



VILLAGE OF MAGDALENA
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AGENDA

NOTICE OF REGULAR MEETING OF THE VILLAGE OF MAGDALENA BOARD OF TRUSTEES

MONDAY, FEBRUARY 26, 2018

VILLAGE HALL 108 N. MAIN STREET 6:00 PM

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. APPROVAL OF AGENDA**
- 5. APPROVAL OF MINUTES**
 - a. REGULAR MEETING – FEBRUARY 12, 2018**
- 6. APPROVAL OF CASH BALANCE REPORT**
- 7. APPROVAL OF BILLS**
- 8. MAYOR'S REPORT**
 - a. SCIENCE FAIR WINNERS & PARTICIPANTS**
- 9. CLERK'S REPORT**
- 10. MAGDALENA ROBOTICS – WATER CONSERVATION PROPOSAL AND DISCUSSION**
- 11. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF ENGINEERING CONTRACT BETWEEN THE VILLAGE OF MAGDALENA AND KSA ENGINEERS**
- 12. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF ESTIMATE TO REPAIR MARSHAL'S OFFICE**
- 13. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL TO PLACE THE FOLLOWING EQUIPMENT UP FOR SEALED BID**
 - a. 1989 INTERNATIONAL DUMP TRUCK (1)**
 - b. GENERATORS (2)**
- 14. PUBLIC INPUT – 1 TOPIC PER PERSON – 3 MINUTE LIMIT**
- 15. ADJOURNMENT**

NOTE: THIS AGENDA IS SUBJECT TO REVISION UP TO 72 HOURS PRIOR TO THE SCHEDULED MEETING DATE AND TIME (NASA 10-15-1 P). A COPY OF THE AGENDA MAY BE PICKED UP AT THE VILLAGE OFFICE, 108 N. MAIN STREET, MAGDALENA, NM 87825. IF YOU ARE AN INDIVIDUAL WITH A DISABILITY WHO IS IN NEED OF A READER, AMPLIFIER, QUALIFIED SIGN LANGUAGE INTERPRETER OR ANY OTHER FORM OF AUXILIARY AID OR SERVICE TO ATTEND OR PARTICIPATE IN THE MEETING, PLEASE CONTACT THE VILLAGE CLERK AT 575-854-2261 AT LEAST ONE WEEK PRIOR TO THE MEETING OR AS SOON AS POSSIBLE.

**Minutes of the Regular Meeting of the Village of Magdalena
Board of Trustees
Held Monday, February 12, 2018 at 6:00 p.m.**

DRAFT

Mayor Richard Rumpf called the meeting to order at 6:01 p.m.

Present: Mayor Richard Rumpf, Lynda Middleton, James Nelson, Donna Dawson, Jose "Artie" Castanon, Stephanie Finch - Clerk/Treasurer, Attorney Kathy Riley

Guests: Stephen Troy, Karolyn Rolston, Ann Danielsen, John Larson, Abiel Carrillo, Mike Danielsen, Kayla Scartaccini, Jacob Finch, John Brannan, Larry Cearley, Athena Gassoumis, Sarita Johnson, Carleen Gomez - Deputy Clerk

Mayor Richard Rumpf requested that Mrs. Karolyn Rolston lead the gallery in reciting the Pledge of Allegiance.

Approval of Agenda: Mr. Castanon motioned to approve the agenda as presented, seconded by Ms. Dawson. The motion carried unanimously.

Approval of Minutes: Ms. Dawson motioned to approve the minutes of the Regular Meeting of the January 22, 2018, as presented, seconded by Mr. Castanon. The motion carried unanimously.

Approval of Cash Balance Report: Mrs. Middleton motioned to approve the cash balance report, as presented, seconded by Ms. Dawson. The motion carried unanimously.

Approval of Bills: Clerk Finch stated that she had a bill from Wex to add for fuel to Village vehicles and the tipping fees for July 2017.

Ms. Dawson motioned to approve the bills, as presented, seconded by Mr. Castanon. The motion carried unanimously.

Any Lab Test Now	\$850.00	Baker Utility Supply	\$1,337.42
City of Socorro	125.00	Creative Product Source	510.98
Eagle Wholesale Co.	119.65	EMS Billing Services	167.64
Gall's	105.91	Hall Environmental	48.38
Magdalena Schools	900.81	Merchants Automotive	384.09
Nance, Pato & Stout	636.00	Napa Auto Parts	35.30
NTS Communications	77.82	O'Reilly Auto Parts	24.99

Quill	1,197.34	Rak's Building Supply	232.99
Reliable Chevrolet	2,740.40	Romero's Tires	344.70
Serena Guerro	25.00	Sierra Propane	281.13
Socorro County	810.00	Socorro Electric	3,983.85
The Water & Ice Store	35.64	Tire Shop	60.00
Tractor Supply	297.59	Uline, Inc.	447.64
Verizon Wireless	1,045.47	WNM Communications	989.18
Wex Bank	1,485.99		

Mayor's Report

No report was given by Mayor Rumpf.

Clerk's Report

Clerk Finch stated that absentee voting by mail started on January 30th and early voting in person would begin on February 14th. She stated that early voting ends on March 2nd and election day is on Tuesday, March 6, 2018.

Department Reports

EMS

EMS Coordinator James Nelson stated that there had not been any EMS calls since the month of December.

FIRE

Fire Captain Richard Rumpf reported that there had not been any calls in the month of January. He reported that the new fire truck should be in in mid-June.

MARSHAL

Marshal Cearley submitted and reviewed a report with the Mayor and Board. He reported that there were 83 calls in the month of January 2018.

JUDGE

A report was submitted and reviewed by Municipal Judge Kayla Scartaccini. Judge Scartaccini reported that there were two cases in the month of January with a total of \$179.00 in fines and fees.

PUBLIC WORKS

A report was submitted by Utility Manager Jake Finch and reviewed with the Board and Mayor. Mr. Finch reported that water samples are being done monthly as always. He stated that after the main water break on Third and Main Street there was a water sample taken with no bacteria present. Mrs. Middleton praised the crew on the hard work that was done during the main water break.

LIBRARY/MUSEUM

A report was submitted by Librarian Yvonne Magener and reviewed by the Board.

Magdalena Robotics - Water Conservation Proposal And Discussion
Clerk Finch stated that this item would be on the February 26, 2018 agenda.

Steve Troy - Discussion & Possible Decision Regarding Approval To Sub-Divide Lot 17, Block 38

Mr. Steve Troy stated that he has a purchaser for his lots but is requesting approval to subdivide lot 17, block 38.

Ms. Dawson motioned to approve the request, seconded by Mr. Castanon.

Mayor Rumpf suggested that Clerk Finch request a roll call vote:

Mrs. Middleton	AYE
Mr. Nelson	AYE
Ms. Dawson	AYE
Mr. Castanon	AYE

The motion carried unanimously.

Karolyn Rolston - Discussion & Possible Decision Regarding Approval To Subdivide Lot 7,8 & 9, Block 16

Mrs. Karolyn Rolston stated that she is trying to separate her residential property from the commercial property and is requesting approval to subdivide lot 7, 8 & 9, block 16. Mrs. Rolston also requested that the Village draw up a letter to state that approval was given.

Mrs. Middleton motioned to approve the request, seconded by Ms. Dawson.

Mayor Rumpf suggested that Clerk Finch request a roll call vote:

Mrs. Middleton	AYE
Mr. Nelson	AYE
Ms. Dawson	AYE
Mr. Castanon	AYE

The motion carried unanimously.

Discussion & Possible Decision Regarding Approval Of Resolution No. 2018-01, NMDOT 2018 Annual Hardship Sale

Mayor Rumpf stated that the Annual Hardship Sale is very beneficial to the Village for vehicles and/or equipment.

Mrs. Middleton motioned to approve Resolution No. 2018-01,

seconded by Mr. Nelson.

Mayor Rumpf suggested that Clerk Finch request a roll call vote:

Mrs. Middleton AYE

Mr. Nelson AYE

Ms. Dawson AYE

Mr. Castanon AYE

The motion carried unanimously.

Public Input - 1 Topic Per Person - 3 Minute Limit

Ms. Sarita Johnson stated that it has been a very dry winter and she is already worried about fireworks for the Fourth of July.

Mayor Rumpf explained that a municipality cannot ban all fireworks but certain fireworks that fly above six feet can be. He stated that there is a deadline for doing this.

Ms. Athena Gassoumis introduced herself as being the local drug and alcohol Counselor. She stated that the new catch and release laws are the worst thing that could have happened. She stated that she provides assistance through Alamo and Socorro County and just wanted to give some public awareness and let people know that there is help out there.

Executive Session - 10-15-1(H) (2), Limited Personnel Matter

Ms. Dawson motioned to go into Executive Session to discuss limited personnel matters at 6:24 p.m., seconded by Mr. Castanon.

Mayor Rumpf suggested that Clerk Finch request a roll call vote:

Mrs. Middleton AYE

Mr. Nelson AYE

Ms. Dawson AYE

Mr. Castanon AYE

The motion carried unanimously.

a. Deputy Marshal

Mr. Nelson motioned to go back into regular session at 6:34 p.m. and certified that only limited personnel matters were discussed, and no decisions were made, seconded by Ms. Dawson.

Mayor Rumpf suggested that Clerk Finch request a roll call vote:

Mrs. Middleton AYE

Mr. Nelson AYE

Ms. Dawson AYE

Mr. Castanon AYE

The motion carried unanimously.

Discussion & Possible Decision Regarding Approval To Hire Deputy Marshal

Mayor Richard Rumpf presented the name of Mr. John Brannan for hire as Deputy Marshal. Mayor Rumpf asked Mr. Brannan to introduce himself and give some information on why he is interested in becoming a Deputy. Mr. Brannan stated that he is excited to work and help others. He gave some of his job background. He stated that he is a family man and has a wife and a six-month-old son. He stated that he loves to exercise. He added that he has two brothers and one uncle in Law Enforcement.

Ms. Dawson motioned to hire Mr. John Brannon as Deputy Marshal, seconded by Mr. Castanon.

Mayor Rumpf suggested that Clerk Finch request a roll call vote:

Mrs. Middleton	AYE
Mr. Nelson	AYE
Ms. Dawson	AYE
Mr. Castanon	AYE

The motion carried unanimously.

Ms. Dawson motioned to adjourn the meeting at 6:39 p.m., seconded by Mr. Castanon. The motion carried unanimously.

Respectfully Submitted,

Stephanie Finch, CPO
Clerk/Treasurer

Richard Rumpf
Mayor

Minutes Taken By:

Carleen Gomez, CMC
Deputy Clerk

Stephanie Finch

From: donotreply@godaddy.com
Sent: Tuesday, January 23, 2018 4:49 PM
To: Stephanie Finch
Subject: villageofmagdalena.com Request to be Placed on Agenda: Form Submission

Date of Meeting Requested:

02/26/2018

Name:

Magdalena Robotics

Phone

505.977.3134

Email:

jsauer@magdalena.k12.nm.us

Subject:

Water Conservation Proposal and Discussion

Item request will be:

Information Only, Discussion/Action

Brief description of topic to be discussed:

When the SnotBots (one of 3 First Lego League teams) discussed their project with two engineers grading their performance, it was advised that they schedule an information/discussion with the Magdalena Village Board. As part of the FLL competition, Water Conservation was central. The students had done some research on water usage and had to come up with an idea on how to help make their community stronger with respect to this resource. They have an idea that they believe you would find interesting.

