

STATE OF TEXAS §
COUNTY OF HIDALGO §

AGREEMENT

WHEREAS, Hidalgo County Texas (“County”), a political subdivision of the State of Texas, has the authority under Texas Local Government Code, Chapter 352.001 to contract with an incorporated volunteer fire department that is located within the County to provide fire protection and first responder services to an area of the County that is located outside the municipalities in the County;

WHEREAS, the Linn-San Manuel Volunteer Fire Department, Inc. hereinafter (“VFD”), is an incorporated volunteer fire department located within a rural area of Hidalgo, County; and provides the most rapid response time to such rural area;

WHEREAS, County and VFD represent that each is independently authorized to perform the functions contemplated by this Agreement;

WHEREAS, County desires to contract with VFD to provide a public service because the VFD has fire protection vehicles and other equipment designed for the extinguishing of fire, the providing of emergency services, and the prevention of damage to property and injury to persons from fire and other emergencies and has the control and use of volunteer members who are trained to properly utilize such vehicles and equipment and to provide fire protection and emergency services and;

WHEREAS, this Agreement is made between the County and VFD pursuant to the authority of Subchapter A of Chapter 352 of the Texas Local Government Code and pursuant to the general authority of the Commissioners Court to contract with private providers for services for the public.

NOW THEREFORE, in consideration of the above recitals, mutual benefits and promises each to the other made herein, the parties named above do hereby agree as follows:

**ARTICLE I
PUBLIC PURPOSE**

1.01. The purpose of this Agreement is to provide public fire protection and other limited emergency response services within the area of the County that lies outside the boundaries of any municipal government, such area being more particularly described on Exhibit A attached hereto. The County has no authority to provide fire protection or most other

emergency response services within the territorial limits of incorporated municipalities and by this Agreement does not attempt to usurp the authority of municipalities to manage, regulate and provide fire protection and emergency response services within their boundaries.

ARTICLE II
VFD OBLIGATION

2.01 VFD agrees as follows:

(a) VFD will provide fire protection and other emergency response services for all persons and property within the unincorporated area of said County described on Exhibit A attached hereto and incorporated herein at this point for all purposes (the "Area"). Further, VFD agrees that it shall be the First Responder for fire protection services within the Area. Additionally, VFD agrees that it shall respond to mutual aid calls from any other fire department for fire protection services at any location within the unincorporated area of the County.

(b) Emergency services other than those concerning fire protection and other emergency response services is not the subject of this Agreement. All emergency services provided within the territorial boundaries of municipal corporations are solely within the jurisdiction and the area of responsibility of the relevant municipal government. No provision is made in this Agreement to provide services in any municipality. However, nothing in this Agreement is intended to prevent the VFD from providing other services within municipalities, but in doing so, the VFD does not act under the terms of this Agreement and the County assumes no responsibility for providing consideration for such services.

(c) It is expressly agreed and understood that the VFD ASSUMES ALL RESPONSIBILITY FOR ANY INJURY OR DAMAGE SUFFERED BY ANY PERSON OR PROPERTY RESULTING FROM PERFORMANCE UNDER THIS AGREEMENT INCLUDING ANY DAMAGE OR INJURY CAUSED OR CONTRIBUTED TO BY REASON OF THE USE OR OPERATION OF ANY EQUIPMENT OR TANGIBLE PROPERTY OF VFD. THE VFD AGREES TO INDEMNIFY THE COUNTY FOR ANY AMOUNT SPENT BY THE COUNTY IN DEFENDING ITSELF IN ANY COURT ACTION ARISING OUT OF A SITUATION IN WHICH VFD UTILIZED EQUIPMENT TO PROVIDE FIRE OR NON-FIRE RELATED EMERGENCY RESPONSE SERVICES INCLUDING ATTORNEY FEES, COSTS OF COURT, AND OTHER EXPENSES REASONABLY NECESSARY IN PREPARING AND PRESENTING ANY DEFENSE IN SUCH MATTER AS WELL AS FOR ANY DAMAGES



FOR WHICH THE COUNTY IS HELD RESPONSIBLE BY ANY COURT OF COMPETENT JURISDICITON. It is further expressly understood and agreed that no official, employee or agent of the County has authority to bind the County to be liable for the manner or means of providing fire protection or other services in an incorporated municipality.

2.02 VFD shall use reasonable diligence and effort to provide the fire protection and emergency response services it has contracted to provide by this Agreement and to provide immediate and direct supervision of the VFD members, employees, agents, contractors, sub-contractors, and/laborers, if any, in the furtherance of the purposes, terms, and conditions of this Agreement. The parties do not hereby waive any immunity, defense, privilege, or remedy provided by law.

