capital planning, approval and development process, and proposes the following:

1. The Board consider replacing the existing Policy 126 – Selection and Appointment of Prime Consultants for Major Projects with a new Policy 126 - Capital Projects, Capital Purchases and Internal Loans Policy. The Policy formalizes the procedures and approval requirements for all



This policy is impractical given the number of major capital projects undertaken at UBC, and outdated due to the robust project management that has developed at strategic and working levels within the University that ensure that prime contractor selection is conducted in a reasonable and responsible manner. As such, the selection of prime consultants now takes place at the administrative level and is embedded in Board 1 approval.

It is therefore recommended that the existing policy's provisions and its procedures be repealed, but that the key provision of the existing policy be incorporated into a new, proposed Policy 126, together with a process for the President's Executive Committee to issue binding directives. The proposed provision for the new Policy 126 is as follows:

*The procurement process for all Construction Projects must ensure that the process for selecting prime consultants (architects, engineers etc.) ensures the public's confidence in the integrity of the selection process, including without limitation: the principles contained in Policy #122 – Purchasing, and ensuring that equal opportunities for consideration are provided to all interested and eligible firms. The President's Executive Committee may issue administrative directives regarding selecting prime consultants, and upon publication, all Construction Projects where prime consultants are engaged, must comply with those directives.*

*Part 2: Proposed New Policy 126 – Capital Projects, Capital Purchases Internal Loans*

As reflected in the Board's June 2016 resolution, capital expenditures vary in risk, and a tiered approval process for capital projects, capital purchases and internal loans will ensure appropriate oversight as part of the University's risk management strategy.

Therefore, the purposes of this proposed Policy are to:

- ensure the appropriate oversight of capital expenditures and internal loans commensurate with the value and risk associated with those activities; and
- establish a framework for requests, approvals, monitoring and reporting.

The Policy establishes the following approval requirement for:

- "Construction Projects"
- "IT Projects"
- "Capital Purchases"
- "Internal Loans"

**With respect to both Construction and IT Projects**

Construction Projects and IT Projects are to be approved as follows:

Aggregate Estimated Value of the Construction Project	Approval Authority
\$5,000,000 and over	Preliminary approval: President’s Executive Committee Final approval: Board of Governors
Under \$5,000,000	President’s Executive Committee or delegate

The procedures will indicate the delegations approved by the President’s Executive Committee, from time to time.

To ensure consistent presentations and that all relevant information is considered, all projects must be brought forward through these approvals in accordance with administrative directives issued by the relevant authorities.

Any proposed increases to approved budgets must also be approved by the same authority who originally approved the budget, except where a monetary threshold is crossed (e.g. if a \$4.5 million project requires a \$700,000 (15.6%) budget increase, Board approval would be required for the change). However, as an exception to this rule, if the change is below a reasonable budget variance—15% of the originally approved budget, and not exceeding \$2.5 million—the original approval authority or their delegate, may approve the change (e.g. if a \$4.5 million project requires a \$540,000 (12%) budget increase, the Executive or their delegate, could approve the increase).

The Procedures to the Policy set out procedural details of various approval levels (for example, Board 1, Board 2 and Board 3).

**Capital Purchases**, which are purchases of assets used for productive purposes and with an expected useful life in excess of one year, are to be approved in keeping with UBC’s Signing Resolutions.

Under the authority granted the Signing Committee pursuant to the Board’s Signing Bylaw, the Board’s Signing Committee may delegate signing authority for any purchases that do not exceed \$10 million, and that, regardless of their monetary value, are not precedent setting and do not involve sensitive issues. Agreements that exceed \$10 million, or are precedent setting or involve sensitive issues, must be brought to the Board for consideration and approval.

Therefore, most Capital Purchases under \$10 million may be approved by those individuals who have been granted signing authority. Currently, the most relevant signing authorities are: Financial Operations, which has signing authority up to \$1.5 million for the acquisition of goods and services, and a combination of two members of the President’s Executive Committee may sign agreements up to \$10 million.

**Internal Loans**, which are loans made by UBC Treasury to UBC’s own academic, administrative and ancillary units in return for a commitment to repay the loan, with interest, are proposed to be approved as follows:

Loan Value	Approval Authority
\$5,000,000 and over	Initial approval: President’s Executive Committee Final approval: Board of Governors
Under \$5,000,000	President’s Executive Committee or delegate

All applications for Internal Loans must be brought forward through these approvals in accordance with administrative directives issued by the Responsible Executive.

A copy of the proposed policy is attached. A copy of the current policy is available at <http://universitycounsel.ubc.ca/files/2010/08/policy126.pdf>

**2. Policy 125 – Retained Risk Fund for Major Capital Projects**

Housekeeping changes to Policy #125(Retained Risk Fund for Major Capital Projects) are required to reflect that Board approvals are not required for capital projects under \$5 million; and confirm that the policy applies only to Major Construction Projects (rather than all projects of a capital nature).

Two additional changes are necessary and convenient to propose at this time:

First, inserting an express reference to the amount of the Fee to be paid into the Fund by each project: 1% of the project’s value. This will provide clear guidance to the community and a single reference point of reference for matters concerning retained risk.

Second, a reference has been included to UBC’s Sites, such that construction projects at, for example, UBC’s Learning Exchange, would be captured by this policy.

In keeping with those amendments and the proposed amendments to Policy 126 – Capital Projects, Capital Purchases and Internal Loans, which specifically defines “Construction Projects”, it is proposed to change the name of the policy to “Retained Risk Fund for Major Construction Projects”.

These changes do not alter the substance of the Policy.

A copy of the proposed policy and a blackline showing the proposed changes to the Policy are attached. A copy of the current policy is available at <http://universitycounsel.ubc.ca/files/2012/02/policy125.pdf>

**3. Signing Resolution 10 – Major Construction and Real Estate Activities:  
UBC Properties Trust Activities & Short Term Leases**

This signing resolution was approved by the Board's Signing Committee in February 2008. The resolution delegates signing authority to representatives of UBC Properties Investments Ltd., as trustee of the UBC Properties Trust ("UBCPT") as well as certain members of the University Administration. The following issues and recommendations arise from this Signing Resolution:

- (a) **Subject matter:** Entering into listing agreements with leasing agents for non-residential development in the University's Comprehensive Community Plan.

**Issue:** Such matters are now within the scope of the UBC Treasury's Contracts and Leases department, and signatures for such agreements are otherwise authorized under Signing Resolution No. 1.

**Conclusion and recommendation:** This delegation is therefore no longer appropriate, or necessary, and should be repealed.

- (b) **Subject matter:** Acting as UBC's agent for construction projects related to UBCO.

**Issue:** Construction projects at UBCO are effectively managed by UBC's department of Infrastructure Development, who engages UBCPT as project manager in the appropriate circumstances.

**Conclusion and recommendation:** This delegation is therefore no longer required, and is being formalized in the proposed Agency Agreement regarding construction projects, discussed below.

- (c) **Subject matter:** Entering into leases, licenses and other agreements for the use or occupation of real property, provided the term is 5 years or less.

**Issue:** This subject matter is governed by Policy 113 – Booking and Rental of UBC Space, and any agreements that are required to give effect to a lease, license or other agreement may be signed under other signing resolutions (Resolution No. 1 generally, and Resolution No. 15 Supply Management with respect filming arrangements).

**Conclusion and Recommendation:** This delegation is no longer required.

- (d) **Subject matter:** Assignment and non-disturbance agreements (also known as tri-partite agreements) relating to the market housing developments in UBC's neighbourhood housing areas.

**Conclusion and recommendation:** This delegation remains relevant. However, it is proposed that the delegation by way of Signing Resolution be

replaced with a formal appointment of UBCPT as UBC's agent for the purposes of signing these agreements. An agency agreement is a more appropriate and clear mechanism to delegate authority, as described in more detail in the next section.

Therefore, with all of the subject matters of this signing resolution addressed elsewhere, it is proposed that the Board repeal Signing Resolution 10.

A copy of the current signing resolution is available at

[http://universitycounsel2.sites.olt.ubc.ca/files/2011/10/Resolution10\\_Major\\_Construction.pdf](http://universitycounsel2.sites.olt.ubc.ca/files/2011/10/Resolution10_Major_Construction.pdf)

#### **4. Agency Agreement for Assignments and Tri-Partite/Non-Disturbance Agreements**

By way of context, when UBC leases a development site to a developer, it grants a ground lease to the developer. Upon completion of the building and the filing of a leasehold strata plan, the site is subdivided into strata lots, each subject to lease granted by UBC to the developer. The developer assigns the strata lot leases to purchasers. The purchaser may thereafter sell their leasehold interest on the open market.

To complete the sale of any leasehold interest, the lease agreement requires that the vendor and purchaser obtain UBC's consent to the sale, which may not be unreasonably withheld. The document that UBC signs is what is called an "assignment".