Submitted File 1:

This message was submitted from your website contact form:

<https://www.villageofmagdalena.com/request-to-be-placed-on-agenda.html>

Use your free GoDaddy Email Marketing Starter account to follow up with contacts who agreed to receive email campaigns! Click [here](#) to get started.



**AGREEMENTS FOR ENGINEERING SERVICES
(Publicly Funded Project)**

THIS Agreement, made this 27th day of February, 2018 (effective date) by and between Village of Magdalena hereinafter referred to as the OWNER, and KSA Engineers hereinafter referred to as the ENGINEER. This contract expires on February 15, 2019.

The OWNER intends to construct a Project consisting of improvements to convert, to the extent that construction funding level allows, the Village's traditional water meters to an automatic meter reading (AMR), and/or automated meter infrastructure system (AMI) in three phases: Planning (Technical Memo to evaluate alternatives), Design ("Project manual and bidding documents with technical specifications) and Construction Management assistance (part time observation and closeout assistance). Topographic surveying, and production of construction drawings are excluded from this contract.

In the Village of Magdalena, in Socorro County, State of New Mexico, which may be paid for in part with financial assistance from the United States of America acting through the United States Department of Agriculture – Rural Development, hereinafter referred to as USDA-RD; and/or through the United States Environmental Protection Agency, hereinafter referred to as EPA; and/or the New Mexico Environment Department, hereinafter referred to as NMED; and/or the New Mexico Finance Authority, hereinafter referred to as NMFA; and/or the New Mexico Department of Finance, hereinafter referred to as DFA; all collectively referred to as the Funding Agency. Neither the United States or the State of New Mexico nor any of its departments, agencies, or employees is or will be a party to this Agreement or any subagreement. The ENGINEER agrees to perform the various professional engineering services for the planning, design, and construction of said Project in accordance with the provisions of this Agreement.

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ATTACHMENTS

- ☒ Attachment I – Insurance - required
- ☒ Attachment II - Engineering Services During the Planning Phase
Authorization to proceed date: This 6th day of March, 2018
Contract Time shall be 40 calendar days from Authorization to proceed date.
This phase expires on April 16th, 2018.
- ☒ Attachment III - Engineering Services During the Design Phase
Authorization to proceed date: This 17th day of April, 2018
Contract Time shall be 100 calendar days from Authorization to proceed date.
This phase expires on June 15th, 2018.

☒ Attachment IV - Engineering Services During the Construction Phase
Authorization to proceed date: This 18th day of June, 2018
Contract Time shall be 160 calendar days from Authorization to proceed date.
This phase expires on August 15th, 2018.

☐ Attachment V - Engineering Services During the Operation Phase
Authorization to proceed date: This _____ day of _____, 20_____
Contract Time shall be _____ calendar days from Authorization to proceed date.
This phase expires on _____.

☐ Attachment VI – Amendments to Agreements for Engineering Services
Authorization to proceed date: This _____ day of _____, 20_____
Contract Time shall be _____ calendar days from Authorization to proceed date.
This phase expires on _____.

☒ Attachment VII - Man-Hour Estimate Basis for Time and Material Budgets
prepared by KSA, including notes and exclusions.

SECTION A – GENERAL PROVISIONS

1. General

(a) This Agreement represents the entire and integrated Agreement between the OWNER and the ENGINEER for the Project and supersedes all prior negotiations, representations or agreements, either written or oral. In the event, any provisions of this Agreement or any subsequent amendment shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party. The General provisions of this Agreement supersede any conflicting SPECIAL PROVISIONS.

(b) The OWNER and the ENGINEER each is bound and the partners, successors, executors, administrators and legal representatives of the OWNER and the ENGINEER are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives of such other party, in respect to all covenants, agreements, and obligations of the Agreement. Neither the OWNER nor the ENGINEER may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in the Agreement without written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent of an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Unless expressly provided otherwise in this Agreement:

(1) Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by the OWNER or the ENGINEER to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them; and

(2) All duties and responsibilities undertaken pursuant to this Agreement will be for sole and exclusive benefit of the OWNER and the ENGINEER and not for the benefit of any other party.

(c) The ENGINEER will work closely with the OWNER to confirm all Funding Agency requirements are met.

(d) The ENGINEER will attend conferences and public hearings with the OWNER, at which representatives of the Funding Agency and interested parties will also be in attendance, and provide assistance in connection with such undertakings as provided for in the scope of work detailed in the Attachments.

2. Approvals

(a) This Agreement shall not become effective until reviewed and approved by the Funding Agency. Such approval shall be evidenced by the signature of a duly authorized representative of the Funding Agency in the space provided in the Attachments to this Agreement. The approval shall in no way commit the Funding Agency to render financial assistance to the OWNER. The Funding Agency is without liability for any payment hereunder, but in the event such assistance is provided, the approval shall signify that the provisions of this Agreement are consistent with the requirements of the Funding Agency.

(b) Review or approval of documents by or for the Funding Agency under this Agreement is

for administrative purposes only and does not relieve the ENGINEER or OWNER of their responsibilities to design, construct and operate the Project as required under law, regulations, permits and good management practices.

3. Responsibilities of the ENGINEER

(a) The ENGINEER shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of design drawings, specifications, reports, and other services furnished by the ENGINEER under this Agreement. If this Agreement involves environmental measures or data generation, the ENGINEER shall comply with EPA quality assurance requirements that can be found on their website at <http://www.epa.gov/quality/index.html>. The ENGINEER shall keep the OWNER informed of the performance of the ENGINEER'S duties under this Agreement. The ENGINEER shall, promptly and without additional compensation, correct or revise errors or omissions in the design drawings, specifications, reports, and other services provided by ENGINEER under terms of this Agreement.

(b) The ENGINEER shall perform the professional services necessary to accomplish the work specified in this Agreement, in accordance with this Agreement and applicable Funding Agency requirements in effect on the date of execution of any assistance agreement for this Project.

(c) The OWNER or Funding Agency review or approval of design drawings, specifications, reports, and other services furnished hereunder shall not in any way relieve the ENGINEER of responsibility for the technical adequacy of the work. Neither the OWNER nor Funding Agency review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of action arising out to the performance of this Agreement.

(d) The ENGINEER shall be, and shall remain, liable to the proportionate extent, in accordance with applicable law, for damages to the OWNER caused by the ENGINEER's negligent performance of any of the services furnished under this Agreement, except for errors, omissions or other deficiencies to the extent attributable to the OWNER or OWNER-furnished data. The ENGINEER shall not be responsible for any time delays in the Project caused by circumstances beyond the ENGINEER'S control.

(e) The ENGINEER'S opinions of probable Construction Cost are to be made on the basis of the ENGINEER'S experience and qualifications and represent ENGINEER'S best judgment as an experienced and qualified professional generally familiar with the construction industry. However, since the ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over Contractor's methods of determining prices, or over competitive bidding or market conditions, the ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost and project schedules will not vary from opinions of probable Construction Cost prepared by the ENGINEER. If the OWNER wishes greater assurance as to probable Construction Cost, the OWNER shall employ an independent cost estimator.

(f) During the Construction Phase, the ENGINEER shall not at any time supervise, direct, or have control over the Contractor's work, nor shall the ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by the Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of the Contractor to

comply with Laws and Regulations applicable to the Contractor's furnishing and performing the Work.

(g) The standard of care of all professional engineering and related services performed or furnished by the ENGINEER under this Agreement will be the care and skill ordinarily used by members of subject profession practicing under similar circumstances at the same time and in the same locality. The ENGINEER makes no warranties, expressed or implied, under this Agreement or otherwise, in connection with the ENGINEER'S services.

(h) The ENGINEER's obligations under this clause are in addition to the ENGINEER's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that the OWNER may have against the ENGINEER for faulty materials, equipment, or work.

4. Responsibilities of the OWNER

(a) The OWNER shall designate in writing a person authorized to act as the OWNER's representative. The OWNER or its representative shall receive and examine documents submitted by the ENGINEER, interpret and define the OWNER's policies and render decisions and authorizations promptly in writing.

(b) The OWNER shall be responsible for, and the ENGINEER may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by the OWNER to the ENGINEER pursuant to this Agreement. The ENGINEER may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement without responsibility for verifying accuracy of the OWNER furnished data and information.

(c) The OWNER shall provide to the ENGINEER full and free access to enter upon all property required for the performance of the ENGINEER's services under this Agreement.

(d) The OWNER may make and retain copies of documents for information and reference in connection with use on the Project by the OWNER. Such documents are not intended or represented to be suitable for reuse by the OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by the ENGINEER will be at the OWNER's sole risk and without liability or legal exposure to the ENGINEER. Any verification or adaptation as stated above, will entitle the ENGINEER to further compensation at rates to be agreed upon by the OWNER and the ENGINEER.

5. Changes

(a) The OWNER and the ENGINEER may, at any time, with prior approval of the Funding Agency, make changes within the general scope of this Agreement in the services or work to be performed. Any such change must be in writing and approved by both parties to this Agreement. If such changes cause an increase or decrease in the ENGINEER's cost or time required to perform any services under this Agreement, whether or not changed by any order, the OWNER shall make an equitable adjustment and modify this Agreement in writing. The ENGINEER must assert any claim for adjustment under this clause in writing within thirty (30) calendar days from the date it receives the OWNER's notification of change, unless the OWNER grants additional time before the date of final payment.

(b) No services for which the ENGINEER will charge an additional compensation shall be furnished without the written authorization of the OWNER.

(c) All changes to the scope, cost or time of this Agreement and services described in the Attachments must be in writing and documented in Attachment VI – Amendment to Agreements for Engineering Services.

6. Termination of Contract

(a) This Agreement may be terminated in whole or in part by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party. Any termination must be in writing. No such termination may be effected unless the other party is given: 1) not less than fourteen (14) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and 2) an opportunity to cure the default with the terminating party before termination.

(b) This Agreement may be terminated in whole or in part in writing by the OWNER for its convenience, provided that the ENGINEER is given: 1) not less than fourteen (14) calendar days written notice (delivered by certified, return receipt requested) of intent to terminate; and 2) an opportunity for consultation with the OWNER prior to termination.

(c) If termination for default is effected by the OWNER, an equitable adjustment in the price provided for in this agreement shall be made, but: 1) no amount shall be allowed for anticipated profit on unperformed services or other work; and 2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER's default. If the ENGINEER effects termination for default, or if the OWNER effects termination for convenience, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.

(d) Upon receipt of a termination action under paragraphs (a) or (b) above, the ENGINEER shall: 1) promptly discontinue all affected work (unless the notice directs otherwise); and 2) deliver or otherwise make available to the OWNER within fourteen (14) calendar days copies of all data, design drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the ENGINEER in performing this Agreement, whether completed or in process.

