

# THE CITY OF AMARILLO, TEXAS

## *INTERDEPARTMENTAL OFFICE COMMUNICATION*

May 21, 2014

TO: Final Distribution

FROM: Planning Department

SUBJECT: L-89-08 License and Hold Harmless to encumber surface and subsurface for an existing private storm drain within the public right-of-way of SW 9th Ave. and Coulter Street adjacent to Lot 1, Block 1, Medical Institute Subdivision Unit No. 1, in Section 25, Block 9, BS&F Survey, Potter County, Texas.

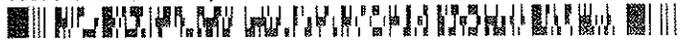
APPLICANT: Clint Fegan, Vice President of Longhorn RE Associates, LP, a Delaware Limited Partnership.

The City Manager approved the above-mentioned item on May 14, 2014. The instrument was filed of record in the Official Public Records of Potter County as Instrument Number 1256334 on May 19, 2014. Please post your recordings accordingly.



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Kelley Shaw, Planning Director



4,129,14 0440

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 Longhorn RE Associates, LP, a Delaware Limited Partnership, hereinafter called LICENSEE, upon the following terms performable in Potter County, Texas:

WITNESSETH:

I.

For and in consideration of the annual sum of THREE HUNDRED SEVENTY-SIX AND 00/100 DOLLARS (\$376.00), being due annually 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 encumbrance being a private storm sewer in the public right-of-way described as follows:

A 15 ft. x 1,140 ft. tract of land out of Section 25, Block 9, B.S.&F. Survey, Potter County, Texas, being located within the northern right-of-way of S.W. 9<sup>th</sup> Avenue, the centerline of said tract being more fully described as follows:

BEGINNING at a point 7.5 feet south of the north right-of-way line of said S.W. 9<sup>th</sup> Avenue and 620 feet east of the northeast intersection of Coulter Street and said S.W. 9<sup>th</sup> Avenue right-of-way lines;

THENCE in an easterly direction, parallel with and following 7.5 feet south of the north right-of-way line of said S.W. 9<sup>th</sup> Avenue, a distance of 1,140 feet to a point.

Said tract of land contains 17,100 square feet of area, more or less.

The above-described encumbrance is shown in the attached Exhibit 1 to this agreement.

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 stated above, 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 interests 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 unreasonably interfere 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 public 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 Clint Fegan, Vice President, Longhorn RE Associates, LP, 4550 Lena Drive, Suite 225, Mechanicsburg, PA 17055.

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.

- This license supersedes and replaces the prior License and Hold Harmless Agreement between City of Amarillo and Soup Bone, LLP dated December 31, 2002 and filed of record in Volume 3272, Pages 142-146 in the official public records of Potter County, Texas, which License is hereby terminated.

EXECUTED by the last of the parties to sign on this 14 day of May, 2014.

ATTEST:  
Frances Hibbs  
Frances Hibbs, City Secretary

CITY OF AMARILLO  
By: W. Jarrett Atkinson  
W. Jarrett Atkinson, City Manager

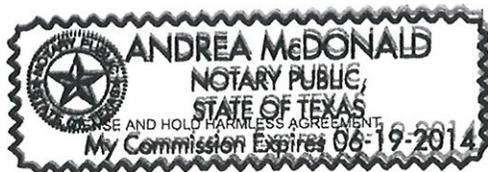
Longhorn RE Associates, LP, a Delaware Limited Partnership

By: Longhorn RE Associates Holdings, LLC  
its General Partner

By: Clint Fegan  
Clint Fegan, Vice 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 14 day of May, 2014.



Andrea McDonald  
Notary of Public in and for  
The State of Texas

**Return to:**  
**FRANCES HIBBS**  
City Secretary, City of Amarillo  
P.O. Box 1971  
Amarillo, Texas 79105-1971

PENNSYLVANIA  
THE STATE OF TEXAS )  
COUNTY OF CUMBERLAND )

