

TRAIL EASEMENT AGREEMENT

THIS TRAIL EASEMENT AGREEMENT (the "Agreement") is made as of the ____ day of _____, 2014, by and among RCP, LLC, a Kansas limited liability company ("RCP") and the CITY OF LAWRENCE, KANSAS, a municipal corporation organized and existing under the laws of the State of Kansas (the "City").

WITNESSETH:

WHEREAS, RCP owns approximately 19.2 acres of real property which is more fully described on Exhibit A attached hereto (which is referred to herein as the "Property");

WHEREAS, during the Term (as hereinafter defined), the City desires to construct, reconstruct, repair and maintain approximately 3000 feet of running and walking trails on the Property (the "Trails") which, once constructed or reconstructed, as the case may be, would be made available for use by members of the general public; and

WHEREAS, upon the terms and conditions set forth in this Agreement, RCP is willing to permit the City to construct, reconstruct, repair and maintain the Trails and, once constructed or reconstructed, as the case may be, by the City, to permit the Trails to be used by members of the general public, during the Term.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. Easement.

(a) Subject to the terms and conditions of this Agreement, RCP hereby grants the City a non-exclusive easement during the Term to construct, re-construct, repair and maintain the Trails on the Property.

(b) The parties acknowledge that RCP has permitted the City to cause a third party to construct a set of Trails on the Property prior to the date hereof and that the City will pay or cause a party other than RCP to pay the costs of so constructing the existing Trails. Prior to constructing other Trails, reconstructing the existing Trails, or repairing and maintaining the Trails on the Property the City must obtain the prior written approval

of RCP of: (i) the location and width of any additional or reconstructed Trails on the Property; (ii) the materials used to construct, reconstruct or repair the Trails; and (iii) the names of any entities or individuals which are non-City employees that will construct, reconstruct, repair or maintain the Trails as the contractor, subcontractor or agent of the City.

(c) Notwithstanding Subsection 1(b) above, RCP hereby approves of the Trails being: (i) constructed or reconstructed, as the case may be, up to twelve (12) feet in width at the location of the existing Trails which is generally depicted on Exhibit B attached hereto; and (ii) constructed or reconstructed, as the case may be, of reclaimed asphalt millings. The parties acknowledge that except to the extent provided for in this Section 1(c), RCP's consent to matters required under Section 1(b) may be withheld or conditioned in RCP's sole consent and may, for example and not by way of limitation, be conditioned upon any non-City employee entity or individual that the City wants to have construct, reconstruct, repair or maintain the Trails obtaining insurance coverages naming RCP and its members, officers, employees and agents as additional insureds of a type and amount acceptable to RCP during such construction, reconstruction, repair or maintenance activities.

(d) RCP hereby grants the City (and persons permitted to use, construct, reconstruct, repair or maintain the Trails under the terms of this Agreement) to use up to ten (10) feet on each side of the paved portions of constructed Trails in conjunction with the uses of the Trails and the construction, reconstruction, repairs and maintenance of the Trails that is permitted hereunder.

(e) After the Trails are constructed and during the Term the City may permit members of the general public to access and use the Trails for the purpose of running or walking thereon; provided that the City and other governmental or non-profit entities designated by the City may restrict the use of the Trails to particular persons or events from time to time during the Term but the City may not permit a for-profit entity to restrict the use of the Trails except with the prior written consent of RCP.

(f) During the Term the City and the City's employees, contractors, subcontractors and other agents and invitees (including without limitation members of the general public) may access the Trails for the purposes permitted in this Section across the rest of the Property; provided that at RCP's option RCP may, from time to time, give a written notice to the City in which RCP designates reasonable routes of access across the Property for the City and the City's employees, contractors, subcontractors and other agents and invitees (including without limitation members of the general public) to use to get to the Trails and, if RCP does so designate a route of access across the rest of the Property, during the balance of the Term or during portions of the Term designated in such notice, the City shall cause the City's employees, contractors, subcontractors and other agents, and shall make reasonable efforts to cause other invitees (including without limitation members of the general public), to use only such designated route of access to the Trails across the rest of the Property unless and until RCP agrees otherwise in writing or designates another route of access in a subsequent notice to the City.

(g) Except with the prior written consent of RCP, which can be withheld or conditioned in any manner by RCP, and subject to RCP's reserved rights under Section 1(h), the City shall not have the right to construct, reconstruct, repair or maintain, and shall not permit any party, to construct, reconstruct, repair or maintain any improvements on the Property other than (i) the Trails at the locations depicted in Exhibit B and (ii) temporary improvements designed for and only in existence during, or within reasonable (not to exceed 30 day) periods before and after, particular events permitted hereunder on the Trails (e.g., temporary water stations, first aid booths and similar race or event amenities).

