THE CITY OF AMARILLO, TEXAS

INTERDEPARTMENTAL
OFFICE COMMUNICATION

February 27, 2015

TO: Final Distribution

FROM: Planning Department

SUBJECT: L-15-01 License and Hold Harmless to encumber surface and subsurface for fiber optic cable under the SE 6th Avenue right-of-way and under City of Amarillo property located on Lots 1 and 2, Block 80, in the Plemons and Glidden & Sanborn Addition, in Sections 169 and 170, Block 2, AB&M Survey, Potter County, Texas.

APPLICANT: Amarillo National Bank

The City Manager approved the above-mentioned item on February 10, 2015. The instrument was filed of record in the Official Public Records of Potter County as Instrument Number 1269750 on February 17, 2015. Please post your recordings accordingly.

Kelley Shaw, Planning Director

__/__/2015 by: _____

1269750 AG
02/17/2015 11:16 AM Total Pages: 5
Julie Smith, County Clerk - Potter County, Texas

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 Amarillo National Bank, 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 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 conduit for fiber optic cable under the SE 6th Avenue right-of-way and under City of Amarillo property located on Lots 1 and 2, Block 80, in the Plemons and Glidden & Sanborn Addition, in Sections 169 and 170, Block 2, AB&M Survey, Potter County, Texas and further identified in Exhibits A and B attached to this agreement.

1.1 The general location and details of the above-described encumbrances are shown on the attached Exhibits A and B. 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.

1.3 The required annual fees for this agreement are waived by the City because the location is in the Tax Increment Reinvestment Zone No. 1 (TIRZ).

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 LICENSES'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 utility easement.

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 Jim Williams, Facilities Manager, Amarillo National Bank, P.O. Box 1, Amarillo, TX 79105.

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 to 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 10 day of February, 2015.

CITY OF AMARILLO

ATTEST:

Frances Hibbs

Frances Hibbs, City Secretary

By: W. Jarrett Atkinson

W. Jarrett Atkinson, City Manager

Amarillo National Bank
By:

Jim Williams, Facilities Manager

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 10 day of February, 2015.

Liz Swearingen

Notary of Public in and for
The State of Texas

THE STATE OF TEXAS)

COUNTY OF Potter)

LIZ SWEARINGEN
NOTARY PUBLIC,
STATE OF TEXAS
My Commission Expires 05-01-2018

This instrument was acknowledged before me on the 2nd day of February, 2015 by Jim Williams, Facilities Manager for Amarillo National Bank, on behalf of said entity.

Sara Grace

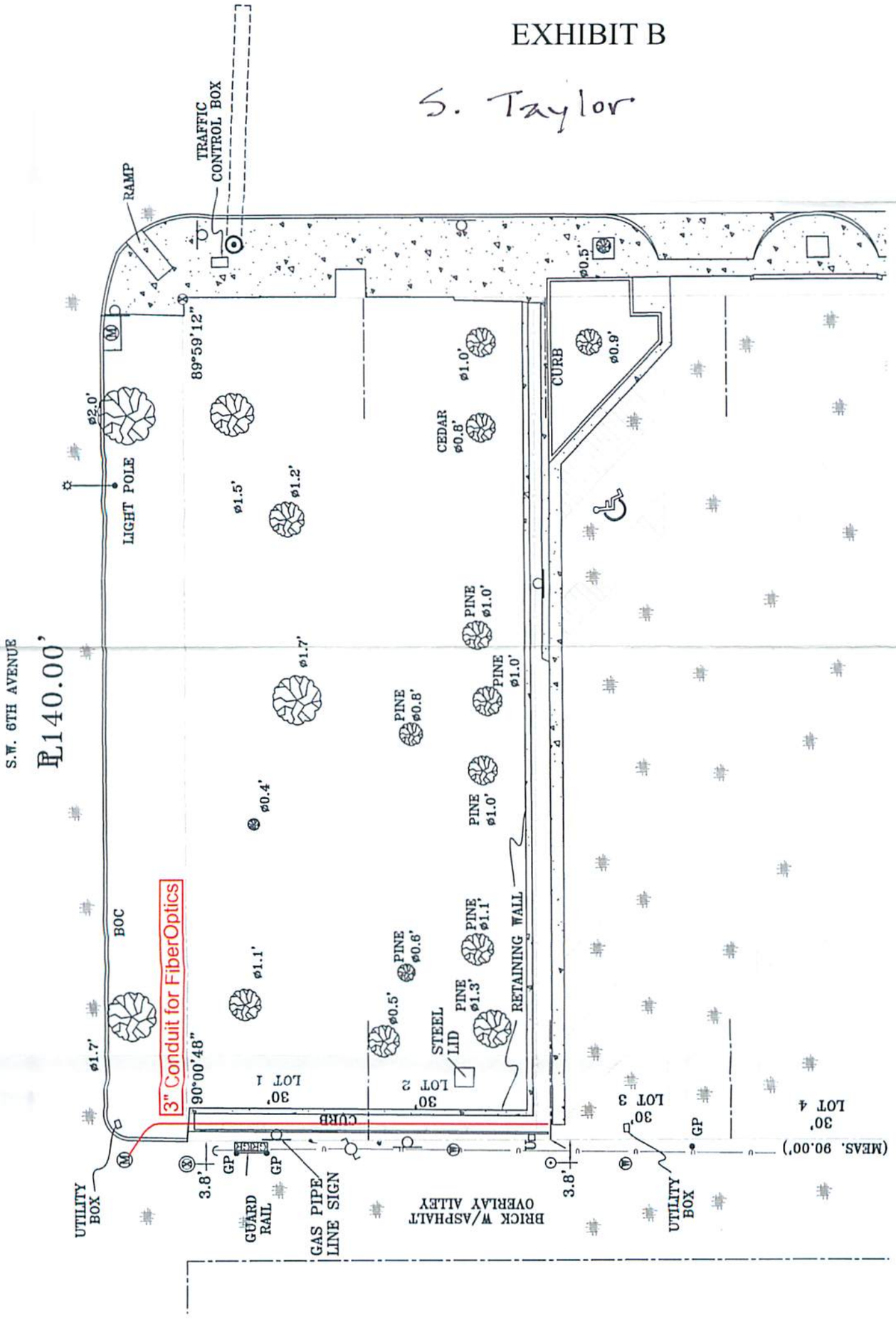
Notary of Public in and for
The State of Texas

