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THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

Paul Ruane
Community Planner
15440 S. Central Avenue
City of Oak Forest
Oak Forest, IL 60452



2325115011

Doc# 2325115011 Fee \$73.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 09/08/2023 11:27 AM PG: 1 OF 12

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15440 CENTRAL AVENUE
OAK FOREST IL 60452-2104



708-687-4050
www.oak-forest.org

ALL GOOD THINGS CLOSE TO HOME

CERTIFICATION

I, Nicole Tormey, City Clerk of the City of Oak Forest, Illinois, do hereby certify that the attached is a true, accurate copy of the City of Oak Forest's Resolution 2022-07-0429R approving authorization, acknowledgement and indemnification for site access and earthwork agreement (Deshe at 157th LLC) adopted on July 12, 2022.

The Seal affixed hereto is the official seal of the City of Oak Forest, and this Certificate is hereby executed under such official seal.

IN WITNESS THEREOF, I HAVE UNTO SET MY HAND THIS 31st day of August 2023.

NICOLE TORMEY
CITY CLERK
CITY OF OAK FOREST

(SEAL)

RECORDING FEE 73.00
DATE 9/8/23 COPIES 6x
OK BY EK

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RESOLUTION NO. 2022-07-0429R

RESOLUTION APPROVING AUTHORIZATION, ACKNOWLEDGMENT AND INDEMNIFICATION FOR SITE ACCESS AND EARTHWORK AGREEMENT (DESHE AT 157TH LLC)

WHEREAS, DESHE AT 157th LLC (the "Developer") has entered into an agreement with the City for a mixed – use development at the northwest corner of Cicero Avenue and 157th Street (the "Site"); and

WHEREAS, Developer owns a portion of the Site and proposes to acquire additional land from the City and from a private owner at the northwest portion of the site, said total project area approximately 1.72 acres in size, located at the northwest corner of 157th Street and Cicero Avenue in Oak Forest, Illinois (the "Subject Property"); and

WHEREAS, the City owns, operates, maintains or otherwise controls those streets which abut the Site and all public utilities and facilities therein; and

WHEREAS, the City and Developer both seek the timely redevelopment of the Site (the "Project") pursuant to those basic terms which have been fundamentally agreed to by the parties; and

WHEREAS, while not all aspects of the Project are finalized at this point, Developer seeks permission to begin earthwork and grading on and at the Subject Property (the "Work") and along the Streets adjacent to the boundary of the Subject Property; and

WHEREAS, the Developer is willing to move forward at its own risk and to protect the City from any liability associated with the work authorized by this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Oak Forest ("City") as follows:

Section 1. RECITALS.

The foregoing recitals are incorporated herein as the findings of the City.

Section 2. APPROVAL

The Mayor and City Council hereby approve and ratify the terms and conditions of that agreement entitled "AUTHORIZATION, ACKNOWLEDGMENT AND INDEMNIFICATION FOR SITE ACCESS AND EARTHWORK AGREEMENT, (the "Agreement") said Agreement attached hereto as Exhibit A and incorporated herein by this reference.

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Section 3. EXECUTION.

The City Administrator is hereby authorized and directed to execute that Agreement attached hereto as Exhibit A, on behalf of the City Council and Mayor of the City of Oak Forest.

Section 4. EFFECTIVE DATE.

This Resolution shall be in full force and effect upon its passage and approval in the manner provided by law.

Property of Cook County Clerk's Office

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

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ADOPTED

This 12th Day of July, 2022

APPROVED By Mayor

This 12th Day of July, 2022

Henry L. Kuspa
HENRY L. KUSPA, MAYOR

ATTEST:

[Signature]
JOHN F. JANOZIK, CITY CLERK

Aldermen	Aye	Nay	Abstain	Absent
Laura Gray First Ward	✓			
Joe McCarthy Second Ward	✓			
Diane Wolf Third Ward	✓			
Paul Selman Fourth Ward	✓			
James Emmett Fifth Ward	✓			
James Hortsman Sixth Ward	✓			
Denise Danihel Seventh Ward	✓			
Henry L. Kuspa Mayor				

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LEGAL DESCRIPTION

LOTS 10 TO 15, BOTH INCLUSIVE, IN BLOCK 33 IN ARTHUR T. MCINTOSH AND COMPANY'S CICERO AVENUE SUBDIVISION OF THE WEST 1/2 OF SECTION 15, AND THE EAST 1/2 OF SECTION 16, TOWNSHIP 36 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address of Property:	Permanent Index Nos.:
15645 Lamon Ave., Oak Forest, IL 60452	28-16-407-010-0000
15644 S. Cicero Ave., Oak Forest, IL 60452	28-16-407-022-0000
15644 S. Cicero Ave., Oak Forest, IL 60452	28-16-407-028-0000
15659 Lamon Ave., Oak Forest, IL 60452	28-16-407-025-0000
4820 W. 157 th Street, Oak Forest, IL 60452	28-16-407-026-0000
4816 W. 157 th Street, Oak Forest, IL 60452	28-16-407-027-0000

