

THE CITY OF AMARILLO, TEXAS

INTERDEPARTMENTAL OFFICE COMMUNICATION

April 12, 2012

TO: Final Distribution

FROM: Planning Department

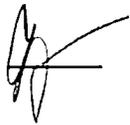
SUBJECT: L-12-05 License and Hold Harmless to encumber surface and subsurface for a seven-foot tall fence and an electric service line in the right-of-way line of NW 4th Avenue, adjacent to Lot 6, Block 175, Glidden & Sanborn Addition, in Section 169, Block 2, AB&M Survey, Potter County, Texas.

APPLICANT: Plains Dairy, LLC

The City Manager approved the above-mentioned item on March 20, 2012. The instrument was filed of record in the Official Public Records of Potter County in Volume 4404, Page 386 on March 28, 2012. Please post your recordings accordingly.



Kelley Shaw, Planning Director



LICENSE AND HOLD HARMLESS AGREEMENT

THE STATE OF TEXAS)
)
COUNTY OF POTTER)

This license is made by and between the City of Amarillo, a Texas municipal corporation situated in Potter and Randall Counties, Texas, hereinafter called LICENSOR, and Plains Dairy LLC hereinafter called LICENSEE, upon the following terms performable in Potter County, Texas:

W I T N E S S E T H:

I.

For and in consideration of the annual sum of TWO HUNDRED FIFTY AND 00/100 DOLLARS (\$250.00), the first payment being due and payable upon execution of this document and successive like payments each being due thereafter on the anniversary date of this agreement, and of the covenants herein contained and the full and faithful performance of the same, LICENSOR hereby grants a license to LICENSEE to construct, maintain and use, a certain surface and subsurface encumbrance being a seven-foot tall fence and an electric service line in the right-of-way of NW 4th Avenue, adjacent to Lot 6, Block 175, Glidden & Sanborn Addition, in Section 169, Block 2, AB&M Survey, Potter County, Texas.

1.1 The general location and details of the above-described encumbrance is shown on the attached Exhibit A. This license supercedes any prior Agreement or license pertaining to the described location and use.

1.2 The term of this license shall be for a period of one (1) year from the effective date hereof and shall be automatically extended for successive one year periods provided, however, either party may terminate this Agreement by providing written notice of termination to the other party on or before thirty (30) days prior to the end of any annual term.

II.

This license is granted upon LICENSEE'S Agreement to strictly comply with the following terms and conditions:

2.1 This license shall not be assigned, sold or in any other manner transferred without the prior written consent of the LICENSOR. Notwithstanding paragraph 2.7 below breach of this condition shall immediately terminate this license and shall require restoration of the premises to the condition, which existed prior to the execution of this Agreement. Upon failure to restore said property as above state, LICENSOR may perform such restoration at the expense of the then owner of such property being restored.

2.2 LICENSEE agrees that as between LICENSEE and LICENSOR, LICENSEE shall save LICENSOR harmless from any and all liability for personal injuries, property damage or loss of life or property resulting from, or in any manner connected with, LICENSEE'S maintenance and use of the above-described intrusions into the public right-of-way.

2.3 LICENSEE shall give LICENSOR prompt and timely notice of any claim made or suit instituted which in any way, directly or indirectly, contingently or otherwise, affects or may affect LICENSOR. To the extent that LICENSEE fails to assume the defense of LICENSOR in a timely manner, LICENSOR shall have the right to compromise and defend the same to the extent of its own interest without waiving its right to call upon LICENSEE for defense or indemnity.

2.4 LICENSOR retains the right to require the removal of any or all of the intrusions into the public right-of-way should LICENSOR find after a public hearing dealing with the matter that said intrusions into

the public right-of-way unreasonable interferes with the public's use of its right-of-way or in any other way hampers the public's rights.

2.5 LICENSEE hereby agrees to assume all costs for damages and repairs to public utilities, street services or any other public improvement located in or adjacent to the public right-of-way described above, regardless of the type of damage caused by LICENSEE, its employees, agents, or contractors. LICENSEE further agrees to hold LICENSOR harmless from any costs occasioned by or necessitated by the relocation of LICENSEE'S facilities due to entry of the LICENSOR onto the right-of-way for maintenance, replacement or repair of any line or lines, including water and sewer lines, located in the public right-of-way. In this regard, LICENSEE specifically recognizes the potential hazards of erecting or placing encumbrances and intrusions in the right-of-way.

2.6 Any notice required by this Agreement shall be sufficient if served by certified or registered United States mail on City Manager of the City of Amarillo, P.O. Box 1971, Amarillo, Texas, 79105-1971; or upon Dub Garlington, President, Plains Dairy LLC, 300 N. Taylor St., Amarillo, TX 79107.

2.7 LICENSEE'S failure to perform any of the duties imposed hereby shall constitute a breach of this Agreement and shall be a cause for revocation of this license if said breach is not cured within ten (10) days of notice of said breach. In the event of breach, LICENSEE agrees to remove all encumbrances from the right-of-way no later than thirty (30) days from its failure to cure the breach as provided above. In the event legal proceedings are necessary to enforce LICENSOR'S rights under this Agreement, all costs, including reasonable attorneys' fees, shall be paid by LICENSEE.

EXECUTED by the last of the parties to sign on this 20th day of March, 2012.

ATTEST:

Donna DeRight
Donna DeRight, City Secretary

CITY OF AMARILLO

By: W. Jarrett Atkinson
W. Jarrett Atkinson, City Manager

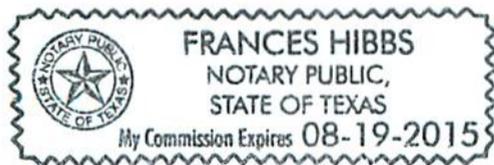
PLAINS DAIRY LLC

By: Dub Garlington
Dub Garlington, President

THE STATE OF TEXAS)

COUNTY OF POTTER)

W. Jarrett Atkinson, City Manager of the City of Amarillo, a Texas municipal corporation, on behalf of said corporation, acknowledged this instrument before me on the 20th day of March, 2012.

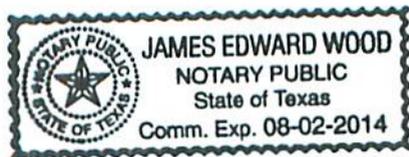


Frances Hibbs
Notary of Public in and for
The State of Texas

THE STATE OF TEXAS)

COUNTY OF Potter)

This instrument was acknowledged before me on the 12th day of March, 2012 by Dub Garlington, President, Plains Dairy LLC, on behalf of said entity.



James Edward Wood
Notary of Public in and for
The State of Texas

Return to:
DONNA DeRIGHT
City Secretary, City of Amarillo
P.O. Box 1971
Amarillo, Texas 79109-1971

Filed AND Recorded
OFFICIAL PUBLIC RECORDS
On: Mar 28, 2012 at 08:30A

Receipt# - 170114

Document Number 01212904:

Amount 20.00

Julie Smith
County Clerk, Potter County

by  Deputy

STATE OF TEXAS COUNTY OF POTTER
I hereby certify that this instrument was
FILED on this date and at this time stamped
hereon by me and was duly RECORDED in the
OFFICIAL PUBLIC RECORDS OF POTTER COUNTY TEXAS,
in the volume and page as shown.