In addition, since the vendor normally obtains third-party financing to purchase the leasehold interest, the lender that the purchaser grant a mortgage of the lease. The lender normally requires assurances from UBC, as landlord, that it will not terminate the lease or force the sale of the leasehold interest without giving the lender the opportunity to rectify the situation. This is a standard requirement for any financing of a leasehold interest. The document that UBC signs is typically called a tri-partite agreement, though sometimes it is referred to as a non-disturbance agreement.

UBC has included in its lease documentation the forms of both agreements, and only signs on those forms.

The volume of these agreements on a monthly basis is large: every sale of a property in UBC's neighbourhood housing areas generates one or (normally) both of these agreements, and the process usually involves back and forth communication with and education of the conveyancers for the purchaser(s). UBCPT has taken on this role on behalf of UBC due to its expertise, and also to ensure that it has current information about market activity in UBC's neighbourhoods.

In the past, this delegation was granted by way of Signing Resolution 10 of the Board's Signing Committee, discussed above.

It is proposed that this delegation of signing authority continue, but through a different legal mechanism: a formal appointment of UBCPT as UBC's agent, pursuant to an agency agreement.

This will allow UBC and UBCPT greater certainty, as the agreement is more detailed than a signing resolution can be; and it removes the regulatory inconsistency of utilizing an internal signing resolution to appoint signatories who are not employees of UBC to sign on UBC's behalf.

The terms of the agreement have been reviewed and approved by the University Administration and UBCPT.

The proposed agreement, approved by the University Administration and UBCPT, is attached.

## **5. Agency Agreement with UBCPT regarding Construction Projects**

UBCPT's mandate has always included the development and operation of rental buildings (including faculty and staff rentals, market residential rentals and mixed use projects (office, retail, residential)). In the course of its development activities, UBCPT has developed considerable in-house development management expertise and, for many years now, UBCPT has offered that expertise to UBC for use in major institutional projects.

Currently, UBCPT is engaged by UBC as the development project manager on all new institutional buildings, infrastructure projects and otherwise on an as-needed basis.

UBC and UBCPT have a long standing agreement on the scope of services, and the costs thereof, which are confirmed and approved by the project's approving authority (normally the Board) and the committee overseeing the project.

Due to the speed of development, the oversight of the Board and University Administration, and high level of engagement between UBC and UBCPT, the appointment of UBCPT as agent became a well-developed and understood, but largely undocumented.

Establishing an explicit and uniform way to appoint UBCPT as an agent of UBC for development management services is in keeping with best practices and is recommended.

The agreement will give additional certainty to the process of engaging UBCPT on each institutional project, and will give both UBC and UBCPT the opportunity to discuss and tailor the scope of services at an early stage of each project.

The terms of the agreement have been reviewed and approved by the University Administration and UBCPT.

The proposed agreement, approved by the University Administration and UBCPT, is attached.

---

<p><b>BENEFITS</b> Learning, Research, Financial, Sustainability &amp; Reputational</p>	<p>The proposed modifications to UBC’s policies and signing resolutions, and the new agreements implement the Board’s June 2016 resolution and provide clarity to the University community regarding:</p> <ul style="list-style-type: none"> <li>- the approvals required for capital projects, capital purchases and internal loans;</li> <li>- the application of the retained risk fund to capital projects valued at over \$2.5 million; and</li> <li>- the authority of UBCPT to act as UBC’s agent in respect of construction projects, and signing the agreements required to ensure an efficient re- sale market for properties in UBC’s neighbourhood housing lands.</li> </ul>
---	--

<p><b>SCHEDULE</b> Implementation Timeline</p>	<p>Upon approval by the Board,</p> <ul style="list-style-type: none"> <li>- the amendments to Policy 125 – Retained Risk for Major Construction Projects will take immediate effect;</li> <li>- the repeal of Signing Resolution 10 will take immediate effect; and</li> <li>- the University Administration will work to expeditiously enter into the two Agency Agreements described herein with UBCPT.</li> </ul>
--	--

With respect to the proposed Policy 126 – Capital Projects, Capital Purchases and Internal Loans, the following is the timeline showing completed and anticipated milestones:

1. The Board of Governors requested that the Administration initiate the creation of the Policy. (June 14, 2016)
2. The Office of the University Counsel undertook a due diligence review of peer institutions to identify institutional norms and best practices. (Completed August 2016)
3. The Office of the University Counsel established terms of reference for and appoints members to the Committee. (Completed August 2016)
4. The Committee met to complete its review of the Policy and to develop proposed Policy. (Completed November 2016 – January 2017)
5. The University Counsel presents to the Board's Governance Committee for information and discussion. (Scheduled February 2, 2017)
6. Subject to any input from the Governance Committee and/or the Board of Governors, the Office of the University Counsel publishes the proposed amendments with a call for comments from the broader UBC community. (Scheduled for February – March 2017)
7. The community consultation closes and the Office of the University Counsel provides all input received through the community consultation process to the Committee. (Scheduled for March – April 2017)

8. The Committee re-convenes and undertakes additional meetings to consider the feedback received through the community consultation process and makes any further amendments to the proposal that it determines are appropriate. (Scheduled for April – May 2017)
  9. The Office of the University Counsel submits the final version of the Committee's proposed amendments to the Board of Governors for approval. (Scheduled for June 15, 2017)
- 

**CONSULTATION**  
Relevant Units,  
Internal & External  
Constituencies

With respect to the amendment of Policy 125 (Retained Risk Fund for Major Construction Projects), this is an internal, administrative policy, with no direct impact upon the wider University community. Therefore, the Office of the University Counsel consulted with the Managing Director, Infrastructure Development and the Vice-President Finance and Operations.

With respect to Signing Resolution 10 and the Agency Agreements with respect to Assignments and Tri-Partite/Non-Disturbance Agreements, these are administrative matters with no impact on current practices or the wider University community. Therefore, the Office of the University Counsel worked with representatives from the UBC Treasury and UBCPT to arrive at the recommendation to repeal Signing Resolution 10, and the formulation of an agency agreement for assignments and tri-partites/non-disturbance agreements.

With respect to the Agency Agreement for construction projects, the agreement merely formalizes an existing and accepted agency arrangement with UBCPT. Therefore, the Office of the University Counsel worked with representatives from Infrastructure Development (who work closely with UBCPT's development managers), and UBCPT to arrive at the terms of the agency agreement.

With respect to the proposed Policy 126 – Capital Projects, Capital Purchases and Internal Loans, the proposed Policy is supported by all members of the Policy Development Committee, which has been drawn from staff involved in Capital Projects, Capital Purchases and Internal Loans from the Vancouver and Okanagan campuses. The members of the Committee are as follows:

1. Hubert Lai, Q.C., University Counsel, Office of the University Counsel (Committee Chair)
  2. Michal Jaworski, Legal Counsel, Office of the University Counsel (Secretary)
  3. Naureen Ali, Associate Director, Financial Reporting and Budgeting, Office of the Vice-President Finance and Operations
  4. Heather Berringer, Chief Librarian, UBC Okanagan
  5. Jennifer Burns, Chief Information Officer
  6. Meredith Edwards, Assistant Dean, Resources and Operations, Faculty of Science
  7. Rob Einarson, Associate Vice-President Finance and Operations, UBC Okanagan
-

8. Linda Josh, Managing Assistant Treasurer
9. John Metras, Managing Director, Infrastructure Development
10. Trish Pেকেles, Director, Financial Operations
11. Michael Shakespeare, Executive Director, Finance and Operations, Faculty of Medicine
12. Anthony Shelton, Professor and Director, Museum of Anthropology

Subject to input from the Governance Committee and/or the Board, community consultation will be undertaken as noted in the foregoing schedule. This will include publication on the website of the Office of the University Counsel with a call for comments from the broader UBC community, as well as broadcast e-mails via "Heads Up" to heads of academic units, administrative units, student governments, and unions/employee associations from the Okanagan and Vancouver campuses.

**Attachments**

1. Proposed Draft Policy 126 – Capital Project, Capital Purchases and Internal Loans
2. Proposed Amended Policy 125 – Retained Risk Fund for Major Construction Projects
3. Proposed Agency Agreement Re Lease Assignments and Tri-Partite Agreements in Market Neighbourhoods
4. Proposed Agency Agreement Regarding Certain Construction Projects

<b>Previous Report Date</b>	June 14, 2016
<b>Decision</b>	The UBC Board of Governors grants delegated approval authority to the University Administration for capital projects and internal loans up to \$5.0 million, to ensure that Board of Governors' efforts are focused on major capital projects with significant campus impact.
<b>Action / Follow Up</b>	As reported to the Board, several UBC policies and signing resolutions reference the \$2.5 million thresholds or otherwise address relevant aspects of UBC's capital projects processes. Examples include Policy #125 (Retained Risk Fund for Major Capital Projects), Signing Resolution #10 (Major Construction and Real Estate Activities) and Signing Resolution #16 (Minor Capital Projects). The UBC administration proposed to revise and consolidate these policies and signing resolutions into a Capital Policy which would cover all aspects of the capital planning, approval and development process, including the new \$5.0 million approval threshold. It was intended for Retained Risk Fund coverage to still apply to building projects greater than \$2.5 million. The Capital Policy would be prepared and brought forward by the University Counsel to the Board of Governors by the end of the year.
<b>Previous Report Date</b>	September 27, 2011
<b>Decision</b>	Increase capital project and internal loan approval threshold to \$2.5 million.
<b>Action / Follow Up</b>	Threshold increase was implemented.

