

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Encroachment Agreement

Location: 3001 Main Ave

Date of Hearing: 6/1/2026

<u>Routing</u>	<u>Date</u>
City Commission	<u>6/8/2026</u>
PWPEC File	<u>X</u>
Project File	<u>Matt Jennings</u>

The Committee reviewed a communication from Civil Engineer, Matt Jennings, regarding an Encroachment Agreement at 3001 Main Avenue with Farmers Union Oil Company of Moorhead Minnesota to utilize the existing parking lot encroachment.

This is to allow an encroachment for PetroServe to utilize the existing parking lot encroachment within the public right of way until a time in the future when they redevelop and can accommodate this parking use within their parcel. The initial processing fee and annual ROW use fee will be waived.

On a motion by Brenda Derrig, seconded by Susan Thompson, the Committee voted to recommend approval of the Encroachment Agreement with Farmers Union Oil Company of Moorhead Minnesota at 3001 Main Avenue and to waive the initial processing and annual fee.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Encroachment Agreement with Farmers Union Oil Company of Moorhead Minnesota at 3001 Main Avenue and to waive the initial processing and annual fee.

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:

C: Kristi Olson



Tom Knakmuhs, P.E.
City Engineer

Memorandum

To: Members of PWPEC
From: Matthew Jennings, ROW Management
Date: May 28, 2026
Re: Encroachment Agreement 3001 Main Ave – Farmers Union Oil Company of Moorhead Minnesota

Background:

Farmers Union Oil Company of Moorhead Minnesota is updating their lot to the east and planning a replat in the near future.

Attached is an Encroachment Agreement with Farmers Union Oil Company of Moorhead Minnesota DBA PetroServe at 3001 Main Ave. This is to allow an encroachment for PetroServe to utilize the existing parking lot encroachment within the public right of way until a time in the future when they redevelop and can accommodate this parking use within their parcel.

The following fees for this encroachment agreement will be waived.

- One time - Initial Processing Fee
- Annual ROW Use Fee

Recommended Motion:

Recommend approval of the Encroachment Agreement with Farmers Union Oil Company of Moorhead Minnesota.

ENCROACHMENT AGREEMENT

(Parking Lot Encroachment)

THIS AGREEMENT, made and entered by and between the **CITY OF FARGO**, a North Dakota municipal corporation, hereinafter referred to as “City”, and **FARMERS UNION OIL COMPANY OF MOORHEAD, MINNESOTA**, a foreign cooperative association, hereinafter referred to as “PetroServe” or “Owner”;

WITNESSETH:

WHEREAS, PetroServe owns property located at 3001 Main Ave in Fargo, which is bordered to the south by Main Avenue;

WHEREAS, PetroServe desires to encroach on a portion of City right-of-way (described below) for the purpose of a parking lot encroachment;

WHEREAS, the City’s Public Works Projects Evaluation Committee (PWPEC) has reviewed the request for encroachment and recommended approval; and

WHEREAS, PetroServe has agreed to execute this agreement required by City for encroachment upon City right-of-way.

NOW, THEREFORE, it is hereby agreed by and between the parties hereto as follows:

PetroServe, is hereby granted the right to encroach upon and use a portion of the right-of-way, said encroachment being for the purpose of a parking lot encroachment, bordering along the north side of Main Avenue.

1. The legal description of the Owner's property is as follows:

LENTHE'S FIRST ADDITION BEING A REPLAT OF THE E HALF OF LOT 3 & ALL OF LOTS 4-10, TEIGEN'S SUBDIVISION, AND A PLAT OF PART OF THE SW¼ OF THE SE¼ OF SECTION 2, TOWNSHIP 139 NORTH, RANGE 49 WEST OF THE 5TH PRINCIPAL MERIDIAN, TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA.

Lot 1, Block 1 of said LENTHE'S FIRST ADDITION

The Property has a street address of 3001 Main Ave, Fargo, ND 58103 (the "encroaching property").

The parking lot encroachment at the encroaching property is described as follows:

Tract 1:

Beginning at the southwest corner of Lot 1, Block 1 of LENTHE'S FIRST ADDITION to the City of Fargo, Cass County, North Dakota; thence N87°47'47"E along the south line of said Block 1 a distance of 109.00 feet; thence S02°12'13"E a distance of 11.00 feet; thence S87°47'47"W a distance of 109.00 feet; thence N02°12'13"W a distance of 11.00 feet to the point of beginning.

Said tract containing 1,200 square feet, more or less (Tract 1 Encroachment Area), and being separated from Tract 2 by an existing driveway area not included herein.

