

RESOLUTION NO. R-2020-47

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF
AUTHORIZATION, ACKNOWLEDGEMENT AND INDEMNIFICATION FOR
GROUND PENETRATION WORK AND TEMPORARY ACCESS AGREEMENT
(1002 South 6th Avenue, a/k/a 600 Madison, Maywood, Illinois)**

(Access Health & Housing, LLC)

WHEREAS, the President and Board of Trustees of the Village of Maywood, Illinois (the "Village") desire to grant, approve and authorize the execution of an Authorization, Acknowledgement and Indemnification for Ground Penetration Work and Temporary Access Agreement ("Agreement"), attached and incorporated herein as **Exhibit "A"**. The Agreement, which is between the Village of Maywood and Access Health & Housing, LLC ("Developer"), creates the necessary authorization for temporary access and ground penetration work for the Developer and the Developer's affiliates to conduct a Phase I and/or Phase II environmental site assessment of the real property located at 1002 South 6th Avenue, a/k/a 600 Madison, Maywood, Illinois ("Subject Property") and to install soil borings on and collect soil and ground water samples from the Subject Property ("Work"); and

WHEREAS, the Subject Property, legally described in **Exhibit "B"**, is currently vacant and owned, operated, maintained, and otherwise controlled by the Village. The Subject Property is located within the Madison Street/Fifth Avenue Tax Increment Financing District, pursuant to the provisions of the "Tax Increment Allocation Redevelopment Act," 65 ILCS 5/11-74.4-1 *et seq.*, as amended (the "TIF Act"); and

WHEREAS, the Village of Maywood, a home rule Illinois municipal corporation, has the authority to approve the Agreement pursuant to its home rule powers and contracting authority provided by Article VII, Sections 6 and 10(a) of the Illinois Constitution of 1970, and finds that approving the Agreement is in the best interests of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Resolution.

SECTION 2: The President and Board of Trustees of the Village of Maywood approve and authorize the execution of the Agreement for the benefit of the Village. The President and Board of Trustees of the Village of Maywood further authorize and direct the Village President and the Village Clerk, or their designees, or the Village Manager, or his/her designee, to execute and deliver the final version of the Agreement, attached hereto as **Exhibit "A"**, which may contain certain non-substantive and non-financial modifications that are approved by the Village Manager, and all other instruments and documents that are necessary to fulfill the Village's obligations under the Agreement.

SECTION 3: The President and Board of Trustees of the Village of Maywood authorize and direct that the Village President, the Village Clerk, the Village Manager, the Village Engineer and the Village Attorney, or their designees, execute and deliver all other instruments and documents that are necessary to facilitate the Agreement and performance of the Work at the location indicated on the Agreement.

SECTION 4: This Resolution shall be in full force and effect from and after its adoption and approval as provided by law.

ADOPTED this 1st day of December, 2020, pursuant to a roll call vote as follows:

AYES: Mayor Perkins, Trustee(s) I. Brandon, M. Jones, A. Sanchez, K. Wellington, M. Lightford and N. Booker

NAYS: None

ABSENT: None

APPROVED this 1st day of December, 2020, by the Village President of the Village of Maywood, and attested by the Village Clerk on the same day.

Edwenna Perkins, Village President

ATTEST:

Viola Mims, Village Clerk

Exhibit "A"

**AUTHORIZATION, ACKNOWLEDGMENT AND INDEMNIFICATION FOR
GROUND PENETRATION WORK AND TEMPORARY ACCESS AGREEMENT
(1002 South 6th Avenue, a/k/a 600 Madison, Maywood, Illinois)**

(Access Health & Housing, LLC)

(Attached)

**AUTHORIZATION, ACKNOWLEDGMENT AND INDEMNIFICATION FOR
GROUND PENETRATION WORK AND TEMPORARY ACCESS AGREEMENT
(1002 South 6th Avenue, a/k/a 600 Madison, Maywood, Illinois)**

(Access Health & Housing, LLC)

This Authorization, Acknowledgment, Indemnification and Temporary Access Agreement ("Agreement") for environmental assessment and ground penetration work was entered into this ___ day of _____, 2020, by and between the **Village of Maywood**, a home rule Illinois municipal corporation (the "Village") and **Access Health & Housing, LLC**, an Illinois limited liability company (the "Purchaser" or "Developer") in anticipation of a Redevelopment Agreement being entered into between the Village and the Developer for the development of the below described real property ("RDA").