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Exhibit A

Authorization, Acknowledgement, and Indemnification for Site Access and Earthwork Agreement

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
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AUTHORIZATION, ACKNOWLEDGMENT AND INDEMNIFICATION FOR SITE ACCESS AND EARTHWORK AGREEMENT (DESHE AT 157TH LLC)

This Agreement ("Agreement") for site access and earthwork is entered into this 12th day of July, 2022, by and between **DESHE AT 157TH LLC** ("Developer") and the City of Oak Forest, a municipal corporation (the "City").

WHEREAS, Developer is proposing a mixed – use development at the northwest corner of Cicero Avenue and 157th Street (the "Site"); and

WHEREAS, Developer owns a portion of the Site and proposes to acquire additional land from the City and from a private owner at the northwest portion of the site, said total project area approximately 1.72 acres in size, located at the northwest corner of 157th Street and Cicero Avenue in Oak Forest, Illinois and legally described in **Exhibit A** (the "Subject Property"); and

WHEREAS, the City owns, operates, maintains or otherwise controls those streets which abut the Site and all public utilities and facilities therein (the "Streets"); and

WHEREAS, the City and Developer both agree to the importance of the timely redevelopment of the Site (the "Project") pursuant to those basic terms which have been fundamentally agreed to by the parties; and

WHEREAS, while not all aspects of the Project are finalized at this point, Developer seeks permission to begin earthwork and grading on and at the Subject Property (the "Work") and along the Streets adjacent to the boundary of the Subject Property; and

WHEREAS, the Developer is willing to move forward at its own risk and to protect the City from any liability associated with the work authorized hereunder.

NOW, THEREFORE, the City grants to Developer, and its authorized workers and professionals permission to enter onto the Subject Property and Streets to perform the Work in accordance with the following terms and conditions:

1. The City authorizes and grants a license to Developer, its authorized workers agents, contractors, subcontractors and employees to undertake and complete that earthwork and grading described on those plans attached hereto as **Exhibit B**. The activities may include but are not limited to grading, digging or boring through the surface of the City's property at the Site, but any disturbance of the surface or subsurface of the Streets. The activities may include, but are not limited to, equipment access to and storage at the Site during the completion of the Work. The City

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authorizes and grants Developer, their contractors, subcontractors, agents and employees, access to and from the Site for the necessary equipment, tools and vehicles to conduct the Work. Developer and their contractors and agents shall secure specific approval for the time and nature of the use or temporary blockage of any of the Streets (which approval will not be unreasonably withheld) and shall not interfere with any City operations during the course of conducting the Work or other operations authorized by this Agreement. Developer shall be responsible for and shall implement adequate and required sediment and erosion control measures for the Site during the progress of all Work. Developer shall bear all costs and expenses associated with the Work, Site and Street clean up and transport of any soils or spoils to or from the Site.

2. Developer shall at all times conduct the Work in such a manner as to minimize hazards to vehicular and pedestrian traffic and to those using the City's Streets or property. Developer agree to assume all health and safety risks associated directly or indirectly with the Work. All signs, barricades, flaggers, etc., required for traffic control shall be furnished by Developer. No revisions or additions shall be made to the approved plans for the proposed Work on the Subject Property without the written permission of the City Engineer. Developer and its contractors and agents shall not interfere with the City's operations during the course of the installation, testing or other operations authorized by this Agreement. Developer shall advise the City Engineer or the schedule of the Work in advance of any Work. Developer acknowledges and agrees that the City may require, at any time, Developer to temporarily vacate all or part of the City's property. The City shall not be held responsible in any way for any losses, damages or expenses suffered by Developer relative to any temporary access to or use of the the City's property by the City. All costs and expenses associated with the Work and this Agreement shall be the responsibility of and paid for by Developer. The City is not responsible for any damage incurred or caused by Developer, related to or associated with Developer's activities, its contractor's, agent's or employees' equipment, property or Work. Developer shall bear the sole and entire risk of its activities, property or equipment being used or located on the Subject Property.

3. Developer shall consult with the local utility companies to determine the existence and location of electrical, gas, water, cable and telephone service on the Subject Property. Developer shall be solely responsible for selecting the location for the grading and ground work provided, however, that the proposed work shall be based on plans approved by the City Engineer or his duly authorized representatives. Developer shall indemnify and hold the City, its officers, City Council members, servants, employees, agents and successors and assigns both in their individual and official capacities (collectively, "City Affiliates") harmless from any and all liability that may be incurred by damage or repair to utilities caused by the acts of Developer, its employees, contractors, servants, subcontractors and agents.