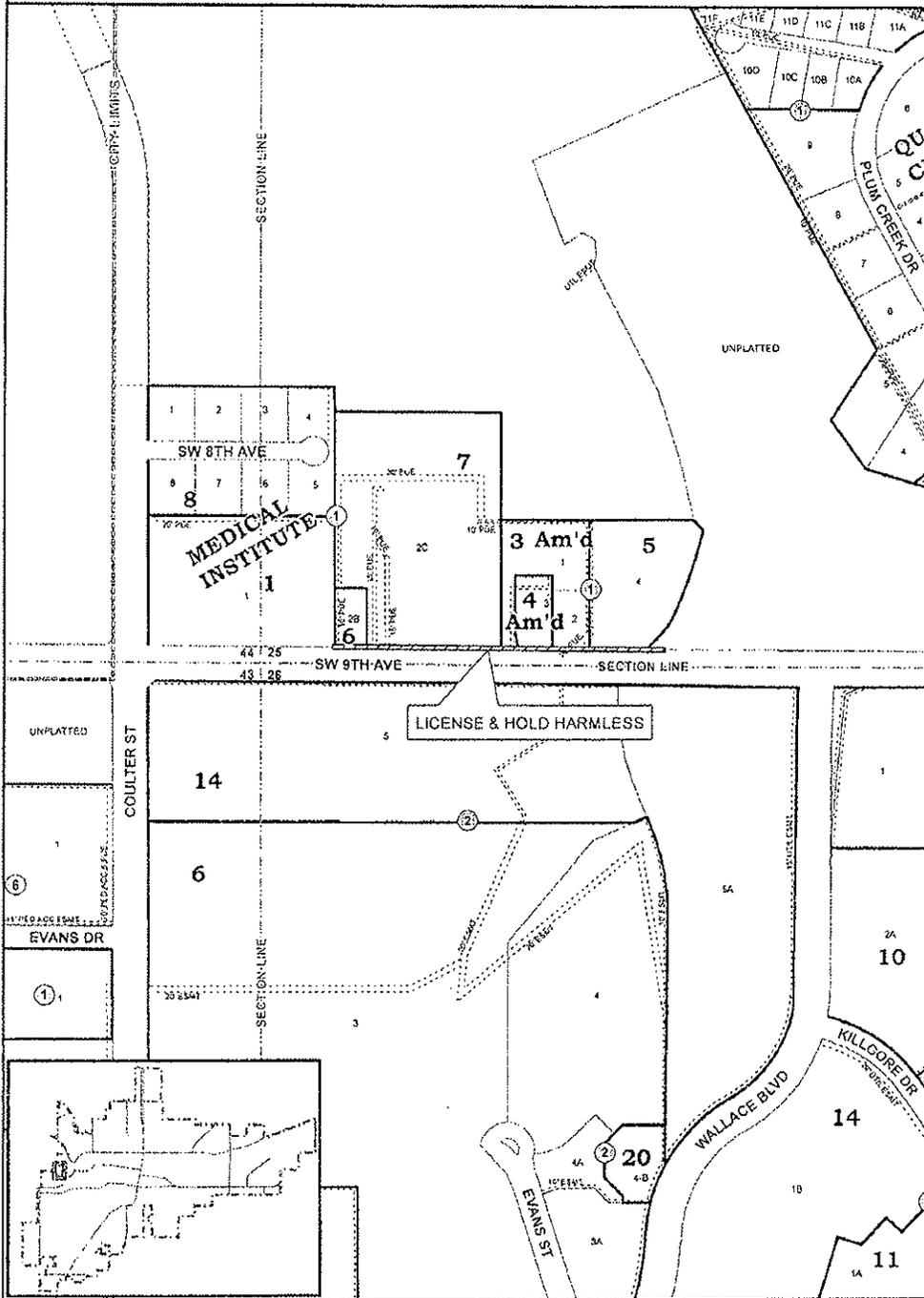
This instrument was acknowledged before me on the 30<sup>TH</sup> day of APRIL, 2014 by Clint Fegan, Vice President, Longhorn RE Associates Holdings, LLC, on behalf of said entity.

*Donna M. Beccia*  
Notary of Public in and for  
The State of ~~Texas~~ PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
Donna M. Beccia, Notary Public  
Lower Allen Twp, Cumberland County  
My commission expires July 09, 2017

*Return to:*  
**FRANCES HIBBS**  
City Secretary, City of Amarillo  
P.O. Box 1971  
Amarillo, Texas 79105-1971

# EXHIBIT 1



**CITY OF AMARILLO  
PLANNING DEPARTMENT**

Scale: 1" = 400'  
 Date: 3-17-14  
 Case No: L-89-08



License and Hold Harmless for a 17,100 sq. ft. tract of land (15' x 1140') situated in and adjacent to the North R.O.W. line of SW 9th Ave., near the southwest corner of Section 25, Block 9, BS&F Survey, Potter County, Texas.

AP: J-11

# FILED and RECORDED

Instrument Number: 1256334

Filing and Recording Date: 05/19/2014 09:31:54 AM Pages: 5 Recording Fee: \$28.00

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Potter County, Texas.



A handwritten signature in cursive script that reads "Julie Smith".

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Julie Smith, County Clerk  
Potter County, Texas

***DO NOT DESTROY - This document is part of the Official Public Record.***

lhinojosa