

# **SANITARY SEWERAGE METERING AGREEMENT**

This Agreement having an effective date of October 16, 2017

## **BETWEEN:**

**CITY OF KELOWNA**  
1435 Water Street  
Kelowna, British Columbia  
V1Y 1J4

(the “City”)

## **AND:**

**THE UNIVERSITY OF BRITISH COLUMBIA**  
6328 Memorial Road  
Vancouver, British Columbia  
V6T 1Z2

(“UBC”)

## **WHEREAS:**

A. UBC currently owns certain sanitary sewer metering equipment which is further described in the document attached hereto as Schedule “A” (the “Meter”) and is currently located in the area marked as “New Location” shown on the diagram attached as Schedule “B”.

B. The City wishes to obtain the Meter from UBC and UBC has agreed to transfer the Meter to the City, subject to the City amending City of Kelowna Bylaw No. 3480 to provide for UBC to be billed based upon actual sewer volume flowing from the property owned by UBC and recorded on the Meter in accordance with the City updated sewerage system user bylaw.

Now therefore the parties agree that, in consideration of the mutual promises made in this Agreement, the sufficiency of which is hereby acknowledged, that:

### **1. Relocation of Meter**

1.1 UBC relocated the Meter to the New Location and represents and warrants to the City that the installation of the Meter in the New Location is consistent with the manufacturer’s requirements and with the installation and design details shown in Schedule “C”.

1.2 UBC has obtained certification by a professional engineer that the Meter is in good working order, calibrated and ready for use.

1.3 UBC shall have the new Meter ready for use in the New Location and shall provide the City with a copy of the professional engineer’s certification required on the effective date hereof.

## **2. Transfer**

2.1 UBC agrees to transfer to the City effective on October 16, 2017 the Meter free and clear of all encumbrances for the purchase price of \$1.00.

## **3. Covenants**

3.1 Throughout the term of this Agreement, the City shall be responsible for the replacement, repair, maintenance, and calibration of the Meter, after UBC has fulfilled its requirements described at clause 1.2, and shall recover the cost associated with these obligations as part of the fixed billing rate under Bylaw No. 3480, as amended.

3.2 UBC shall collect and send the data from the Meter to the City on a monthly basis. It is the City's intent to obtain sanitary meter readings directly in the future using Scada interface at which time the requirement for having UBC issue the meter readings will no longer apply.

## **4. Use**

4.1 The City acknowledges and confirms that it will only use the Meter for the purpose of metering the sewage waste from the campus lands which are legally described as Lot A Sections 10 and 11 Township 23 Osoyoos Division Yale District Plan KAP87188 Except Part of Plan EPP57644 and EPP53655 (the "Campus Lands").

## **5. License**

5.1 UBC, on the terms set forth herein, hereby grants to the City, its officers, servants, employees, contractors and agents a non-exclusive license (the "License") to enter the Campus Lands for the purpose of providing ingress and egress for the City's vehicles, equipment and personnel to and from the Meter for the purpose of reading, maintaining, inspecting, and replacing the Meter.

5.2 The City agrees to limit its use of this License wherever possible and acting reasonably to utilize existing roadways to access the Meter and in the event access to the Meter is not available over existing roadways, then the City shall access the Meter in such manner which is the least disruptive to UBC's activities on the Campus Lands and to the environment and to the landscaping on the Campus Lands.

5.3 The City shall pay to UBC, a license fee of One Dollar (\$1.00) for the term of this Agreement which is payable on the signing of this Agreement by the City, the receipt and sufficiency of which UBC hereby acknowledges.

5.4 UBC covenants with the City not to do or permit to be done any act which might interfere or obstruct access to the Meter for the City's use permitted herein.

5.5 The City acknowledges and agrees that the License herein shall not entitle the City to

exclusive possession of the Campus Lands or any portion thereof and further covenants and agrees not to interfere with the activities of any other person on the Campus Lands under any prior or subsequent license or other right granted by the UBC.

5.6 The parties hereto acknowledge, that the License granted to the City herein is a license only and shall not, under any circumstances, constitute a partnership, lease or joint venture between the parties.

5.7 The City covenants with UBC:

- (a) not to commit or suffer any willful or voluntary waste, spoil or destruction on the Campus Lands or do suffer to be done thereon anything that may be or become a nuisance or annoyance to UBC or the owners or occupiers of adjoining lands; and
- (b) to indemnify, save harmless, release and forever discharge UBC from and against all manner of actions, causes of action, claims, debts, suits, damages, demands and promises, at law or in equity, whether known or unknown, including without limitation, for injury to persons or property, including death, or any person directly or indirectly arising or resulting from, or attributable to, any act, omission, negligence or default of the City in connection with or in consequence of this license described in this clause 5 save and to the extent caused by any act, omission, negligence or default of UBC.

## **6. Future Relocation**

6.1 UBC may at any time during the term hereof and at its sole cost and expense relocate the Meter upon 60 days' written notice to the City to a different location on the Campus Lands provided that:

- (a) UBC is responsible to move and reinstall the Meter to a point downstream of any connection or potential connection leaving the Campus Lands and to the specifications set by a professional engineer; and
- (b) after the relocation UBC is responsible to obtain certification from a professional engineer that the Meter is in good working order and ready for use.

## **7. Termination**

7.1 This Agreement shall terminate upon 60 days' written notice of termination by one party to the other party.

## **8. General**

8.1 **Notices.** Any notices with respect to this Agreement will be in writing and will be effective given on the following date of being delivered by courier, in person or by fax to the party at the address(es) and fax numbers set out below:

To UBC:

The University of British Columbia  
Office of the University Counsel  
Old Administration Building  
6328 Memorial Road Vancouver, BC V6T 1Z2  
Attention: University Counsel

Telephone: 604-822-0687  
Fax: 604-822-8731

To City:

The City of Kelowna  
1435 Water Street  
Kelowna, British Columbia  
V1Y 1J4

Attention: \_\_\_\_\_

Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_

8.2 **Further Assurances.** Each of the parties will at all times and from time to time and upon reasonable request do, execute and deliver all further assurances, acts and documents for the purpose of evidencing and giving full force and effect to the covenants and agreements in this Agreement.

8.3 **Enurement.** This Agreement will enure to the benefit of and be binding upon the heirs, executors, administrators, legal and personal representatives, successors and permitted assigns of the parties, as applicable.

8.4 **Headings.** The headings appearing in this Agreement have been inserted for convenience of reference only and in no way define, limit, or enlarge the scope or meaning of the provisions of this Agreement.

8.5 **Counterparts.** This Agreement may be executed in several counterparts, each of which will be deemed to be an original and all of which will together constitute one and the same instrument. The execution of this Agreement will not become effective until all counterparts have been executed by all the parties to this Agreement. A copy of this Agreement delivered by facsimile or other electronic means and bearing a copy of the signature of a party to this Agreement shall for all purposes be treated and accepted as an original copy thereof.

8.6 **Recitals and Schedules.** The recitals and schedules form a part of this Agreement and are fully incorporated herein by this reference.

Signed by the City this 16<sup>th</sup> day of October, 2017.

**CITY OF KELOWNA**

Per: \_\_\_\_\_  
Authorized Signatory

Per: \_\_\_\_\_  
Authorized Signatory

Signed by UBC this 16<sup>th</sup> day of October, 2017.

**THE UNIVERSITY OF BRITISH  
COLUMBIA**

Per: \_\_\_\_\_  
Authorized Signatory

Per: \_\_\_\_\_  
Authorized Signatory

SCHEDULE "A"

**FLO-DART™  
CALIBRATION CERTIFICATE**

Model: 4000

Sensor Serial No.: 002A26900605

	Actual	Measured
Level	Min. <u>9.00</u> in.	<u>8.98</u> in.
	Max. <u>48.00</u> in.	<u>47.97</u> in.

Tolerance ± 0.10 in. + 1% of reading

	Actual	Measured
Pressure	Min. <u>0.0</u> in.	<u>0.0</u> in.
	Max. <u>40.0</u> in.	<u>40.0</u> in.

Tolerance ± 0.4 in.

**Velocity (Calibration Not Required)**

Calibration Technician: 4790

Date: 10/8/2014

Calibration is traceable to the National Institute of Standards and Technology (NIST), Gaithersburg, MD. For product information, service or calibration, please contact the Customer Service Department.



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P/N: 101004001

SCHEDULE "B"