 <p><b>The University of British Columbia Board of Governors</b></p>	<p><b>Policy No.:</b>  <b>126</b></p>	<p><b>Approval Date:</b> June 2017 [anticipated]</p> <p><b>Last Revision:</b></p>
	<p><b>Responsible Executive:</b> Vice President, Finance &amp; Operations</p>	
<p><b>Title:</b>  <b>Capital Projects, Capital Purchases &amp; Internal Loans</b></p>		
<p><b>Background &amp; Purposes:</b></p> <p>Pursuant to the <i>University Act</i>, the Board of Governors must act in the best interests of UBC, and must ensure the proper management, administration and control of UBC's property, revenue, business and affairs.</p> <p>UBC receives funds from many sources, including governments, public agencies, contracting parties, and donors, to carry out its research and teaching mission, including making capital expenditures that facilitate research and provide for physical and technological infrastructure.</p> <p>The Board of Governors has identified certain types of capital expenditures as being associated with higher risk and requiring greater oversight as part of UBC's risk management strategy.</p> <p>The purposes of this Policy are to:</p> <ul style="list-style-type: none"> <li>• ensure there is appropriate oversight of capital expenditures and internal loans commensurate with the value and risk associated with those activities; and</li> <li>• establish a framework for requests, approvals, monitoring and reporting.</li> </ul> <p>The approval requirements of this Policy are in addition to other Board of Governors Policies and Procedures, and the signing resolutions adopted by the Signing Committee of the Board of Governors, which govern signing agreements and commitments on behalf of the University.</p> <p>This Policy should be read in conjunction with:</p> <ul style="list-style-type: none"> <li>• <i>Policy #92 – Land Use and Permitting;</i></li> <li>• <i>Policy #122 – Purchasing;</i></li> <li>• <i>Policy #125 – Retained Risk Fund for Major Construction Projects;</i> and</li> <li>• <i>UBC's Signing Resolutions.</i></li> </ul>		

## 1. Scope

- 1.1. This Policy applies to Capital Projects and Capital Purchases, and establishes different approval requirements based on their respective Aggregate Estimated Value. This Policy also applies to Internal Loans, and establishes different approval requirements based on loan value.
- 1.2. This Policy applies to Capital Projects and Capital Purchases made by UBC, regardless of the source of the funding or financing for the acquisition. For greater certainty, this Policy applies to Capital Projects fully funded by grants or donations, or both, and Capital Purchases fully or partially funded by research grants and agreements.

## 2. Definitions

### 2.1. In this Policy:

- 2.1.1. “**Aggregate Estimated Value**” means the aggregate estimated value of a Capital Project or Capital Purchase, which includes all costs and expenditures that may be reasonably expected as part of the project or purchase, as further described in the Procedures to the Policy.
- 2.1.2. “**Board**” means the UBC Board of Governors.
- 2.1.3. “**Capital Projects**” means, collectively, Construction Projects and IT Projects.
- 2.1.4. “**Capital Purchases**” means the purchase of physical and intangible assets that are used for productive purposes, that have a useful life of over one year, and that do not take place as part of a Construction Project or IT Project, including the purchase of:
- (a) equipment or software, or both, acquired or licensed for research purposes;
  - (b) mechanical and electronic equipment and related software;
  - (c) tools, vehicles, furniture and fixtures;
  - (d) any form of content for the UBC Library’s collections;
  - (e) works of art or other items for public display, education or research for UBC’s museums, art galleries or outdoor art collections; and
  - (f) any other purchases of a similar capital nature, as determined by the Responsible Executive.
- 2.1.5. “**Construction Projects**” means the construction, renewal, renovation, restoration, and replacement of buildings, structures, improvements, and other physical infrastructure, and any parts thereof.
- 2.1.6. “**Executive**” means the President’s Executive Committee.
- 2.1.7. “**Internal Loans**” means loans made by UBC Treasury to UBC’s own academic, administrative and ancillary units in return for a commitment to repay the loan, with interest.
- 2.1.8. “**IT Projects**” means projects where a significant component of the deliverables include the acquisition or development of software (including purchases, licenses, and subscriptions) or the acquisition of information technology hardware, or both, including upgrades and updates of same, and all associated services (including installation, development, integration, configuration, and implementation).
- 2.2. If there is any doubt about whether a particular purchase, acquisition or endeavour is a Construction Project, an IT Project, a Capital Purchase or an Internal Loan, the Responsible Executive, or his/her designate, shall make the determination.

### **3. Approvals, Generally**

3.1. Regardless of the monetary value of a particular Capital Project, Capital Purchase or Internal Loan, if:

3.1.1. the Responsible Executive determines that the matter is precedent-setting or sensitive; or

3.1.2. a member of the Board requests that the matter be brought before the Board for approval,

that Capital Project, Capital Purchase or Internal Loan (as the case may be) must be brought to the Board for approval, through the relevant Board approval process identified in this Policy and its Procedures.

3.2. The approvals required by this Policy are in addition to the requirements otherwise established by the Board, including, without limitation:

3.2.1. all procurements related to Capital Projects and Capital Purchases must be made in compliance with Policy #122 – Purchasing;

3.2.2. all legally binding commitments and agreements required to carry out every Capital Project must be signed in accordance with the Signing Resolutions adopted by the Board's Signing Committee, or as otherwise indicated by the Board;

3.2.3. all Construction Projects must comply with Policy #125 – Retained Risk Fund for Major Construction Projects (as applicable) and Policy #92 - Land Use and Permitting, including all applicable Land Use Rules adopted thereunder, and the applicable Governance Requirements (as defined in Policy #92); and

3.2.4. Construction Projects on UBC's Vancouver Campus must not be inconsistent with UBC's Land Use Plan.

### **4. Approvals for Capital Purchases**

4.1. Every faculty, unit or department that instigates a Capital Purchase must ensure that the purchase is made in good faith to advance UBC's mission and mandate, is within the relevant budget or is otherwise fully funded, and that the purchase is conducted in compliance with all policies, rules and regulations relevant to that faculty, department or unit, including the administrative directives issued by the Director, Financial Operations.

4.2. However, the execution of legally binding agreements or commitments to complete a Capital Purchase must be made either:

4.2.1. in accordance with the Signing Resolutions approved by the Signing Committee of the Board; or otherwise,

4.2.2. with the approval of the Board.

## 5. Approvals for Capital Projects (Construction Projects and IT Projects)

- 5.1. Capital Projects with an Aggregate Estimated Value of \$5 million or more require the approval of the Board.
- 5.2. Capital Projects with an Aggregate Estimated Value of less than \$5 million require the approval of the Executive, or their delegate.

## 6. Consultants for Construction Contracts

- 6.1. The procurement process for all Construction Projects must ensure that the process for selecting prime consultants (architects, engineers etc.) ensures the public's confidence in the integrity of the selection process, including without limitation: the principles contained in Policy #122 – Purchasing, and ensuring that equal opportunities for consideration are provided to all interested and eligible firms. The Executive may issue administrative directives regarding selecting prime consultants, and upon publication, all Construction Projects where prime consultants are engaged, must comply with those directives.
- 6.2. It is expected that Construction Projects conducted on UBC premises (owned, leased or otherwise occupied or controlled) will be managed by a UBC department or related-entity with the mandate of providing professional project management and coordination services to UBC. In exceptional circumstances, the Responsible Executive or his/her delegate may approve the delivery of such services by other entities (e.g. the owner of a premises leased by UBC).

## 7. Budget Increases For Capital Projects

- 7.1. In this Section 7, the “**Incremental Limit**” is a proposed increase that is both:
  - 15% or less of the originally approved Aggregate Estimated Value; and
  - under \$2.5 million.
- 7.2. Each approval of a Capital Project includes the authorization to delegate authority to approve budget increases that do not exceed the Incremental Limit.
- 7.3. Where there is a proposal to increase the Aggregate Estimated Value of a Capital Project, the following sections apply:
  - 7.3.1. If the new (increased) Aggregate Estimated Value remains within the monetary threshold of the original approval authority, approval must be sought from that same authority or, if the increase is within the Incremental Limit, their delegate.
  - 7.3.2. If the new (increased) Aggregate Estimated Value exceeds the original approval authority's monetary threshold:
    - (a) if the proposed budget increase is within the Incremental Limit, the original approval authority and their delegate may approve the increase; and
    - (b) in all other cases, approval must be sought from the next higher approval authority.