2.03 VFD agrees to cause its members and personnel providing fire protection services in performance of this Agreement, when performing said services, to conduct themselves in a professional manner and to comply with applicable laws. Non-member volunteers will not be used for fire protection by the VFD. All fire fighters of the VFD must be members of the VFD and properly trained and equipped to perform fire protection duties. Radio communications will be conducted in accord with any rules, procedures or directives of the Sheriff of Hidalgo County and /or County Fire Marshal. The VFD further agrees that it will cooperate with County Fire Marshal to the extent provided for in Texas law.

2.04 VFD warrants that in carrying out the terms of this Agreement, it will not utilize any person under 18 years of age in the performance of the services to be provided under this Agreement.

2.05 It is agreed VFD shall comply with any rules, procedures or directives of the County Fire Marshal for determining which fires warrant investigations, and shall cooperate with any such investigation made by the appropriate County Official or the designated agent of the County Fire Marshal, State Fire Marshal, County Sheriff, and/or other law enforcement agencies or their designees. It is agreed VFD shall suspend any member of the VFD who fails to provide information and statements relative to such investigations as lawfully requested by any law enforcement agency, designated agent of the County for arson investigations, County Sheriff, and/or County or State Fire Marshal and their designees.

2.06 The books and records maintained for operating VFD shall be open to inspection by the County or its designated representatives during normal business hours.



2.07 VFD shall submit a financial report to the County no later than three months after the close of the VFD's fiscal year.

2.08 VFD shall file a TXFIRS report with the State Fire Marshal's office within two weeks of the end of the month that an incident occurred. The Hidalgo County Fire Marshal is authorized to review and update all fire incident reports filed by the VFD with the State Fire Marshal's office.

2.09 VFD shall maintain a "current" status throughout the term of this agreement as a First Responder Organization (FRO) per Texas Administration Code 157.14.

2.10 VFD shall maintain statutory workers' compensation coverage for its employees, officers and volunteers regarding the VFD's performance under this Agreement. The VFD recognizes that the County has no responsibility to furnish this coverage and VFD waives any right to pursue the County for liability regarding payments for this coverage or for liability regarding payments for claims filed against this coverage.

ARTICLE III CONSIDERATION

3.01 For the services provided above, the consideration expressed in Article 3.02 hereof and the other terms and conditions hereof the County shall provide to VFD:

(a) That part of a structure known as the Luis Flores, Jr. Linn-San Manuel Emergency Services Facility consisting of 2499 square feet (the "VFD Part") such part of the structure being the shaded area more particularly described on Exhibit B attached hereto and incorporated herein at the point for all purposes ("VFD Part") for the housing of VFD's engines and fire fighter's equipment provided VFD provides the janitorial services for the VFD Part and landscaping maintenance for the grounds in which the structure is located as shown on Exhibit B-1.

(b) In connection therewith County may inspect the VFDs Part any time to assure compliance of VFD's janitorial, landscape maintenance and other obligations herein. VFD may not make any alterations or additions to VFDs Part without the prior written consent of County. VFD shall maintain the VFD Part in good and clean condition reasonable wear and tear excepted.

3.02 VFD shall during the term hereof pay County an annual payment of Twenty Four Hundred no one hundredths Dollars (\$2,400.00) payable in twelve monthly installments of Two



Hundred and no one hundredths Dollars (\$200.00) on or before the first day of each month occurring during the term hereof.

ARTICLE IV

GENERAL APPORTIONMENT OF RESPONSIBILITY AND IMMUNITY

4.01 In the event of joint or concurrent negligence of the parties, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to either party individually under Texas Law. VFD shall be responsible for its sole negligence. The County shall be responsible for its sole negligence. The provisions of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person.

ARTICLE V

NOTICE OF NONAPPROPRIATION

5.01 If, for any fiscal year, the County fails to appropriate funds in amounts sufficient to pay or perform its obligations under this Agreement, the County shall endeavor to provide thirty (30) days notice of its intent not to appropriate the necessary funds for its performance of obligations under this Agreement.

ARTICLE VI

DEFAULT

6.01 In the event either party shall fail to keep, observe, or perform any provision of this Agreement, the breaching party shall be deemed in default. If such default shall continue for a period of thirty (30) days after notice thereof by the non-breaching party to the other, then the non-breaching party shall be entitled to terminate this Agreement immediately.

