

TEMPORARY EASEMENT AGREEMENT

THIS TEMPORARY EASEMENT AGREEMENT (“Agreement”), is given as of the _____ day of _____, 2012, between the **City of Saint Paul, Minnesota**, a municipal corporation under the laws of the State of Minnesota (the “City”), and **Tong P. Yang and Fu Lee** of 2165 Mailand Road, Saint Paul Minnesota, 55119-5304 (“Grantee”).

RECITALS

- A. WHEREAS, the City owns park land located at 2188 Londin Lane located adjacent to the Mailand Property (the “Park Property”); and
- B. WHEREAS, Grantee owns certain real property located at 2165 Mailand Road, Saint Paul, Ramsey County, Minnesota (the “Mailand Property”); and
- C. WHEREAS, a gravel driveway located on the Park Property (the “Easement Area”), as described and depicted in Exhibit A attached hereto, has been used by previous owners of the Mailand Property as the only means of access to the Mailand Property; and
- D. WHEREAS, Grantee wishes to purchase from the City a permanent easement over the Park Property to continue to access the Mailand Property over the Easement Area; and
- E. WHEREAS, a Temporary Right-of-Entry Permit (“ROE Permit”) has been executed between the City and Grantee to permit Grantee immediate access to the Mailand Property over the Easement Area for the purpose of rehabilitating the home and garage, as required by the City’s Department of Safety and Inspections; and
- F. WHEREAS, this Agreement is intended to replace the ROE Permit ; and
- G. WHEREAS, Grantee agrees to fulfill all requirements of the City’s “parkland diversion” process, and pay all up-front and ongoing costs associated with purchase of a permanent easement over the Easement Area;

NOW, THEREFORE, the City and Grantee hereby agree to the following:

EASEMENT

- 1. Grant of Easement.
 - a. Temporary: Subject to the terms of this Agreement, the City hereby grants, bargains and conveys to Grantee a Temporary Easement over the Park Property for ingress, egress and driveway purposes over, under, and across the Easement Area, as legally described and depicted in Exhibit B attached hereto. Grantee acknowledges there

shall be no car maintenance, stopping, idling, parking or any other obstruction on, over and across the Easement Area.

- b. Permanent: The City shall convey to Grantee a Permanent Ingress/Egress Easement (“Permanent Easement”) over the Easement Area upon receipt of full compensation for the Permanent Easement, as set forth in Paragraph 2 of this Agreement.
2. Easement Compensation. Grantee agrees to pay to the City \$4600.00 as compensation for the appraised value of the Permanent Easement. Upon execution of this Agreement, Grantee agrees to pay \$1,000 as a first installment, with annual payments of \$1,000, or a fraction thereof in the final year, due on September 1 of each year until the Permanent Easement has been paid in full. No interest will be charged on the principal amount, and additional installment payments may be made by Grantee.
3. Parkland Diversion. Grantee agrees to comply with the requirements of the City’s “Parkland Diversion” process, as set forth in Ch.13.01.1 of the City Charter and the City Council-approved guidelines, and to pay all associated costs, including:
 - a. Land survey of the Easement Area – paid by Grantee
 - b. Real estate appraisal of the Easement Area – \$1,000
 - c. Consideration of the Parkland Diversion request by the Parks and Recreation Commission
 - d. Approval of the Parkland Diversion request and this Agreement by the City Council at a public hearing
 - e. Payment of the Parkland Diversion administrative fee – \$460.00
4. Maintenance. Grantee shall be responsible for maintaining the Easement Area, including, but not limited to, snow plowing and grading as needed. If Grantee fails to maintain the Easement Area, the City may either perform the necessary maintenance and charge Grantee for the cost or terminate this Agreement and Grantee’s use of the Easement Area.
5. City’s Use of Easement Area. The City shall retain use of the Easement Area for periodic access to its Park Property.
6. Indemnification. Grantee shall indemnify, defend and hold harmless the City from and against all claims, expenses, losses or liabilities in connection with any action or claims paid, suffered or incurred as a result of Grantee’s use or maintenance of the Easement Area as provided in this Agreement.
7. Termination. If Grantee fails to make scheduled installment payments, the City may terminate this Agreement 30 days after providing written notice. If the Agreement is terminated, Grantee loses all right to enter the Park Property or use the Easement Area.

8. Sale of Mailand Property. If Grantee sells the Mailand Property before the City receives full compensation for the Permanent Easement under the terms of this Agreement, the balance due shall be paid to the City at closing on the sale of the Mailand Property, at which time the City shall deliver an executed Permanent Easement to the new owners of the Mailand Property. If the balance is not paid in full at closing, the Temporary Easement shall automatically terminate and neither Grantee nor future owners of the Mailand Property shall have rights to use the Easement Area.

GENERAL PROVISIONS

9. Recording. This Agreement shall be recorded with Ramsey County.
10. Amendment. This Agreement may not be amended or modified without the written consent of the parties hereto.
11. Entire Agreement. This Agreement embodies the entire agreement and understanding between the parties and supersedes any prior oral or written agreements with respect to the matters stated herein.

[Separate Signature Pages Follow.]

**SEPARATE SIGNATURE PAGE OF
GRANTEE
FOR EASEMENT AGREEMENT**

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be made as of the day and year first above written.

Grantee

By: _____
Its _____

By: _____
Its _____

STATE OF MINNESOTA)
) ss
COUNTY OF Ramsey)

The instrument was acknowledged before me this _____ day of _____, 2012, by _____, and _____ fee owners of 2165 Mailand Road, Saint Paul, Minnesota.

Notary Public

**SEPARATE SIGNATURE PAGE OF
CITY OF SAINT PAUL
FOR EASEMENT AGREEMENT**

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be made as of the day and year first above written.

CITY OF SAINT PAUL, MINNESOTA

By: _____
Its Mayor

By: _____
Its Director of Financial Services

By: _____
Its City Clerk

Approved as to form:

Assistant City Attorney

STATE OF MINNESOTA)
) ss.
COUNTY OF Ramsey)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, Mayor, _____, Director, Office of Financial Services and _____, City Clerk of the City of Saint Paul, a Minnesota municipal corporation under the laws of the State of Minnesota.

Notary Public