(h) Subject to the City's rights granted in this Section 1 during the Term, RCP or its designees shall at all times during the Term have the right to use the Property, other than that occupied by constructed or reconstructed Trails and ten (10) foot wide strips of land on each side of such a constructed or reconstructed Trails, in any manner which does not unreasonably interfere with the City's rights granted in this Agreement.

2. Term. The City's rights granted under this Agreement shall commence on the date of this Agreement and shall continue until the later of: (a) five (5) years from the date of this Agreement; or (b) that date specified as the end of the Term in a written notice given by RCP to the City; provided that any date specified as of the end of the Term in any notice from RCP to the City under clause (b) shall be no earlier than one hundred eighty (180) days after the date such notice is given to the City (such period of time during which the City has rights under this Agreement being the "Term"). Notwithstanding anything else in the preceding sentence to the contrary, if the City commits an Event of Default (as hereinafter defined) then, without limiting any other remedies RCP may have by reason of such Event of Default, at RCP's option the Term and all of the rights of the City granted in this Agreement will be terminated effective upon a date specified by RCP in a notice given at any time after such Event of Default, which termination date will be no less than ten (10) days after the date the notice was given. Notwithstanding anything to the contrary herein, the Term can end earlier than any date otherwise provided for in this Section 2 upon a date specified by the City in a notice given to RCP, which termination date will be no less than ten (10) days after the date the notice was given. The City and RCP may extend the Term by written agreement. Upon the request of either RCP or the City, once the Term has expired or been terminated the City and RCP shall execute a document in recordable form which states that the Term has expired or been terminated.

3. Costs.

(a) The City shall cause all construction, reconstruction, maintenance and use of the Trails and the other uses of the Property by the City or its employees, contractors, subcontractors and other agents and invitees (including without limitation members of the general public) to be done at no cost to RCP and in a manner which does not incur indebtedness of RCP or create a lien on the Property or any other property of RCP. Upon request the City will provide RCP with: (i) mechanics lien waivers from all contractors, subcontractors and agents of the City which perform any activity on the Property which the City is permitted to do under this Agreement and (ii) certificates of workers compensation, casualty, liability and builders risk insurance coverages of the City, its

contractors, subcontractors or agents in amounts and types which RCP requires the City or the City's its contractors, subcontractors or agents to carry while performing any construction, reconstruction, repair or maintenance permitted hereunder, and which insurance coverages name RCP and its members, officers, employees and agents as additional insureds. Within ten (10) days of RCP's request, the City will obtain a release, whether by the City posting a bond or otherwise, of any mechanics, materialmen or other lien which any third party may file against the Property by reason of performing work on the Property pursuant to any contract, understanding or other permission granted or suffered by the City in the exercise of the City's rights hereunder. Unless hereafter agreed in writing by RCP, neither RCP nor any real or personal property of RCP will be liable for any of the costs and expenses of performing any of the construction, reconstruction, maintenance, repair and other services and materials which the City is permitted to have performed or placed on the Property under this Agreement.

(b) The City will indemnify and defend RCP and its members, officers, employees and agents from any liability to the extent proximately caused by the City, its employees, agents or contractors for any personal injuries or property damage to any person or entity which occurs on the Property, including without limitation on the Trails, during the Term.

4. Condition of Trails and Compliance with Applicable Laws. At no cost to RCP the City must, at all times during the Term:

(a) construct, reconstruct, repair and maintain the Property and any improvements on the Property, including without limitation the Trails so that the same are in good condition, reasonable wear and tear excepted;

(b) cause the Property and any improvements on the Property, including without limitation the Trails to be mowed, cleared of noxious weeds, policed for litter and trash and maintained in a professional manner that is reasonably acceptable to RCP; and

(c) cause the Property and any improvements on the Property, including without limitation the Trails to comply with all applicable statutes, regulations and ordinances at all times during the Term, including without limitation all applicable mowing, noxious weed, building, safety, sanitation, environmental or accessibility statutes, regulations and ordinances.

5. Insurance. Within thirty (30) days of being invoiced therefor, the City will reimburse RCP an amount which RCP reasonably deems to be the cost of RCP obtaining casualty and general liability insurance coverages on the Property and any improvements on the Property, including without limitation the Trails during the Term, in such amounts and with such coverages as RCP deems appropriate; provided that the City will not be responsible for costs of insurance coverages above the costs that would exist for the types and amounts of coverage that RCP is then requiring be furnished to it, or that RCP is requiring that RCP be reimbursed for obtaining, with respect to the portions of Rock Chalk Park that are then ground leased from RCP to Bliss Sports LC. If a loss or damage, including without limitation defense costs, is incurred by RCP, its members, officers, employees or agents by reason of an injury or

damage on the Property during the Term for which RCP carried insurance, unless the City has otherwise fully indemnified RCP and its members, officers, employees and agents under Section 3(b), then within thirty (30) days of being invoiced therefor, the City will reimburse RCP or its members, officers, employees or agents, as the case may be, for any deductible amounts which RCP or its members, officers, employees and agents have to pay under any insurance coverage they may otherwise have for such loss or damage.

6. Taxes. Within thirty (30) days of being invoiced therefor, the City will pay or reimburse RCP for all real and personal property taxes and special and other assessments which are assessed against the Property and any improvements thereon including the Trails for any portion of the Term; provided that where taxes or an assessment are for a period of time only a portion of which is during the Term, the parties will prorate such tax or assessment. If requested by RCP, the City will cooperate, at no cost to the City, in any application that RCP may elect to make to seek tax exemption or a reduction of any assessment against the Property and any or all improvements thereon during the Term.

7. Removal. Prior to the end of the Term, at no cost to RCP, the City will remove any improvements, trash or other property placed upon the Property during the Term by the City, the City's employees, contractors, subcontractors and other agents and invitees (including without limitation members of the general public) and restore the Property, including at a time reasonably acceptable to RCP within ninety (90) days after the expiration or termination of the Term, by seeding and grading, to its condition prior to the installation of the Trails and any such other improvements RCP permits the City to construct on the Property hereunder, reasonable wear and tear excepted. Notwithstanding the preceding sentence to the contrary, at the end of the Term the City may leave on the Property any Trails that are constructed solely of asphalt millings.

8. Survival of City Obligations. The City's obligations under this Agreement which accrue or arise by reason of acts, omissions which occur during the Term shall survive the expiration or sooner termination of the Term for a period of five (5) years.

9. Defaults. An "Event of Default" or "default" shall mean, wherever used in this Agreement, any failure by the City or the City's employees, contractors, subcontractors and other agents and invitees (including without limitation members of the general public) to observe and perform any covenant, condition or agreement in this Agreement on its part to be observed or performed and the lapse of a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, given to the City by RCP.

10. Remedies. If there is an Event of Default, RCP shall be entitled to all rights and remedies at law or in equity, including specific performance and injunctive or other equitable relief, notwithstanding availability of an adequate remedy at law. The parties agree that arbitration shall not be an available method for resolving any disputes under this Agreement.

11. Self-Help. If there is an Event of Default, RCP may, but shall have no obligation to, perform such actions as may be necessary to correct or remedy the default, and any monies expended shall be reimbursed to RCP by the City immediately upon written notice from RCP. Nothing in this Section is intended to imply that RCP must take any action.

12. Assignability. Covenant Running with Land. The City's rights and obligations under this Agreement may not be assigned or delegated to any third party without the prior written consent of RCP, which consent may be withheld or conditioned in RCP's sole discretion. RCP may assign any or all of RCP's rights under this Agreement to a third party. The covenants and agreements granted herein are and shall be deemed to be covenants running with the land and shall be binding upon the parties hereto and upon their successors and permitted assigns until the expiration of the Term and, subject to Section 8, beyond.

13. Not an Agent of RCP or City. None of the City, its employees or its contractors, subcontractors or agents is or will be an agent of RCP for the purpose of making any improvements on the Property. None of RCP, its members, officers, employees, contractors, subcontractors or agents is or will be an agent of the City unless otherwise designated as such in a separate written agreement signed by the City.

14. Miscellaneous.

(a) Notices. Any notice, demand, or other communication required by this Agreement to be given by either party hereto to the other shall be in writing and shall be sufficiently given or delivered if dispatched by certified United States First Class Mail, postage prepaid, or delivered personally:

To the City:

City Manager
City of Lawrence
6 E. 6th Street
Lawrence, KS 66044

With copies to:

City Attorney
City of Lawrence
6 E. 6th Street
Lawrence, KS 66044

To RCP:

RCP, LLC
Attention: Monte Soukup
1891 Constant Avenue
Lawrence, KS 66047-3743

With copies to:

Harry Wigner
Lathrop & Gage LLP
10851 Mastin, Suite 1000
Overland Park, KS 66210

or to such other address with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

(b) Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto, their respective successors and assigns.

