

TEMPORARY ACCESS AGREEMENT

Village of Croton-on-Hudson Lot A

THIS AGREEMENT (the "Agreement") is made as of the ____ day of May, 2024, by and between the Village of Croton-on-Hudson, One Van Wyck Street, Croton-on-Hudson, NY 10520 (the "Village") and WBP Development LLC, a New York limited liability company having its principal offices at 480 Bedford Road, 300 Building, First Floor West Wing, Chappaqua, New York 10514 (the "Developer").

WITNESSETH:

WHEREAS, Village is fee owner of real property located on Croton Point Avenue having a tax parcel designation of Parcel Nos. 79.17-1-5 and 79.17-1-3 on the Village tax maps (the "Property"); and

WHEREAS, the Developer requires access to the Property to facilitate due diligence targeted toward the possible development of Property by the Developer (the "Project"), with such access consisting of activities including but not limited to investigation, surveying, testing, photography, the taking of measurements, Phase I and Phase II environmental surveys, soil borings, sampling and geophysical testing (collectively, "Property Inspections"); and

WHEREAS, the Developer has requested of Village and Village has agreed to grant a revocable license to the Developer for certain rights of access on, along, under and across the Property in connection with the Project under the following terms and conditions.

NOW THEREFORE, in consideration of the premises, the mutual covenants hereafter exchanged, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and intending to be legally bound, the parties to this Agreement do hereby incorporate the recitals set forth above, and the parties hereby covenant and agree as follows:

1. Village does hereby grant and convey, unto the Developer, its employees, agents, and/or contractors, a non-exclusive and temporary license and right-of-way over, through, across, under and along the Property for the purpose of facilitating the Project, including but not limited to the Property Inspections in furtherance of the Project.
2. The Parties hereby acknowledge that (a) the Property is public in nature having specific requirements for access as related to use and maintenance of the Property by the Village and (b) the activity in connection with the Project is in furtherance of a public purpose, that being the potential re-development of the Property.
3. It being acknowledged by the parties that inasmuch as the Property is publicly-owned property, the Developer will use its best efforts to minimize (a) interference with the use of the Property by the Village, and its other licensees, assignees, invitees, and (b) damage to Property by the Developer, or others acting on behalf of the Developer in furtherance of the Project, with the Developer solely responsible for restoration of any affected portions of the Property to the condition existing at the time of access, reasonable wear and tear excepted, unless instructed otherwise in writing by the Village.

4. The Developer covenants with regard to all work on the Property by virtue of this Agreement that: (a) the Developer will provide reasonable advance notice to the Village Manager or her designee prior to gaining access to the Property; (b) the Developer shall fully indemnify and defend Village to the greatest extent permitted by law for any damage caused to the Property by the Developer, its employees, agents and/or contractors performing Property Inspections pursuant to this Agreement; (c) the Developer, on behalf of itself and any subcontractors or others entering the Property at the request of the Developer, hereby agrees to indemnify and save harmless the Village from and against all claims, damages, loss and expense (including, but not limited to reasonable attorneys' fees) arising out of or resulting from the permitted activity, sustained by any person or persons, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death or to injury to or destruction of property caused by the tortious or negligent act of the Developer, its agents, employees and contractors; (d) prior to access by the Developer or others acting on behalf of the Developer in furtherance of the Project, the Developer will provide (or its contractors to provide) evidence of workers compensation and New York disability insurance coverage along with a certificate of insurance providing coverage as set forth in the attached schedule; (e) any work to be performed at the Property in connection with the Project will be at the sole risk and expense of the Developer; and (f) any work shall be done in a workmanlike fashion, with quality materials, utilizing best practices and in accordance with all applicable laws and regulations.
5. Notwithstanding that the Village retains the right to revoke this license on public property as necessary in furtherance of a public purpose, all rights granted by this Agreement for temporary access shall cease and terminate immediately upon completion of the activities contemplated by virtue of this Agreement and any applicable restoration.
6. Nothing contained in this Agreement shall be intended to grant to the parties, or any third parties, any rights, benefits, remedies, or basis for reliance upon, under or by reason of this Agreement, except as specifically set forth herein.
7. This Agreement contains the entire understanding between the parties as to access for the activities contemplated herein, and the Agreement shall not be modified or amended except by a written instrument executed by the parties.
8. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange by telephone facsimile or electronic mail counterparts of the signature pages, which shall be considered originals for all purposes.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed.

VILLAGE

Village of Croton-on-Hudson

DEVELOPER

WBP Development LLC

Signed: _____

Bryan Healy

Title: Village Manager

Signed: _____

Title: