

State of Minnesota
County of Watonwan

RESOLUTION NO. 08.26.09

**RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO THE
TEMPORARY CONSTRUCTION EASEMENT AGREEMENT WITH FLEET
AND FARM SUPPLY, INC. FOR THE 12TH AVENUE SOUTH HIGHWAY
DISTRICT EXPANSION**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF ST. JAMES, MINNESOTA, as follows:**

Section 1: The St. James City Manager is hereby authorized and directed to sign the Temporary Construction Easement Agreement with Fleet and Farm Supply, Inc. for the 12th Avenue South Highway District Expansion.

Adopted by the City Council this 18th day of August 2026.

Christopher Whitehead, Mayor

ATTEST:

Kristin K. Hurley, City Clerk

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

This Temporary Construction Easement Agreement ("Agreement") is made and entered into as of _____, 2026, by and between **Fleet and Farm Supply, Inc.**, a Corporation under the laws of the State of Minnesota, whose mailing address is 1175 11th Street S St. James, MN 56081 ("Grantor"), and the **City of Saint James**, a municipal corporation of the State of Minnesota, whose mailing address is 1205 6th Ave S Saint James, MN 56081 ("City" or "Grantee").

1. Recitals

A. Grantor is the owner of certain real property located in Watonwan County, Minnesota, commonly known as **Ace Hardware**, and more particularly described on **Exhibit A** attached hereto and incorporated herein ("Property").

B. The City is undertaking a public roadway improvement project generally consisting of the installation and construction of a highway turn lane, related roadway widening, grading, drainage, utility relocation or adjustment, sidewalk, curb and gutter, traffic-control, restoration, and other related improvements, together with all work incidental thereto ("Project").

C. In connection with the Project, the City requires temporary access to and use of a portion of the Property for construction-related purposes.

D. Grantor desires to grant to the City, and the City desires to accept, a temporary, non-exclusive construction easement over the portion of the Property described and/or depicted on **Exhibit B** attached hereto and incorporated herein ("Temporary Easement Area"), subject to the terms and conditions of this Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and the City agree as follows:

2. Grant of Temporary Easement

Grantor hereby grants, conveys, and warrants to the City, and to the City's officers, employees, agents, representatives, consultants, engineers, contractors, subcontractors, utility providers, successors, and assigns acting for or on behalf of the City in connection with the Project, a temporary, non-exclusive easement over, across, upon, and through the Temporary Easement Area for the limited purposes described in this Agreement.

This easement is temporary only and does not convey fee title, a permanent easement, or any right of possession except as expressly provided herein.

3. Purpose and Permitted Uses

The City may use the Temporary Easement Area solely for purposes reasonably necessary or convenient for planning, surveying, staging, access, construction, installation, inspection, testing, repair, restoration, and completion of the Project, including, without limitation:

- a. entering upon and passing over the Temporary Easement Area with personnel, vehicles, machinery, tools, and equipment;
- b. grading, excavation, cutting, filling, sloping, compacting, trenching, paving, milling, drainage work, utility relocation or adjustment, and related construction activities;
- c. temporary placement, movement, and storage of construction equipment, materials, soil, aggregate, forms, traffic-control devices, and related items;
- d. installing, maintaining, and removing temporary erosion-control, sediment-control, stormwater-management, fencing, barricades, signage, and traffic-control measures;
- e. performing surveys, geotechnical testing, environmental testing, inspections, and other Project-related investigations;
- f. restoring disturbed portions of the Temporary Easement Area as required by this Agreement; and
- g. performing any other temporary construction activity reasonably related to the Project and consistent with approved Project plans.

4. Limitation on Use

The City shall use the Temporary Easement Area only to the extent reasonably necessary for the Project and shall use reasonable efforts to avoid unnecessary interference with Grantor's use and enjoyment of the remaining Property.

Unless expressly shown on the approved Project plans or otherwise agreed in writing by Grantor, the City shall not use areas of the Property outside the Temporary Easement Area, except for incidental access reasonably necessary to reach the Temporary Easement Area or respond to emergency or safety conditions related to the Project.

No right of access by the general public to any portion of the Property is granted by this Agreement.

5. Scope of Work

The temporary easement shall provide for construction of a new access road within the northwest corner of the property. Work shall include grading and preparation of the existing area, followed by placement of an 8-inch-thick Class 5 aggregate base and 6 inches of bituminous surfacing. The completed access road shall have a minimum width of 30 feet. An 18-inch reinforced concrete pipe culvert shall be installed beneath the access road within the Minnesota Department of Transportation right-of-way to maintain existing drainage patterns and facilitate stormwater conveyance. Upon completion of the

work, all disturbed areas shall be restored, graded, and seeded. Attached to this easement agreement is Exhibit "D" which shows the project location and anticipated size and area.

6. Term

The term of this temporary easement shall commence on the date this Agreement is fully executed by the parties and, if required by law or City practice, recorded in the real property records of Watonwan County, Minnesota.

Unless earlier terminated in writing, this temporary easement shall expire upon the earliest of:

- a. completion of the Project work requiring use of the Temporary Easement Area;
- b. written notice from the City to Grantor stating that the Temporary Easement Area is no longer needed for the Project;
- c. recording of a release or termination of this Agreement by the City; or
- d. **24 months** after the commencement date, unless extended by written agreement signed by Grantor and the City.

The City may include a brief close-out period, not to exceed **90 days** after substantial completion of the relevant Project work, for final inspection, punch-list work, restoration, demobilization, and removal of temporary materials and equipment.

7. Grantor's Reserved Rights

Grantor reserves all rights in and to the Property not expressly granted to the City under this Agreement. Grantor may continue to use the Temporary Easement Area in any manner that does not materially interfere with the City's rights under this Agreement or create an unsafe condition during Project activities.

During the term of this Agreement, Grantor shall not place or construct any building, structure, fence, landscaping, stored material, vehicle, or other obstruction within the Temporary Easement Area that would materially interfere with the Project or the City's temporary easement rights.

8. Compensation

As consideration for the temporary easement rights granted herein, the City shall pay such other consideration as follows: the City shall pay for the cost to install the turn lands and complete all necessary work for their project, this is a benefit to Grantor but shall be the cost shall be the sole responsibility of the City.

The parties acknowledge that the consideration stated herein is intended to compensate Grantor for the temporary construction rights granted under this Agreement only, and not for any separate fee acquisition, permanent easement, or other property interest unless expressly stated in writing.

9. Construction Standards and Permits

The City shall cause all Project work within the Temporary Easement Area to be performed in a good and workmanlike manner, in accordance with applicable laws,

permits, approved plans and specifications, and generally accepted construction practices for public roadway improvements.

The City shall be responsible for obtaining governmental permits and approvals required for the Project work to be performed by or on behalf of the City.

10. Restoration

Following completion of the Project work within the Temporary Easement Area, the City shall restore portions of the Temporary Easement Area disturbed by the City's Project activities to substantially the same condition that existed immediately prior to entry, ordinary wear and tear excepted, or to the condition shown on the approved Project plans.

Restoration may include, as applicable, grading, replacement of topsoil, seeding, sodding, revegetation, repair or replacement of driveways, sidewalks, curbs, fencing, landscaping, irrigation components, mailboxes, private drainage features, and other surface improvements damaged by the City's use of the Temporary Easement Area.

The City shall not be required to restore or replace any feature that is removed, altered, or permanently modified as part of the approved Project plans, including permanent roadway, drainage, sidewalk, slope, grading, or utility improvements.

If weather, seasonal conditions, supply delays, or construction sequencing prevent immediate completion of restoration, the City shall complete restoration as soon as reasonably practicable under the circumstances.

11. Damage to Property

The City shall use reasonable care to avoid damage to the Property outside the scope of the Project and outside the Temporary Easement Area. The City shall be responsible for repairing damage to the Property caused by the City or its authorized Project representatives to the extent such damage is not contemplated by the Project plans and is not caused by Grantor, Grantor's tenants, invitees, or third parties not acting for the City.

12. Utilities and Existing Improvements

Grantor shall disclose to the City, to the extent known by Grantor, the location of private utilities, irrigation lines, drainage systems, septic facilities, wells, underground tanks, signs, lighting, fencing, landscaping, or other private improvements located within or near the Temporary Easement Area.

