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TEMPORARY CONSTRUCTION EASEMENT

WHEREAS, _____, a Minnesota corporation, is the owner of property commonly known as Fairview Riverside Hospital which is located at _____, Minneapolis, Minnesota (“Fairview”); and

WHEREAS, the City of Minneapolis, a Minnesota municipal corporation (“City”) has undertaken a public improvement project known as the Riverside Ave Reconstruction Project Phase 1 (“Paving Project”) scheduled for 2011; and

WHEREAS, the Paving Project includes the reconstruction of Riverside Avenue between Franklin Avenue and 23rd Avenue South (so. Leg); and

WHEREAS, the Paving Project will require the temporary closure of a 320 foot long segment of Riverside Avenue that is adjacent to and currently serves Fairview’s emergency entrance (“Street Segment”); and

WHEREAS, the City has proposed a temporary detour to allow continued use of Fairview’s emergency entrance adjacent to the Street Segment (“Emergency Entrance”); and

WHEREAS, Fairview desires to further minimize impact to emergency vehicle service at the Emergency Entrance; and

WHEREAS, Fairview has proposed the construction of a temporary drive allowing emergency vehicles to travel over and across its private property for the purpose of accessing its Emergency Entrance during the temporary closure of the Street Segment (“Temporary Drive”); and

WHEREAS, Fairview has proposed the location depicted on the attached Exhibit A to accommodate the Temporary Drive (“Site”); and

WHEREAS, the City is willing to facilitate Fairview’s proposal, and Fairview is willing to grant a temporary construction easement to the City, based on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein, the Parties hereby agree as follows:

1. Agency. Fairview warrants that it is currently the lawful owner of the Site and that it has the ability to enter into this Agreement.
2. Easement. Fairview hereby grants to the City and its employees, contractors, subcontractors, vendors or assigns a temporary construction easement over the Site which is more fully described and depicted on the attached the attached Exhibit A, between the period of time commencing as of the date of this Agreement and continuing through August 30, 2011, for the construction and placement of a temporary emergency vehicle drive. Together with rights of ingress and egress to said Site, this temporary construction easement shall be granted in exchange for the good and valuable consideration described herein.

Fairview expressly acknowledges that neither the City nor its assigns, agents or contractors, will be obligated to indemnify and hold Fairview harmless from any claims, actions or damages pertaining to soil, environmental or other hazardous conditions on or about the Site.

3. Scope of Work. The scope of work to be performed by City shall consist of and include the following (“Work”): (i) placement of a fence or barrier to delineate the Temporary Drive; (ii) remove and dispose organic top soil and sod; (iii) grading of soil; (iv) clean and grub trees as necessary to construct the Temporary Drive; (v) place and compact aggregate surface (Class V or Class VII aggregate); (vi) place temporary curb cut and/or ramp at two ingress/egress points for the Temporary Drive; (vii) maintain one temporary curb cut and/or ramp and the pedestrian crossing zone for an ingress/egress on Riverside Avenue; (viii) other actions associated with the primary task of constructing the temporary drive.
4. Project Management. City agrees that it will facilitate and manage the construction of the Temporary Drive and that it will utilize suitable materials. Fairview agrees that it will not interfere with City’s management of the construction work in any way, and if it does so for any reason, Fairview will be held responsible for any additional costs arising out of unnecessary effort or undue delay.
5. Removal and Restoration. Fairview agrees and understands that the Temporary Drive must be removed upon reopening of the Street Segment to normal traffic. Fairview further agrees to undertake the work associated with removal of the Temporary Drive and to restore the Site. The City agrees to remove the temporary curb cut and/or ramp on Riverside Ave and the fence/barrier delineating the temporary drive.
6. Project Costs. The City shall manage and pay for all costs associated with the initial construction of the Temporary Drive. Fairview shall manage and pay for all costs associated with operation, maintenance, and removal of the Temporary Drive, as well as restoration of the Site.
7. Indemnification. Fairview acknowledges and understands that the City assumes no legal responsibility for the construction, placement, existence, or use of the Temporary Drive, and that any and all risk related to the same, or arising out of the Work shall be borne by Fairview. Fairview further agrees that it shall indemnify, save, hold harmless, protect, and defend the City, its officers, agents and employees, from all claims, actions or suits of any character brought for or on account of any claimed or alleged injuries or damages received by any person or property, including the City, resulting from any act or omission related to the existence or use of the Temporary Drive and/or the terms of this Agreement.
8. Recitals. The Recitals set out above are incorporated and made a part of this Agreement.

FAIRVIEW RIVERSIDE HOSPITAL

By: _____

Title: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

 This temporary construction easement agreement was signed before me on the _____ day of
_____ 2011 by _____, the
_____ of Fairview Riverside Hospital, a Minnesota corporation, on
behalf of the corporation.

Notary Public

[Signature Page to Temporary Construction Easement Agreement]

CITY OF MINNEAPOLIS
Department of Public Works

By _____
Its Director or Designee

By _____
Finance Officer

Approved as to form:

Assistant City Attorney

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

This temporary construction easement agreement was signed before me on the _____ day of _____ 2011 by Kevin Carpenter, the Chief Finance Officer of the City of Minneapolis, a Minnesota municipal corporation, on behalf of the municipal corporation.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION & GRAPHIC DEPICTION