(e) Upon termination under paragraphs (a) or (b) above, the OWNER may take over the work and may award another party an Agreement to complete the work under this Agreement.

(f) If, after termination for failure of the ENGINEER to fulfill contractual obligations, it is determined that the ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the OWNER. In such event, adjustment of the Agreement price shall be made as provided in paragraph 6(c) of this clause.

7. Payment

(a) The ENGINEER will submit to the OWNER for services rendered an itemized bill showing charges for such services accompanied by any additional documentation requested by the OWNER. Such invoices are limited to no more than one per month. Compensation will be based on the lump sum or standard hourly rate with a maximum method of payment as detailed

in the Attachments.

(b) The OWNER shall pay the ENGINEER applicable gross receipt taxes and reimbursable expenses at the rates set forth in the appropriate Attachment. The amounts payable to the ENGINEER for reimbursable expenses will be the project-related internal expenses, such as reproduction, and all invoiced external reimbursable expenses allocatable to the project, including consultants, multiplied by a factor of 1.1 (as already accounted for in man-hour breakdown) (1.1 MAXIMUM). Mileage will be reimbursed at the current federally approved IRS rate. Mileage and per diem will not be multiplied by a factor. Reimbursable expenses shall not exceed the estimate in the Attachments without prior written approval of the OWNER, with Funding Agency concurrence. Copies of invoices from consultants, mileage logs, and receipts for which the ENGINEER is requesting reimbursement must accompany the ENGINEER'S invoice.

(c) The OWNER shall notify the ENGINEER of any disputed amounts in the invoices within fourteen (14) calendar days of receipt. If the OWNER contests an invoice, the OWNER may withhold only that portion so contested, and must pay the undisputed portion.

(d) Final Payment under this Agreement, or settlement upon termination of this Agreement, shall not constitute a waiver of the OWNER's claims against the ENGINEER under this Agreement.

(e) If the OWNER fails to make any payment due to the ENGINEER within forty-five (45) calendar days after the OWNER's receipt of the ENGINEER's invoice, the amount due to the ENGINEER shall be increased at the rate of 1.5% per month from said forty-fifth day. Any payment of interest under this contract is not reimbursable from grant or loan funds. In addition, after ten (10) calendar days' prior written notice, the ENGINEER may suspend services under this Agreement until the ENGINEER is paid in full. The OWNER waives any and all claims against the ENGINEER for any such suspension.

8. Time

(a) PROGRESS AND COMPLETION

1. The ENGINEER has prepared and the OWNER has approved a schedule for the performance of the ENGINEER's services. This schedule is reflected in the contract time(s) as detailed in the Attachment(s) and represents reasonable times in which to complete the services. The schedule includes reasonable times required for the OWNER and other applicable parties to the agreement to provide necessary information, provide any applicable services not included in the ENGINEER's Scope of Work and make decisions necessary for completion of the work. The schedule also includes reasonable allowances for review and approval times required by the OWNER and by public authorities having jurisdiction over the Project. The schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by the OWNER, or for delays or other causes beyond the ENGINEER's reasonable control.
2. The ENGINEER shall proceed expeditiously, consistent with professional skills, with adequate forces to achieve completion within the Contract Time.
3. The OWNER shall not be liable to the ENGINEER for additional time or money if the ENGINEER submits a progress report expressing an intention to achieve completion of

the Work prior to the Contract Time and then is not able to achieve intended accelerated schedule regardless of the reason.

4. If the ENGINEER is delayed at any time in the commencement or progress of the Work by an act or negligence of the OWNER, changes in the Work as agreed upon by the OWNER and the ENGINEER in writing, or other causes beyond the ENGINEER'S control, then the Contract Time may be extended per Section 5 of this Agreement. Extensions of time not associated with modifications or changes to the Work shall not be allowed to increase the Contract amount for overhead or for any other reason and shall strictly apply toward liquidated damages, as found in Subsection (b) of this Section.
5. The ENGINEER shall promptly notify the OWNER in writing of any conditions that may delay delivery of work beyond the Contract Time.
6. The OWNER shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the ENGINEER'S performance of its Services.

(b) CONTRACT TIME AND LIQUIDATED DAMAGES

1. The ENGINEER agrees that the Services being provided under this Agreement will be performed regularly, diligently and without interruption at such rate of progress as will provide for completion within the Contract Time. It is expressly understood and agreed, by and between the ENGINEER and the OWNER, that the Contract Time is a reasonable time for completion of the Services, taking into consideration the usual conditions for performing the Services. The ENGINEER agrees to promptly notify the OWNER of delays in completing the services under this Agreement that are beyond ENGINEER'S control and for which a Contract Time extension will be requested. If the ENGINEER neglects, fails, or refuses to complete the Services within the Contract Time, including any time extension granted by the OWNER, then the ENGINEER agrees to pay the OWNER the amount specified in the Attachments, not as a penalty, but as liquidated damages.
2. The parties agree that the amount of the likely damages to the OWNER for such delay is difficult to ascertain at the time of execution of this Agreement, but that a reasonable estimate of such damages may be deducted from any monthly payments due to the ENGINEER, or from other monies being withheld from the ENGINEER, when a reasonable estimate of the expected date of completion can be determined by the OWNER.
3. Final accounting of liquidated damages shall be determined at completion and the ENGINEER shall be liable for any liquidated damages over and above unpaid balances held by the OWNER.
4. The OWNER and the ENGINEER agree that reasonable liquidated damages for delay (but not as a penalty) due from the ENGINEER to the OWNER are \$100 (minimum one-hundred dollars [\$100.00] per day) for each calendar day that expires after the Contract Time specified in the Agreement until the Work is complete and accepted by the OWNER. The OWNER shall have no more than ten (10) calendar days to accept or reject the Work.

9. Project Design

Unless otherwise approved by the OWNER and Funding Agency, the ENGINEER shall specify materials, equipment, and processes that are readily available through competitive procurement and consistent with State and Federal regulations.

10. Audits and Access to Records

(a) The ENGINEER shall maintain books, records, documents, and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied, and Funding Agency regulations in effect on the date of execution of this Agreement. The ENGINEER shall also maintain the financial information and data used by the ENGINEER in the preparation of the cost submission required under EPA regulations in effect on the date of execution for any negotiated agreement or amendment thereof, and a copy of the cost summary submitted to the OWNER. The Funding Agency, the Comptroller General of the United States, the U.S. Department of Labor, the OWNER, and the State water pollution control agency, or their duly authorized representatives, shall have access to such books, records, documents, and other evidence for inspection, audit, and copying during normal business hours. The ENGINEER will provide proper facilities for such access and inspection.

(b) The ENGINEER agrees to make paragraphs (a) through (f) applicable to agreements it awards in excess of \$10,000, at any tier, and to make paragraphs (a) through (f) of this clause applicable to all amendments directly related to Project performance.

(c) Audits conducted under this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies) and the General Accounting Office.

(d) The ENGINEER agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause to any of the agencies referred to in paragraph (a) upon their request.

(e) Records under paragraphs (a) and (b) above shall be maintained and made available by the ENGINEER during performance of services under this Agreement and for three (3) years from the date of final Federal/State assistance payment to the OWNER for the Project. In addition, those records which relate to any controversy arising under this Agreement, litigation, the settlement of claims arising out of such performance or to costs or items to which an audit exception has been taken shall be maintained and made available by the ENGINEER until three (3) years after the date of resolution of such appeal, litigation, claim or exception.

(f) This right of access clause applies to financial records pertaining to agreements (except formally advertised, competitively awarded, fixed price agreements) and agreement amendments regardless of the type of agreement. In addition, this right of access applies to records pertaining to all agreements and agreement amendments:

1. To the extent the records pertain directly to Agreement performance; or
2. If there is any indication that fraud, gross abuse or corrupt practices may be involved; or
3. If the Agreement is terminated for default or for convenience.

11. Subcontracts

(a) Any subcontractors and outside associates or consultants required by the ENGINEER in connection with services under this Agreement will be limited to such individuals or firms as were specifically identified and agreed to during negotiations of this Agreement. The OWNER must give prior approval for any substitutions, additions or deletions to such subcontractors, associates, or consultants but will not dictate whom the ENGINEER must hire.

(b) The ENGINEER may not subcontract services to subcontractors or consultants in excess of thirty (30) percent of the total phased compensation due to the ENGINEER and detailed in the Attachments without prior written approval of the OWNER and funding agency.

12. Insurance

The ENGINEER agrees to obtain and maintain, at their expense, such insurance as specified in Attachment I.

13. Environmental Condition of Site

(a) The OWNER has disclosed to the ENGINEER in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.

(b) The OWNER represents to the ENGINEER that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to the ENGINEER, exist at the Site.

(c) If the ENGINEER encounters an undisclosed Constituent of Concern, then the ENGINEER shall notify: 1) the OWNER; and 2) appropriate governmental officials if the ENGINEER reasonably concludes that doing so is required by applicable Laws or Regulations.

(d) It is acknowledged by both parties that the ENGINEER'S scope of services does not include any services related to Constituents of Concern. If the ENGINEER or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then the ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until the OWNER: 1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and 2) warrants that the Site is in full compliance with applicable Laws and Regulations.

(e) If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of the ENGINEER'S services under this Agreement, then the ENGINEER shall have the option of: 1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or 2) terminating this Agreement for cause on 30 calendar days' notice.

(f) Owner acknowledges that the ENGINEER is performing professional services for the OWNER and that the ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with the ENGINEER'S activities under this Agreement.

14. Mutual Waiver

To the fullest extent permitted by law, the OWNER and the ENGINEER waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

15. Independent Contractor

The ENGINEER will, at all times during the performance of this Agreement and in connection with the Services, be deemed to be an Independent Contractor. No relationship of employer-employee or agency or other fiduciary capacity is created by this Agreement or by the ENGINEER'S performance of the Services.

16. Equal Employment Opportunity

The ENGINEER shall comply with U.S. Executive Order 11246, entitled "Equal Employment Opportunity", as amended by U.S. Executive Order 11375, and as supplemented in Department of Labor regulations 41 CFR Part 60.

17. Gratuities

(a) If the OWNER find that the ENGINEER or any of the ENGINEER's agents or representatives offered or gave gratuities (in the form of entertainment, gifts, or otherwise), to any official, employee, or agent of the OWNER or the Funding Agency in an attempt to secure this Agreement, or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, the OWNER may, by written notice to the ENGINEER, terminate this Agreement. The OWNER may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which the OWNER bases such findings shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

(b) In the event this Agreement is terminated as provided in Subsection (a) of this Section, the OWNER may pursue the same remedies against the ENGINEER as it could pursue in the event of a breach of the Agreement by the ENGINEER. As a penalty, in addition to any other damages to which it may be entitled by law, the OWNER may pursue exemplary damages in an amount (as determined by the OWNER) which shall be not less than three nor more than ten times the costs the ENGINEER incurs in providing any such gratuities to any such officer or employee.

18. Covenant Against Contingent Fees

The ENGINEER represents that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the ENGINEER for the purpose of securing business. For breach or violation of this assurance the OWNER shall have the right to annul this Agreement without liability or, at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fees.

