



<b>SUBJECT</b>	<b>R.M. MIDDLETON ENDOWMENT FUND</b>
<b>MEETING DATE</b>	<b>SEPTEMBER 12, 2019</b>

Forwarded on the Recommendation of the President

**APPROVED FOR SUBMISSION**

Santa J. Ono, President and Vice-Chancellor

<b>DECISION REQUESTED</b>	<b>IT IS HEREBY REQUESTED that <i>the Finance Committee approve variation to the terms of the R.M. Middleton Endowment Fund as set out in the attached Testamentary Trust Summary, and as recommended by the President and University Counsel.</i></b>
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<b>Report Date</b>	August 15, 2019
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**Presented By** Hubert Lai, Q.C. University Counsel

**EXECUTIVE SUMMARY**

The Associate Deans responsible for overseeing undergraduate awards in the Irving K. Barber School of Arts and Sciences at the University’s Okanagan campus (“IKBSAS”), together with the Department Head of the Department of Community, Culture and Global Studies at IKBSAS (together, the “Faculty”), request that the Board of Governors approve the establishment of the R.M. Middleton Endowment Fund (the “Fund”), on the terms set out in the attached R.M. Middleton Endowment Fund Testamentary Trust Summary, which varies the terms of the Fund that are set out in the Will of Robert Morrice Middleton (the “Donor”). The variation will have the effect of correcting a reference to a major in Community, Culture and Global Studies which does not exist and amending this language to reflect the degree programs offered by the Department of Community, Culture and Global Studies within the IKBSAS in keeping with the spirit and intent of the Donor’s gift.

**Attachments**

1. R.M. Middleton Endowment Fund Testamentary Trust Summary

**STRATEGIC CORE AREAS SUPPORTED**

- People and Places     Research Excellence     Transformative Learning     Local / Global Engagement

**DESCRIPTION & RATIONALE**

The Donor made his Will on October 6, 2012 and pursuant to the Second Codicil to the Will dated November 18, 2013 (the “Second Codicil”) (together, the “Will”) the Donor made a bequest of \$250,000 to establish an endowment fund at the University. The Donor passed away in 2016.

The Will provides that the fund be used to award a prize “for one student from any program of study in the Faculty of Creative and Critical Studies or a student majoring in History, Economics, Philosophy, Political Science, or Community, Culture and Global Studies in the Irving K. Barber School of Arts and Sciences at UBCO.”

The wording of the Will raises an issue with respect to the reference to “a student majoring in ... Community, Culture and Global Studies” as the Faculty has confirmed that no such major exists. The Department of Community, Culture and Global Studies in the IKBSAS offers degrees in four programs: Anthropology, Gender and Women’s Studies, Geography and Indigenous Studies.

### Approval Requested

The Faculty requests that the Board approve:

- (i) a variation to the terms of the Fund set out in paragraph 1 of the Second Codicil by removing reference to ‘Community, Culture and Global Studies’ and replacing it with ‘Anthropology, Gender and Women’s Studies, Geography or Indigenous Studies’. Paragraph 1 of the Second Codicil is reproduced below [*emphasis added to indicate language that would be varied*]:

"(d) To give the amount of Two Hundred and Fifty Thousand Dollars (\$250,000.00) Cdn. to the UNIVERSITY OF BRITISH COLUMBIA (the "University"), of 500 - 5950 University Boulevard, Vancouver, B.C., to be used to establish a permanent fund known as the R.M. Middleton Endowment Fund (the "Fund"). The purpose of the Fund is to enhance the undergraduate experience at the University of British Columbia's Okanagan Campus (the "UBCO") by rewarding outstanding learning by undergraduates at that campus. In support of this purpose, I DIRECT THAT the income of the Fund shall be used to fund a prize (the "Middleton Student Prize"), for one student from any program of study in the Faculty of Creative and Critical Studies or a student majoring in History, Economics, Philosophy, Political Science, or Community, Culture and Global Studies in the Irving K. Barber School of Arts and Sciences at UBCO. The R. M. Middleton Student Prize shall be awarded to a student in his or her graduating year in one of those programs who has attained the highest academic average within their program over the course of their studies."; and

- (ii) the R.M. Middleton Endowment Fund Testamentary Trust Summary in the form attached, including section 4 (Use of the Fund) which would have the effect of varying the terms of the purpose of the Fund as described in the Second Codicil.

The Office of the University Counsel supports these requests.

### Legal Authority

The Board of Governors’ authority to approve the request is found in paragraph 1 of the Second Codicil, which provides that:

“If unforeseen circumstances make the specified use of the Fund no longer practical or desirable, the Board of Governors of the University is hereby authorized to make such changes to the terms of the Fund that [sic] considers desirable, any such changes to be keeping as far as possible with the spirit and general intent of my gift.”