Julie Smith, County Clerk
Potter County

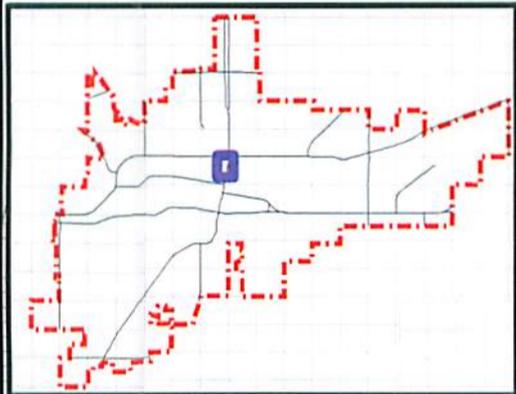
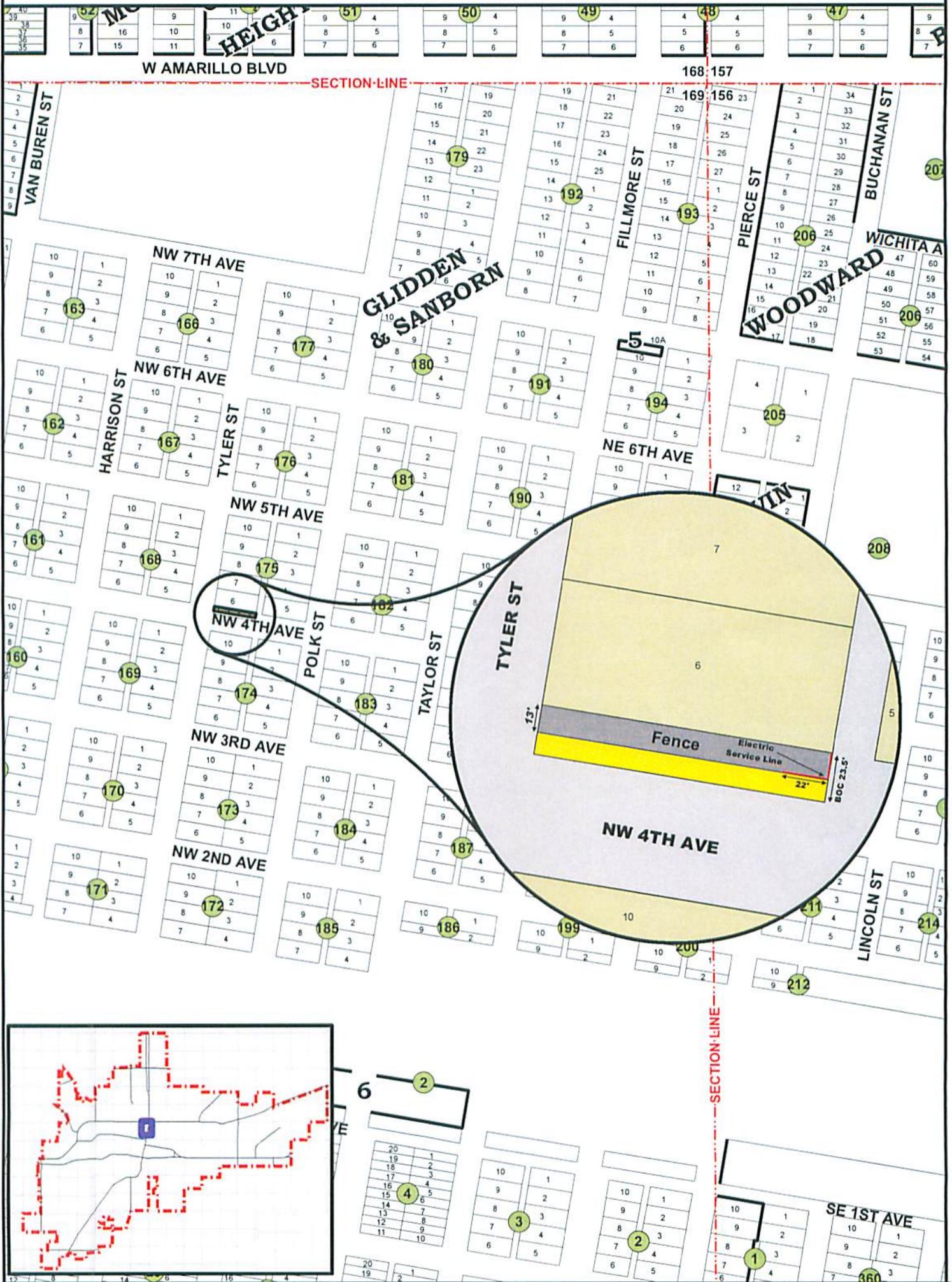
by  Deputy

Any provision herein which restricts the sale,
rental or use of the described real property
because of color or race is invalid and
unenforceable under federal law.

COUNTY CLERK'S MEMO

Portions of this document may
not be legible and/or reproducible
when received for recording.

LICENSE & HOLD HARMLESS



**CITY OF AMARILLO
PLANNING DEPARTMENT**

Exhibit A

Scale: 1" = 400'
Date: 2-15-12
Case No: L-12-05



L-12-05 License and Hold Harmless to encumber surface and subsurface for a fence and electric service line within the right-of-way of NW 4th Ave. adjacent to the south property line of Lot 6, Block 175, Glidden & Sanborn Addition, in Section 169, Block 2, AB&M Survey, Potter County, Texas.

Vicinity: NW 4th Ave. & Tyler St.

Applicant: Dub Garlington, President of Plains Dairy LLC

AP: N-11