ARTICLE VII

TERM

7.01 The effective date of this Agreement shall be January 5, 2016, or the date that last of the parties have executed this Agreement within the 2016-2017 fiscal year, whichever is the later, and this Agreement shall expire at midnight of December 31, 2016. This Agreement shall automatically renew for successive one year terms unless either party gives the other party one hundred twenty (120) days notice of its notice of termination effective on the anniversary date of this Agreement following such notice of termination.



ARTICLE VIII
INSURANCE

8.01 At all times during the term of this Agreement, VFD will, at VFD's sole expense, carry, provide and maintain general liability insurance in the amount of \$1,000,000.00 vehicular insurance at least the limits of the Texas Tort Claims all such insurance minimum limits more particularly described in Exhibit C attached hereto and incorporated herein at this point for all purposes.

ARTICLE IX
TERMINATION

- (a) By Mutual Agreement: This Agreement may be terminated by mutual agreement of VFD and the County, as evidenced by a written termination Agreement.
- (b) For Non Appropriation of funds: As mentioned above, the County fails to appropriate funds necessary for performance of the obligations under this Agreement, the County may terminate this Agreement.
- (c) By Either Party: This Agreement may be terminated at any time without cause on thirty (30) days written notice to the other party.

ARTICLE X
SEVERABILITY

10.01 If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of the Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

ARTICLE XI
NIMS NATIONAL INCIDENT MANAGEMENT SYSTEMS

11.01 VFD shall supply the County, to the attention of County Executive Office, at the time of execution of this Agreement a list of personnel of the VFD as well as the Certificate of NIMS compliant testing for each person on the list. Testing shall be in accordance with FEMA



guidelines as to what level, who and when training is done to remain compliant. VFD must be NIMS compliant.

11.02 VFD Chief Officers shall complete NIMS 300 on or before August 1, 2016 and are encouraged to complete NIMS 400 training. NIMS 300 shall be completed as soon as possible following appointment to office.

11.03 All VFD members shall complete NIMS 100, 200, 700 and 800 training no later than August 1, 2016. VFD shall submit to the County Fire Marshal records for each member documenting completion of NIMS training. VFD shall maintain supporting records for each member and shall be made available to the County within forty-eight (48) hours notice.

ARTICLE XII
NOTICE

12.01 Except as maybe otherwise specifically provided in this Agreement, all notices, demands, requests or communication required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to County: Hidalgo County, Texas
Attention: Hon. Ramon Garcia, County Judge
302 W. University Drive
Edinburg, Texas 78539

If to VFD: Luis Flores, Jr. Linn-San Manuel Emergency Services Facility
Attention: _____
P. O. Box 72 Linn Texas 78563

Any notice permitted or required to be given hereunder shall be deemed to have been given upon deposit of the notice in the United States Mail as aforesaid.

ARTICLE XIII
MISCELLANEOUS

13.01 AUTHORITY TO CONTRACT: THE UNDERSIGNED OFFICERS AND OR AGENTS OF THE PARTIES HERETO ARE THE PROPERLY AUTHORIZED OFFICIAL AND HAVE THE NECESSARY AUTHORITY TO EXECUTE THIS AGREEMENT ON BEHALF OF THE PARTIES HERETO, AND EACH PARTY HEREBY CERTIFIES TO



THE OTHER THAT ANY NECESSARY RESOLUTIONS EXTENDING SAID AUTHORITY HAVE BEEN DULY PASSED AND ARE NOW IN FULL FORCE AND EFFECT.

13.02 Governing Law/Venue: This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Texas and the venue for enforcement shall be Hidalgo County, Texas.

13.03 Limitation of Liability: By entering into this Agreement, neither party waives sovereign immunity defenses or any other limitation of liability. No provision of this Agreement is intended to modify or waive any provision of the Texas Tort Claims Act.

13.04 Entire Agreement: This Agreement is a total and complete integration of any and all understandings existing between the parties hereto and supersedes any prior oral or written agreements, promises or representations between them. The headings of the various paragraphs of this Agreement are for convenience only, and shall not define, interpret, affect or prescribe the meaning and interpretation of the provisions of this Agreement.

13.05 Independent Contractor: VFD expressly acknowledges that VFD will be acting as an independent contractor for all purposes, including payment of social security, withholding taxes and all other federal, state and local taxes. VFD, as independent contractor, shall be solely responsible to its employees, agents, third party contractors any other person supplying labor or material for VFD in performing any portion of this Agreement or any action or omission incident thereto. VFD also agrees to pay for and provide workers compensation insurance, covering all employees working for VFD in performing labor pursuant to this Agreement or any activity incident thereto.