19. Cost and Pricing Data on Federally-funded Projects (delete section if not applicable)

The ENGINEER and its subcontractor(s) confirm that cost and pricing data submitted for evaluation with respect to negotiation of prices for negotiated agreements, lower tier subagreements, or amendments are based on current, accurate, and complete data supported by their books and records. If the OWNER, or Funding Agency determines that any price (including profit) negotiated in connection with this Agreement, any lower tier subagreement, or any amendment thereunder was increased by any significant sums because the data provided was incomplete, inaccurate, or not current at the time of submission, then such price or cost or profit shall be reduced accordingly; and this Agreement shall be modified in writing to reflect such action. Failure to agree on a reduction shall be subject to the Remedies clause of this Agreement.

20. Remedies

Unless otherwise provided in this Agreement, all claims, counter-claims, disputes, and other matters in question between the OWNER and the ENGINEER arising out of or relating to this Agreement or the breach of it will be decided by non-binding mediation or arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the OWNER is located.

21. Assurance Against Debarment

The ENGINEER confirms that it and its subcontractors have not been suspended or debarred by EPA, USDA, or the State of New Mexico.

SECTION B –ENGINEERING SERVICES

The ENGINEER shall furnish ENGINEERING SERVICES as follows in accordance with the GENERAL PROVISIONS of the Agreement and as authorized by the appropriate Attachment to this Agreement:

1. The ENGINEER shall complete the ENGINEERING SERVICES described in Attachment II – Engineering Services During the Planning Phase within the time specified from the date of written authorization to proceed unless otherwise mutually agreed to in writing by both parties.
2. The ENGINEER shall complete the ENGINEERING SERVICES described in Attachment III – Engineering Services During the Design Phase within the time specified from the date of written authorization to proceed unless otherwise mutually agreed to in writing by both parties.
3. ENGINEER shall complete the ENGINEER SERVICES described in Attachment IV – Engineering Services During the Construction Phase within the time specified from the date of written authorization to proceed unless otherwise mutually agreed to by both parties.
4. The ENGINEER shall complete the ENGINEERING SERVICES described in Attachment V – Engineering Services During the Operation Phase within the time specified from the date of written authorization to proceed unless otherwise mutually agreed to in writing by both parties.

SECTION C – SPECIAL PROVISIONS OR MODIFICATIONS TO THE STANDARD LANGUAGE IN THIS AGREEMENT

(Mark those that apply or describe, attach or indicate "None")

☐ None

☐ For Planning Grant Funds from NMFA Insert the note: For Preliminary Engineering Reports or other documents paid for using NMFA Planning Grant Funds, the community can only submit one reimbursement request. This request for payment must be based on a final invoice and can only occur after the document is approved by the pertinent reviewing agency. Interim payments to the engineer will be at the discretion of the community as agreed upon in this contract.

☐ The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the OWNER may immediately terminate this Agreement by giving the ENGINEER written notice of such termination. The OWNER's decision as to whether sufficient appropriations are available shall be accepted by the ENGINEER and shall be final. The ENGINEER hereby waives any rights to assert an Impairment of contract claim against the OWNER or NMED or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the OWNER or the Department

☐ This contract is funded in whole or in part by funds made available under a NMED Grant Agreement. Should the NMED early terminate the grant agreement, the OWNER may early terminate this contract by providing the ENGINEER written notice of such termination. In the event of termination pursuant to this paragraph, the OWNER's only liability shall be to pay the ENGINEER or vendor for acceptable goods delivered and services rendered before the termination date.

☒ **MODEL CONTRACT CLAUSE FOR ENGINEERING AGREEMENTS**
used for Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF) projects.

1. PRIVACY OF CONTRACT

This contract is expected to be funded in part with funds from the U.S. Environmental Protection Agency. Neither the United States nor any of its departments, agencies or employees is, or will be, a party to this contract or any lower tier contract. This contract is subject to the applicable EPA procurement regulations in effect on the date of the assistance award for this project.

2. CHANGES

1. The OWNER may at any time, by written order make changes within the general scope of this contract in the services to be performed. If such changes cause an increase or decrease in the ENGINEER'S cost or time required to perform any services under this contract, whether or

not changed by any order, the OWNER shall make an equitable adjustment and modify this contract in writing. The ENGINEER must assert any claim for adjustment under this clause in writing within 30 days from the date it receives the OWNER'S notification of change, unless the OWNER grants additional time before the date of final payment.

2. No claim by the ENGINEER for an equitable adjustment shall be allowed if made after final payment under this contract.

3. No services for which the ENGINEER will charge an additional compensation shall be furnished without the written authorization of the OWNER.

3. TERMINATION

a. This contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of Intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

b. This contract may be terminated in whole or in part in writing by the OWNER for its convenience, provided that the ENGINEER is given: 1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of Intent to terminate, and; 2) an opportunity for consultation with the terminating party prior to termination.

c. If termination for default is effected by the OWNER, an equitable adjustment in the price provided for in this contract shall be made, but: 1) no amount shall be allowed for anticipated profit on unperformed services or other work; and 2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER'S default. If the ENGINEER effects termination for default, or if the OWNER effects termination for convenience, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.

d. Upon receipt of a termination action under paragraphs (a) or (b) above, the Engineer shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the Owner all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Engineer in performing this contract, whether completed or in process.

e. Upon termination under paragraphs (a) or (b) above, the Owner may take over the work and may award another party a contract to complete the work under this contract.

f. If, after termination for failure of the Engineer to fulfill contractual obligations, it is determined that the Engineer had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the Owner. In such event, adjustment of the sub-agreement price shall be made as provided in paragraph (c) of this clause.

4. REMEDIES

Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the OWNER and the ENGINEER arising out of, or relating to, this contract or the breach of it will be decided, if the parties mutually agree, by arbitration, mediation, or other alternative dispute resolution mechanism; or in a court of competent jurisdiction within the State in which the OWNER is located.

5. AUDIT: ACCESS TO RECORDS

a. The ENGINEER shall maintain books, records, documents and other evidence directly pertinent to performance on EPA funded work under this contract in accordance with generally accepted accounting principles and practices consistently applied, and the applicable EPA regulations in effect on the date of execution of this contract. The ENGINEER shall also maintain the financial information and data used in the preparation or support of any cost submission required under applicable regulations for negotiated contracts or change orders and a copy of the cost summary submitted to the OWNER. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, the OWNER, and [the State] or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. The ENGINEER will provide proper facilities for such access and inspection.

b. If this is a fixed price contract awarded through sealed bidding or otherwise on the basis of effective price competition, the ENGINEER agrees to make paragraphs (a) through (f) of this clause applicable to all negotiated change orders and contract amendments affecting the contract price. In the case of all other types of prime contracts, the ENGINEER agrees to make paragraphs (a) through (f) applicable to all contract awards in excess of \$10,000, at any tier, and to make paragraphs (a) through (f) of this clause applicable to all change orders directly related to project performance.

c. Audits conducted under this provision shall be in accordance with generally accepted auditing standards and with established procedures and guidelines of the reviewing or audit agency(ies).

d. The ENGINEER agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause to any of the agencies referred to in paragraph (a).

e. Access to records is not limited to the required retention periods. The authorized representatives designated in paragraph (a) of this clause shall have access to records at any reasonable time for as long as the records are maintained.

f. This right of access clause applies to financial records pertaining to all contracts (except for fixed price contracts awarded through sealed bidding or otherwise on the basis of effective price competition) and all contract change orders regardless of the type of contract, and all contract amendments regardless of the type of contract. In addition, this right of access applies to all records pertaining to all contracts, contract change orders and contract amendments:

1. To the extent the records pertain directly to contract performance;
2. If there is any indication that fraud, gross abuse or corrupt practices may be involved; or

3. If the sub-agreement is terminated for default or for convenience.

6. COVENANT AGAINST CONTINGENT FEES

The ENGINEER assures that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the ENGINEER for the purpose of securing business. For breach or violation of this assurance, the OWNER shall have the right to annul this agreement without liability or, at its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

7. GRATUITIES

a. If the OWNER finds after a notice and hearing that the ENGINEER or any of the ENGINEER'S agents or representatives offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the OWNER, the State or EPA in an attempt to secure a contract or favorable treatment in awarding, amending or making any determinations related to the performance of this contract, the OWNER may, by written notice to the ENGINEER, terminate this contract. The OWNER may also pursue other rights and remedies that the law or this contract provides.

b. In the event this contract is terminated as provided in paragraph (a), the OWNER may pursue the same remedies against the ENGINEER as it could pursue in the event of a breach of the contract by the ENGINEER, and as a penalty, in addition to any other damages to which it may be entitled by law, be entitled to exemplary damages in an amount (as determined by the Owner) which shall be not less than three nor more than ten times the costs the ENGINEER incurs in providing any such gratuities to any such officer or employee.

8. FINAL PAYMENT

Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract or as a termination settlement under this contract the ENGINEER shall execute and deliver to the OWNER a release of all claims against the OWNER arising under, or by virtue of, this contract, except claims which are specifically exempted by the ENGINEER to be set forth therein. Unless otherwise provided in this contract, by State law or otherwise expressly agreed to by the parties to this contract, final payment under this contract or settlement upon termination of this contract shall not constitute a waiver of the OWNER'S claims against the ENGINEER under this contract.

9. 40 CFR Part 33

The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in termination of this contract or other legal available remedies.

IN WITNESS THEREOF, the parties hereto have executed, or caused to be executed, by their duly authorized officials, this Agreement on the respective dates indicated below.
The parties further certify by their signatures below that no modifications have been made to the standard language of this Agreement, other than those detailed in Section C.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: _____ Date: _____
OWNER
Type Name Honorable Richard Rumpf
Title Mayor

By: _____ Date: _____
ENGINEER
Type Name Mitchell L. Fortner, PE
Title President
Address 140 E Tyler Street
Ste 600
Longview, TX, 75601

REVIEWED AND APPROVED: FUNDING AGENCY

AGENCY NAME: _____

By _____

Type Name _____

Date _____

ATTACHMENT I – Insurance

The ENGINEER agrees to obtain and maintain, at the ENGINEER's expense, such insurance as will protect the ENGINEER from claims under the Workman's Compensation Act and such comprehensive general liability and automobile insurance as will protect the OWNER and the ENGINEER from all claims for bodily injury, death, or property damage which may arise from the performance by the ENGINEER, or by the ENGINEER's employees, for the ENGINEER's functions and services required under this Agreement. Such insurance shall be in an amount not less than \$AS LISTED IN CERTIFICATE for injury to any one person and \$AS LISTED IN CERTIFICATE on account of any one accident and in the amount of not less than \$AS LISTED IN CERTIFICATE for property damage. The ENGINEER further agrees to procure and maintain professional liability (errors and omissions) insurance in an amount not less than \$AS LISTED IN CERTIFICATE per claim and in the aggregate. Prior to commencement of any work, the ENGINEER shall furnish to the OWNER a certificate that complies with this paragraph. The certificate shall provide that the policy shall not be canceled until at least ten (10) calendar days prior written notice shall have been given to the OWNER. ENGINEER shall provide annual updates of the certificate to demonstrate the policy remains in effect for the duration of this Agreement.