4. Developer will not do or permit any act or thing which may impair the value of the City's property or Streets or that materially increases the dangers or poses an unreasonable risk of harm to persons on or off the Subject Property arising from activities thereon, or that constitutes a public or private nuisance or waste to the Subject Property or any part thereof. Neither Developer nor its contractors shall represent or hold themselves out as employees or agents of the City.

5. In the course of performing the Work, Developer shall not use the City's property for any activities involving the use, generation, treatment, storage or disposal of any hazardous or

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toxic chemical, material, substance or waste. Developer shall not conduct any activity on the City's property or use the City's Property in any manner (i) which would cause the City's property to become a hazardous waste treatment, storage or disposal facility, (ii) so as to cause a release or threat of a release of hazardous waste from the City's property, or (iii) so as to cause a discharge of pollutants or effluents into any water source or system.

6. In consideration for the City's agreement to permit Developer to enter onto the Subject Property to perform the Work contemplated by this Agreement, Developer agrees as follows:

A. Developer, their successors and assigns shall defend, indemnify and hold harmless the City and the City Affiliates and each of them, from and against any and all civil liabilities, actions, responsibilities, obligations, losses, damages, and claims, and all costs and expenses, including but not limited to attorney's fees and expenses (collectively, "Losses") pursuant to any federal, state and local laws (including the common law), statutes, ordinances, rules, regulations and other requirements relating to or which the City and/or the City Affiliates may incur from or on account of (either directly or indirectly) the Work performed hereunder, including but not limited to any Losses incurred which are based on tort law, wrongful death, and/or a personal injury claim, suit or action and/or any Losses relating to environmental investigation, cleanup, or abatement, whether asserted or unasserted, direct or indirect, existing or inchoate, known or unknown, having arisen or to arise in the future, and in any manner whatsoever incurred relating to (i) any condition of the City's Property (including the groundwater thereunder) or the existence of Hazardous Substances (herein defined as that term is defined in 42 U.S.C. §9601(14), Hazardous Waste (herein defined as that term is defined in 42 U.S.C. §6903(5)) or Petroleum (herein defined as that term is defined in 42 U.S.C. §6991(8)), on or emanating from the City's Property (including the groundwater thereunder); (ii) the violation or claimed violation on the City's Property (including the groundwater thereunder) of any environmental law or regulation (including civil penalties sought to be imposed by governmental authorities for such violations); (iii) any condition of any property (including groundwater) or surface water alleged to have been caused by the migration, transportation, release (as defined by 42 U.S.C. §9601(22)) or threatened release (as defined by 42 U.S.C. §9601 (22)) of Hazardous Substances, Hazardous Waste, or Petroleum on or from the City's Property (including the groundwater thereunder); and the imposition of any lien for the recovery of any costs related to the migration, release, or threatened release of Hazardous Substances, Hazardous Waste, or Petroleum (or allegations of the same) on or from the City's Property (including the groundwater thereunder).

B. Developer and their successors and assigns hereby agree to release, waive, covenant not to sue and forever discharge the City and the City Affiliates, and each of them, for any claim, suit, or action, whether or not well founded in fact or in law, which Developer, their contractors, agents or employees have, or may have, arising out of any evaluation, examination, testing, sampling or environmental appraisal or the Work conducted by Developer, their contractors, agents or employees at or on the City's Property. Notwithstanding any other provision of this Agreement, as between the City and the City Affiliates on one hand, and Developer, on the other hand, under no circumstances shall the City and the City Affiliates be liable for Losses arising from any condition on the City's Property or Hazardous Substances, Hazardous Waste, or Petroleum emanating from or contained in the City's Property (including the groundwater

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thereunder), and the duty to defend, hold harmless and indemnify under this Paragraph 6 shall apply to all such Losses.

C. Developer shall assume the expense of defending all suits, administrative proceedings and disputes of any description with all persons, entities, political subdivisions or government agencies arising out of the matters to be indemnified under this Agreement. In the event that the City or any of the City Affiliates is/are named as a defendant(s) in any lawsuit arising out of the matters to be indemnified under this Agreement, the City and/or any of the City Affiliates shall have the right to choose the attorney(s) who represent(s) them in said lawsuit, and the costs, expenses and fees associated with said attorney(s) in relation to said lawsuit shall be paid by Developer pursuant to the indemnification provisions herein.

