

LICENCE AGREEMENT
CON23-0172

This licence is dated for reference the 14th day of February, 2024

BETWEEN:

City of Langford
2nd Floor, 877 Goldstream Avenue
Langford, British Columbia
V9B 2X8

(the "City")

AND:

Orion Construction Ltd.
105-19923 80A Ave
Langley, B.C. V2Y 0R3

(the "Licensee")

GIVEN THAT:

- A. Licensee is the purchaser of the property civically identified as 870 McCallum Road, Langford, BC legally described as:

PID: 031-264-301

Legal: LOT 1, SECTION 112A, ESQUIMALT DISTRICT, PLAN EPP98870

(the "Property");

- B. The City owns and maintains the road bordering the Property, civically identified as McCallum Road (the "Road");
- C. The Licensee has requested a licence to occupy upon a portion of the Road from the City as a result of the Licensee constructing a 6-story multifamily rental building (the "Building");
- D. As authorized under the *Community Charter*, the City may permit a licence to occupy on land that is owned by the City.

THIS LICENCE is evidence that in consideration of the mutual promises contained in this Licence and the payment of \$10.00 by the Licensee to the City (the receipt and sufficiency of which the City acknowledges), the parties covenant and agree as follows:

1. The City hereby grants a licence to the Licensee of that portion of the land approximately 74.32 m², specifically identified on the sketches attached as Schedule "A" to this Licence (the "Licence Area"),

for the sole purpose of a staging area during the construction of the Building (the "Licence"). The City grants this Licence subject to the terms and conditions of this agreement.

2. The term of this Licence shall be for 15 months, commencing on February 21st, 2024 (the "Term Commencement Date") and shall terminate on May 21st, 2025 (the "Term"), unless terminated sooner pursuant to the terms of this Licence.
3. Concurrently with the signing of this Licence, the Licensee will give to the City bonding in an amount set by the City, which shall be the approximate cost of restoring the Licence Area and adjacent Road at the end of the Term.
4. In consideration of the granting of this Licence, the Licensee will pay to the City the following:
 - (a) a one-time licence administration fee in the amount of \$2,500.00 (the "Administrative Fee");
 - (b) an encroachment fee at a daily rate of \$63.17 unless a different amount is established by City policy (the "Encroachment Fee"). For clarity, the parties agree that the Encroachment Fee may be subject to adjustments as per City policy.
5. The Encroachment Fee shall be paid on a monthly basis, calculated according to the number of calendar days in each month. The Licensee will pay the first monthly instalment on the Term Commencement Date for the period from such Term Commencement Date to the last day of the month. Thereafter, subsequent monthly instalments shall be in advance on the first day of each ensuing month.
6. During the Term, the Licensee shall ensure that two (2) parking stalls on McCallum Road, with a combined length of approximately 50 ft, remain open and available to permit holders for parking between 7 p.m. to 7 a.m. nightly.
7. The Licensee shall ensure that its contractors, agents, and employees:
 - (a) Carry out the work in a good and workmanlike manner, in order to cause no unnecessary damage or disturbance to the Licence Area or the adjacent Road;
 - (b) Not use the Licence Area for any purpose other than those herein specifically set out;
 - (c) Keep and maintain the Licence Area, parking stalls, and the adjacent Road in good and sufficient repair to the satisfaction of the City;
 - (d) Replace and relocate any plants and greenery displaced by the use of the Licence Area at their own expense, including irrigation and plant replacement costs during the Term.
8. The Licensee's obligations shall include but are not limited to:
 - (a) Provide traffic control and delineation measures satisfactory to the Director of Engineering;
 - (b) Ensure that at least one contact person is available by telephone 24 hours per day and is available to attend the Licence Area within one hour of request by the City;