ATTACHMENT II – Engineering Services During the Planning Phase

1. As set forth in the AGREEMENT FOR ENGINEERING SERVICES dated the 27th day of February, 2018 (effective date) by and between the Village of Magdalena, the OWNER, and KSA Engineers, the ENGINEER, the OWNER and ENGINEER agree this 6th day of March, 2018 (authorization to proceed date) that ENGINEER shall furnish ENGINEERING SERVICES During the Planning Phase in accordance with the GENERAL PROVISIONS of the Agreement and OWNER shall compensate the ENGINEER for services described as set forth below:

A. Perform or provide the following tasks and/or deliverables:

Produce a Technical Memo that explores AMR/AMI alternatives with the intent to recommend a system, in concept, that will accomplish the goal of the project intent (to develop an AMI or AMR upgrade from existing conditions). The memo will evaluate elements such as capital cost, maintenance costs, operational benefits and challenges, and compliance with existing system layout and specifications. The effort includes presenting results to Staff and Board of Trustees for confirmation of recommended alternative. Contract time assumes that planning phase effort is concluded after the resolution by the Board to proceed with an alternative (within two consecutive Board meetings). KSA does not control the "accepted by the owner" listed in Item D below.

B. Cost Proposal – Include hourly breakdown for each task

\$15,275 Lump Sum

See Attachment VII (Manhour Breakdown)

C. Reimbursable Expense Schedule

Mileage, Printing and Supplies as estimated in Attachment VII

D. Contract Time shall be 40 calendar days from the date of the OWNERS signature on Attachment II. Planning phase services shall be completed and accepted by the OWNER by April 16th (DATE). If planning phase services have not been completed and accepted by April 16th the ENGINEER shall pay the OWNER liquidated damages as outlined in the Agreement.

2. Compensation for ENGINEERING SERVICES During the Planning Phase shall be by the

☒ **LUMP SUM** method of payment. The total amount of compensation for ENGINEERING SERVICES During the Planning Phase, as described, including reimbursable expenses shall not exceed \$15,275, excluding gross receipt tax.

☐ **STANDARD HOURLY RATE WITH MAXIMUM** method of payment. The total amount of hourly charges, including reimbursables, for ENGINEERING SERVICES During the Planning Phase, as described, shall not exceed \$_____, excluding gross receipt tax, without prior written approval of the OWNER, with Funding Agency concurrence.

3. The amount of compensation shall not change unless the scope of services to be provided by the ENGINEER changes and this Agreement is formally amended according to Section A-5.

4. Signatures

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: _____ Date: _____
OWNER
Type Name Honorable Richard Rumpf
Title Mayor

By: _____ Date: _____
ENGINEER
Type Name Mitchell L. Fortner
Title President
Address 140 E Tyler St Ste 600
Longview, TX, 75601

REVIEWED AND APPROVED: FUNDING AGENCY
AGENCY NAME: _____

By _____
Type Name _____
Date _____

ATTACHMENT III – Engineering Services During the Design Phase

1. As set forth in the AGREEMENT FOR ENGINEERING SERVICES dated the 27th day of February, 2018 (effective date) by and between the Village of Magdalena, the OWNER, and KSA Engineers, the ENGINEER, the OWNER and ENGINEER agree this 6th day of March, 2018 (authorization to proceed date) that ENGINEER shall furnish ENGINEERING SERVICES During the Design Phase in accordance with the GENERAL PROVISIONS of the Agreement and OWNER shall compensate the ENGINEER for services described as set forth below:

A. Perform or provide the following tasks and/or deliverables:

Prepare Bidding Documents in accordance with the recommendations of the Technical Memo prepared during the Planning Phase. The Bid Documents include a Project Manual prepared as a "book project", where construction drawings are not separately prepared; instead, specifications, construction tasks and applicable details are incorporated into the Project Manual. This is feasible with a concept based on an AMR system, and a variation that is expected to be arrived at through the Technical Memo effort. This is the assumption for this task. An AMI system is expected to include design elements that would require full construction drawings, such as the design of new electrical components, and possibly new infrastructure such as towers and other features and specific studies that are unknown before a Technical Memo is completed. This could trigger other required services such as surveying, structural engineering and other studies. The design of a full AMI system would require an amendment for additional design services.

KSA will assist the Village with bid phase services including advertisement, opening of bids and bid tabulations and preparation of pre-award documents. KSA does not have direct control over the decision to award ("acceptance by the owner"). Deliverable is the summary of bid results with a responsive low bid for consideration of award, or the summary of bidding results in the case of no responsive bids received. The budget is based on advertising, bidding and the assistance associated with one (1) bidding effort.

B. Cost Proposal – Include hourly breakdown for each task

\$7,385 - Bid Phase Services

C. Reimbursable Expense Schedule

Printing and Mileage as described in Attachment VII (Est \$1,478)

ROW and SUE Services to be authorized through amendment as needed, budget set at \$7,500 (ROW) and \$863.50 (SUE for One Locate).

D. Contract Time shall be 100 calendar days from the date of the OWNERS signature on Attachment III. Design phase services shall be completed and accepted by the OWNER by June 15th, 2018 (DATE). If design phase services have not been completed and accepted by June 15th, 2018 the ENGINEER shall pay the OWNER liquidated damages as outlined in the Agreement.

2. Compensation for ENGINEERING SERVICES During the Design Phase shall be by the

☒ **LUMP SUM** method of payment. The total amount of compensation for ENGINEERING SERVICES During the Design Phase, as described, including reimbursable expenses shall not exceed \$7,385, excluding gross receipt tax.

☒ **STANDARD HOURLY RATE WITH MAXIMUM** method of payment. The total amount of hourly charges, including reimbursables, for ENGINEERING SERVICES During the Design Phase, as described, shall not exceed \$TBD with Task Order for ROW and SUE services, excluding gross receipt tax, without prior written approval of the OWNER, with Funding Agency concurrence.

3. The amount of compensation shall not change unless the scope of services to be provided by the ENGINEER changes and this Agreement is formally amended according to Section A-5.

4. Signatures

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: _____ Date: _____
OWNER
Type Name Honorable Richard Rumpf
Title Mayor

By: _____ Date: _____
ENGINEER
Type Name Mitchell L. Fortner, PE
Title President
Address 140 E Tyler St Ste 600
Longview, TX, 75601

REVIEWED AND APPROVED: FUNDING AGENCY

AGENCY NAME: _____

By _____

Type Name _____

Date _____

ATTACHMENT IV – Engineering Services During the Construction Phase

1. As set forth in the AGREEMENT FOR ENGINEERING SERVICES dated the 27th day of February, 2018 (effective date) by and between the Village of Magdalena, the OWNER, and KSA Engineers, the ENGINEER, the OWNER and ENGINEER agree this 6th day of March, 2018 (authorization to proceed date) that ENGINEER shall furnish ENGINEERING SERVICES During the Construction Phase in accordance with the GENERAL PROVISIONS of the Agreement and OWNER shall compensate the ENGINEER for services described as set forth below:

A. Perform or provide the following tasks and/or deliverables:

Construction Phase Services, including periodic observation (as determined needed by the Owner) and assistance in the preparation of construction reports. Full, daily observation is excluded from the proposed budget. Tasks will include the preparation of construction closeout documents in NMED/EPA format post construction. Construction Phase services are to be completed in response to completion by the Contractor, which is not under direct control of ENGINEER. Services completed are understood to mean those services that can only be completed after the successful completion of construction tasks by the Contractor.

B. Cost Proposal – Include hourly breakdown for each task

C. Reimbursable Expense Schedule

\$11,120 as described in Attachment VII

Printing, Mileage as estimated in Attachment VII

D. Contract Time shall be 160 calendar days from the date of the OWNERS signature on Attachment IV. Construction phase services shall be completed and accepted by the OWNER by August 15th, 2018 (DATE). If construction phase services have not been completed and accepted by August 15th, 2018 the ENGINEER shall pay the OWNER liquidated damages as outlined in the Agreement.

2. Compensation for ENGINEERING SERVICES During the Construction Phase shall be by the

☐ **LUMP SUM** method of payment. The total amount of compensation for ENGINEERING SERVICES During the Construction Phase, as described, including reimbursable expenses shall not exceed \$_____, excluding gross receipt tax.

☒ **STANDARD HOURLY RATE WITH MAXIMUM** method of payment. The total amount of hourly charges, including reimbursables, for ENGINEERING SERVICES During the

Construction Phase, as described, shall not exceed \$11,120, excluding gross receipt tax, without prior written approval of the OWNER, with Funding Agency concurrence.

3. The amount of compensation shall not change unless the scope of services to be provided by the ENGINEER changes and this Agreement is formally amended according to Section A-5.

4. Signatures

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: _____ Date: _____
OWNER
Type Name Honorable Richard Rumpf
Title Mayor

By: _____ Date: _____
ENGINEER
Type Name Mitchell L. Fortner, PE
Title President
Address 140 E Tyler St Ste 600
Longview, TX, 75601

REVIEWED AND APPROVED: FUNDING AGENCY

AGENCY NAME: _____

By _____

Type Name _____

Date _____

Village of Magdalena
Engineering Service Breakdown
KSA ENGINEERS

ATTACHMENT VII - KSA VOM WATER METER REPLACEMENT PROJECT AGREEMENT

2/7/2018

TASK	Man-Hours							Estimated Cost		Totals Per Task (Excl NMGR)
	Abiel Carrillo	Chris Aylor	Jeremy Orr	Construction Observation	Clayton Scales	CAD Support	Admin/El T Staff	Cobb Fendley	Tierra R/W	
Technical Memo (Lump Sum)										
Site Research and Data Collection	16	1	1							
Alternatives Analysis	8	8	24			4				
Cost Estimating	10	1	14				8			
Technical Memo Preparation	8	1	8			4	4			
Project Management	4									
Quality Control (Not Charged)					4					
Agency Coordination	4						4			
Subtotal										\$ 15,275.00
ROW Services (Time and Materials)										
Easement Acquisition									TBD	
ROW Mapping									TBD	
NMDOT Utility Permitting Submittal									TBD	
Subtotal										T&M Budget (activated by task order only) \$ 7,500.00
Subsurface Utility Engineering (Time and Materials)										
Level A - SUE (Per Location)									\$ 863.50	\$ 863.50
Bid Phase Services (Lump Sum)										
Bidding Documents	10	1					8			
Technical Specifications	4	4	6							
Bidding and Award Assistance	16									
Quality Control (Not Charged)					4					
Agency Coordination	4									
Project Management	4									
Subtotal										\$ 7,385.00
Construction Phase Services (Time and Materials)										
Construction Observation				64						
Construction Administration	16	2	6							
Startup/Operations Assistance	2	4	4	4						
Subtotal										\$ 11,120.00
Reimbursable Expenses										
Printing									\$ 750.00	
Mileage									\$ 728.00	
Supplies									\$ -	
Subtotal										\$ 1,478.00