(c) Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(d) Amendments, Changes and Modifications. This Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto and their successors or assigns.

(e) Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(f) Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

(g) Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in its name and attested by its duly authorized officers all as of the date first above written.

RCP, LLC, a Kansas limited liability company

By: The Kansas University Endowment Association, its sole member

By: 
Dale Seufferling, President

ACKNOWLEDGMENT

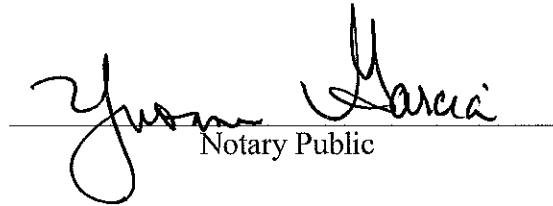
STATE OF KANSAS)
)
COUNTY OF DOUGLAS)

BE IT REMEMBERED, that on this 4 day of November 2014, before me the undersigned, a Notary Public in and for the County and State aforesaid, came Dale Seufferling as the President of The Kansas University Endowment Association, a Kansas not for profit corporation, as the sole member of RCP, LLC, a Kansas limited liability company, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed the within instrument on behalf of said corporation in its capacity as member of such limited liability company, and such officer duly acknowledged the execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]




Notary Public

My commission expires December 29, 2014

CITY OF LAWRENCE, KANSAS
a municipal corporation

(Seal)

By: _____
Name: Mike Amyx
Title: Mayor

ATTEST:

Name: Diane Trybom
Title: Acting City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
)
COUNTY OF DOUGLAS)

BE IT REMEMBERED that on this ____ day of _____, 2014, before me, a notary public in and for said county and state, came Mike Amyx, Mayor of the City of Lawrence, Kansas, a municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, and Diane Trybom, Acting City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

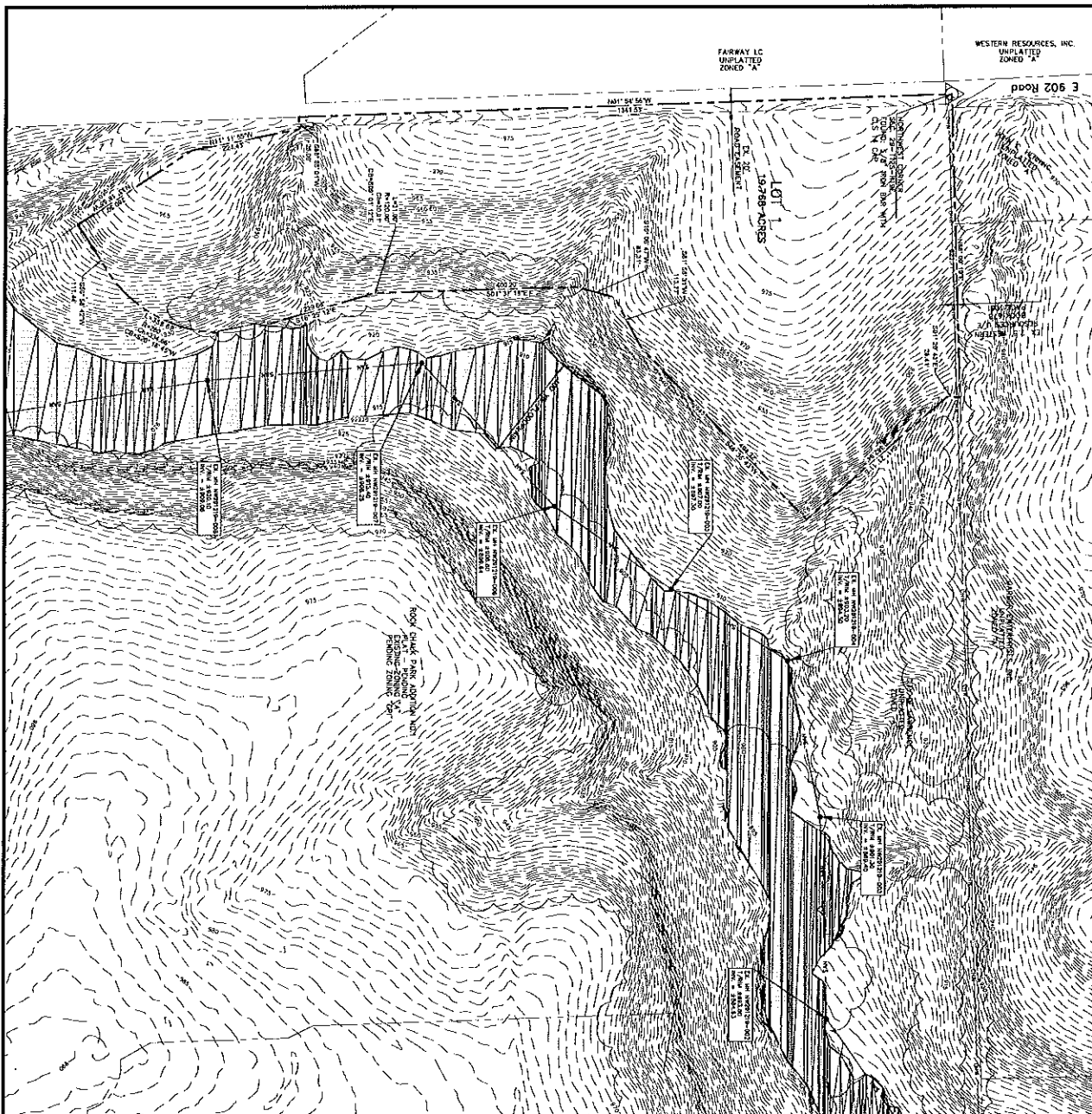
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

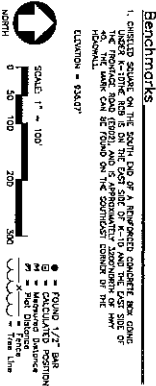
My commission expires _____.

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY



ROCK CHALK PARK ADDITION NO.2

A PRELIMINARY PLAT FOR
A SUBDIVISION IN THE CITY OF LAWRENCE,
DOUGLASS COUNTY, KANSAS
NW 1/4, SEC. 29-112S-R13E
SCALE = 53:67



Benchmarks

1. CHECKED POINT ON THE SOUTH END OF A REINFORCED CONCRETE AND GRASS
THE REINFORCED CONCRETE FOUNDATION IS APPROXIMATELY 200 FEET BY
40 FEET. THE CONCRETE FOUNDATION IS LOCATED ON THE SOUTHWEST CORNER OF THE
SECTION. THE POINT CAN BE FOUND ON THE SOUTHWEST CORNER OF THE
SECTION.

Location Map

SCALE: 1" = 1/2 Mile NORTH

Site Summary

DESCRIPTION	AREA
DISTRICT 0.0360 ACRES	
NET OF 1.2750 ACRES	
RESERVED 0.0000 ACRES	
EXCEPTED 0.0000 ACRES	
NET TOTAL 1.2750 ACRES	
TOTAL NUMBER LOTS	120
ACRES PER LOT	0.10625
APPROXIMATE 1/4 ACRES PER LOT	
APPROXIMATE 1/4 ACRES PER LOT	

- General Notes**
1. THE SUBDIVISION IS LOCATED ON THE SOUTH END OF A REINFORCED CONCRETE AND GRASS THE REINFORCED CONCRETE FOUNDATION IS APPROXIMATELY 200 FEET BY 40 FEET. THE CONCRETE FOUNDATION IS LOCATED ON THE SOUTHWEST CORNER OF THE SECTION. THE POINT CAN BE FOUND ON THE SOUTHWEST CORNER OF THE SECTION.
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Provisions of Financing of Roads, Sewer, Water and Other Utilities

The subdivision and the roads, sewer, water, and other utilities shown on this plat are for the benefit of the subdivision and are subject to the provisions of the plat. The subdivision and the roads, sewer, water, and other utilities shown on this plat are for the benefit of the subdivision and are subject to the provisions of the plat. The subdivision and the roads, sewer, water, and other utilities shown on this plat are for the benefit of the subdivision and are subject to the provisions of the plat.

Legal Description

The legal description of the subdivision is as follows:

1. THE SUBDIVISION IS LOCATED ON THE SOUTH END OF A REINFORCED CONCRETE AND GRASS THE REINFORCED CONCRETE FOUNDATION IS APPROXIMATELY 200 FEET BY 40 FEET. THE CONCRETE FOUNDATION IS LOCATED ON THE SOUTHWEST CORNER OF THE SECTION. THE POINT CAN BE FOUND ON THE SOUTHWEST CORNER OF THE SECTION.

EXHIBIT B

DEPICTION OF APPROXIMATE LOCATION OF TRAILS ON THE PROPERTY

