

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Easement

Location: 52nd Avenue North (Softball Complex & Lagoons)

Date of Hearing: 6/29/2026

<u>Routing</u>	<u>Date</u>
City Commission	<u>7/6/2026</u>
PWPEC File	<u>X</u>
Project File	<u>Kevin Gorder</u>

The Committee reviewed the accompanying correspondence from Division Engineer, Kevin Gorder, regarding an easement requested by Cass Rural Water along the west side of the lagoons for a half mile just north of 52nd Avenue North.

This easement acknowledges the current agreement with the Park District and the City and the rights in this easement are second to the water district easement.

The location has been shared with Water Reclamation and they are agreeable to this location adjacent to their lagoon.

The easement recognizes that Cass Rural Water will pay for a portion of all of the meter pit in lieu of a payment for the easement.

On a motion by Brenda Derrig, seconded by Gary Lorenz, the Committee voted to recommend approval of the easement with Cass Rural Water.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the easement with Cass Rural Water.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

	<u>Yes</u>	<u>No</u>
Developer meets City policy for payment of delinquent specials	<u>N/A</u>	
Agreement for payment of specials required of developer	<u>N/A</u>	
Letter of Credit required (per policy approved 5-28-13)	<u>N/A</u>	

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>☒</u>
Tim Mahoney, Mayor	☐	☐	☐	
Nicole Crutchfield, Director of Planning	☐	☐	☐	
Gary Lorenz, Fire Chief	☒	☒	☐	
Brenda Derrig, Assistant City Administrator	☒	☒	☐	
Ben Dow, Director of Operations	☒	☒	☐	
Tom Knakmuhs, City Engineer	☒	☒	☐	
Susan Thompson, Finance Director	☐	☐	☐	

ATTEST:


Tom Knakmuhs, P.E.
City Engineer

Memorandum

To: Members of PWPEC
From: Kevin Gorder, Division Engineer
Date: June 25, 2026
Re: Cass Rural Water Easement – Softball Complex and Lagoons

Background:

Cass Rural Water has requested an easement along the west side of the lagoons for the half mile just north of 52nd Avenue North. The easement would then move to the City parcel on the west side of the lagoons where the Park District has their softball complex.

This easement has been shared with the Park District and I hope to get comments prior to the meeting on Monday. There is language in the easement where the current agreement between the Park District and the City is acknowledged and the rights in this easement are second to the water district easement.

This location has been shared with Water Reclamation and they are agreeable to this location adjacent to their lagoon.

The easement recognizes that Cass Rural Water will pay for a portion or all of the meter pit in lieu of a payment for the easement.

Recommended Motion:

Concur with the easement and forward to Commission for approval.

KOG/klb
Attachments

TEMPORARY EASEMENT

THIS EASEMENT is made and entered into this _____ day of _____, 2026, by and between the City of Fargo, a municipal corporation under the laws of the State of North Dakota, whose post office address is 225 – 4th Street North, Fargo, North Dakota 58102 (the “Grantor”), and Cass Rural Water Users District, North Dakota political subdivision, whose post office address is P.O. Box 98, Kindred, North Dakota 58051-0098 (the “Grantee”).

RECITALS

A. Grantee is in the process of developing, constructing, and improving its water supply infrastructure in certain portions of Cass County, North Dakota (the “Project”).

B. Grantor owns certain real property (which is currently subject to a Lease with the Park District of the City of Fargo) in the vicinity of the Project, an area where Grantee desires to install, construct, operate, and maintain underground pipelines and associated appurtenances.

C. Grantor has agreed to grant and convey to Grantee a temporary easement, as more specifically described below, for purposes of installing, constructing, operating, and maintaining underground pipelines and associated appurtenances to accommodate the Project in, on, under, through, over, and across the property described below, subject to the terms and conditions contained in this Easement.

D. Following completion of initial construction of Grantee’s underground pipelines and associated appurtenances, Grantor agrees to grant and convey to Grantee a permanent pipeline easement in, on, under, through, over, and across a portion of the property described below to be determined more fully by survey.

AGREEMENT

1. **The Temporary Easement Property.** Grantor grants and conveys to Grantee, subject to the rights of the Park District of the City of Fargo under a Lease dated October 15, 2012, a temporary easement, including the easement rights described in this Easement, in, on, under, through, over, and across the following real property in Cass County, North Dakota:

That part of Lot 1, Block 1, NSC Addition, of Section 10, Township 140 North, Range 49 West of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota, being further described as follows:

The East 100.00 feet of said Lot 1.