SARA GRACE
NOTARY PUBLIC,
STATE OF TEXAS
My Commission Expires 10-13-2015

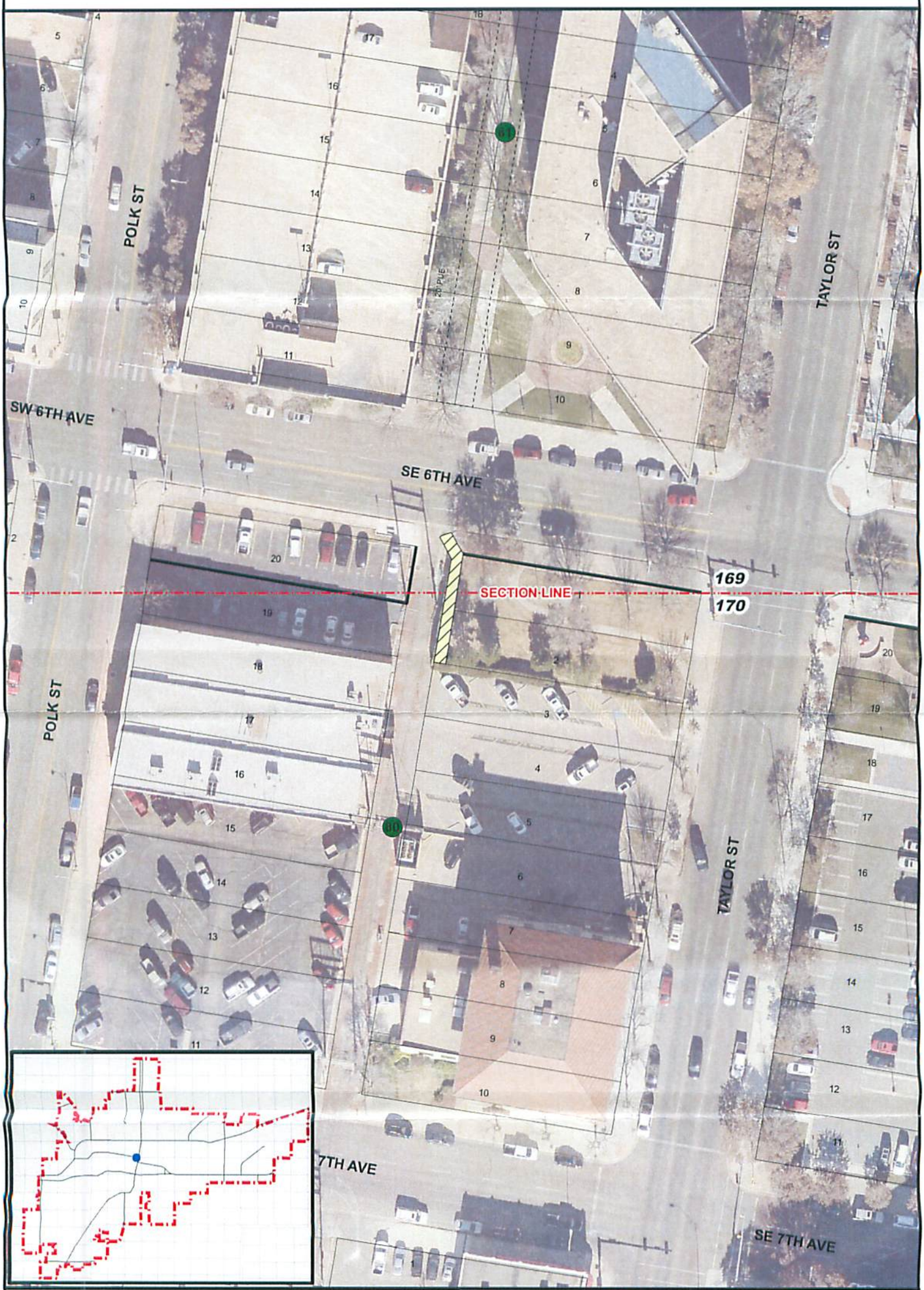
Return to:
FRANCES HIBBS
City Secretary, City of Amarillo
P.O. Box 1971
Amarillo, Texas 79105-1971

EXHIBIT B

S. Taylor



LICENSE & HOLD HARMLESS



CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1" = 64'
Date: 12-26-14
Case No: L-15-01

N W E S

L-15-01 License and Hold Harmless to encumber subsurface with a private conduit in the right-of-way of S.W. 6th Avenue and along the west property line of city-owned Lots 1 and 2, Block 80, in Plemons and Glidden & Sanborn Addition, in Sections 169 and 170, Block 2, AB&M Survey, Potter County, Texas.

Vicinity: S.W. 6th Ave & S Taylor St.

EXHIBIT A

AP: N-11 & N-12

FILED and RECORDED

Instrument Number: 1269750

Filing and Recording Date: 02/17/2015 11:16:27 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.

Julie Smith, County Clerk
Potter County, Texas

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

lhinojosa