## **8. Internal Loans**

- 8.1. Internal Loans with a value of \$5 million or more require the approval of the Board.
- 8.2. Internal Loans with a value of less than \$5 million require the approval of the Executive, or their delegate.
- 8.3. The Responsible Executive shall establish administrative directives regarding the principles, criteria and approval processes for any UBC faculty or unit to obtain an Internal Loan, and the terms upon which Internal Loans will be granted.
- 8.4. All applications for Internal Loans must be developed and brought forward for approval in accordance with those administrative directives, and all Internal Loans must be granted on terms consistent with provisions of the administrative directives.

## **9. Planning and Reporting**

- 9.1. The Executive shall establish a Capital Planning Working Group, comprised of members from the UBC Vancouver and UBC Okanagan campuses, to:
  - 9.1.1. evaluate and prioritize planned and foreseeable Capital Projects;
  - 9.1.2. develop a major capital priorities plan; and
  - 9.1.3. develop a five-year capital plan.
- 9.2. Capital Planning Working Group shall annually update and present the five-year capital plan to the Board.
- 9.3. At least annually and at such other times as requested by the Board, the Responsible Executive will deliver a report to the Board:
  - 9.3.1. on current Capital Projects and Internal Loans and those expected in the next fiscal year; and
  - 9.3.2. the number and value of Capital Projects approved under this Policy in the preceding year, highlighting projects with high profile and significant impact on UBC.

## **10. Recording**

- 10.1. All Capital Projects and Capital Purchases that meet the criteria established by the Responsible Executive must be recorded on the UBC Capital Asset Register established and administered by the Responsible Executive.
- 10.2. All Internal Loans must be recorded on the UBC Internal Loan Register established and administered by the Responsible Executive.

## **PROCEDURES**

**Approved: June 2017 [anticipated]**

*Pursuant to Policy #1: Administration of Policies, "Procedures may be amended by the President, provided the new procedures conform to the approved policy. Such amendments are reported at the next meeting of the Board of Governors".*

*Note: the most recent procedures may be reviewed at <http://universitycounsel.ubc.ca/policies/index/>.*

### **1. General**

- 1.1. Approval by the Board means a formal approval in accordance with the Board's bylaws, rules and regulations. Matters brought before the Board for information only are not thereby deemed approved.
- 1.2. Approval by the Executive means approval by the executive committee established by the President, in accordance with that committee's rules and regulations. Matters brought before the Executive for information only are not thereby deemed approved.

### **2. Requirements regarding the Aggregate Estimated Value**

- 2.1. Where a Capital Project or Capital Purchase will or may reasonably be expected to require additional expenditures, whether because such expenditures will become necessary or advisable as a direct or indirect result of the project or purchase, or are otherwise part of an overarching project or strategy that is broader than the current project or purchase, the following sections apply:
  - 2.1.1. the aggregate estimated value of these additional expenditures must be disclosed at the time of the request for the approval of the Capital Project or Capital Purchase (as the case may be); and
  - 2.1.2. unless otherwise instructed by the Responsible Executive, if:
    - (a) these additional expenditures will be sought within the next two fiscal years; or
    - (b) these additional expenditures are material, as determined by the Responsible Executive, the cost of these additional expenditures must be added to the Aggregate Estimated Value of the Capital Project or Capital Purchase.
- 2.2. The Aggregate Estimated Value of all Construction Projects must include the total estimated cost of the following, as applicable: construction, fixturing (furniture, fixtures and equipment), fitting out and commissioning, associated landscaping, soft costs (including architectural, engineering, project management, legal costs (internal and external), and other pre- and post-construction expenses), construction period financing costs, permit and development fees and charges (whether imposed by UBC or a municipal authority), contingencies, retained risk (if applicable, see UBC Policy #125), taxes and such other costs as determined by the Responsible Executive.
- 2.3. The Aggregate Estimated Value of all IT Projects must include:
  - 2.3.1. the costs related to the acquisition of the asset(s) (e.g. software) including acquisition, licensing or subscription (as the case may be), related vendor and third-party services (including configuration, customization, implementation and integration services), taxes and directly related

internal-UBC costs (e.g. staff time to configure, customize and implement the project, including ongoing training and support, and any financing and legal costs (internal and external));

2.3.2. the costs related to operating the asset(s) for its useful life (normally at least 5 years), including ongoing licensing/subscription fees, maintenance and support services, and ongoing internal staff requirements; and

2.3.3. such other costs as determined by the Responsible Executive.

2.4. The Responsible Executive may issue directives providing details, interpretations, and guidance regarding determining the Aggregate Estimated Value of Capital Projects.

### **3. Approvals for Capital Purchases**

3.1. The Director, Financial Operations shall establish, maintain and publish administrative directives to manage the process for applying for the processing of all Capital Purchases, which shall at minimum include confirmation of the source and availability of funds for the purchase, and the required approvals from the unit originating the purchase.

3.2. Where the proposed Capital Purchase may be approved under a Signing Resolution authorized by the Signing Committee of the Board (i.e., the purchase is under \$10 million and is not precedent setting and does not involve sensitive issues) the faculty, department or unit proposing the purchase must ensure that the legally binding agreement or commitment to complete a Capital Purchase is entered into in accordance with the Signing Resolutions issued by the Signing Committee of the Board.

3.3. Where a proposed Capital Purchase may not be approved under a Signing Resolution authorized by the Signing Committee of the Board (i.e. the purchase exceeds \$10 million, or is precedent setting or involves sensitive issues), the faculty, unit or department proposing the purchase must:

3.3.1. proceed in accordance with the administrative directives issued by the Director, Financial Operations; and

3.3.2. seek Board approval through the relevant Dean, if the purchase relates to a faculty, the University Librarian, if the purchase relates to the UBC Library, or otherwise the Vice-President to whom the unit or department reports.

3.4. At least annually, the Responsible Executive shall present to the Board a report of the UBC's aggregate spending on all Capital Purchases.

### **4. Approvals for IT Projects**

4.1. References to the "Provost/DVC" in this Section 4 mean:

4.1.1. for IT Projects affecting both the UBC Vancouver and Okanagan campuses and off-campus sites and facilities under joint purview, both the Provost & Vice President Academic (UBC Vancouver), and the Deputy Vice Chancellor and Principal (UBC Okanagan);

4.1.2. for IT Projects affecting primarily the UBC Vancouver campus and off-campus sites and facilities under its purview, the Provost & Vice President Academic (UBC Vancouver); and

4.1.3. for IT Projects affecting primarily the UBC Okanagan campus and off-campus sites and facilities under its purview, the Deputy Vice Chancellor and Principal (UBC Okanagan).

4.2. For convenient reference, as further described in this Section 4, all IT Projects require the following approvals:

<b>Aggregate Estimated Value of the IT Project</b>	<b>Approval Authority</b>
under \$2,500,000	Provost/DVC and Chief Information Officer, or their delegates
\$2,500,000 to \$4,999,999	Executive
\$5,000,000 and over	Preliminary approval: Executive Final approval: Board of Governors

4.3. All IT Projects must be developed and brought forward for the approvals described above in accordance with any administrative directives issued by the Provost/DVC and Chief Information Officer.

4.4. Procedures for IT Projects under \$2,500,000:

The Provost/DVC and the Chief Information Officer shall establish and publish the process for seeking and obtaining approval from the Provost/DVC and Chief Information Officer, or their delegates.

4.5. Procedures for IT Projects between \$2,500,000 to \$4,999,999:

4.5.1. The procedure for obtaining the approval of the Executive is the following multi-stage process:

- (a) Provost/DVC 1 Approval: project concept and rationale.
- (b) Provost/DVC 2 Approval: sponsors and advisors, high level scope, initial capital and operating costs, funding sources, and funding release for the next stage.
- (c) Provost/DVC 3 Approval: business case, outline overall expected duration, organizational (people) impact assessment, secondary capital and operating budgets envelope, funding sources, proceed to mobilization, and funding release for next stage.
- (d) Executive 1 Approval: project in principle, business case, outline overall expected duration, organizational (people) impact assessment, secondary capital and operating budgets envelope, funding sources, proceed to mobilization, and funding release for next stage.
- (e) Executive 2 Approval: Governance structure, functional and technical requirements, business architecture, change management strategy and plan, revised capital and operating budget envelope, funding sources, revised overall duration, privacy and security assessments, proceed to select supplier(s), and funding release for next stage.
- (f) Executive 3 Approval: functional and technical fit/gap, solution architecture, detailed risks and constraints, implementation strategy and plan, revised change management strategy and plan, final capital and operating budgets, funding sources, financing (if required), award of implementation contracts, proceed to implementation, and final funding release.

4.5.2. It is expected that all approval requests will be presented by the Chief Information Officer and, if applicable, representatives from the highest-ranking governance committee of the IT Project.