WHEREAS, the Village owns, operates, maintains or otherwise controls certain real property located within the Madison Street/Fifth Avenue Tax Increment Financing District, pursuant to the provisions of the "Tax Increment Allocation Redevelopment Act," 65 ILCS 5/11-74.4-1 *et seq.*, as amended (the "TIF Act"), at 1002 to 1010 South 6th Avenue, Maywood, Illinois. The real property is currently vacant. The real property is legally described on **Exhibit "1"** attached hereto (the "Subject Property"); and

WHEREAS, the Subject Property received a "No Further Remediation" letter dated September 21, 2012 and re-issued on November 14, 2012 ("2012 NFR Letter") issued by the Illinois Environmental Protection Agency ("IEPA") that has been filed against title to the Subject Property with the Cook County Recorder of Deeds Office (Document No. 1233448030 dated 11/29/2012). The 2012 NFR Letter contains certain terms and conditions that impact the use of the Subject Property; and

WHEREAS, the Developer proposes to purchase the Subject Property from the Village and to construct a mixed use development consisting of a building with at least two (2) ground-floor commercial units on the corner of 6th Avenue and Madison Street and construction of two (2) multi-family residential housing buildings with four (4) units each on the lots to the south of the corner, with a focus on veterans and residents with disabilities at the Subject Property ("Project"); and

WHEREAS, as part of the Developer's due diligence activities available under a RDA entered into by the parties, the Developer intends to hire and employ certain consultants to determine the nature and scope of any environmental issues that may exist on the Subject Property and conduct additional testing to be performed at the Subject Property to ensure the conditions present, which is to include a Phase II investigation involving the drilling of soil samples for lab testing so that it can make an informed decision concerning the environmental condition of the Subject Property prior to deciding whether to purchase the Subject Property and enter into the RDA and to develop it; and

WHEREAS, as part of that investigation, the Village grants to the Developer and the Developer Affiliates (as hereinafter defined), permission to conduct a Phase I and/or Phase II environmental site assessment of the Subject Property and to install soil borings on and collect soil and ground water samples from the Subject Property (collectively the "Work"). Further, the Village agrees to cooperate with the Developer and its affiliates, employees, engineers,

attorneys, contractors, subcontractors and agents (hereinafter referred to as the "Developer Affiliates") to allow them to conduct the Work, as set forth below in this Agreement.

NOW, THEREFORE, the Village grants to the Developer and the Developer Affiliates permission to enter onto the Subject Property to perform the Work in accordance with the following terms and conditions:

1. License; Access. The Village authorizes and grants a license to the Developer and the Developer Affiliates to take soil borings on the Subject Property, and to collect soil samples from those borings in order to assess the soil and groundwater conditions. The Village authorizes and grants the Developer and the Developer Affiliates access to and from the drilling location(s) on the Subject Property for the necessary equipment, tools and vehicles needed to carry out the Work. The Developer and the Developer Affiliates shall at all times conduct the Work in compliance with all laws and ordinances and in such a manner as to minimize hazards to vehicular and pedestrian traffic. The Developer and the Developer Affiliates shall not interfere with the Village's use of the Subject Property or operations during the course of the Work. The Developer shall bear all costs and expenses associated with the Work and chemical analysis conducted under this Agreement.

2. Notice of Work. The Developer shall give the Village a minimum of seven (7) calendar days advance written notice of the date on which the Developer and the Developer Affiliates plan to enter onto the Subject Property for the purpose of performing the Work or any portions thereof as contemplated by this Agreement. The Developer and the Developer Affiliates shall schedule the Work on days and times mutually acceptable to the Village. The Developer and the Developer Affiliates will only enter the Subject Property at date(s) and time(s) acceptable to the Village. At least twenty-four (24) hours prior to any Work on the Subject Property, the Developer shall submit to the Village a reasonably satisfactory description of the proposed Work, including site plans and engineer's drawings, as appropriate. All of the Developer's and Developer Affiliates' activities on the Subject Property shall be coordinated on-site with the Village.

3. Utilities; Indemnification. The Developer and the Developer Affiliates shall consult with the local utility companies and/or utility locating services to determine the existence and location of electrical, gas, water, cable and telephone service on the Subject Property. The Developer and the Developer Affiliates shall be solely responsible for selecting the location for the soil borings. The Developer shall indemnify and hold the Village harmless from any and all liability that may be incurred by damage or repair to utilities caused by the acts and omissions of the Developer and the Developer Affiliates. The Developer shall indemnify and hold the Village, its officers, its elected and appointed officials, including the mayor and board of trustees, servants, employees, agents, volunteers, the Village Engineer (Edwin Hancock Engineering Company), the Village Attorney (Klein, Thorpe and Jenkins, Ltd.), and successors and assigns both in their individual and official capacities (hereinafter collectively referred to as "Village Affiliates") harmless from any and all liability that may be incurred by damage or repair to utilities caused by the acts and omissions of the Developer and the Developer Affiliates while acting under this Agreement.