- (c) Provide and maintain all signage as may be required by the City;
 - (d) Keep the parking stalls and the Road adjacent to the Licence Area clear of all debris and obstructions;
 - (e) Provide to the City:
 - i. a construction parking and delivery management plan; and
 - ii. a mitigation plan pursuant to section 2.5 of the City of Langford's Bylaw 1000, prior to entering into the Licence;
 - iii. Upon the City's request, a Traffic Management Plan ("TMP"). The TMP may be modified at any time during the Term upon request and to the satisfaction of the Director of Engineering. Nothing in the TMP shall be removed throughout the Term without the prior written consent of the Director of Engineering.
9. Upon the last day of the Term, or upon earlier termination of the License, the parties will complete an inspection to ensure the Licensee has left the Licence Area in a condition comparable to the condition of the Licence Area at the signing of this Licence. The Licensee agrees that the City may deduct amounts from the bond and will pay the City any additional amounts required to return the Licence Area to its original condition. The City will return the bond or remainder thereof, if any, within 30 days of the completion of this inspection.
10. The Licensee acknowledges that this is a non-exclusive licence and that the City and its officers, employees, contractors and agents may enter into and upon the Licence Area at all reasonable times for the purpose of constructing, maintaining and inspecting or removing any public works or utilities, and ensuring the Licensee's compliance with this Licence.
11. The Licensee shall indemnify, defend and hold harmless the City, and its elected and appointed officials, officers, employees, contractors and agents, from and against all claims, actions, damages, liabilities, costs (including legal costs), and expenses arising from any occurrence on or within the Licence Area or the Road adjacent to, or caused by or contributed to by the negligence or other default of the Licensee in respect of anything done pursuant to or ostensibly pursuant to this Licence. The Licensee is not liable for any act or omission on the part of the City, its authorized agents or employees in respect of anything done under this Licence. This indemnity shall survive the expiry or earlier termination of this Licence.
12. The Licensee agrees to obtain and maintain at its sole expense general liability insurance in an amount not less than \$5,000,000.00 per occurrence, and the insurance policy shall:
- (a) name the City of Langford as additional insured;
 - (b) include that the City is protected notwithstanding any act, neglect, or misrepresentation by Licensee which might otherwise result in an avoidance of a claim and that such policies are not affected or invalidated by any act, omission or negligence of any third party which is not within the knowledge or control of the insured;

- (c) be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia with a financial credit rating of "A" or better;
 - (d) be primary and non-contributing with respect to any policies carried by the City and that any coverage carried by the City is in excess coverage;
 - (e) not be cancelled or materially modified without the insurer providing the City with 30 days written notice stating when such cancellation is to be effective or identifying the modification;
 - (f) be maintained for a period of 12 months after this Licence is terminated;
 - (g) include a cross liability clause such that the City and Licensee are each insured as if each had purchased the policy of insurance; and
 - (h) be on other terms acceptable to the City, acting reasonably.
13. The Licensee will promptly provide the City with certificates of insurance confirming the insurance requirements under this Licence are met upon the execution of this Licence and thereafter upon demand by the City, including evidence of any material amendment to the policy.
 14. If the Licensee fails to maintain insurance as required by this Licence, the City in its sole discretion may, after fourteen (14) days' notice to the Licensee, obtain such insurance in whole or in part. If the City obtains such insurance, the Licensee shall reimburse the City for the cost of that insurance plus a fifteen percent (15%) administration fee, within fifteen (15) days of receiving a written invoice from the City. For Clarity, the City has no obligation to obtain any insurance required to be maintained by the Licensee.
 15. The Licensee understands and agrees that the City may at any time after 90 days, in its sole discretion, terminate this licence upon written notice to the Licensee. If the City terminates this Licence, the Licensee shall, at its own expense, within such time as may be specified by the City, restore the Licence Area to its original state to the satisfaction of the City.
 16. If the Licensee chooses not to renew this Licence and fails to clear the Licence Area as required under this Licence, the City and its agents may remove all fixtures, chattels, improvements, personal property and all other things on the Licence Area. The cost of removal will be a debt due and owing to the City by the Licensee upon receipt by the Licensee of the City's invoice.

17. The Licensee acknowledges there are no covenants, agreements, conditions, representations, or warranties by or binding on the City with respect to the Licence Area except as expressly set out in this Licence and the Schedules attached to this Licence.
18. Nothing in this Licence exempts the Licensee from complying with all applicable laws, including all municipal bylaws, or from obtaining all required permits and licenses relating to the use of the Licence Area.
19. The Licensee releases and forever discharges the City from all manner of claims of any nature whatsoever which may arise by reason of any act or omission of the City pursuant to this Licence.
20. Notwithstanding any provision of this Licence, the Licensee shall not be entitled to compensation for injurious affection or disturbance resulting in any way from the removal of the Licence and, without limitation, shall not be entitled to business losses, loss of profit, loss of market value, relocation costs or other consequential loss by reason of the termination of the Licence.
21. This Licence grants no interest in land in the Licence Area to the Licensee.
22. Waiver of any default by either party shall not be deemed to be a waiver of any subsequent default.
23. The Licensee is not permitted to assign this Licence, in whole or in part, and shall not permit or suffer any other person to occupy the whole or any part of the Licence Area.
24. The Licensee may not sublicense this Licence without the City's prior written consent.
25. Whenever the singular or masculine is used in this Licence, the same is deemed to include the plural or feminine or the body politic or corporate as the context requires.
26. Every reference to each party is deemed to include the heirs, executors, administrators, permitted assigns, employees, servants, agents, contractors, officers, elected officials, directors and invitees of such party, where the context so permits or requires.
27. If any portion of this Licence is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the remainder of this Licence.
28. The provisions herein contained constitute the entire agreement between the parties and supersede all previous communications, representations and agreements, whether verbal or written, between the parties with respect to the subject matter hereof.
29. Time is of the essence.
30. This Licence enures to the benefit and is binding upon the parties and their respective successors, heirs and permitted assigns.

31. The schedules referred to in this Licence and attached hereto form a part of this Licence.
32. Any notice or communication required or permitted to be given under this Licence will be in writing unless otherwise specified and will be effectively given if emailed, or mailed in Canada by first class mail, postage prepaid, delivered and addressed or directed as follows:

To the City at:

Attention: Director of Engineering
City of Langford
2nd Floor, 877 Goldstream Avenue
Langford, B.C. V9B 2X8

Email: kbalzer@langford.ca

To the Licensee at:

Attention: Aiden Virani
Orion Construction Ltd.
105-19923 80A Ave
Langley, B.C. V2Y 0R3

Email: avirani@orionconstruction.ca

or to such other address as a party may specify by notice given as set out above.

33. Any notice or other communication will be deemed to have been received as follows:
 - (a) if delivered before 4:00 p.m., on the date of delivery if it is a business day and otherwise on the next business day;
 - (b) if mailed, on the third business day following the date on which it was mailed; and
 - (c) If emailed, on the date the email was sent if sent before 4:00 p.m. on a business day, and otherwise on the next business day.
34. This Licence may be executed in one or more counterparts, each of which will be an original, and all of which together will constitute a single instrument. Further, the parties agree that this Licence may be signed by electronic signature (e.g., DocuSign or similar electronic signature technology) and/or transmitted by electronic means, and thereafter maintained in electronic form, and that such electronic record will be valid, and effective to bind the party so signing, as a paper copy bearing such party's hand-written signature. The parties further consent and agree that the electronic signatures appearing on this Licence will be treated, for the purposes of validity, enforceability, and admissibility, the same as hand-written signatures.

35. In this Licence, “business day” means any day Monday through Friday, except statutory holidays.

TO EVIDENCE THEIR AGREEMENT each of the parties has executed this Licence on the date first noted above.

Orion Construction Ltd. has executed this Licence by its authorized signatories:

Authorized Signatory

City of Langford has executed this Licence by its authorized by its authorized signatories:

Mayor

Chief Administrative Officer

Schedule A

Map begins on subsequent page