4.6. Procedures for IT Projects of \$5,000,000 and over:

- 4.6.1. Prior to Board approvals described in this Section, IT Projects must have received Provost/DVC 3 approval, as described in the Section above.
- 4.6.2. The procedure for obtaining the approval of the Board is as follows:
  - (a) Executive 1 Approval: project concept and rationale.
  - (b) Executive 2 Approval: Sponsors and Advisors, High level scope, initial capital and operating costs, funding sources, and funding release for the next stage.
  - (c) Executive 3 Approval: business case, outline overall expected duration, Organizational (people) Impact assessment, secondary capital and operating budgets envelope, funding sources, proceed to mobilization, and funding release for next stage.
  - (d) Board 1 Approval: project in principle, business case, outline overall expected duration, Organizational (people) Impact assessment, secondary capital and operating budgets envelope, funding sources, proceed to mobilization, and funding release for next stage.
  - (e) Board 2 Approval: Governance structure, functional and technical requirements, Business Architecture, Change Management Strategy and Plan, revised capital and operating budget envelope, funding sources, revised overall duration, privacy and security assessments, approval to proceed to select supplier(s), and funding release for next stage.
  - (f) Board 3 Approval: functional and technical fit/gap, solution architecture, Detailed risks and constraints, Implementation Strategy and Plan, Revised Change Management Strategy and Plan, final capital and operating budgets, funding sources, financing (if required), award of implementation contracts, proceed to implementation, and final funding release.
- 4.6.3. For each IT Project approved under this Section, the project’s proponent must submit a post-completion report to the Board, for information only. This is sometimes referred to as the Board 4 Report.
- 4.6.4. It is expected that all approval requests will be presented by at least the Provost/DVC and the Chief Information Officer.

**5. Approvals for Construction Projects**

5.1. For convenient reference, Construction Projects require the following approvals:

<b>Aggregate Estimated Value of the Construction Project</b>	<b>Approval Authority</b>
Under \$2,500,000	Executive or delegate (see Section 5.4 below)
\$2,500,000 to \$4,999,999	Executive
\$5,000,000 and over	Preliminary approval: Executive Final approval: Board of Governors

5.2. All Construction Projects must be developed and brought forward for the approvals described in this Section in accordance with any administrative directives issued by the Executive or their delegate.

5.3. For greater certainty, routine Construction Projects of various values (most often renovations, restorations, renewals and replacements) may be approved by the Executive and the Board as part of an annual routine capital budget administered by UBC's department of Infrastructure Development, or the annual budget of Student Housing and Hospitality Services. Unless otherwise indicated by the Executive or the Board, once so approved, such Construction Projects need not proceed through an additional approval process described below, provided however that the other provisions of this Policy apply to such projects.

5.4. Procedures for Construction Projects under \$2.5 million:

The Executive has delegated approval authority as follows:

- (a) for Construction Projects primarily for the benefit of and within the budget of a faculty, that faculty's Dean;
- (b) for Construction Projects primarily for the benefit of and within the budget of the UBC Library; the University Librarian; and
- (c) for all other Construction Projects, the member of the Executive in whose portfolio the Construction Project primarily falls. That member of the Executive may further sub-delegate this authority.

5.5. Procedures for Construction Projects between \$2,500,000 and \$4,999,999:

5.5.1. The procedure for obtaining the approval of the Executive is as follows:

- (a) Executive 1 Approval: project concept and rationale.
- (b) Executive 2 Approval: site, master program, initial capital and operating costs, funding sources, and FTE/space allocation.
- (c) Executive 3 Approval: preliminary functional program, urban design context, detailed capital and operating costs, funding sources, financing (if required), and schedule.

5.5.2. It is expected that all approval requests will be presented by at least the Responsible Executive and the Managing Director, Infrastructure Development.

5.5.3. For each Construction Project approved under this Section, the project's proponent must submit a post-completion report to the Executive, for information only (sometimes referred to as an Executive 4 Report).

5.6. Procedures for Construction Projects of \$5,000,000 and over:

5.6.1. Prior to Board approvals described in this Section, Construction Projects must have received Executive 3 approval, as described in the Section above.

5.6.2. The procedure for obtaining the approval of the Board is as follows:

- (a) Board 1 Approval: project in principle, location, consultant selection, preliminary program, preliminary capital and operating budgets, funding sources, preliminary schedule, proceed to schematic design, and funding release for next stage.

- (b) **Board 2 Approval:** revised capital and operating budgets, funding sources, revised schedule, detailed program, development permit, proceed to working drawings and tender, and funding release for next stage.
- (c) **Board 3 Approval:** final capital and operating budgets, funding sources, financing (if required), award of construction contracts, and final funding release.

5.6.3. It is expected that all approval requests will be presented by at least the Responsible Executive and the Managing Director, Infrastructure Development.

5.6.4. For each Construction Project approved under this Section, the project's proponent must submit a post-completion report to the Board, for information only. This is sometimes referred to as the Board 4 Report.

**6. Internal Loans**

6.1. For Internal Loans valued at under \$1 million, the Executive has delegated approval authority to the Responsible Executive.

6.2. For convenient reference, all Internal Loans require the following approvals:

<b>Loan Value</b>	<b>Approval Authority</b>
\$5,000,000 and over	Initial approval: Executive Final approval: Board of Governors
\$1,000,000 to \$4,999,999	Executive
under \$1,000,000	Responsible Executive

 <p><b>The University of British Columbia Board of Governors</b></p>	<p><b>Policy No.:</b></p> <p style="text-align: center;"><b>125</b></p>	<p><b>Approval Date:</b> September 2009</p> <p><b>Last Revision:</b> <del>September 27, 2014</del> <u>[ANTICIPATED: Feb 2017]</u></p>
	<p><b>Responsible Executive:</b> Vice-President, Finance <del>Resources,</del> —and Operations</p>	
<p><b>Title:</b></p> <p style="text-align: center;"><b>Retained Risk Fund for Major <u>Capital Construction</u> Projects</b></p>		
<p><b>Background &amp; Purposes:</b></p> <p>The University manages risk on major <u>capital construction</u> projects through a variety of strategies incorporated into its project planning, delivery and procurement processes. Risk management strategies include the avoidance, reduction and transference of risk away from the University, as appropriate. However, some types of risk cannot be fully or economically managed through these means and in those cases, it is prudent and cost efficient to retain and self-insure against such risks.</p> <p>The purposes of this Policy are:</p> <ol style="list-style-type: none"> <li>1) To protect the University against retained risk on major <u>capital construction</u> projects through a central retained risk fund.</li> <li>2) To provide a mechanism to effectively, consistently and transparently manage unforeseen budget surpluses and deficits on major <u>capital construction</u> projects.</li> </ol>		

**1. Definitions**

~~1.1~~ **“Board 1 approval”, “Board 2 approval” and “Board 3 approval”** each refer to a level of approval granted by the Board of Governors for academic and institutional construction projects pursuant to the Board of Governor’s Project Management Process, as it may be amended from time to time.

~~1.2.1~~ **“Funds”** means collectively, the UBC Okanagan Fund and the UBC Vancouver Fund and **“Fund”** means either the UBC Okanagan Fund or the UBC Vancouver Fund, as the context requires.

~~1.3.2~~ **“Major Construction Project”** means an academic or other institutional construction project ~~that has received , Board 1 approval with a preliminary capital budget in excess of \$2.5 million,~~ at either the UBC Vancouver or UBC Okanagan campus, including other UBC sites (e.g. UBC Robson Square), that has an aggregate estimated value of \$2.5 million or more, and that has received the requisite capital project approval from the Board of Governors or the President’s Executive Committee (as the case may be).

## 2. Scope

~~2.1 This Policy applies to all Major Projects that receive Board 1 approval on or after September 1, 2009. In addition, for any Major Project that received Board 1 approval prior to September 1, 2009 and for which no cost overruns are currently projected, the Project Manager (as defined below) may elect to have that Major Project covered by this Policy by delivering notice in writing to the Managing Director, Infrastructure Development, not later than October 31, 2009.~~

2.1 This Policy applies to all Major Construction Projects.

## 3. Establishment of the Funds

3.1 The Responsible Executive will establish a retained risk fund for Major Construction Projects at the UBC Okanagan campus (the “**UBC Okanagan Fund**”) and a retained risk fund for Major Construction Projects at the UBC Vancouver campus, ~~including, for greater certainty, its and other UBC sites (e.g. UBC Robson Square and Great Northern Way locations)~~ (the “**UBC Vancouver Fund**”).

3.2 The individual, administrative unit or entity responsible for the management of a particular Major Construction Project (the “**Project Manager**”) will take measures through its capital project planning, delivery and procurement processes to manage risk in a prudent and cost-efficient manner, including through the avoidance, reduction or transference of risk away from the University, as appropriate.

3.3 The purpose of the UBC Okanagan Fund and the UBC Vancouver Fund is to protect the University against risks arising from the construction of Major Construction Projects that cannot be prudently and efficiently managed by other means and result in cost overruns. The Funds are centralized funds in addition to the project-specific contingency allowance contained within each Major Construction Project’s budget.

3.4 The Funds will be maintained at a value that provides for reasonable protection against retained risk but does not unnecessarily withhold capital that could otherwise be put to higher use by the University.