AND

The West 20.00 feet of the Southeast Quarter (SE1/4) of Section 10, Township 140 North, Range 49 West of the 5th Principal Meridian, City of Fargo, Cass County, ND.

AND

The West 20.00 feet of the South 100.00 feet of the Northeast Quarter (NE 1/4) of Section 10, Township 140 North, Range 49 West of the 5th Principal Meridian, City of Fargo, Cass County, ND.

The property described above is the “Temporary Easement Property.”

2. **Easement Rights.** Under this Easement, Grantor grants to Grantee, and Grantee’s officers, employees, agents, representatives, and contractors, a temporary easement in, on, under, through, over, and across the Temporary Easement Property for the following purposes: ingress and egress; laying, constructing, installing, inspecting, maintaining, reconstructing, altering, repairing, replacing, operating, improving, modifying, and removing water pipelines and all associated appurtenances; excavating, piling, storing, depositing, spoiling, spreading, and removing excavated dirt, soil, clay, silt, and other materials; storing and removing equipment, materials, and supplies;; and the right to perform any other work reasonably necessary and incidental to the laying, construction, installation, inspection, maintenance, reconstruction, alteration, repair, replacement, operation, improvement, modification, and removal of water pipelines and all associated appurtenances, together with all necessary and reasonable rights of ingress and egress to and from the Temporary Easement Property. Grantee is not responsible for pre-existing environmental contamination or liabilities.

Prior to Grantee digging, scraping, trenching, excavating, removing, disturbing, or relocating any surface dirt, or constructing, laying, or installing any water pipelines or associated appurtenances in, on, under, through, over, or across the Temporary Easement Property, Grantee must obtain the express written approval of Grantor, by and through the City Engineer or designee, approving the location of such work and approving Grantee’s intended plan, layout, and location of any water pipelines and all associated appurtenances.

3. **Term.** Subject to the provisions of Section 4 below, this Easement, and all the rights, privileges, and easements granted in this Easement, will continue for a period of three years from the date of Grantor’s execution, or until Grantee completes the Project, whichever event occurs sooner. However, the parties acknowledge and agree some rights granted under this Easement, including the right to excavate, pile, store, deposit, spoil, spread, or remove excavated dirt, silt, or other materials on or from the Temporary Easement Property, may result in permanent alterations of the Temporary Easement Property.

4. **Future Permanent Pipeline Easement.** The parties agree as a condition to termination of this Easement, Grantor shall first grant a permanent pipeline easement to Grantee upon 1.) completion of initial construction of the portion of the Project located on the Temporary Easement Property and 2.) completion of an “as-built” survey of the improvements constructed by Grantee on the Temporary Easement Property in substantially the similar form as the Pipeline Easement attached hereto as **Exhibit A** (the “Pipeline Easement”). The parties further agree the legal description in the Pipeline Easement shall be for a strip of land 30 feet in width, measured as 15 feet on each side of the center of the water pipeline, as determined by a survey to be completed by Grantee at Grantee’s sole discretion and expense. This Easement shall automatically terminate upon recording of the Pipeline Easement in the office of the Cass County Recorder.

5. **Grantee to Provide Meter Pit and Meter.** Grantee agrees to install and pay for a minimum of 60% of the cost of the meter pit and meter. Grantor understands that a previous agreement states the Grantor is responsible for the cost of the meter pit and meter. Grantor further agrees and understands that the Grantee is paying for the meter pit and meter at this location in lieu of a payment to obtain the easement from the Grantor.

6. **Structures and Personal Property.** Grantee must not disturb, relocate, or otherwise modify any buildings, structures, personal property, or other items currently existing within the Temporary Easement Property. Grantee must undertake all reasonable efforts to work around any buildings, structures, personal property, or other items existing on the Temporary Easement Property as of the date of execution. If Grantee desires to disturb, relocate, or otherwise modify any buildings, structures, personal property, or other items currently existing within the Temporary Easement Property, then Grantee must secure written consent from the Grantor prior to doing so. If Grantee does make such disturbances, relocations, or modifications, then Grantee must restore any changes to the original condition unless otherwise agreed to by Grantor. All such restorations, upon completion, must be approved by Grantor and Grantee hereby agrees to comply with Grantor’s requirements for completing all such restorations.