13.06 Amendment: If the parties hereto desire to amend this Agreement during or after the term, any modifications may be either incorporated herein by a written amendment or set forth in an entirely new Agreement. Any modifications must be approved and signed by authorized representatives of the parties hereto.



Dated to be effective this 5th day of January, 2016.

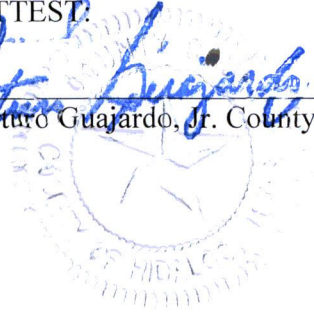
HIDALGO COUNTY

By: Ramon Garcia
Ramon Garcia, County Judge

APPROVED BY
COMMISSIONERS' COURT
ON: 1/5/16

ATTEST:

Arturo Guajardo, Jr.
Arturo Guajardo, Jr. County Clerk



LINN-SAN MANUEL VOLUNTEER FIRE
DEPARTMENT, INC.

By: [Signature]
Its: President of Board LSMVFD.

[Signature]

Linn San Manuel
) Service Area

Hidalgo County Line

SH 186

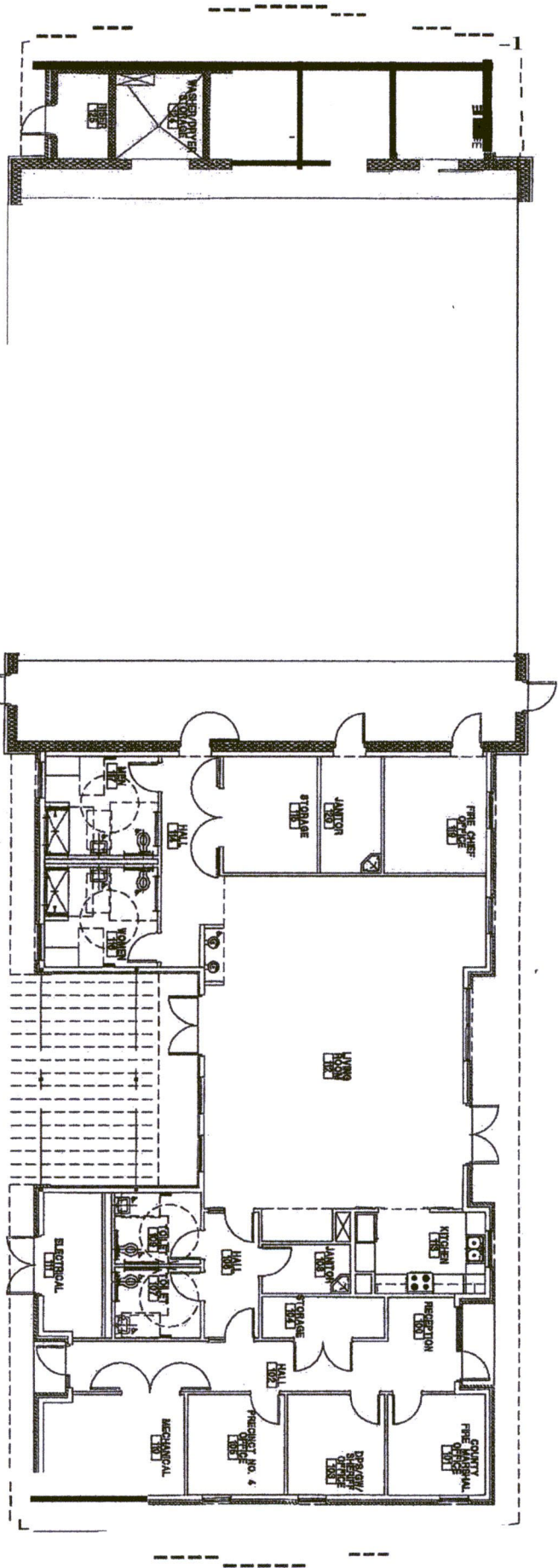
Brushline Rd

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FM 490

Hidalgo County Line

EXHIBIT



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B
 EXHIBIT

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S.H. 186

NO.	DESCRIPTION	QTY.	UNIT
1000001	Steel	1	PC
1000002	Steel	1	PC
1000003	Steel	1	PC
1000004	Steel	1	PC
1000005	Steel	1	PC
1000006	Steel	1	PC
1000007	Steel	1	PC
1000008	Steel	1	PC
1000009	Steel	1	PC
1000010	Steel	1	PC
1000011	Steel	1	PC
1000012	Steel	1	PC
1000013	Steel	1	PC
1000014	Steel	1	PC
1000015	Steel	1	PC
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1000019	Steel	1	PC
1000020	Steel	1	PC