The City shall not be liable for damage to private underground improvements that are not visible, not marked, not disclosed by Grantor, and not otherwise reasonably discoverable by the City or its contractors, except to the extent required by applicable law.

13. Environmental Matters

The City shall conduct its activities within the Temporary Easement Area in compliance with applicable environmental, stormwater, erosion-control, spill-prevention, and hazardous-material laws and regulations.

The City shall not knowingly store hazardous materials on the Temporary Easement Area except ordinary construction materials, fuels, lubricants, or substances used in the ordinary course of roadway construction and handled in accordance with applicable laws.

Grantor shall remain responsible for pre-existing environmental conditions on, under, or about the Property, except to the extent such conditions are exacerbated by the City's negligent or wrongful acts, subject to applicable law.

14. Liens

The City shall use reasonable efforts to cause its contractors and subcontractors to avoid filing mechanic's liens, materialmen's liens, or similar claims against Grantor's interest in the Property arising from the Project.

If any such lien is filed as a result of work performed by or on behalf of the City, the City shall cause the lien to be released, bonded over, or otherwise addressed in accordance with applicable law.

15. Insurance

The City shall require its contractors performing work on the Property to maintain commercially reasonable insurance coverages customarily required for public roadway construction projects, which may include commercial general liability, automobile liability, workers' compensation, and employer's liability insurance.

Upon reasonable written request, the City shall provide or cause its contractor to provide evidence of applicable insurance coverage.

16. Indemnity

To the extent permitted by applicable law, the City shall be responsible for claims, damages, losses, or expenses arising from the negligent or wrongful acts or omissions of the City or its authorized representatives in connection with the City's use of the Temporary Easement Area.

Nothing in this Agreement shall be construed as a waiver of any governmental immunity, statutory limitation of liability, notice requirement, defense, or protection available to the City under applicable law.

Grantor shall be responsible for claims, damages, losses, or expenses arising from Grantor's negligent or wrongful acts or omissions, or from Grantor's interference with Project activities, to the extent permitted by applicable law.

17. Access, Safety, and Traffic Control

The City may temporarily restrict access to portions of the Temporary Easement Area as reasonably necessary for construction safety, traffic control, utility work, or Project sequencing.

The City shall use reasonable efforts to maintain access to Grantor's remaining Property, driveways, parking areas, and entrances, except for temporary interruptions reasonably necessary for construction, safety, or traffic-control purposes.

Where practicable, the City shall provide reasonable advance notice to Grantor of planned temporary access restrictions that materially affect Grantor's use of the Property.

18. Assignment and Use by Contractors

The City may permit its employees, agents, consultants, engineers, contractors, subcontractors, utility companies, and other Project representatives to exercise the

temporary easement rights granted herein, provided such use is for Project purposes and subject to the terms of this Agreement.

The City may assign this Agreement only to a successor public entity or other entity responsible for completing the Project, unless Grantor otherwise consents in writing. No assignment shall expand the scope, duration, or burden of this temporary easement beyond the terms stated herein.

19. Notices

Any notice required or permitted under this Agreement shall be in writing and shall be delivered personally, by recognized overnight courier, by certified mail, return receipt requested, or by such other method as the parties may agree in writing.

Notice to Grantor shall be sent to:

Grantor:

Fleet and Farm Supply, Inc.,
1175 11th Street S
St. James, MN 56081

Grantee:

Notice to City shall be sent to:

Saint James

1205 6th Ave S PO Box 70

Saint James, MN 56081

Notice shall be deemed given upon personal delivery, upon confirmed courier delivery, or three business days after deposit in the United States mail, postage prepaid, certified mail, return receipt requested.

20. Recording; Release

The City may record this Agreement, or a memorandum of this Agreement, in the real property records of Watonwan County, Minnesota.

Upon expiration or termination of this temporary easement, the City shall, upon written request by Grantor or as otherwise required by applicable law, execute and record a release, termination, or other appropriate instrument evidencing that the temporary easement has expired or been terminated.

21. No Waiver of Police Powers or Regulatory Authority

Nothing in this Agreement shall limit, impair, or waive the City's governmental, regulatory, police-power, permitting, inspection, or enforcement authority.

22. No Public Dedication

This Agreement does not dedicate any portion of the Property to public use, does not create public access rights over the Property, and does not create any rights in favor of the general public.

23. Successors and Assigns; Covenants Running with the Land

This Agreement shall bind and benefit the parties and their respective heirs, successors, permitted assigns, and successors-in-interest in the Property, but only for the temporary term and limited purposes stated herein.

24. Entire Agreement; Amendment

This Agreement, together with its exhibits, constitutes the entire agreement between the parties concerning the temporary easement rights granted herein. No amendment, modification, extension, or waiver shall be effective unless in writing and signed by Grantor and the City.

25. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

26. Authority

Each person signing this Agreement represents that they have full power and authority to execute and deliver this Agreement on behalf of the party for whom they sign.

27. Counterparts; Electronic Signatures

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one instrument. Electronic signatures and scanned signatures shall be effective to the extent permitted by applicable law.

28. Exhibits

The following exhibits are attached and incorporated into this Agreement:

Exhibit A - Legal Description of Grantor's Property

Exhibit B - Legal Description and/or Drawing of Temporary Easement Area

Exhibit C - Project Plans or Plan Sheets Showing Temporary Construction Limits

Exhibit D - Aerial Sketch of plan

(signature page follows)

IN WITNESS WHEREOF, Grantor and the City have executed this Temporary Construction Easement Agreement as of the dates set forth below.

GRANTOR:

FLEET AND FARM SUPPLY, INC.

Signature

By: _____

Its: Chief Executive Officer

Date: _____

CITY / GRANTEE:

CITY OF SAINT JAMES

By: _____

Name: _____

Title: _____

Date: _____

Approved as to form:

City Attorney

Date: _____

NOTARY ACKNOWLEDGMENT

State of Minnesota)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2026, by _____ as Chief Executive Office of Fleet and Farm Supply, Inc, a Minnesota Corporation, on behalf of said Corporation, as Grantor.

Notary Public

My commission expires: _____

State of Minnesota)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2026, by
_____ as _____, of the City of Saint James, Minnesota,
on behalf of the City, Grantee.

Notary Public

My commission expires: _____

Exhibit "A"

That part of Government Lot 5 of Section 19, Township 106 North, Range 31 West, Watonwan County, Minnesota, described as follows: Commencing at the West Quarter corner of said Section 19; thence on an assumed bearing of North 89 degrees 37 minutes 18 seconds East, along the South line of Government Lot 5 of said section, a distance of 75.00 feet to right of way monument B-4, located on the East line of State Highway Right of Way Plat No. 83-9, according to the recorded plat thereof, said iron monument being the point of beginning of the tract to be described; thence continuing North 89 degrees 37 minutes 18 seconds East, along said South line, a distance of 600.00 feet to an iron monument; thence North 0 degrees 00 minutes 00 seconds East a distance of 435.00 feet to an iron monument; thence South 89 degrees 37 minutes 18 seconds West a distance of 600.00 feet to an iron monument located on the East line of said State Highway Right of Way Plat No. 83-9; thence South 0 degrees 00 minutes 00 seconds West, along said East line, a distance of 435.00 feet to the point of beginning.

Exhibit "B"

The North 180.00 feet of the West 195.00 feet of the below described parcel:

That part of Government Lot 5 of Section 19, Township 106 North, Range 31 West, Watonwan County, Minnesota, described as follows: Commencing at the West Quarter corner of said Section 19; thence on an assumed bearing of North 89 degrees 37 minutes 18 seconds East, along the South line of Government Lot 5 of said section, a distance of 75.00 feet to right of way monument B-4, located on the East line of State Highway Right of Way Plat No. 83-9, according to the recorded plat thereof, said iron monument being the point of beginning of the tract to be described; thence continuing North 89 degrees 37 minutes 18 seconds East, along said South line, a distance of 600.00 feet to an iron monument; thence North 0 degrees 00 minutes 00 seconds East a distance of 435.00 feet to an iron monument; thence South 89 degrees 37 minutes 18 seconds West a distance of 600.00 feet to an iron monument located on the East line of said State Highway Right of Way Plat No. 83-9; thence South 0 degrees 00 minutes 00 seconds West, along said East line, a distance of 435.00 feet to the point of beginning.