4. Indemnification. In consideration for the Village's agreement to permit the Developer and the Developer Affiliates, to enter the Subject Property to perform the Work contemplated by this Agreement, the Developer agrees as follows:

- A. The Developer, and its successors and assigns shall defend, indemnify and hold harmless the Village and the Village 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 reasonable, out-of-pocket 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 Village or the Village Affiliates may incur from or on account of (either directly or indirectly) the actions or omissions of the Developer and Developer Affiliates while performing Work or otherwise acting under this Agreement, 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 Subject 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 Subject Property (including the groundwater thereunder); (ii) the violation or claimed violation on the Subject 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 Subject 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 Subject Property (including the groundwater thereunder). Notwithstanding the foregoing or anything in 4(B) below, the Developer shall not be liable for and/or indemnify for any Losses arising out of the mere discovery of any pre-existing condition on the Subject Property not caused by the Developer or the Developer Affiliates.
- B. The Developer, and its successors and assigns agree to release, waive, covenant not to sue and forever discharge the Village and the Village Affiliates, and each of them, for any claim suit, or action, whether or not well founded in fact or in law, which the Developer or the Developer Affiliates have, or may have, arising out of the Work conducted by the Developer or the Developer Affiliates at or on the Subject Property. Notwithstanding any other provision of this Agreement, as between the Village and the Village Affiliates on one hand, and the Developer and the Developer Affiliates, on the other hand, under no circumstances shall the Village and the Village Affiliates be liable for Losses arising from any condition on the Subject Property or Hazardous Substances, Hazardous Waste, or Petroleum emanating from or contained in the Subject Property (including the groundwater thereunder), and the duty to defend, hold harmless and indemnify under this Paragraph 4 shall apply to all such Losses.

5. Insurance. During the term of this Agreement, the Developer and the Developer's Affiliates agree to have the Village and the Village Affiliates specifically named as additional insureds on their respective insurance certificates and policies and endorsements for the purpose of covering the Village and the Village Affiliates for all matters covered and included under the indemnification provision above. The Developer and the Developer's Affiliates shall provide the following types of insurance, written on the comprehensive form and as an "occurrence" policy, in not less than the following amounts:

- A. Comprehensive General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- B. An excess liability insurance policy or umbrella coverage policy of \$3,000,000.
- C. Property Damage - \$500,000 per occurrence.
- D. Workers' Compensation – Statutory.
- E. Automobile Coverage - \$1,000,000 per occurrence.

The Developer and the Developer's Affiliates shall provide the Village with satisfactory proof of the above insurance requirements in the form of a certificate executed by an insurer. Said certificate shall list the Village and the Village Affiliates as additional insureds on all required insurance policies, insurance certificates and endorsements. A copy of certificate(s) of insurance, insurance policies and endorsements (issued on the ISO CG 20 10 form) shall contain the insurer(s) written confirmation that the nature, scope, duration and amount of insurance coverage meets the requirements of this Agreement and shall remain in effect for all aspects of the Work for both ongoing and completed operations. The insurance coverage of the Developer and the Developer's Affiliates shall be primary to the Village's own insurance and the Village's insurance coverage shall not be contributory with the Developer's insurance coverage. The certificate shall provide for at least a ten (10) day written notice to the Village in the event of cancellation or material change of coverage. Copies of the Insurance Certificate of the Developer and the Developer's Affiliates shall be provided in advance of any on-site Work being commenced on the Subject Property and shall be attached hereto as an Exhibit and made a part hereof.

6. Term of Access License. The Village and the Developer understand that this is a Temporary Access Agreement for the purpose of allowing the Developer and the Developer's Affiliates to complete its environmental investigation of the Subject Property under the RDA, and, therefore, the Village agrees that it is allowing the Developer and the Developer Affiliates access to the Subject Property for a period commencing upon the execution of this Agreement and until such time as any due diligence period provided for in the RDA to be entered into by the Parties is concluded, or a decision is made by either party not to enter into an RDA relative to conveyance of the Property, whichever is earlier. Access under this Agreement may be terminated earlier by mutual agreement of the parties.

7. Inspection of Records. If requested by one party, the party(ies) subject to the request during the course of this Agreement shall immediately make available for inspection, photocopying (at the other party's cost) and turnover to the requesting party 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 (which means, in addition to their customary and usual meaning, assess or assessing, concern or

concerning, constitute or constituting, describe or describing, discuss or discussing, embody or embodying, evidence or evidencing, mention or mentioning and reflect or reflecting) to the environmental matters and/or conditions associated either directly or indirectly with the Subject 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 environmental condition of the Subject Property and its soil and/or groundwater as prepared by any person, including the Village's (or prior owners) or the Developer's or the Developer Affiliates' environmental consultants or by any federal, state or county agency or the Illinois Environmental Protection Agency. The 2012 NFR Letter pertaining to the Subject Property has been provided to the Developer, and contains certain terms and conditions that impact the use of the Subject Property.