Man-Hour Estimate Notes and Assumptions:

Topographic Surveying is excluded

All meters are findable

Environmental Efforts are completely done in house at NMED, environmental consulting is not required

Assume aprox 25 Project Manuals to be produced for bidding, and assume a single bidding/award cycle

T&M Budgets would only be activated with an estimate and a schedule, only those services authorized would be Invoiced

Electrical, structural, environmental, geotechnical and other engineering services that could be associated with a full AMI system

are excluded from this estimate. A "Book Project" (no stand alone construction drawings) is feasible with a variation of an AMR system

Double Arrow Bar Construction

Clay Spears
Po Box 676
EB, Nm 87935
Phone# 575-740-0227

ESTIMATE

ESTIMATE #

267

DATE

2.6.2018

TO

Magdalena Marshalls Office
attn: Larry Cearley
108 Main St.
Magdalena NM 87825

DESCRIPTION OF WORK

Front of building: Repair Stucco, Strip and oil front doorway, Paint
Store Room: Repair floor, Replace ceiling with drop down ceiling, Paint
Furnace Room: Repair back wall with reinforcedment and stucco, Paint
Back store room: Replace Sheet rock and cover with mold resistant stucco/ drywall
Back door Threshold: paint
Roof: Repair parapet, repairs to roof around chimney and air conditioner.
Repair water drainage off west side of roof
back Yard area: Cut ditches for water drainage and use gravel

ITEMIZED COSTS

	QTY	UNIT PRICE	AMOUNT
Materials	1	7,000.00	7,000.00
labor	1	3,500.00	3,500.00
travel fees	1	500.00	500.00
NM Tax 7.31%	1	804.43	804.43
			-
			-
			-
			-
			-
			-

Thank you for your business!

TOTAL ESTIMATE \$ 11,804.43

The customer agrees to all that is included on this job estimate, costs are liable to change if any further damage is found while during project. This estimate is legal contract and by signing this, the customer agrees to all agreed costs and expenses estimated by Double Arrow Bar Construction company.

Signature of Customer : _____ Date : _____

Double Arrow Bar Contractor : _____ Date : _____

Clay Spears 575-740-0227

DW Anderson Construction

Don Anderson
2410 Snow Rd
Las Cruces NM
Phone: 575.590.0075

JOB ESTIMATE

ESTIMATE #	DATE
190	2.5.2018

TO

Magdalena Marshalls Office
attn: Larry Cearley
108 Main St.
Magdalena NM 87825

DESCRIPTION OF WORK

Front of building: Repair Stucco, Strip and oil front doorway, Paint
Store Room: Repair floor, Replace ceiling with drop down ceiling, Paint
Furnace Room: Repair back wall with reinforcement and stucco, Paint
Back store room: Replace Sheet rock and cover with mold resistant stucco/ drywall
Back door Threshold: replacing door threshold and repairing materials.
Roof: repair parapet , seal around chimney and swamp cooler.
Back yard: weed barrier, fill dirt, gravel, water drainage

ITEMIZED COSTS	QTY	PRICE	AMOUNT
Materials	1	6,500.00	6,500.00
Labor	1	3,500.00	3,500.00
Travel expense	1	400.00	400.00
NM tax 7.31%	1	731.30	731.30
			-
			-
			-
			-
			-
			-
Thank you!	TOTAL	\$	11,131.30

The customer promises to pay amount in full, by signing this legal binding contract. If breach of this contract is taken contractor reserves the right to take legal action immediately to obtain owed debts. I agree to these terms by signing:

Customer : _____ Date : _____

Contractor : _____ Date : _____

If you have any questions, please contact:
Don Anderson 575.590.0075

True Blue Construction LLC.

J. Tyler Scartaccini
PO Box 314
Magdalena NM 87825
Phone: 575-418-7796

BID ESTIMATE

ESTIMATE #

95

DATE

2.6.2018

TO

Magdalena Marshalls Office
attn: Larry Cearley
108 Main St.
Magdalena NM 87825

DESCRIPTION OF WORK

Front of building: Repair Stucco, Strip and oil front doorway, Paint

Store Room: Repair floor, Replace ceiling with drop down ceiling, Paint

Furnace Room: Repair back wall with reinforcement and stucco, Paint

Back store room: Replace Sheet rock and cover with mold resistant stucco/ drywall

Back door Threshold: replacing old material to prevent weathering.

Roof: Plastering parapet wall to fix existing leaks, repairs to roof around chimney and swamp cooler.

Repair water drainage off west side of roof

Dirt work on northwest side of building: including weed barrier, fill dirt, gravel, and develop a slope to prevent water from standing

Patching of outside adobe wall of back side of building.

ITEMIZED COSTS

QTY

UNIT PRICE

AMOUNT

Materials

1

5,425.00

5,425.00

labor

1

2,000.00

2,000.00

NM Tax 7.31%

542.99

542.99

-

-

-

-

-

-

-

-

Thank you for your business!

TOTAL ESTIMATE \$

7,967.99

This Job estimate is a legal binding contract; in which the customer promises to pay above amount in FULL. If the above amount is not paid, the company is able to take immediate legal action to obtain the above amount. By signing this contract the customer agrees to pay the FULL amount of contract when job is completed and total amount is figured.

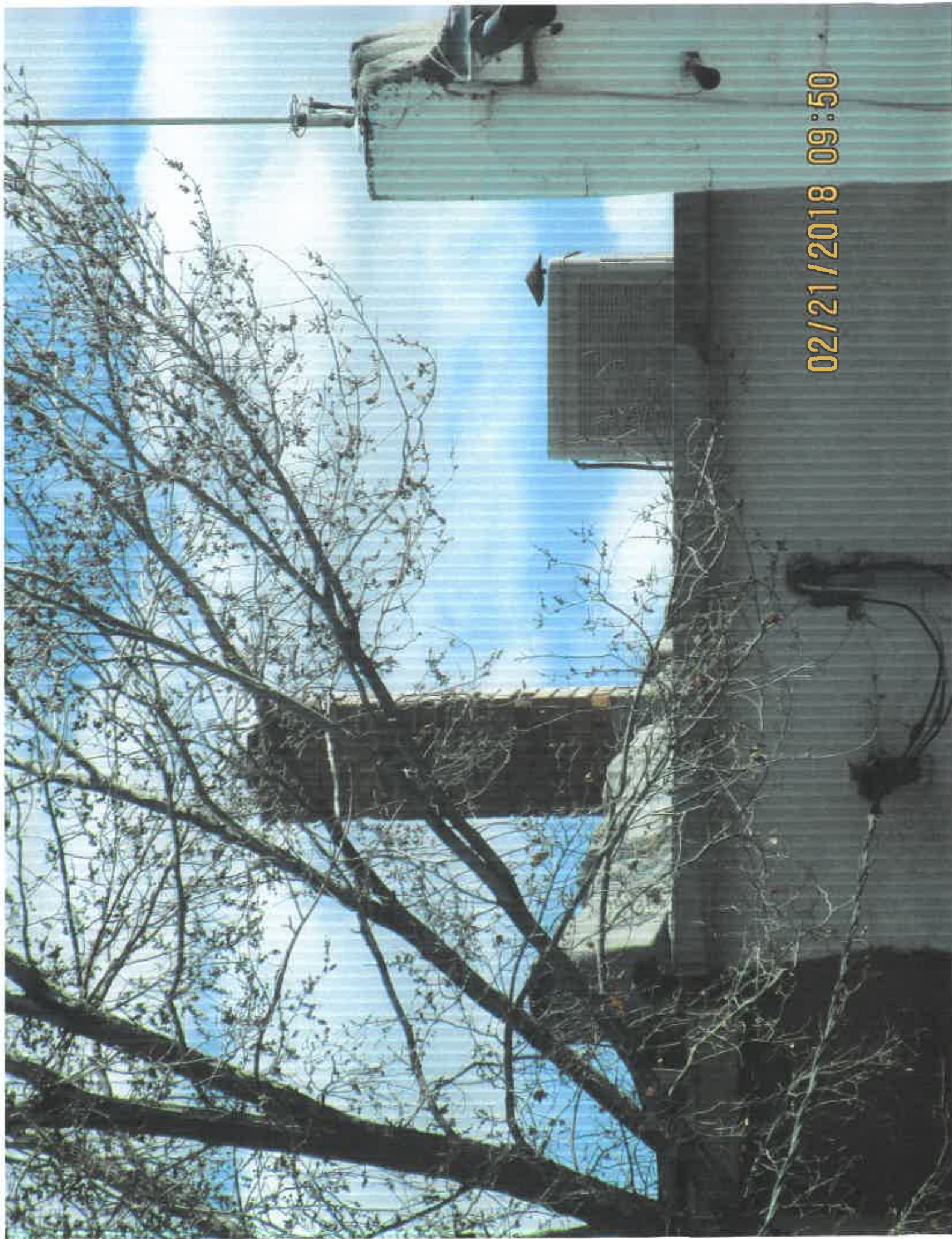
I understand all stipulations of this agreement by signing this contract:

Signature of Customer : _____ Date : _____

Signature of Contractor : _____ Date : _____

**If you have any questions, please contact:
Tyler Scartaccini 575-418-7796 tyler87825@gmail.com**

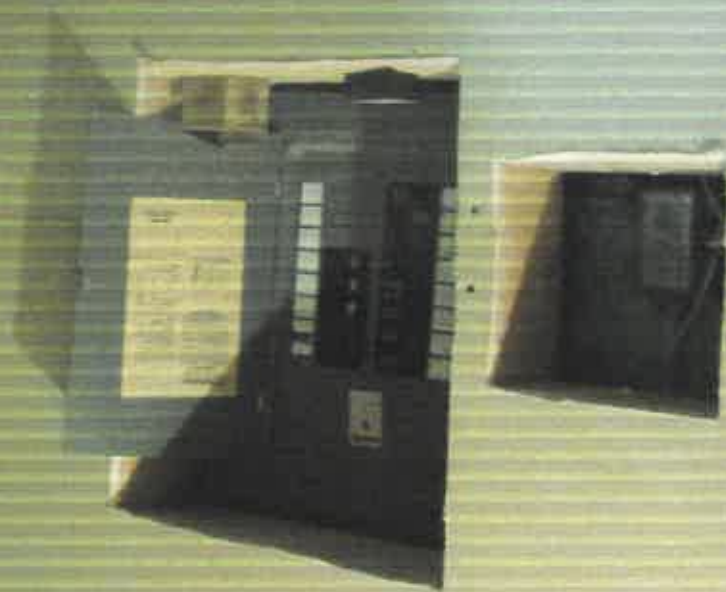
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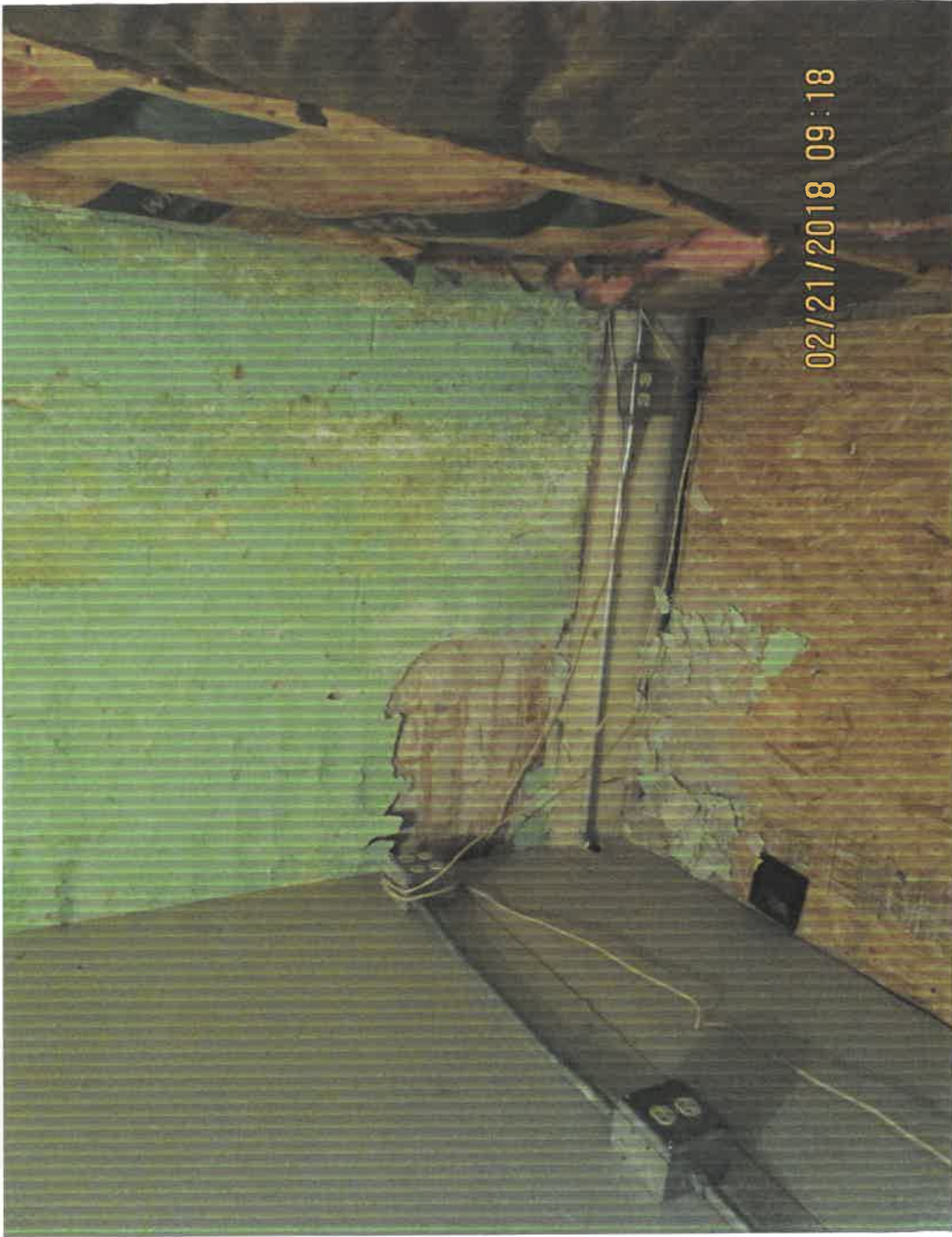
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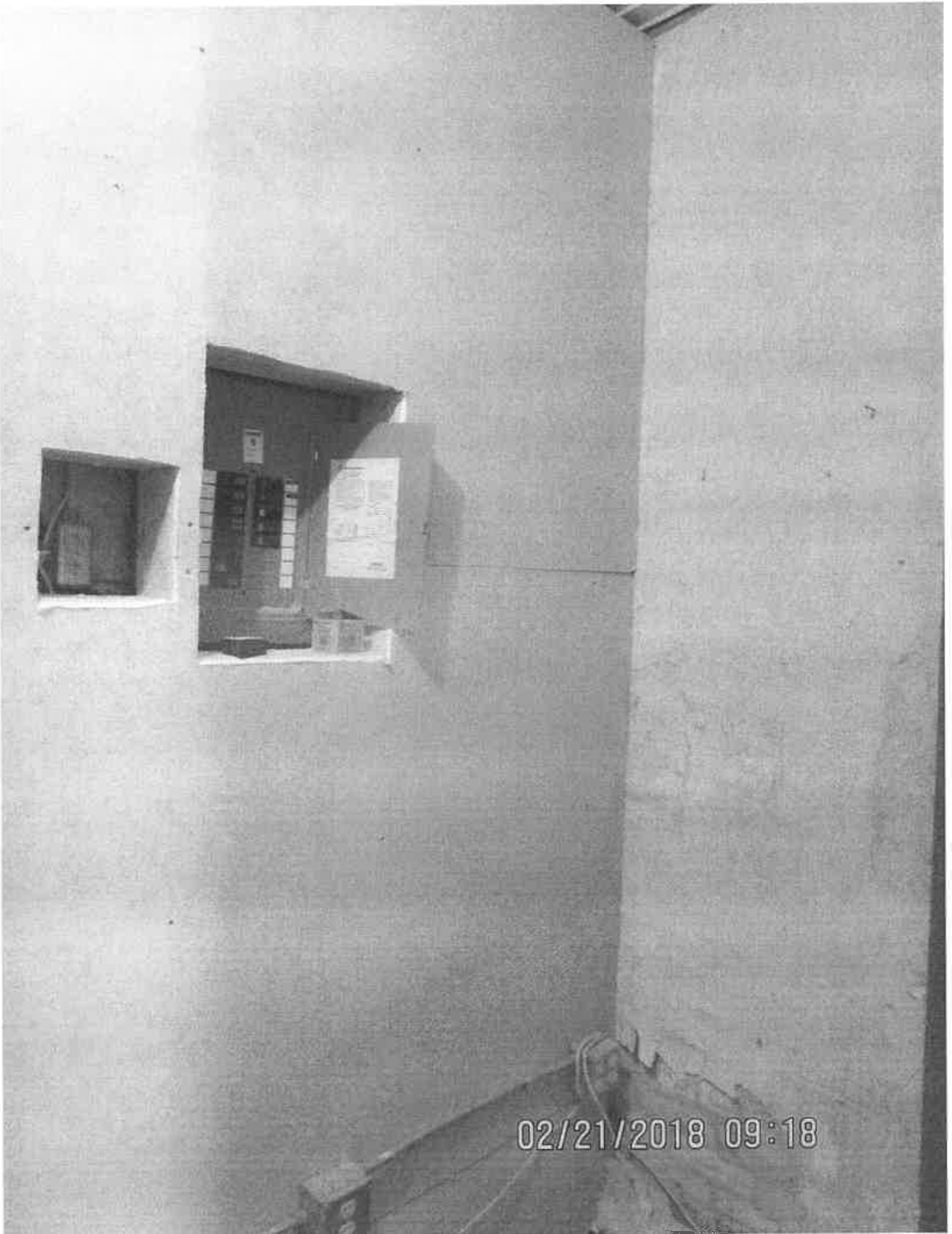


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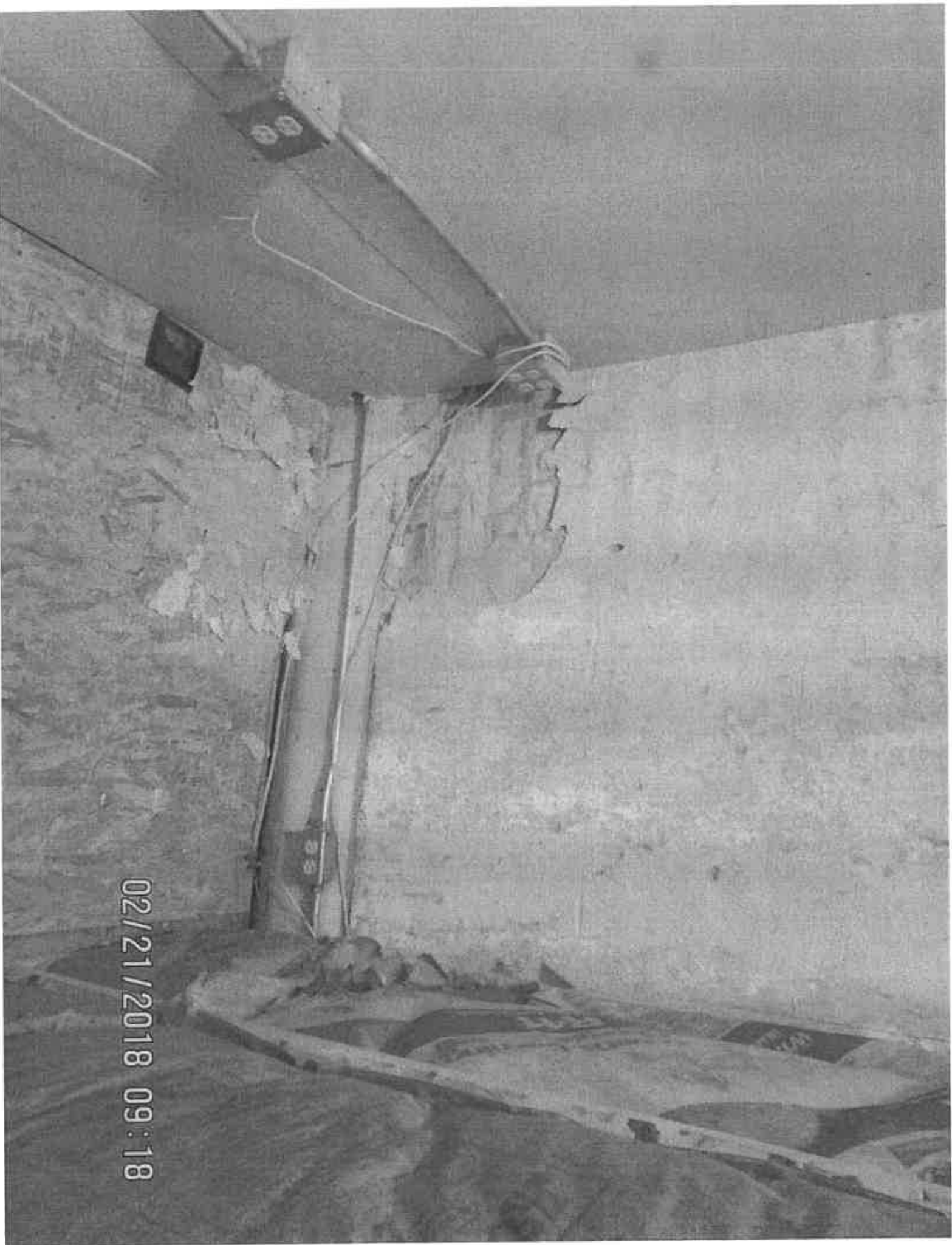
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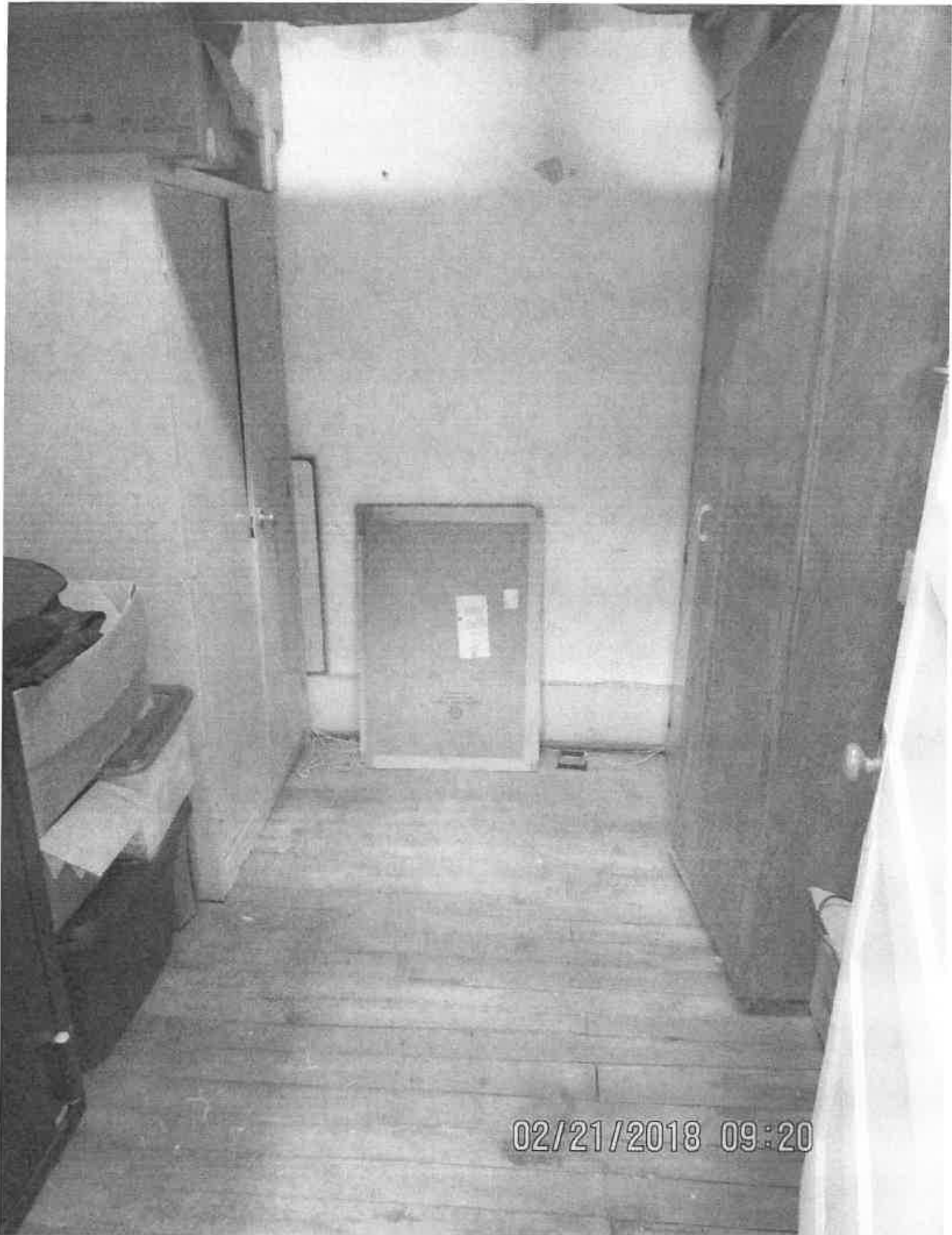