Exhibit "C"

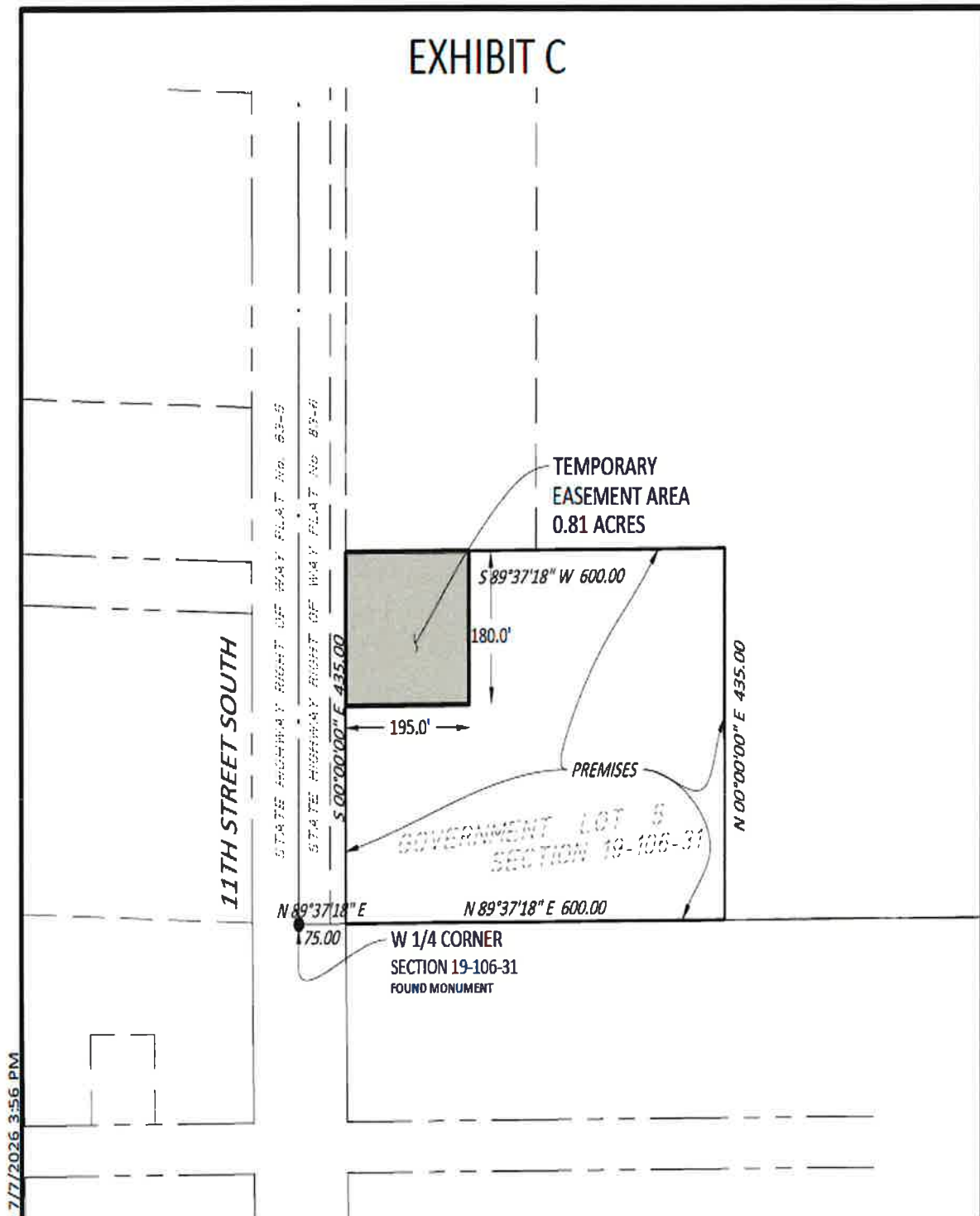


Exhibit "D"

12th Avenue S Highway District Expansion
City of St. James

Fleet & Farm
June 2026