3.5 Each Fund will be overseen by a committee (the “**RRF Committee**”) consisting of those individuals prescribed in the Procedures to this Policy.

## 4. Contributions to and Expenditures from the Funds

4.1 Each of the Funds will be financed in the following manner from Major Construction Projects on their respective campuses:

4.1.1 through the collection of a retained risk fee (the “**Fee**”) paid from each Major Construction Project, in the amount ~~determined in accordance with of 1% of the Procedures to this Policy;~~ project’s total value (before GST and construction period financing charges). The amount of the Fee will be reviewed annually by the Board of Governors; and

4.1.2 through the transfer of surplus funds from the capital budget of each Major Construction Project, in the amount determined in accordance with the Procedures to this Policy.

- 4.2 Requests for expenditures from either Fund must be submitted by the Project Manager to the Managing Director, Infrastructure Development, in the form, manner and according to the timelines prescribed by the Managing Director, Infrastructure Development from time to time.
- 4.3 The Managing Director, Infrastructure Development will review each request for expenditure against the relevant Fund and make recommendations to the relevant RRF Committee. The RRF Committees will make the final decision with respect to requests for expenditures from their respective Fund.

|

## PROCEDURES

**Approved: September 2009**

*Pursuant to Policy #1: Administration of Policies, "Procedures may be amended by the President, provided the new procedures conform to the approved policy. Such amendments are reported at the next meeting of the Board of Governors." Note: the most recent procedures may be reviewed at <http://universitycounsel.ubc.ca/policies/index/>.*

### **1. The RRF Committee**

1.1 The RRF Committee for the UBC Vancouver Fund will be comprised of:

1.1.1 the Vice President, Finance, ~~Resources~~ and Operations; and

1.1.2 the Provost and Vice President, Academic, UBC Vancouver.

1.2 The RRF Committee for the UBC Okanagan Fund will be comprised of:

1.2.1 the Vice President, Finance, ~~Resources~~ and Operations; and

1.2.2 the Deputy Vice-Chancellor, UBC Okanagan.

### **2. Contributions to the Funds**

2.1 ~~For each Fund, the Fee will be charged against each Major Project as a percentage of the project specific contingency allowance, and such percentage will be established from time to time by the Board of Governors.~~

~~2.2~~—If a Major Construction Project is completed and there is a surplus in the capital budget for that Major Construction Project, then such surplus will be transferred to the relevant Fund; provided however, where funding for the Major Construction Project has been facilitated or otherwise generated by a faculty, ancillary unit or other unit, there will first be a disbursement from the surplus funds to that faculty, ancillary unit or other unit that is proportionate to that faculty, ancillary unit or other unit's actual contribution relative to the total capital budget.

### **3. Criteria for Appropriate Expenditures from the Funds**

3.1 The Managing Director, Infrastructure Development and the relevant RRF Committee will consider applications for expenditures from a Fund toward the cost of the construction of a Major Construction Project on the basis that the application demonstrates:

3.1.1 the construction of the Major Construction Project has resulted in cost overruns;

3.1.2 the cost overruns were a result of extraordinary circumstances that:

3.1.2.1 could not have been reasonably foreseen; and

3.1.2.2 could not prudently or cost-effectively be managed using other available resources, changes or adjustments to the project scope, design, finishings or schedule, or any other appropriate means; and

3.1.3 the proposed expenditure is consistent with the purpose of the Funds.

3.2 For greater certainty, the Funds may not be used to pay for a shortfall in the amount of capital funding anticipated in a Major [Construction](#) Project's budget or costs resulting from user group initiated changes to project design or scope.

#### **4. Requests for Expenditure**

4.1 Requests for expenditures against each of the Funds are to be submitted by the Project Manager to the Managing Director, Infrastructure Development with a specific description of the expenditure requirement and the supporting rationale.

4.2 The Managing Director, Infrastructure Development will evaluate each request against the criteria outlined above and make a recommendation to the appropriate RRF Committee. The RRF Committee may decide to approve the request, with or without conditions, deny the request, or delay their decision pending receipt of additional information.

4.3 Approval by the RRF Committee, if granted, will be made in writing signed by at least one member of the RRF Committee.

#### **5. Investment of Funds**

5.1 Each Fund will be invested as part of the University's working capital and any interest and investments gains or losses attributable to the Fund will be credited to or debited from the value of the Fund.

5.2 In order to maintain each of the Funds at a value that provides for reasonable protection against retained risk but does not unnecessarily withhold capital that could otherwise be put to higher use by the University, each RRF Committee may seek the approval of the Board of Governors from time to time for transfers from its Fund to the general purpose operating fund for its campus. Without limiting the generality of the foregoing, an example of such a situation would be where the RRF Committee does not anticipate any significant Major [Construction](#) Projects for its campus in the near future.

#### **6. Reporting Requirements**

6.1 The Responsible Executive will present a report to the Board of Governors, annually, setting out:

6.1.1 the contributions to and the expenditures from the Funds; and

6.1.2 recommendations regarding the appropriate Fee for each campus on a going-forward basis in order to maintain the value of each Fund at a level sufficient to accomplish the objectives set out this Policy.

- 6.2 At least quarterly and as otherwise requested, the Managing Director, Infrastructure Development will present a report to the RRF Committee for each Fund setting out the following:
- 6.2.1 the value of the Fund and all expenditures from the Fund for the relevant reporting period;
  - 6.2.2 the total value of Major Construction Projects underway at the relevant campus ~~that have received either Board 2 approval or Board 3 approval~~; and
  - 6.2.3 the number of proposed Construction Major Projects on the relevant campus scheduled to seek ~~Board 1 approval~~ the relevant institutional approvals in the following 5 year period.

**AGENCY AGREEMENT**  
**Re Lease Assignments and Tri-Partite Agreements in Market Neighbourhoods**

This agency agreement (the “**Agreement**”) is dated for reference purposes \_\_\_\_\_.

**BETWEEN:**

**THE UNIVERSITY OF BRITISH COLUMBIA (“UBC”)**

**AND:**

**UBC PROPERTIES INVESTMENTS LTD., in its capacity as trustee of the  
UBC Properties Trust (“Properties”)**

**WHEREAS:**

- A. UBC owns the land comprising the UBC Vancouver campus.
- B. UBC’s Land Use Plan designates certain portions of the UBC Vancouver campus as Neighbourhood Housing Areas.
- C. UBC has entered into Master Development Agreements with Properties for the development of these neighbourhoods in keeping with the Land Use Plan, the applicable neighbourhood plan, and UBC’s land use rules.
- D. As contemplated in the Master Development Agreements, Properties arranges for UBC to enter into long term ground leases with third-party developers, who develop buildings that are then subdivided into leasehold strata lots subject to a Model Strata Lot Lease (the “**Leases**”).
- E. Before the lessee (whether the developer or subsequent lessee) may assign (i.e. transfer) their leasehold interest to the new lessee, the Leases require that the assignor (i.e. the current lessee) seek and obtain UBC’s written approval to the assignment (each, an “**Assignment**”).
- F. The Leases also contemplate the commercially reasonable requirements of lenders for a tripartite agreement among UBC as landlord, the lessee as borrower, and the lender, which agreement protects the lender’s security (i.e., a mortgage) in case the lessee defaults upon the loan agreement (each a “**Tri-Partite Agreement**”). The Leases contain a standard form Tri-Partite Agreement (any such form, “**UBC’s Form of Tri-Partite Agreement**”), though on rare occasions, lenders demand that UBC sign the lender’s form of Tri-Partite Agreement (any such form, a “**Lender’s Form of Tri-Partite Agreement**”).
- G. Pursuant to Signing Resolution No. 10, adopted by the Signing Committee of the UBC Board of Governors on February 7, 2008, UBC granted certain signatories, including representatives of Properties, the authority to sign, on UBC’s behalf, Assignments and Tri-Partite Agreements.
- H. The UBC Board of Governors has repealed Signing Resolution No. 10, but wishes to continue to have Properties sign Assignments and Tri-Partite Agreements on UBC’s behalf.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

**1. AGENCY**

1.1 UBC hereby authorizes Properties to enter into Assignments and Tri-Partite Agreements, upon request from lessees for UBC’s approval to assign any Leases, as agent for and on behalf of UBC. In such

capacity, Properties may act as an undisclosed agent for its principal, UBC, or it may disclose its role as agent for UBC.

1.2 UBC and Properties acknowledge that time is of the essence in the signing of Assignments and Tri-Partite Agreements, and therefore:

- (a) Properties shall make available on its website a clear description of the process to request and obtain approval of Assignments and Tri-Partite Agreements; and
- (b) Properties shall ensure that processing times are kept to a minimum.