7. Developer shall immediately deliver to the City any and all records, documents (including writings, drawings, graphs, charts, photographs, phono records, and other data compilations from which information can be obtained, translated, if necessary, through detection devices into reasonably usable form), or reports of any kind (including all written, printed, recorded or graphic matter however produced or reproduced and all copies, drafts and versions thereof not identical in each respect to the original) which relate or refer to the environmental matters and/or conditions associated either directly or indirectly with the City's Property and/or Developer's property (including the groundwater thereunder), including but not limited to written reports of a site assessment, environmental audits, soil test reports, water test reports, laboratory analysis and documents, reports or writings relating or referring to the Work.

8. Developer and Consultant's agents, contractors, subcontractors and employees shall perform the Work in a workmen-like manner, and shall conduct all Work at the Subject Property in accordance with all applicable federal, state and local regulations, including without limitation Illinois Environmental Protection Agency and federal regulations and all health and safety requirements. Developer and Consultant's agents, contractors, subcontractors and employees shall take all reasonable precautions to minimize damage to the City's property from the installation of any equipment and the Work on the City's property and shall restore the City's property to its original condition within twenty (20) days after completion of the Work or the termination of this Agreement. The restoration of the City's Property and Work must be to the City Engineer's satisfaction.

- A. Developer shall not perform any sewer work until the legally required permits are issued, including those from the Illinois Environmental Protection Agency and the Metropolitan Water Reclamation District.
- B. Developer shall not undertake or complete any work on water facilities or service until the Illinois Environmental Protection Agency permit is issued.
- C. Developer must obtain the NOI from the Illinois Environmental Protection Agency.

9. Developer shall be solely responsible for the testing, storage, treatment and disposal of all material removed from the Subject Property and/or which result from the Work, and Developer shall indemnify and hold the City and the City Affiliates, their officers, employees and agents harmless from and against any and all costs and liabilities and Losses relating to such materials.

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The City will not be identified at any time, in any place, document, record or manifest as the owner, generator or transporter of materials or soil taken from the City's Property as a result of the Work.

10. Developer agree to obtain and furnish at their own expense insurance policies that are acceptable to the City, protecting the City and the City Affiliates from any and all damages, claims and losses on a primary and noncontributory basis. Developer further agrees to cause Contractual Liability Endorsements to be issued by the insurance companies (and attached to the policies of insurance) to include under the coverage therein extended an obligation on the part of the insurers to insure against Developer's liability hereunder and to identify the City and the City Affiliates against Losses, liability, costs, expenses, attorney's fees and court costs. Contractual Liability Endorsements to the policies shall include as named co-insureds the City of Aurora and the City Affiliates. In addition, Certificates of Insurance adding the City and the City Affiliates as Additional Insureds on the Developer's and Contractor's Comprehensive General Liability Policy, Pollution Liability, Worker's Compensation, Auto Liability and Professional Errors and Omissions coverages shall be submitted to the City. All such contracts of insurance shall provide for thirty (30) days advance notice to the City of cancellation thereof. The Certificate of Insurance and policies and endorsements required hereunder shall be submitted to and approved by the City before Work is permitted to be started.

11. This Agreement shall endure to the benefit of, and shall be binding upon the heirs, legatees, transferees, assigns, personal representatives, owners, insurers, agents, servants, employees, administrators, executors, representatives and/or successors in interest of any kind whatsoever, of the parties hereto.

12. This Agreement may be executed in counterparts, each of which shall constitute an original, but all together shall constitute one and the same Agreement.

13. In the event any term or provision of this Agreement shall be held illegal, invalid, unenforceable or inoperative as a matter of law, the remaining terms and provisions of this Agreement shall not be affected thereby, but each such term and provision shall be valid and shall remain in full force and effect.

14. This Agreement embodies the entire agreement between the parties hereto and supersedes any and all prior agreements and understandings, whether written or oral, and whether formal or informal. In addition, this Agreement embodies and merges the entire understanding between and among the parties hereto, and any and all prior correspondence, conversations, or memoranda relating the subject matter stated herein are being merged herein and replaced hereby. No change hereto shall be effective without the written consent and authorization of all of the parties hereto.

15. In construing this Agreement and/or determining the rights of the parties hereunder, no party shall be deemed to have drafted or created this Agreement, or any portion thereof.

16. The executing representatives of the parties to this Agreement represent and certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind that party to it.

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IN WITNESS WHEREOF, this Agreement has been executed as of the date specified above.

DESHEAT 157TH LLC

By: [Signature]
Its manager

ATTEST:

By: [Signature]
Its City Administrator

CITY OF OAK FOREST, Illinois

By: [Signature]
Its Mayor

ATTEST:

By: [Signature]
Its CITY CLERK

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