Tract 2:

Commencing at the southwest corner of Lot 1, Block 1 of LENTHE'S FIRST ADDITION to the City of Fargo, Cass County, North Dakota; thence N87°47'47"E along the south line of said Block 1 a distance of 175.00 feet to the point of beginning; thence N87°47'47"E along said south line of said Block 1 a distance of 261.00 feet; thence S02°12'13"E a distance of 10.00 feet; thence S87°47'47"W a distance of 261.00 feet; thence N02°12'13"W a distance of 10.00 feet to the point of beginning.

Said tract containing 2,610 square feet, more or less (Tract 2 Encroachment Area).
The Tract 1 Encroachment Area and Tract 2 Encroachment Area will be referred to herein as the "Parking Lot Encroachment Area."

2. It is the intent of this Encroachment Agreement that Owner may utilize the Parking Lot Encroachment Area for the purpose of maintaining and utilizing the existing parking lot.

3. Owner agrees and understands that as a condition of the use of the Parking Lot Encroachment Area, Owner shall be responsible for the installation cost and maintenance of all components of the parking lot.

4. Owner agrees and understands that as a condition of the use of the Parking Lot Encroachment Area, Owner shall be responsible for snow plowing and snow removal within the entire Parking Lot Encroachment Area.

5. Upon discontinuance of use by Owner of the Parking Lot Encroachment Area or termination of this Encroachment Agreement, Owner will restore and replace all public property to a vegetated surface and re-install the sidewalk at the standard location 2' off the property line, or pay to the City all costs incurred by City to restore the public property accordingly.

6. It is understood and agreed by and between the parties that Owner will be responsible for the repair or replacement of any public property which may be damaged or destroyed as a direct or indirect result of the use of the public right-of-way for the parking lot. PetroServe agrees to accept all maintenance responsibility for the Parking Lot Encroachment Area and associated property used by Owner within the City right-of-way.

7. Owner agrees to indemnify and further hold the City harmless against any and all expenses, demands, claims or losses of any kind that may be sustained by City, its officers, agents and employees, its property, streets, sidewalks, or any other municipal improvements by reason of

the Owner's use of the public right-of-way in accordance with this Encroachment Agreement. Owner agrees to pay any and all costs the City incurs to enforce this indemnity provision, including attorney's fees. Owner agrees to provide to the City a certificate of insurance indicating acceptance by its insurer of Owner's obligation to defend and hold the City harmless as herein stated.

8. This Encroachment Agreement is personal to Owner and cannot be sold, transferred or otherwise assigned. This Encroachment Agreement shall immediately terminate upon Owner's sale, transfer or assignment of the encroaching property. Subsequent owners may request permission to encroach, and enter into a separate encroachment agreement with City.

9. It is understood and agreed by and between the parties that this Encroachment Agreement and permission to encroach is given subject to any limitation on the authority of City to grant such permission, which may now or hereafter exist.

10. It is specifically understood and agreed that the City retains authority to operate and maintain existing above ground and underground municipal facilities in and adjacent to the Parking Lot Encroachment Area. In the event the City needs to permanently retake the Parking Lot Encroachment Area, City will provide Owner written notice ninety (90) days in advance of removing the encroaching private facilities, to the extent deemed necessary by City.

11. If City determines, in its sole discretion, that Owner has failed to maintain the Parking Lot Encroachment Area in an acceptable manner, City may terminate this Encroachment Agreement. Further, this Encroachment Agreement shall automatically terminate if the encroaching property is repaired, reconstructed, improved or if additional structures are installed on the encroaching property.

12. It is specifically agreed between the parties that a copy of this Encroachment Agreement may be recorded.

13. City agrees to waive the processing and annual fees for the encroachment.

Dated this 1st day of June, 2026.

FARMERS UNION OIL COMPANY OF MOORHEAD,
MINNESOTA

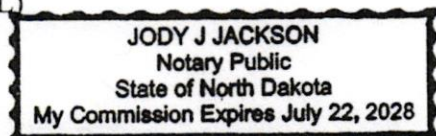
By: [Signature]
Its: CEO - COO

STATE OF NORTH DAKOTA)
) ss:
COUNTY OF CASS)

On this 1st day of June, 2026, before me, a notary public in and for said county and state, personally appeared Clark Erickson, to me known to be the CEO - COO of the **FARMERS UNION OIL COMPANY OF MOORHEAD, MINNESOTA**, described in and who has executed the within and foregoing instrument, and acknowledged to me that he executed the same.

[Signature]

(SEAL)



Notary Public
Cass County, North Dakota

Dated this _____ day of _____, 2026

CITY OF FARGO,
a North Dakota municipal corporation

By Dr. Timothy J. Mahoney, M.D., Mayor

ATTEST:

Angie Bear
Deputy City 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 Dr. Timothy J. Mahoney, M.D. and Angie Bear, to me known to be the Mayor and Deputy Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the North Dakota 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
My commission expires: _____

This document was prepared by:
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The legal description was prepared by City of Fargo Engineering Department