

AGREEMENT made this _____ day of _____, 2004

BETWEEN:

Her Majesty the Queen in right of the Province of British Columbia, as represented by the Minister of Transportation, _____, Victoria, British Columbia _____

(“The Province”)

AND:

**City of Kelowna, 1435 Water Street, Kelowna, British Columbia, V1Y 1J4
 (“The City”)**

WHEREAS:

- A. Whereas the Province and the City are committed to an effective and efficient transportation network that promotes economic activity within the region and meets the needs of the population of the Central Okanagan Regional District and the entire Okanagan Valley.
- B. The Province and the City have been in discussions since the mid 1990s regarding the need for improvements to the existing Lake Okanagan Bridge to handle the increasing traffic coming to and leaving Kelowna.
- C. The Province and City have conducted joint planning leading to a plan for a five lane bridge plus improvements to the approaches at both ends of this bridge. The City had identified improvements to its road network to handle growth anticipated in its boundaries that complement the capacity of the new bridge. These works included a one way couplet utilizing Water/Pandosy Streets and Richter Street, as described in Figure 1 – East Approach Couplet Details, annexed to this Agreement (the “Couplet”).
- D. The Province and the City have completed traffic analysis studies that have identified options for improving the east approach to balance the capacity provided by a new crossing.
- E. As a result of public consultation the previous planned Couplet has been removed from the City’s Official Community Plan and alternatives will be reviewed by a City task force. The City intends to complete that review by January 1, 2005 with the intent of identifying a solution which provides roadway capacity and operational equivalency to the Couplet option.
- F. It is understood by the Province and the City that these road improvements yet to be determined, are necessary and will be required to be constructed by the City to fulfill its obligations as set out in this Agreement.
- G. The Province intends to proceed with a performance based contract for delivery of defined services in relation to the proposed new crossing. This commitment is based on value for money being achieved. The Province is seeking proposals on

the basis of a crossing that will be capable of carrying the traffic flows set out in Schedule A. This crossing may or may not consist of a five-lane bridge and may consist of a crossing that gives greater capacity than that identified in this agreement.

Now therefore the parties agree as follows:

- 1). The Province intends to enter into a Public Private Partnership (PPP), under which the private sector partner (the “Concessionaire”) will provide the Province with a service of moving traffic across Okanagan Lake and in so doing the Concessionaire is anticipated to construct a new crossing complete with all required approach works along Highway 97 within the City to the east of Abbott Street, including, but not limited to, dual left and right turn bays into the central business district and onto the new crossing approach from the central business district, three lanes through Abbott Street westbound and two lanes eastbound on Harvey Avenue, with raised curbing and median treatment with closed drainage and pathways along both sides of Highway 97 from the crossing to Abbott Street by Spring 2008.
- 2). The parties acknowledge that the new east approach from the crossing to Abbott Street (the “New Approach”) will impact Kelowna City Park. The Province agrees:
 - a) that all land, road and parking construction, park restoration, sportsfield relocation, facility replacement and restoration of former road areas within the park to park use will be generally at its cost, subject to final mutual agreement by both Parties on the exact cost allocation;
 - b) that the works constituting the New Approach will satisfy the reasonable standards of the City and the Province’s Ministry of Transportation (the “Ministry”); and
 - c) that a pedestrian underpass through the New Approach fill that allows for continuity of the City’s bike path network, to the reasonable satisfaction of the City, is included in these works.
- 3). The Province has incurred past costs in the amount of \$257,757 to complete detailed design for the Harvey Avenue improvements and Couplet. The requirement to cost share this work, as referenced in the Letter of Agreement dated April 1, 1999 is hereby waived. The Ministry also cost-shared on a City traffic simulation study and contributed a further \$6,200 for this work.
- 4). Modifications to the crossing alignment as a result of the PPP that impact the City beyond the agreed right of way as set out on plan number R2-366-801 and R2-366-802 as annexed to this Agreement must have the City’s approval.
- 5). The City agrees to implement a combination of improvements that result in a level of operational performance along Highway 97 as set out in Schedule A to this Agreement. These improvements may include physical road improvements, traffic movement restrictions, traffic signal changes and intersection closures within the adjacent City road network or on

Highway 97 east of Abbott Street. The agreed to works shall be completed and operational by January 31, 2008.

- 6). Should the City's planned road improvements provide an opportunity for phasing as traffic volumes increase, the Province will give fair consideration of those options, providing always that the operational criteria identified in Schedule A to this Agreement are achieved.
- 7). The Concessionaire will be responsible for maintenance, operation and asset preservation within Ministry Right-of-Way along Harvey Avenue from the crossing through to Ethel Street. The City shall afford the Concessionaire all reasonable opportunity to review the improvement works on Highway 97 and conduct quality audits as required to provide assurance that the improvements are constructed in accordance with the design and specifications for the work. The City shall identify a liaison person who shall provide equal opportunity to proponents to discuss issues as they pertain to the east approach during the Province's procurement process.
- 8). Once the City has committed to improvements that will meet the operational requirements and road system capacities set out in Schedule A to this Agreement, to the satisfaction of the Province, the Province agrees to contribute 50% of the actual cost of the improvements within the City road network, up to a maximum of \$3,000,000.
- 9). Once the City has committed to improvements that will meet the operational requirements and road system capacities set out in Schedule A to this Agreement, to the satisfaction of the Province, the Province commits \$1,000,000 for the improvements on Highway 97, provided that those improvements have been identified by the City, agreed to by the Province and carried out in accordance with the construction standards of the Ministry. If the agreed to improvements along Highway 97 cost less than \$1,000,000, the Ministry agrees to use the balance of funds to City road network improvements, as described in Clause 8 above.
- 10). The east approach to Lake Okanagan Bridge is an urban zone requiring traffic signals to deal with many intersections. Effective traffic signal integration between Provincial and City traffic signals is essential to achieving maximum capacity on the affected roadways. The Province and City agree to take measures that result in full coordination of the two signal networks in this zone. The use of intelligent transportation systems will be a priority to maximize the efficiency and capacity of the road network.
- 11). The Ministry will give consideration to Transportation Demand measures through the Request for Proposals.
- 12). If the City does not deliver road improvements that meet or exceed the traffic volumes and operational requirements set out in Schedule A to this Agreement by the time of substantial completion of the new crossing of Okanagan Lake described in this Agreement, notwithstanding any other provision of this Agreement, the City agrees that the Province may, consistent with the Highways Act R.S.B.C. 1996, c 188, control the traffic signaling