## **2. LIMITATIONS**

2.1 In the exercise of the authority granted hereby, Properties, as agent, shall:

- (a) ensure that all Assignments are signed by at least one authorized signatory of Properties;
- (b) ensure that all Tri-Partite Agreements presented for approval on UBC's Form of Tri-Partite Agreement are signed by at least one authorized signatory of Properties, or a Properties employee designated that task as part of their regular employment duties;
- (c) ensure that all Tri-Partite Agreements presented for approval on a Lender's Form of Tri-Partite Agreement are reviewed and, if acceptable, are signed by at least two authorized signatories of Properties;
- (d) take direction from and act on the instructions of its principal, UBC, from time to time; and
- (e) upon request from UBC, provide a written report regarding the number of each agreements signed by Properties pursuant to this Agreement, and any other related information UBC may reasonably request.

2.2 Notwithstanding the foregoing, the authority granted to Properties under this Agreement will not extend to:

- (a) a commitment or agreement wherein the liability of UBC is uncertain;
- (b) a commitment or agreement that is precedent-setting or involves sensitive issues; and
- (c) any commitment or agreement that a member of the UBC Board of Governors requests be brought before the Board of Governors.

2.3 A copy of all Assignments and Tri-Partite Agreements executed pursuant to Agreement shall be retained in the records of Properties for a period of 10 years, and be available for review by UBC upon request at any time.

## **3. MISCELLANEOUS**

3.1 No party to this Agreement shall assign this Agreement or its interest therein or any part thereof except with the prior written consent of the other party and any purported assignment by any party without such consent is void.

3.2 This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

3.3 The parties hereto shall execute such further assurances, documents and instruments and do such further and other things as may be necessary to implement and carry out the intent of this Agreement.

3.4 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their successors and permitted assigns.

IN WITNESS WHEREOF the parties have duly executed this Agreement as of the day and year first above written.

**THE UNIVERSITY OF BRITISH COLUMBIA,**  
by its authorized signatories:

**UBC PROPERTIES INVESTMENTS LTD.,**  
**as trustee for UBC PROPERTIES TRUST,**  
by its authorized signatories

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

**AGENCY AGREEMENT  
REGARDING CERTAIN CONSTRUCTION PROJECTS**

This agency agreement (the “**Agreement**”) is dated for reference purposes \_\_\_\_\_.

**BETWEEN:**

**THE UNIVERSITY OF BRITISH COLUMBIA (“UBC”)**

**AND:**

**UBC PROPERTIES INVESTMENTS LTD., in its capacity as trustee of the  
UBC Properties Trust (“Properties”)**

**WHEREAS:**

- A. In 2002, UBC reorganized its project development, planning, design, site selection, permitting and project management functions for buildings on the UBC Vancouver Campus, and in or about January 1, 2009, these functions for landscaping and infrastructure projects were also reorganized;
- B. The result of the reorganization was that Properties, as agent for UBC, performed various functions and performed services for UBC, as UBC’s agent;
- C. The parties have operated pursuant to these reorganized processes (the “**Original Arrangement**”);
- D. A written agreement between UBC and Properties to formalize this reorganization has not previously been finalized;
- E. This Agreement deals with the management of capital construction projects on Campus; and
- F. It is intended that:
  - (i) Campus & Community Planning, defined below, will be responsible for land use planning and regulation on Campus;
  - (ii) A department of UBC (as of the execution date of this Agreement, Project Services, a division of Infrastructure Development), will be generally responsible for renovation projects and other projects as directed by the Responsible UBC Executive; and
  - (iii) Properties shall be responsible for managing, as agent of UBC, the design, development and construction of Major Capital Improvements, and other projects, that are brought under this Agreement by the completion, execution and delivery by the Responsible UBC Executive of a Statement of Work with respect to that project, to Properties.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

**1. DEFINITIONS**

1.1 In this Agreement:

- (a) **“Board”** means the Board of Governors of UBC.
- (b) **“Board Approval Process”** means the review and approval processes for obtaining institutional approval to proceed with a Project, instituted by the Board and the relevant UBC committee(s) tasked with oversight or decision-making authority regarding land use and development on Campus, including (without limitation):
- (i) the Executive Committee and the Finance and Property Committee of the Board, the Development Permit Board, and New Building Siting Committee (each as may be renamed and reconstituted from time to time), and
  - (ii) the permitting processes approved by the Board and administered and implemented by Campus & Community Planning with respect thereto and all amendments made to such processes during the term of this Agreement.
- (c) **“Campus”**, for the purposes of this Agreement means, as the context may require, one of or collectively the UBC Vancouver Campus, the UBC Okanagan Campus, or sites situated elsewhere that are owned, leased or otherwise occupied by UBC.
- (d) **“Campus & Community Planning”** means the department of UBC so named on the execution date of this Agreement, as such department may be renamed and reconfigured from time to time and includes the coordinating code consultants retained by Campus & Community Planning to provide professional assurances, as certified professionals, regarding the code compliance of construction projects on Campus.
- (e) **“Detailed Plans”** means the plans and specifications approved by Campus & Community Planning from time to time in connection with the issuance of all permits required for the construction of a Project.
- (f) **“Infrastructure Development”** means the department of UBC so named on the execution date of this Agreement, as such department may be renamed and reconfigured from time to time.
- (g) **“Land Use Requirements”** means:
- (i) the Land Use Plan adopted by the Minister pursuant to Part 10 of the *Municipalities Enabling and Validating Act* (No. 3), [SBC 2001] Ch. 44, as it may be amended from time to time;
  - (ii) the plans, policies, procedures, handbooks, guidelines, rules, regulations and any other documents no matter how they are titled governing land use and the construction, renovation, maintenance, repair and replacement of buildings on the Campus in the form adopted by UBC from time to time, including, without limitation:
    - (A) UBC’s Land Use Rules;
    - (B) UBC Policies 125 (Retained Risk for Major Construction Projects);

- (C) the UBC Executive and Board of Governors submission and approval processes for Major Capital Improvements, as they may be amended from time to time; and
  - (D) the requirements of Campus & Community Planning in its capacity as the Municipal Authority Having Jurisdiction with respect to permits and approvals required for Major Capital Improvements;
- (iii) the UBC Technical Guidelines, as they may be amended and renamed, from time to time; and
  - (iv) all other applicable statutes, regulations, bylaws, codes and policies of the authority(ies) having jurisdiction, which, for greater certainty, include at the Okanagan Campus and Sites located outside of the Vancouver Campus the applicable local government bylaws, policies and regulations.
- (h) **“Major Capital Improvement”** means a capital construction project that is designated by UBC as a major project in accordance with policies, procedures, rules or resolutions of the Board.
  - (i) **“Municipal Authority Having Jurisdiction”** means, with respect to matters within the jurisdiction of the Board, Campus & Community Planning in its capacity as regulatory, inspection and permitting authority for the UBC Vancouver Campus or such other department of The University of British Columbia as becomes responsible for this function from time to time; and in respect of all other matters, the local government or other governing or statutory authority having such jurisdiction.
  - (j) **“Project”** means, depending on the context, any one or both of the following located on Campus:
    - (i) an institutional landscaping, amenity or infrastructure project; and
    - (ii) a new institutional building or a renovation, maintenance and/or repair of an existing institutional building.
  - (k) **“Project Committee”** means the committee(s) struck by UBC from time to time with respect to the development of each Project, and includes the committees identified in the applicable Statement of Work (if any).
  - (l) **“Responsible UBC Executive”** means the Vice-President or Associate Vice-President of UBC to whom Infrastructure Development reports, or as otherwise designated by the Land Use Requirements.
  - (m) **“Site”** means those lands identified on a sketch, survey plan, reference plan or other drawing on which a Project is either being contemplated, or it has already been decided that a Project is to be constructed.
  - (n) **“Statement of Work”** means the form agreed upon by the parties from time to time.

- (o) **“UBC Okanagan Campus”** means lands that are owned in fee simple by UBC in the City of Kelowna and that are identified as the UBC Okanagan campus in the University of British Columbia Okanagan Master Plan (as it may be amended from time to time).
- (p) **“UBC Vancouver Campus”** means the lands defined as the Point Grey campus lands in the *Municipalities Enabling and Validating Act* (No. 3), [SBC 2001] Ch. 44 and prescribed by the *Point Grey Campus Lands Regulation* (195/2010).
- (q) **“Unavoidable Delay”** means a delay caused by reasons beyond the reasonable control of the party claiming the delay, including without limitation, delay caused or contributed to by disruption in the supply or shortage in the supply of materials or labour, labour disputes, delays caused by any approving authority, delays in obtaining any permit or approval required, delays caused by failure to obtain any statutory or other approval or other authority to proceed, or caused by governmental action, delays in transportation or delays caused by carriers, delays in obtaining financing, acts of God, civil insurrections, riots, fire, explosions, flood, winds, earthquakes, blockage or interference by third parties, or other reasons beyond the reasonable control of the party claiming the delay.

1.2 All uses of the words “construct”, “construction”, “constructing” or derivatives thereof shall, where the context requires, be read and construed as also being references to the words “renovate”, “renovations”, “renovating”, “maintain”, “maintenance”, “maintaining”, “repairs”, “repairing” and derivatives thereof.

## 2. THE ORIGINAL ARRANGEMENT

2.1 UBC and Properties acknowledge that prior to the execution of this Agreement, Major Capital Improvements and the other Projects listed in Addendum No. 1 to this Agreement, were developed in accordance with the Original Arrangement (defined in Recital C above). This Agreement formalizes and updates the Original Arrangement.

## 3. STATEMENTS OF WORK

3.1 Commencing upon the execution of this Agreement, the parties’ agreement with respect to any particular Project will be formalized by the completion, execution and delivery of a Statement of Work by the Responsible UBC Executive to Properties.

3.2 Statements of Work with respect to particular Projects are to be completed, executed and delivered following the project development and site selection stage referred to in Section 4.1 below.

3.3 Statements of Work may set out additional terms and conditions, and may amend the terms of this Agreement as it applies to any particular Project. Accordingly, if there is a conflict between the terms of this Agreement and the Statement of Work for a particular Project, the Statement of Work shall govern.

3.4 With respect to each Project for which a Statement of Work has been delivered, Properties shall perform the services and comply with the covenants and requirements that are set out in the applicable Statement of Work.

#### **4. PROJECT DEVELOPMENT AND SITE SELECTION**

4.1 In keeping with the applicable Board Approval Processes, UBC will consult with and seek advice from Properties at the project development stage of a new Major Capital Improvement.

4.2 Once engaged by UBC on a Project, Properties will provide the personnel and resources necessary to assist UBC in the conceptual development and Site selection for the Project.

#### **5. LICENSE**

5.1 Upon the completion, execution and delivery of a Statement of Work by both parties with respect to a Project, UBC shall be deemed to have granted to Properties a licence for access to and from the relevant Site, and such part of the immediately surrounding area as is agreed upon by Properties and UBC, for the purpose of:

- (a) conducting investigations, including environmental and geotechnical investigations;
- (b) excavating the Site;
- (c) constructing that Project; and
- (d) storing equipment and materials and parking motor vehicles, during construction of the Project,

commencing on the date(s) set out on the Statement of Work. For greater certainty, the license granted hereby is subject to the issuance of all necessary permits and approvals by the Municipal Authority Having Jurisdiction, and, compliance with the Land Use Requirements.

#### **6. AGENCY**

6.1 Upon the completion, execution and delivery of a Statement of Work by both parties, UBC shall be deemed to direct Properties to enter into all contracts in connection with the development and construction of the Project identified in that Statement of Work, as agent for and on behalf of UBC. In such capacity, Properties may act as an undisclosed agent for its principal, UBC, or it may disclose its role as agent for UBC. Properties, as agent, shall take direction from and act on the instructions of its principal, UBC, acting through the applicable Project Committee(s).

6.2 Properties, as UBC's agent, may expend monies for and on behalf of its principal, UBC, as required from time to time for the design, development and construction of the Project, in accordance with the budget approved for the Project in accordance with the Board Approved Process.

#### **7. DESIGN, DEVELOPMENT AND CONSTRUCTION ACTIVITIES**

7.1 With respect to each Project and reporting to the applicable Project Committee(s), Properties shall:

- (a) Administer and participate in the selection of an architect, pursuant to the applicable UBC Policies or procedures, (as they may be amended from time to time);
- (b) Manage the design of the Project and development of the Detailed Plans;

- (c) Ensure that each Project is constructed substantially in accordance with the Detailed Plans and the Land Use Requirements (including any variations, waivers, and interpretations that may be approved by the Municipal Authority Having Jurisdiction);
- (d) Ensure that any failure to comply with the Land Use Requirements by Properties, Properties' consultants or Properties' contractors, is rectified as soon as possible after such failure becomes known to Properties, subject to Unavoidable Delay;
- (e) Conduct the construction of the Project expeditiously and in a good and workmanlike manner;
- (f) Provide guidance and Project updates in a timely manner to UBC due to changes in the Detailed Plans, including:
  - (i) keeping Campus & Community Planning informed of all aspects of the construction of the Project, in relation to the Land Use Requirements;
  - (ii) keeping Infrastructure Development informed of all aspects of the construction of the Project, including any matters that affect the Project budget or construction schedule; and
  - (iii) keeping the relevant Project Committee(s) informed of all aspects of the construction of the Project;
- (g) Manage the design and construction of the Project to ensure that the Project is being designed and built to the specified building performance or design rating (for example, LEED certification);
- (h) Provide to UBC, at reasonable times and subject to reasonable prior notice, complete and unfettered access to all information and records in the possession or control of Properties with respect to the design and construction of the Project;
- (i) Assign to the Project a project manager acceptable to UBC and that project manager will not be reassigned without the consent of UBC; and
- (j) Employ at all times a sufficient number of capable employees to enable it to perform properly its duties and obligations under this Agreement and each current Statement of Work.

7.2 UBC agrees to:

- (a) pay to Properties, at the times that are agreed upon from time to time, all of the design, development and construction costs incurred by Properties in connection with each Project, in accordance with the budgets and construction schedules that are approved for each Project in accordance with the Board Approval Process and as further detailed by Properties and agreed to by UBC prior to the commencement of construction and

thereafter as agreed upon by the parties (which agreement may be subject to approval by the Board in accordance with the Board Approved Processes); and

- (b) pay such fee for the services stipulated by Properties, as shall be set out in the project budget approved for each Project in accordance with the Board Approval Process or as otherwise agreed by the parties (which agreement may be subject to approval in accordance with the Board Approved Processes).

7.3 Properties shall not be in default of its obligation to commence or complete the construction of a Project if construction is delayed by an event or events of Unavoidable Delay. If Properties claims that it has been delayed by an event of Unavoidable Delay, Properties will have the period of time necessary to accommodate the delay as additional time for commencing and completing construction. Properties shall provide to UBC upon request a certificate from Properties' architect or engineer or such other party as may reasonably be expected to provide such certificate, certifying that the commencement or completion of construction of a Major Project, has been delayed by an event of Unavoidable Delay and the expected length of the delay.

## **8. GENERAL**

8.1 Properties shall not use nor shall it permit any party to use any name, mark or symbol of UBC in any promotion, advertising or publicity without the prior written consent of UBC. UBC shall not use or permit the use of Properties' name for any promotion, advertising or publicity without the prior written consent of Properties.

8.2 Unless UBC or its servants or agents are negligent or wilfully in default, Properties agrees to ensure that the construction contract for each Project requires the contractor to indemnify and save Properties and UBC harmless from and against any and all claims, actions, damages, liability and expenses in connection with the loss of life, personal injury or damage to property arising from any act on the Site occasioned wholly or in part by an act or omission of the contractor, its officers, employees, agents, subcontractors, or other invitees, licensees or by any one permitted by the contractor on the Site. In case either Properties or UBC, without actual (as opposed to merely vicarious) fault on their part, is made party to litigation begun by or against the contractor, excepting a bona fide action by the contractor against Properties and/or UBC, Properties shall require the contractor to protect and hold Properties and UBC harmless and shall pay the costs, expenses and reasonable legal fees on an indemnity basis incurred or paid by Properties and UBC in connection with the litigation.

8.3 UBC shall pay to Properties all costs, expenses and reasonable legal and consultants fees, including Goods and Services Tax and any other sales taxes, on an indemnity basis, which are incurred by the Properties in enforcing the construction contracts for the construction of all Projects.

## **9. MISCELLANEOUS**

9.1 All notices, demands and payments required or permitted to be made or given hereunder shall be in writing and may be delivered personally, sent by fax or email, or may be forwarded by registered mail to the addresses set forth below. Any notice delivered or sent personally, by fax or email shall be deemed to have been given and received at the time of receipt. Any notice mailed as aforesaid shall be deemed to have been given and received on the expiration of 72 hours after it is posted, addressed as follows:

To Properties:

The President  
UBC Properties Investments Ltd.  
Suite 200 – 3313 Shrum Lane  
Vancouver BC V6S 0C8

To UBC:

Managing Director, Infrastructure Development  
The University of British Columbia  
2210 West Mall  
Vancouver BC Canada V6T 1Z4

In the event of a mail strike, slowdown or other labour dispute which might affect the delivery of the notice by mail, the notice shall only be effective if actually received.

9.2 No party to this Agreement shall assign this Agreement or its interest therein or any part thereof except with the prior written consent of the other party and any purported assignment by any party without such consent is void.

9.3 This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

9.4 The parties hereto shall execute such further assurances, documents and instruments and do such further and other things as may be necessary to implement and carry out the intent of this Agreement.

9.5 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their successors and permitted assigns.

IN WITNESS WHEREOF the parties have duly executed this Agreement as of the day and year first above written.

**THE UNIVERSITY OF BRITISH COLUMBIA,**  
by its authorized signatories:

**UBC PROPERTIES INVESTMENTS LTD.,**  
**as trustee for UBC PROPERTIES TRUST,**  
by its authorized signatories

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory