

Attachment B:

License Agreement
(Demolition and Construction Staging)
between the City and 1111262 B.C. Ltd.

LICENSE AGREEMENT - Demolition and Construction Staging

THIS LICENSE is dated for reference September 29 2023,

BETWEEN:

THE CORPORATION OF THE CITY OF NEW WESTMINSTER
511 Royal Avenue, New Westminster, BC V3L 1H9
(the “**Licensor**”)

AND:

1111262 B.C. LTD.
Suite 300 - 181 Bay Street, Toronto, ON M5J 2T3
(the “**Licensee**”)

WHEREAS:

- A. The Licensor is the owner of the License Area (defined below). The Licensee is the owner of the Project Lands (defined below), which is situated adjacent to the License Area;
- B. The Licensee intends to construct, or cause to be constructed, the Project (defined below). In connection therewith, the Licensee will need to demolish certain existing improvements on the Project Lands and perform construction staging for the Project; and
- C. The Licensor has agreed to grant to the Licensee a license over the License Area (defined below) to facilitate the demolition of the existing improvements on the Project Lands and construction staging for the Project, all in accordance with the terms and conditions herein contained.

NOW THEREFORE in consideration of \$1.00, the mutual covenants herein contained and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the parties), the parties agree as follows:

1.0 DEFINITIONS AND SCHEDULES

1.1 In this License, the following terms have the following meaning:

- (a) “**Commencement Date**” means the date of commencement of the Term on September 29, 2023 which date will not precede the date of issuance of a demolition permit by the City of New Westminster;
- (b) “**Environment**” means land including soil, sediment deposited on land, fill and land submerged under water, air including all layers of the atmosphere, and water including oceans, lakes, rivers, streams, ground water, and surface water;

- (c) **“Environmental Laws”** mean all applicable present laws, statutes, regulations, rules, bylaws, orders, directives, standards, guidelines, and other lawful requirements of any government body having jurisdiction, including the *Environmental Management Act* (British Columbia) and its regulations as may be amended or replaced from time to time, and all principles of common law and equity concerning the quality of the Environment, that apply to the License Area and its surrounding Environment;
- (d) **“Extension”** has the meaning set out in section 4.1(b);
- (e) **“Hazardous Substances”** means any air contaminant, air pollutant, dangerous goods, deleterious substance, effluent, pesticide, restricted goods, waste, special waste, or toxic substance which is now or hereinafter prohibited, controlled or regulated under Environmental Laws;
- (f) **“Initial Term”** has the meaning set out in section 4.1(a);
- (g) **“License Area”** means those land and premises located at 824 Agnes Street and legally described as PID: 008-643-067: Lot 9 Block 23 Plan 2620, consisting of 808.26 sq. m. or 8,700.03 sq. ft.
- (h) **“License Fee”** has the meaning set out in Section 3.1;
- (i) **“Licensee”** means the party referred to above as the licensee;
- (j) **“Licensee’s Personnel”** means the Licensee’s officers, directors, employees, and contractors;
- (k) **“Licensor”** means the party referred to above as the licensor;
- (l) **“Licensor Personnel”** means the Licensor’s officials, officers, employees and contractors;
- (m) **“Losses”** means losses, judgments, builder’s liens, damages, costs (including reasonable legal costs), expenses, liabilities, actions, proceedings, suits, debts, remedial order, accounts, claims and demands, including any and all claims of third parties and governmental authorities;
- (n) **“Park Construction Agreement”** means the agreement between the Licensor and Licensee for the construction of the park to be built by the Licensee on the License Area as a condition of the development agreement between the Licensor and Licensee for the Project.
- (o) **“Permitted Use”** means the use of the License Area for the purposes related to the demolition of the existing improvements on the Project Lands, and any activities reasonably related or incidental to such demolition (including, but not

limited to, storage of equipment, materials, and debris; access and staging for equipment, vehicles and personnel; installation, maintenance and removal of temporary support structures; establishing and maintaining safety buffer zones, including the use of barriers, signs or fencing), construction staging, underpinning for the Project and any other use as the Licensor, acting reasonably, may consent to in writing;

- (p) **“Project”** means the development project to be developed on the Project Lands;
- (q) **“Project Lands”** means the lands civically and legally described as set forth in Schedule A; and
- (r) **“Term”** has the meaning set out in section 4.1; and

1.2 Schedule A is attached to and form part of this License.

2.0 GRANT OF LICENSE AND PERMITTED USE

2.1 The Licensor grants an exclusive license to the Licensee to use the License Area for the Permitted Use for the Term, subject to the terms and conditions of this License, including without limitation the following rights and restrictions:

- (a) the Licensor reserves to itself and to Licensor Personnel the right to enter the License Area at any time if necessary for regulatory, health or safety reasons with prior written notice of at least 48 hours to the Licensee (except in the case of an emergency where prior written notice is not feasible, in which case Licensor will provide as prompt written notice as feasible);
- (b) the license granted herein is subject to any pre-existing rights, charges and encumbrances, whether registered in the land title office or not, with respect to the License Area granted to any other person or entity at any time before the date of this License. In this regard the Licensor represents and warrants there are no rights, charges, and encumbrances that would materially interfere with the rights granted to the Licensee in this License; and
- (c) this License is contractual only and transfers no interest in the License Area to the Licensee.

2.2 Subject to Section 2.1, the Licensor shall not access or use, or permit access or use by the general public, of the License Area during the Term. The Licensor shall cease or cause cessation of the operation of the dog park which is located on the License Area in advance of the commencement of the Term and shall ensure that such park is closed off to, and will not be accessible by, the general public during the Term.

2.3 The Licensee shall not use the License Area for any purpose other than the Permitted Use.

3.0 LICENSE FEE

In consideration of the rights herein granted, the Licensee will pay to the Licensor the amount of \$5.00 per sq.ft. the of License Area at an annual rate of \$43,500 and \$3,625 monthly (“License

Fee”) plus applicable taxes, the payment of which the Licensor hereby confirms having received. The License Fee shall terminate upon the expiry of the Term and the commencement of the Park Construction Agreement.

4.0 TERM, TERMINATION RIGHTS AND EXTENSION

4.1 The Term of the License will be as follows:

- (a) the initial term of the License will be for 31 months commencing on the Commencement Date (the “**Initial Term**”);
- (b) provided that the Licensee is not then in breach of this License, the Licensee may extend the Initial Term up to three times, each extension term by 2 months (each an “**Extension**”). To exercise the Extension, the Licensee will deliver to the Licensor at least 30 days’ written notice in advance of the expiration of the Initial Term or the Initial Term as extended pursuant to this provision. The terms of this License will apply mutatis mutandis to the Extension, and an additional Licence Fee plus applicable taxes will be payable by the Licensee to the Licensor in respect of each month during any such Extension.

Collectively, the Initial Term, as it may be extended by the Extension pursuant to section 4.1(b), is the “**Term**”.

The Licensee shall have no right to remain on or use the License Area at the end of the Term, unless specifically agreed upon in writing in advance by the Licensor and on terms and conditions mutually agreed to by the Licensor and the Licensee.

- 4.2 The Licensee may terminate this License upon the completion of the Permitted Use on the Project Lands, as determined by the Licensee in its reasonable discretion, and completing its removal and restoration obligations as set forth under section 6.4, and upon the commencement of the Construction Agreement this License shall be effectively terminated.
- 4.3 The Licensor may terminate this License, on written notice by the Licensor, if the Licensee is in breach of the terms of this License, and the Licensee fails to fully remedy such breach within 30 days of written notice by the Licensor, or if the breach is of a nature that it cannot reasonably be cured in 30 days, such further period as is reasonable in the circumstances as determined by the Licensor, acting reasonably, provided that the Licensee commences to cure the breach within 30 days of such written notice by the Licensor and thereafter diligently proceeds to fully remedy such breach.

5.0 INSURANCE AND SECURITY

- 5.1 The Licensee shall obtain and maintain or cause to be obtained and maintained by its contractors during the Term comprehensive general liability insurance with a limit of not less than \$5,000,000 for loss, damage, injury or death arising out of any one occurrence. The policy shall name the Licensor as additional insured thereunder and afford protection to the Licensor. The Licensee shall provide the Licensor with satisfactory proof of such coverage prior to the Commencement Date and, upon request by the Licensor, acting reasonably, during the Term.

6.0 LICENSEE'S OBLIGATIONS

- 6.1 At the Licensee's sole cost and expense, prior to and throughout the Term, the Licensee shall obtain, as necessary, any permits, licenses and approvals pertaining to the Licensee using the License Area for the Permitted Use.
- 6.2 The Licensee shall not suffer or permit any lien under the *Builders Lien Act* of British Columbia or other similar statute in effect from time to time to be registered against the License Area in connection with the Licensee's and the Licensee's Personnel's use of the License Area. If any such lien is at any time registered, the Licensee shall, at its sole cost, promptly cause the discharge and release of the same.
- 6.3 During the Term, the Licensee shall:
- (a) not cause waste or injury to the License Area or any part thereof and shall not use the License Area or any part thereof for any unlawful purpose;
 - (b) maintain the License Area in a safe condition and free from nuisance at all times, provided that the Licensor acknowledges the Permitted Use carried out in accordance with the terms of this Agreement and all applicable laws does not constitute a nuisance hereunder;
 - (c) make good and repair, to the satisfaction of the Licensor, acting reasonably, any damage which it may cause to the License Area;
 - (d) comply with and abide by all laws, by-laws and lawful orders concerning the License Area and the use thereof;
 - (e) not store, bring, release any Hazardous Substances in, onto, into or from the License Area in contravention of any Environmental Laws;
 - (f) promptly take any and all necessary remedial action in response to the presence, discharge or release of any Hazardous Substances brought on, put under, or about the License Area in contravention of any Environmental Laws by the Licensee and such remedial action will be taken promptly so as to minimize any impairment to the License Area;
 - (g) comply promptly with the legal requirements of all authorities having jurisdiction, including any association of fire insurance underwriters or agents, and all notices issued by them that are served upon the Licensor and/or the Licensee in respect of the use of the License Area by the Licensee;
 - (h) ensure that all of the Licensee's contractors and subcontractors accessing or using the License Area maintain WorkSafe BC insurance, are registered in accordance with the *Workers Compensation Act*, that each of such contractors and subcontractors has a WorkSafe BC account and that such account is in good standing. Without limiting the foregoing, if the License Area constitutes a

“multiple-employer work place” (as defined in the *Workers Compensation Act*), then the Licensee acknowledges and agrees that the Licensee or its development manager or construction manager or general contractor or the Licensee’s representative in respect of the Project will be the “prime contractor” (as defined in the *Workers Compensation Act*) and as such the Licensee shall comply, or shall cause the designated “prime contractor” to comply, with all of the prime contractor obligations set out in the *Workers Compensation Act* together with all regulations thereto including the *Occupational Health Safety Regulation*;

- (i) take all actions and measures to ensure public safety in the operation and use of the License Area for the Permitted Use, which may include erecting any necessary signage and fencing; and
- (j) ensure any display boards are set back to allow vehicles exiting the License Area unobstructed line of sight.

6.4 Prior to the expiry or earlier termination of the Term, the Licensee will remove all improvements, equipment, goods and chattels placed by the Licensee or the Licensee’s Personnel upon the License Area and restore the License Area to a condition that is suitable for the commencement of the Park Construction Agreement.

7.0 CONDITION OF LICENSE AREA

7.1 The Licensor has made no representations or warranties as to the state of repair or safety of the License Area and shall not be obligated to furnish any services, utilities or facilities or to make any repairs or alterations in or to the License Area. The Licensee agrees to take the License Area in its current “as is, where is” condition on the Commencement Date.

8.0 INDEMNITY AND RELEASE

8.1 The Licensee shall, to the maximum extent permitted by law, indemnify and save harmless the Licensor and the Licensor Personnel from and against any and all Losses which the Licensor or the Licensor Personnel may suffer or incur or be put to, caused by:

- (a) injury or death to any person occurring in or about the License Area caused by the use of the License Area (including claims under the *Occupier’s Liability Act*) by the Licensee and/or the Licensee’s Personnel,
- (b) injury, death, loss or damage to the Licensor or any Licensor Personnel or the License Area where such injury, death, loss or damage is caused by the occupation or use of the License Area by the Licensee, the Licensee’s Personnel or any other person for whom the Licensee is responsible at law,

except to the extent such Losses relate in any way to negligent or wilful acts or omissions on the part of the Licensor, the Licensor Personnel and/or those for whom the Licensor is responsible at law.

9.0 NOTICE

9.1 Any notice, request or communication required or permitted to be given hereunder will be in writing and will be deemed to have been duly given:

- (a) if intended for the Licensee, if delivered or sent by personal delivery or e-mail transmission to the Licensee as follows:

1111262 B.C. LTD.

4906 Richard Road SW

Calgary, AB T3E 6L1, Canada

Attention: Legal Department

Email: legal.notices@brookfieldpropertiesdevelopment.com

with a copy to:

Brookfield Properties

181 Bay Street, Suite 700,

Toronto, ON M5J 2T3

Attention: Sarah Mitchell

Sarah.Mitchell@brookfieldpropertiesdevelopment.com

And,

DLA Piper (Canada) LLP

1133 Melville Street, Suite 2700

Vancouver, BC V6E 4E5

Attention: Max Collett

E-mail: max.collett@diapiper.com

- (b) if intended for the Licensor, if delivered or sent by personal delivery or e-mail transmission to the Licensor as follows:

511 Royal Avenue, New Westminster, BC V3L 1H9

Attention: Erika Mashig, Manager, Parks & Open Space Planning,
Design and Construction

E-mail: emashig@newwestcity.ca

with a copy to: Craig MacFarlane, Manager Legal Services

Email: cmacfarlane@newwestcity.ca

or to such address as any party may specify in writing from time to time and will be

deemed to have been received, if delivered or faxed on the date of delivery or transmittal.

10.0 GENERAL

- 10.1 Time shall be of the essence of this License, save as herein and otherwise provided.
- 10.2 If any provision or provisions herein contained is found by any court of competent jurisdiction to be illegal, invalid or otherwise unenforceable or void then such provision or provisions will be deleted and this License will be construed as though such provision or provisions were never herein contained.
- 10.3 No amendment, modification or waiver of this License or of any of the provisions hereof will be binding unless executed in writing by the parties.
- 10.4 The headings appearing in this License have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope or meaning of this License or any provisions thereof.
- 10.5 It is the express intention of the Licensor and the Licensee that the granting of this License will not create between the Licensor and the Licensee a landlord and tenant relationship. This License is contractual only and transfers no interest in License Area to the Licensee and does not create a partnership between the Licensor and the Licensee or a joint venture between the Licensor and the Licensee.
- 10.6 This License shall be governed by and construed in accordance with the laws of the Province of British Columbia.
- 10.7 Wherever the singular number or the masculine or neuter gender is used in this License they will be construed as being the plural or feminine or body corporate and *vice versa* and wherever the plural is used in this License it will be construed as being the singular and *vice versa* where the context or the parties so require.
- 10.8 All provisions of this License are to be construed as covenants and agreements as though the words covenant and agreement were used in each separate section.
- 10.9 The Licensee shall inform all appropriate persons associated with the Licensee of the terms and conditions of this License.
- 10.10 Waiver of any default by a party shall not be interpreted or deemed to be a waiver of any subsequent default.
- 10.11 This License constitutes the entire agreement between the parties with respect to the subject matter of this License.
- 10.12 References to statutes, regulations and bylaws are to them as they exist on the Commencement Date and to later amendments or replacements of them.

10.13 This License may be signed by the parties hereto in counterparts and by facsimile or pdf email transmission, each such counterpart, facsimile or pdf email transmission copy shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument.

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

THE CORPORATION OF THE CITY OF NEW WESTMINSTER by its authorized signatory(ies):

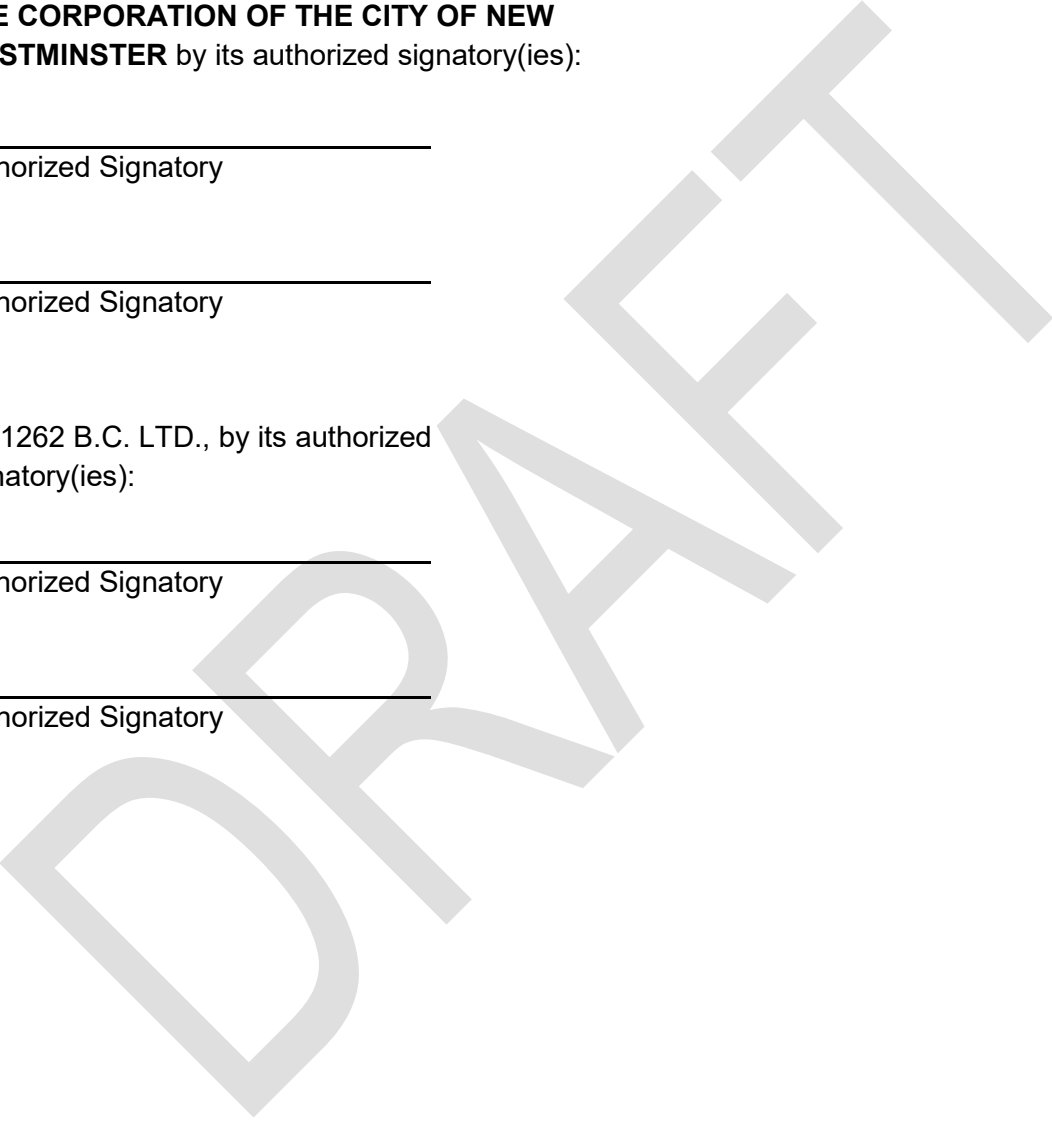
Authorized Signatory

Authorized Signatory

1111262 B.C. LTD., by its authorized signatory(ies):

Authorized Signatory

Authorized Signatory



SCHEDULE A

DESCRIPTION OF THE PROJECT LANDS AND LICENSE AREA

Municipal Address	Legal Description
810 Agnes Street, New Westminster	PID: 008-643-130 Southerly Half Lot 12 Block 23 Plan 2620 Having a Frontage of 66 Feet on Victoria Street and 65.91 Feet on Blackie Street And PID: 008-643-113 Northerly Half Lot 12 Block 23 Plan 2620 Having a Frontage of 66 Feet on Agnes Street and 65.91 Feet on Blackie Street
815 Victoria Street, New Westminster	PID: 008-643-075 Lot 11 Block 23 Plan 2620
821 Victoria Street, New Westminster	PID: 016-694-571 Lot C (AD216485) Block 23 Plan 2620
824 Agnes Street, New Westminster	PID: 008-643-067; Lot 9 Block 23 Plan 2620