and timing along Highway 97 through the City as necessary to achieve the operational requirements set out in Schedule A.

- 13). The City acknowledges that:
 - a) the Concessionaire will be designing, building, financing, operating and maintaining the new crossing on the basis of performance based payments;
 - b) these payments will have been estimated on the basis of the traffic volumes and road capacities set out in Schedule A to this Agreement;
 - c) the Province may be liable to compensate the Concessionaire for any shortfall in the traffic volumes and road capacities from those set out in Schedule A to this Agreement; and
 - d) nothing herein will be construed or interpreted as creating an obligation on the part of the City to indemnify, compensate or hold harmless the Province against any claims of the private sector partner, nor as creating any obligation on the part of the City to compensate the private sector party directly for any shortfall in traffic volumes and road capacities.

- 14). The City's North End Connector is an important transportation link that will be needed to off load traffic from Highway 97 and possible linking to a second crossing of Okanagan Lake. The parties agree to further discussion regarding a partnership for the North End Connector by the end of 2004.

IN WITNESS WHEREOF the parties have executed this agreement on the date first above written.

SIGNED on behalf of Her Majesty the Queen
in right of the Province of British Columbia, as
represented by the Minister of Transportation ,
in the Presence of:

Witness

Authorized Signatory

Title

SIGNED on behalf of the City of Kelowna, in
the Presence of:

Witness

Mayor

Title

Witness

City Clerk

Title

Schedule A

Operational and Capacity Requirements

The following performance measures will be utilized for the equivalency assessment:

Highway 97 Capacity Requirements

The improvements proposed along the Highway 97 corridor shall be capable of accepting an AM peak hour eastbound volume of 3500 vehicles through Abbott Street and delivering a PM peak hour westbound volume of 3850 vehicles through Abbott Street to the crossing. The above volumes shall be delivered at a ratio of between 65% - 75% to/from Highway 97 and 25% - 35% to/from Abbott Street. Both parties agree to apply best efforts to further maximize the road capacities above these values in order to increase the utilization of new crossing.

Highway 97 Performance Measures

	AM	PM
Mean travel speed – EB/WB (km/hr)	33/20	25/20
Average delay per vehicle – EB/WB (sec)	6/10	11/11
Arterial Level of Service – EB/WB	C/D	D/E
Number of Intersections with average delay > 1.0 minutes	0	0
Number of East-West thru movements with greater than LOS “E”	0	0
Number of East-West through movements with V/C > 1.0	0	0
Number of East-West turn movement queues exceeding storage length of turning lanes for 95 th percentile queue	1	3

The above performance measures will provide the general basis for the equivalency comparison. It is recognized that not all measures may be met, and that trade-offs between the benefits of the various measures may be required entailing some flexibility and judgment. The Province reserves the right to ultimately endorse the equivalency of any trade-offs proposed by the City. For any side street intersection improvements proposed, the City shall also provide adequate information to demonstrate that the local roadway network has the capability to deliver the volume analyzed.

City of Kelowna Network Improvements

The City undertakes to implement traffic management measures and other road improvements to support the proposed crossing. The operational analysis of the network carried out by the Province was carried out by TSi utilizing the Synchro traffic operations software.

The Couplet is more specifically detailed in the AM and PM network scenarios assumed for 2017 in the Okanagan Lake Bridge Traffic Study undertaken by Halcrow/TSi in 2004 together with the 2017 AM and PM peak hour traffic demand forecast in that Study. The 2017 network was based upon the City of Kelowna “20 Year Servicing Plan and Financing Strategy 2020” plan provided to Halcrow/TSi. The traffic demand forecast is based upon agreed upon demographics as developed by Urban Futures for Halcrow/TSi with a City of Kelowna 2017 population of 141,700 with employment projections of 78,500.

The City shall be responsible for undertaking the operational analysis of alternatives within the zone of Clement Avenue to the north to Cadder Avenue to the south, Gordon Drive to the east and Okanagan Lake to the west. Intersection traffic volumes for the analysis shall be generated by assigning the performance measures defined herein. The operational performance measures shall be developed by procedures at least equivalent to those applied in the Synchro software. The Province reserves the right to commission independent analysis of the alternatives. At the Province’s discretion, this may be undertaken in-house, by TSi or by other consultants. Alternatively, the City and the Province may agree to cost-share a joint analysis of the alternatives.