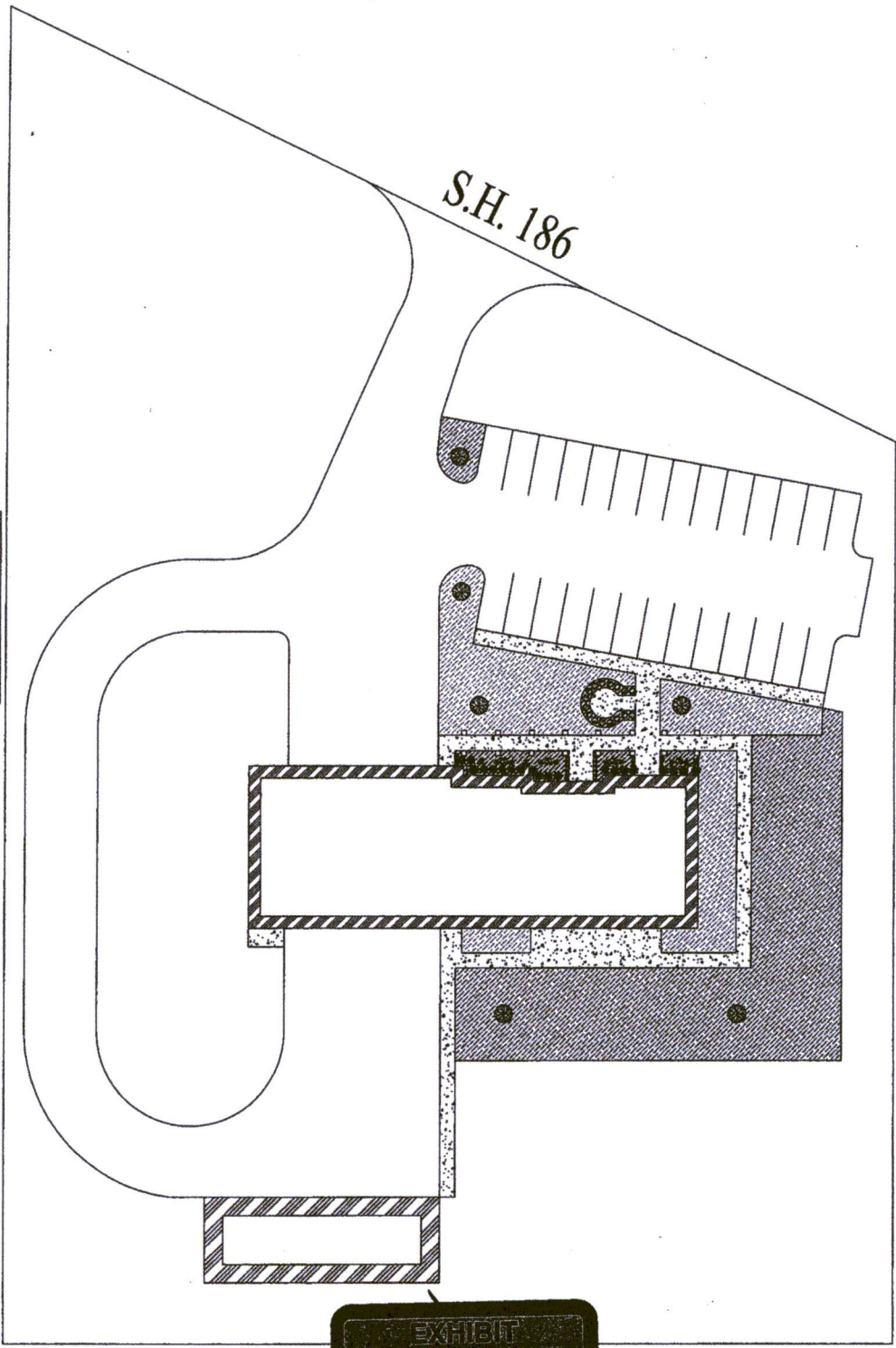


EXHIBIT
B-1

Handwritten signature