7. **Grantor’s Use of the Easement Property.** Grantor, its agents, assigns, and lessees, including the Park District, have the right and privilege to use the Temporary Easement Property at any time, in any manner, and for any purpose, including making improvements and adding structures consistent with the current use of the real property as a softball complex or any other similar public uses, including but not limited to improvements generally consistent with goals, purpose, and mission of the Fargo Park District as they relate to providing public, recreational, and community serving facilities. Grantee hereby acknowledges and agrees that Grantor and its lessee currently have a master plan for the real property which includes planting of trees and adding other improvements upon the Temporary Easement Property. Grantee hereby agrees and understands that Grantor and its lessee shall retain such rights provided, however, that Grantor and its agents, assigns, and lessees will provide details concerning future development under the master plan and the parties hereto agree to undertake reasonable efforts to agree upon the location of future trees, landscaping, and other improvements within the Temporary Easement Property.

Grantee hereby further agrees that upon the completion of any maintenance, repairs, or reconstruction of its water pipelines and associated appurtenances, Grantee shall be solely responsible for restoring and replacing all improvements upon the Temporary Easement Property

or otherwise impacted by Grantee's work, and at Grantee's sole expense. Grantee will repair or replace any of Grantor's or lessee's structures, facilities, right of way, or any other property owned by Grantor or lessee damaged by Grantee or as a result of Grantee's use of the Temporary Easement Property, at Grantee's sole cost.

8. **Forbearance or Waiver.** The failure or delay of either party to insist on the timely performance of any of the terms of this Easement, or the waiver of any particular breach of any of the terms of this Easement, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no forbearance or waiver had occurred.

9. **Governing Law.** This Easement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Easement will be venued in State District Court in Cass County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

10. **Severability.** If any court of competent jurisdiction finds any provision or part of this Easement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Easement, and all remaining terms and provisions of this Easement will remain binding and enforceable; however, the parties will reconvene negotiations and will reform or replace any invalid, illegal or unenforceable provision or portion of this Easement with an alternative provision that is enforceable and bears as close resemblance as possible to any provision determined invalid, illegal or unenforceable.

11. **Entire Agreement.** This Easement, together with any amendments, constitutes the entire agreement between the parties regarding the matters described in this Easement, and this Easement supersedes all other previous oral or written agreements between the parties.

12. **Modifications.** Any modifications or amendments of this Easement must be in writing and signed by Grantor and Grantee and must be recorded in the Cass County Recorder's Office.

13. **Representation.** The parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this Easement, and agree they have not been influenced by any representations or statements made by any other parties.

14. **Headings.** Headings in this Easement are for convenience only and will not be used to interpret or construe its provisions.

(Signatures appear on the following pages)

CITY OF FARGO, NORTH DAKOTA
a municipal corporation

Joshua Boschee, Mayor

ATTEST:

Angie Bear, Deputy Auditor
on behalf of City Auditor

STATE OF NORTH DAKOTA)
) ss
COUNTY OF CASS)

On this _____ day of _____, 2026, before me, a notary public in and for said county and state, personally appeared **JOSHUA BOSCHEE** and **ANGIE BEAR**, to me known to be the Mayor and Deputy City Auditor, respectively, of the CITY OF FARGO, NORTH DAKOTA, a municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

Notary Public
Cass County, North Dakota

GRANTEE:

CASS RURAL WATER USERS DISTRICT

BY:

Todd Ellison

Todd Ellison, President

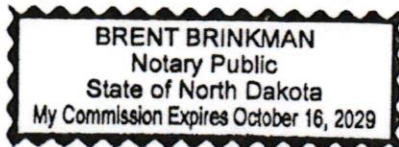
ATTEST:

BY:

Barry Bowman

Barry Bowman, Secretary-Treasurer

On this 26 day of June, 2026, before me, a notary public in and for said county and state, personally appeared **TODD ELISON** and **BARRY BOWMAN**, to me known to be the President and Secretary, respectively, of the CASS RURAL WATER USERS, a municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.



(SEAL)

B. Brinkman

Notary Public

Cass County, North Dakota

**THE LEGAL DESCRIPTION CONTAINED
IN THIS DOCUMENT PREPARED BY:**

Jesse Gilbertson, PLS
License Number: LS-41063
AE2S
4050 Garden View Dr. #200
Grand Forks, ND 58201

THIS INSTRUMENT WAS DRAFTED BY:

Lukas D. Andrud
OHNSTAD TWICHELL, P.C.
444 Sheyenne Street, Suite 102
P.O. Box 458
West Fargo, ND 58078

EXHIBIT A
(Pipeline Easement)