## R.M. MIDDLETON ENDOWMENT FUND TESTAMENTARY TRUST SUMMARY

**Whereas:** The Donor (defined below) made a bequest of \$250,000 to the University (defined below) to establish an endowment fund at the University. The Second Codicil to the Will (defined below) provides that the fund be used to award a prize “for one student from any program of study in the Faculty of Creative and Critical Studies or a student majoring in History, Economics, Philosophy, Political Science, or Community, Culture and Global Studies in the Irving K. Barber School of Arts and Sciences at UBCO.” The Department of Community, Culture and Global Studies within in the Irving K. Barber School of Arts and Sciences (the “**Department**”) does not offer a major in Community, Culture and Global Studies. The Department offers degrees in four programs: Anthropology, Gender and Women’s Studies, Geography and Indigenous Studies. Accordingly, the University’s Board of Governors approved in September 2019 a variation to the terms of the purpose of the fund on the terms set out in section 4 of this Testamentary Trust Summary to remove ‘Community, Culture and Global Studies’ and replace it with ‘Anthropology, Gender and Women’s Studies, Geography or Indigenous Studies.’ This variation is in keeping with the spirit and intent of the Donor’s gift.

### 1. Name of Fund

The endowment fund described by this Testamentary Trust Summary will be known as the **R.M. Middleton** Endowment Fund (the “**Fund**”).

### 2. Creation and Purpose of the Fund

The Fund is established by The University of British Columbia (the “**University**”) as an endowment in accordance with the terms of the Will dated **October 6, 2012** (the “**Will**”) of **Robert Morrice Middleton** (the “**Donor**”) attached to this Testamentary Trust Summary as Schedule A, the terms of the Codicil dated May 30, 2013 (the “**First Codicil**”) of the Donor attached to this Testamentary Trust Summary as Schedule B, and the terms of the Codicil dated November 18, 2013 (the “**Second Codicil**”) of the Donor attached to this Testamentary Trust Summary as Schedule C (all together, the “**Testamentary Terms**”). This Testamentary Trust Summary has been created for administrative convenience and to evidence the creation of the Fund. It is intended to summarize the relevant terms of trust as established by the Will, the First Codicil and the Second Codicil and not to vary those terms, except as permitted by the Testamentary Terms.

### 3. University Policy

Subject to the terms of the Will, the First Codicil and the Second Codicil, decisions on the administration, financial and otherwise, of the Fund will be made in accordance with the terms of this Testamentary Trust Summary and the policies of the University as they may be amended from time to time.

### 4. Use of the Fund

The use of the Fund was originally set out in clause 3(d) of the Will, and was deleted by the Donor and replaced with paragraph 1 of the Second Codicil. The second sentence of paragraph 1 of the Second Codicil is hereby varied in accordance with the rights granted to the Board of

Governors under the same paragraph 1 of the Second Codicil; and therefore, the second sentence is deleted and is replaced with the following:

The purpose of the Fund is to enhance the undergraduate experience at the University of British Columbia's Okanagan Campus (the "UBCO") by rewarding outstanding learning by undergraduates at that campus. In support of this purpose, I DIRECT THAT the income of the Fund shall be used to fund a prize (the "Middleton Student Prize") for one student from any program of study in the Faculty of Creative and Critical Studies or a student majoring in History, Economics, Philosophy, Political Science, Anthropology, Gender and Women's Studies, Geography or Indigenous Studies in the Irving K. Barber School of Arts and Sciences at UBCO. The R.M. Middleton Student Prize shall be awarded to a student in his or her graduating year in one of those programs who has attained the highest academic average within their program over the course of their studies.

The remaining sentences of paragraph 1 of the Second Codicil are unchanged.

**5. Testamentary Terms Relating to Investment of the Fund**

The University will invest the Fund in accordance with **paragraph 1 of the Second Codicil**.

**6. Testamentary Terms Relating to Encroachment on the Fund**

The University may not encroach on the capital of the Fund because the Will, the First Codicil and the Second Codicil do not contain an encroachment power.

**7. Additional Contributions**

The University may accept or make further contributions to the Fund, from any source, whether by gift, will or otherwise, provided any further contribution will be governed by the trust terms established by the Will, the First Codicil, the Second Codicil and this Testamentary Trust Summary.

**8. Variation of Terms**

The University may vary those terms of this Testamentary Trust Summary that are prescribed by the Will, the First Codicil and the Second Codicil in accordance with **paragraph 1 of the Second Codicil**. The University may vary those terms of this Testamentary Trust Summary that are not prescribed by the Will, the First Codicil and the Second Codicil if that variation is recommended by the President to the Board of Governors and is approved by the Board of Governors.

*[Signature page follows]*

To acknowledge the terms upon which the Fund is held, the University has executed this Testamentary Trust Summary on the date appearing below.

**The University of British Columbia**

by its Authorized Signatory:

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

\_\_\_\_\_  
Date

Approved as to Form by the UBC Estate  
Administrator:

Approved as to form by the Office of the  
University Counsel:

\_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_