

ACCESS AND INDEMNITY AGREEMENT

This Access and Indemnity Agreement is made and entered into as of _____, 202__ by and between the City of Naperville (referenced herein as "City" or "Licensor") and LTF Real Estate Company, Inc. ("Licensee").

RECITALS

A. Licensor owns certain real property legal described on **Exhibit A** and depicted on **Exhibit B** attached hereto and made part hereof ("Subject Property").

B. Licensee desires to have access to the Property for purposes of performing due diligence investigations and testing of the Property (including but not limited to Phase I and Phase II Environmental Site Assessments conducted) and Licensor agrees to permit such access as provided herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements described below, and for good and valuable consideration, receipt of which is hereby acknowledged, it is agreed:

1. Access. Licensor hereby grants Licensee and its employees, agents, consultants, contractors and subcontractors (collectively "Licensee's Representatives") reasonable access to the Property for the purpose of conducting due diligence investigations and testing of the Property, including but not limited to Phase I and Phase II Environmental Site Assessments of the Property.

2. Permits. Licensee shall obtain, at its expense and prior to any access to the Property by Licensee and/or Licensee's Representatives all necessary permits and authorizations of whatever nature from any and all governmental agencies which are required in connection with the investigations and testing. In connection therewith, Licensee will comply and will cause Licensee's Representatives to comply with all applicable federal, state and local laws, regulations, permits, permit conditions, standards, directives, guidelines, and judicial and administrative orders and decrees currently existing and as amended, enacted, issued or adopted in the future.

3. Results of Testing: Within five (5) business days of receipt by Licensee, Licensee shall disclose and furnish copies to the City Engineer of the results (including but not limited to all technical data and laboratory reports) of any sampling and analytical tests of any kind performed on the Subject Property. Such materials will be provided to Licensor without any representation or warranty of any kind by Licensee.

4. Notice: Licensee shall give advance notice to the City Engineer prior to any entry onto the Property to conduct any work related to the investigations or testing of the Subject Property. Licensor and/or its representatives shall have the right to accompany and observe Licensee and/or Licensee's Representatives during Licensee's and/or Licensee's Representatives' performance of all such work and activities upon the Subject Property.

5. Minimum Disturbance. Licensee and Licensee's Representatives shall perform all work on the Subject Property permitted hereunder with such reasonable care and diligence as will avoid accident, damage or harm to persons or Subject Property.

6. Condition of the Subject Property. At all times during the term of this Agreement and in connection with Licensee's and/or Licensee's Representatives' access to the Subject Property, Licensee shall, at its own cost and expense, take any necessary action to restore the Subject Property and any improvements and personalty thereon, and all facilities appurtenant thereto, to substantially the same condition immediately prior to the testing, including, without limitation, ensuring that any holes, ditches or other indentations as well as any mounds or other inclines created by any excavation, are substantially regraded and resurfaced to conform to the requirements of this paragraph.

7. Repair. Unless otherwise agreed to in writing by the City Engineer, if any portion of the Subject Property suffers damage by reason of the access of Licensee or Licensee's Representatives to the Subject Property and/or any analysis or testing performed, Licensee shall, at its sole cost and expense immediately repair all such damage or replace any damaged portion of the Subject Property and restore the Subject Property to substantially its condition prior to the occurrence of such damage as reasonably approved by the City Engineer.

8. Assumption of Risk and Waiver. Except to the extent caused by the gross negligence or willful misconduct of Licensor, its employees, agents, contractors, or customers, Licensor shall not be responsible for any loss, damage or injury of any kind to any person or property arising from any access to or use of the Subject Property by Licensee and/or Licensee's Representatives pursuant to this Agreement, or caused by any defect in any building, structure or other improvement on the Subject Property or in any equipment or other facility on the Subject Property and arising from any access to or use of the Subject Property by Licensee and/or Licensee's Representatives pursuant to this Agreement, or caused by or arising from any act or omission of Licensee and/or any of its Representatives, or by or from any accident on the Subject Property or any fire or other casualty thereon and arising from any access to or use of the Subject Property by Licensee and/or Licensee's Representatives pursuant to this Agreement, or occasioned by the failure of Licensor to maintain the Subject Property in safe condition and arising from any access to or use of the Subject Property by Licensee and/or Licensee's Representatives pursuant to this Agreement. Licensee, on behalf of itself and Licensee's Representatives, as a material part of the consideration for this Agreement hereby waives all claims and demands against Licensor and its officers, officials, agents, and employees for any such loss, damage or injury of Licensee and/or Licensee's Representatives arising from any access to or use of the Subject Property by Licensee and/or Licensee's Representatives pursuant to this Agreement, except to the extent caused by the gross negligence or willful misconduct of Licensor, its employees, agents, contractors or customers. The provisions of this paragraph shall survive the termination of this Agreement.

9. Indemnification. Except to the extent caused by the gross negligence or willful misconduct of Licensor or their employees, agents, contractors, or tenants, Licensee agrees to protect, indemnify, defend, and hold harmless Licensor, their officers, officials, agents and employees from and against any and all liabilities, claims, demands, suits, judgments, causes of action, losses, damages, costs, injuries, or penalties to the extent resulting directly from Licensee's testing, access or use of the Subject Property, pursuant to this Agreement, or in connection with Licensee's and/or Licensee's Representatives' activities on the Subject Property pursuant to this Agreement. No such indemnification or protection shall extend to the current environmental

condition of the Subject Property or the mere discovery of a pre-existing condition of the Subject Property. The provisions of this paragraph shall survive the termination of this Agreement.

10. Insurance. Licensee shall require any contractor performing any investigation or testing of the Subject Property pursuant to this Agreement to provide Licensor/the City Attorney with a certificate of insurance and additional insured endorsement evidencing insurance coverage under Commercial General Liability, Contractors Pollution Liability, and Errors and Omissions Liability insurance policies from a source and in a form reasonably acceptable to Licensor and naming the City of Naperville and its officers, officials, agents, and employees as additional insureds on the Commercial General Liability and Contractors Pollution Liability policies. Said certificate of insurance and additional insured endorsement shall be received and approved by the City Attorney prior to contractor accessing the Subject Property. If LTF employees perform any investigation or testing of the Subject Property pursuant to this Agreement, LTF shall provide the same insurance, certificate of insurance, and additional insured endorsement as set forth above.

11. Choice of Law. This Agreement shall in all respects be subject to and construed in accordance with and governed by the laws of the State of Illinois. Venue for any action arising out of the terms or conditions of this Agreement shall be proper only in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois.

12. Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions, or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

13. Ambiguity. If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

14. Notice. All notices and demands which any party is required or desires to give to any other shall be given in writing by personal delivery, by express courier service or by certified mail, return receipt requested, to the address set forth below for the respective party. All notices and demands shall be effective only upon receipt by the party to whom notice or a demand is being given.

To Licensor:

Mike DiSanto, City Attorney
Naperville Municipal Center
Attn: Legal Department
400 South Eagle Street
Naperville, IL 60540

With a copy to:

William Novack, City Engineer
Naperville Municipal Center
Attn: Transportation, Engineering, and Development Dept.

400 South Eagle Street
Naperville, IL 60540

To Licensee:

LTF Real Estate Company, Inc.
2900 Corporate Place
Chanhassen, MN 55317
Attn: Kari Broyles
Email: KBroyles@lt.life
Fax: 952-946-9794

With a copy to:

LTF Real Estate Company, Inc.
2900 Corporate Place
Chanhassen, MN 55317
Attn: Property Management
Email: propertymanagement@lt.life
Fax: 952-947-0797

15. Execution in Counterparts. This Agreement may be executed in counterparts, each of which, when executed, shall be deemed to be an original, but which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Access and Indemnity Agreement to be executed by their duly authorized representatives as of the day and year first above written.

CITY OF NAPERVILLE [LICENSOR]

By: _____
Douglas A. Krieger
City Manager

ATTEST

By: _____
Pam Gallahue, Ph.D.
City Clerk

Date: _____

LTF REAL ESTATE COMPANY, INC. [LICENSEE]

By: _____

Title: Chief Prop. Dev. Officer - EVP

State of Minnesota

County of Carver) ss

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Parham Javaheri, personally known to me, appeared before me this day in person and acknowledged that they signed this instrument pursuant to authority granted to them by LTF Real Estate Company, Inc.

Given under my hand and official seal this 17 day of February, 2023.

(seal)

Amelia L. Dykstra

Notary Public

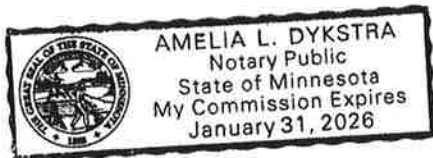


Exhibit A
Subject Property Description

Legal Description

An approximately 12.55 acre portion off the following described property:

Lots 4, 5, and 6, in Naperville-South Forty Subdivision, a Subdivision of the Northwest Quarter of the Northwest Quarter of Section 15, Township 37 North, Range 9 East of the Third Principal Meridian, according to the plat thereof recorded September 4, 2007, as Document Number R2007-132356, and re-recorded November 16, 2007, as Document Number R2007-166808, in the City of Naperville, Will County, Illinois.