8. Work Standards; Restoration. The Developer and the Developer Affiliates shall perform the Work in a workman-like manner, and shall conduct all Work at the Subject Property in accordance with all applicable federal, state, county and local laws and regulations, including without limitation, the Illinois Environmental Protection Agency and federal regulations applicable to soil borings and all health and safety requirements. The Developer and the Developer Affiliates shall take all reasonable precautions to minimize damage to the Subject Property from the installation of any equipment and the soil borings on the Subject Property and shall restore the Subject Property to its original condition within ten (10) calendar days after completion of the Work or the termination of this Agreement, whichever is earlier.

9. Disposal; Indemnification. The Developer and the Developer Affiliates shall be solely responsible for the testing, storage, treatment and disposal of all material removed from the soil borings, and the Developer and the Developer Affiliates shall indemnify and hold the Village harmless from and against any and all costs and liabilities relating to such materials.

10. Binding on Successors In Interest. This Agreement shall inure 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.

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

12. Severability. 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.

13. Entire Agreement. Except for the terms set forth in the RDA, this Agreement contains the entire understanding between the parties and supersedes any prior understanding or written or oral agreements between them with respect to the subject matter set forth in this Agreement. There are no representations, agreements, arrangements or understandings, oral or written, between and among the parties hereto relating to the subject matter of this Agreement, which are not fully expressed herein except for the RDA. No alteration, modification, change or amendment of this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced to writing and signed by the parties.

14. Construction. 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.

15. Notice. For notification purposes, the Village Engineer's information is as follows:

Edwin Hancock Engineering Company
9933 West Roosevelt Road
Westchester, Illinois 60154-2780
(o) 708/865-0300
(f) 708/865-1212
Attn: Bill Peterhansen

16. Authority to Execute. 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.

17. Exhibits. The following exhibits are to be attached to this Agreement:

- Exhibit "1": Legal Description of the Subject Property
- Exhibit "2": Insurance Certificates issued on behalf the following parties, as required by Section 5 above:
 - a. The Developer
 - b. The Developer's Affiliates

DEVELOPER: Access Health & Housing, LLC , an Illinois limited liability company	VILLAGE OF MAYWOOD, a home rule Illinois municipal corporation
By: _____	By: _____
Name: _____	Edwenna Perkins
Its: _____	Village President
Date: _____	Date: _____
NOTARY:	ATTEST:
By: _____	By: _____
Date: _____	Viola Mims
Stamp: _____	Village Clerk
	Date: _____

Exhibit "1"

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

LOTS 16 THROUGH 20, BOTH INCLUSIVE, AND THE EAST ½ OF THE VACATED ALLEY WEST AND ADJOINING SAID LOTS IN BLOCK 129 IN MAYWOOD, A SUBDIVISION IN SECTIONS 2, 11 AND 14, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.s: 15-14-102-009-0000; 15-14-102-010-0000; 15-14-102-011-0000; 15-14-102-012-0000;
15-14-102-013-0000.

COMMONLY KNOWN AS: 1002 S. 6th Avenue, Maywood, Illinois (a/k/a 600 Madison).

Exhibit "2"

Insurance Certificates issued on behalf the following parties:

- **The Developer**
- **The Developer's Affiliates**
(attached)

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CLERK'S CERTIFICATE

I, Viola Mims, Clerk of the Village of Maywood, in the County of Cook and State of Illinois, certify that the attached document is a true and correct copy of that certain Resolution now on file in my Office, entitled:

RESOLUTION NO. R-2020-47

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF
AUTHORIZATION, ACKNOWLEDGEMENT AND INDEMNIFICATION FOR
GROUND PENETRATION WORK AND TEMPORARY ACCESS AGREEMENT
(1002 South 6th Avenue, a/k/a 600 Madison, Maywood, Illinois)**

(Access Health & Housing, LLC)

which Resolution was passed by the Board of Trustees of the Village of Maywood at a Special Village Board Meeting on the 1st day of December, 2020, at which meeting a quorum was present, and approved by the President of the Village of Maywood on the 1st day of December, 2020.

I further certify that the vote on the question of the passage of said Resolution by the Board of Trustees of the Village of Maywood was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Maywood, and that the result of said vote was as follows, to-wit:

AYES: Mayor Perkins, Trustee(s) I. Brandon, M. Jones, A. Sanchez, K. Wellington, M. Lightford and N. Booker

NAYS: None

ABSENT: None

I do further certify that the original Resolution, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Maywood, this 2nd day of December, 2020.

Viola Mims, Village Clerk

[SEAL]