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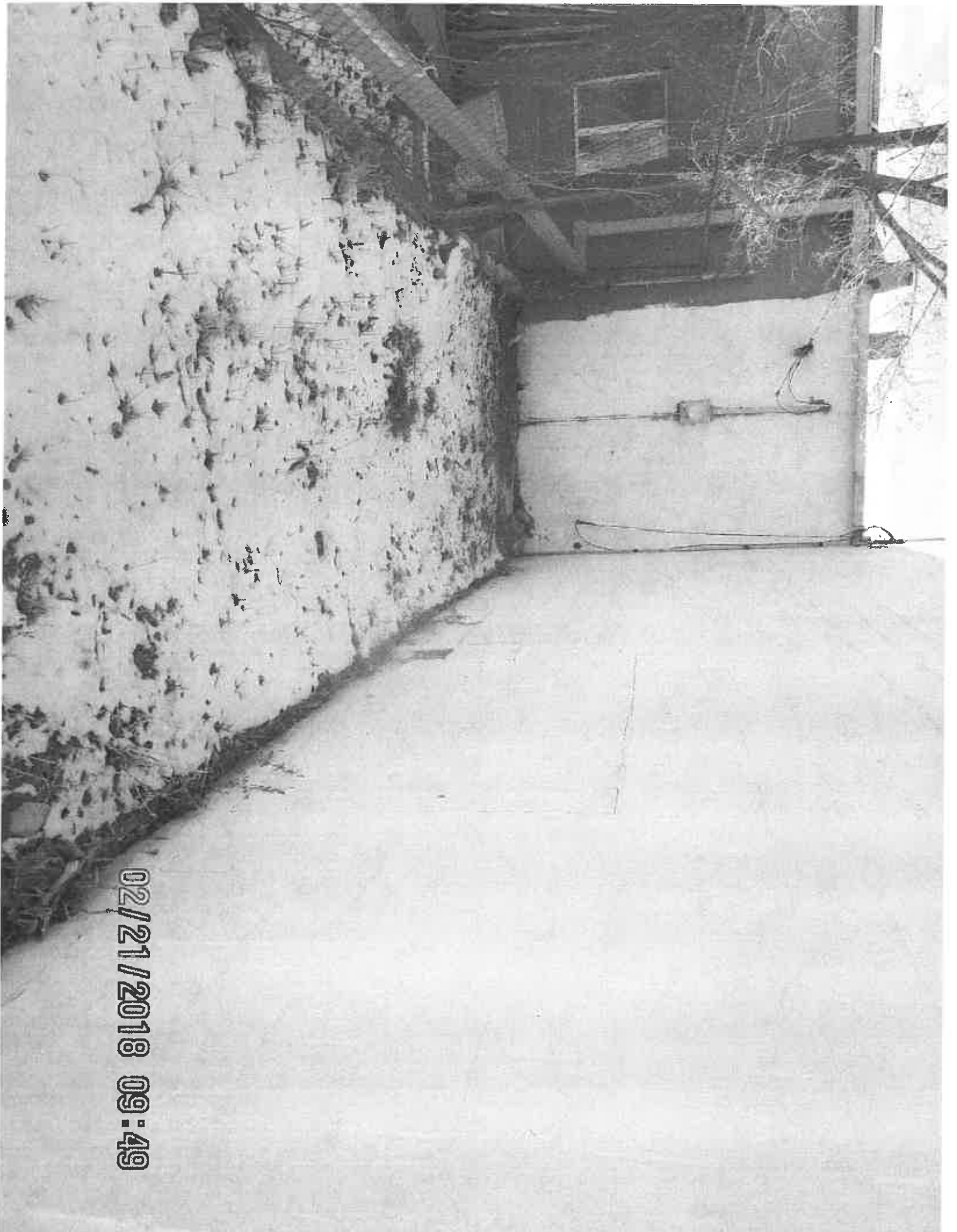




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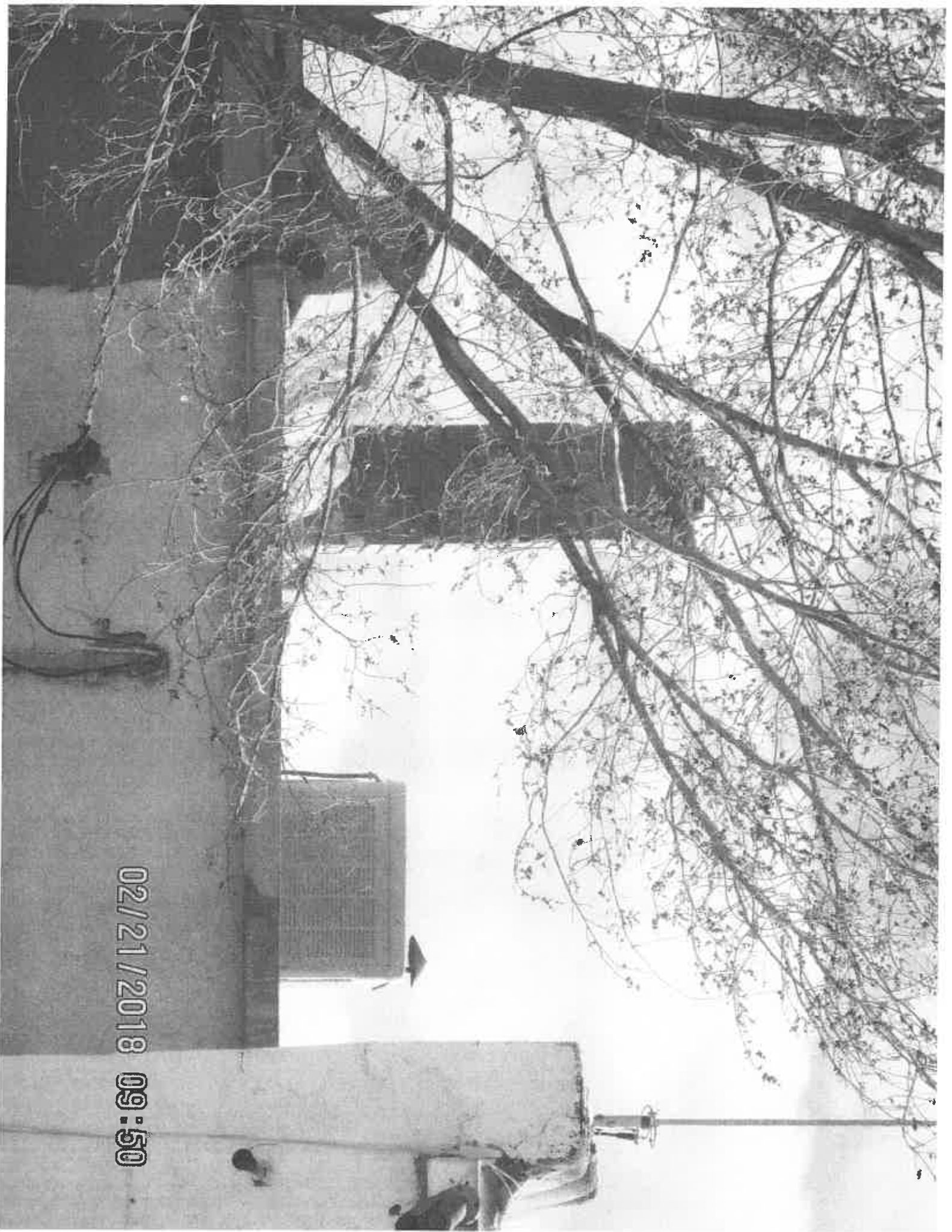
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