



RESOLUTION NO. 18-468

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO**

**RESOLUTION TO APPROVE A THIRD AMENDMENT TO THE CONSERVATION EASEMENT
WITH CRADDOCK-WALDEN INVESTMENTS, LLC FOR THE RELOCATION OF A PORTION
OF THE FOUNTAIN CREEK REGIONAL TRAIL**

WHEREAS, El Paso County ("County") operates and maintains the Fountain Creek Regional Trail on and across real property owned by Craddock-Walden Investments, LLC ("Property"); and

WHEREAS, the County holds a conservation easement on the Property that allows the Fountain Creek Regional Trail ("Trail") to traverse across the Property along the western bank of Fountain Creek; and

WHEREAS, repeated flooding of Fountain Creek has eroded the creek bank and threatens the Trail; and

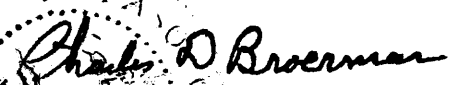
WHEREAS, the County will relocate a portion of the Trail along the western creek bank of Fountain Creek within the conservation easement as described in the Third Amendment to the Conservation Easement with Craddock-Walden Investments, LLC; and

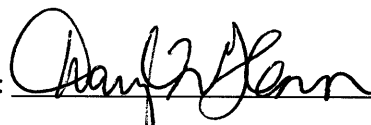
NOW, THEREFORE, BE IT RESOLVED, the Board of County Commissioners hereby approves the Third Amendment to the Conservation Easement with Craddock-Walden Investments, LLC, subject to the terms and conditions cited therein.

Done this 11th day of December, 2018 at Colorado Springs, Colorado.

**BOARD OF COUNTY COMMISSIONERS OF
EL PASO COUNTY, COLORADO**

ATTEST:


By: _____
County Clerk and Recorder

By:  _____
President

THIRD AMENDMENT TO CONSERVATION EASEMENT

(TRAIL EASEMENT)

THIS THIRD AMENDMENT TO CONSERVATION EASEMENT (TRAIL EASEMENT) ("Second Amendment"), effective September 15th, 2018, is entered into by and between CRADDOCK-WALDEN INVESTMENTS, LLC, a Colorado limited liability company ("Grantor") and EL PASO COUNTY, acting by and through the Board of County Commissioners of El Paso County, Colorado ("Grantee").

RECITALS:

- A. On December 22, 1994, Stephen G. Hughes and Chris L. Hughes granted an easement to Grantee recorded at Reception No. 095007937 in the office of the El Paso County Clerk and Recorder, which easement was labeled a conservation easement but, by its terms, was actually a trail easement (the "Easement").
- B. This Third Amendment serves to update and replace the second Amendment to Conservation Easement (Trail Easement), executed on April 15th, 2017 and recorded in the El Paso County Clerk and Recorder's Office at reception number 207161134.
- C. Due to flood damage in 2015, the Parties agree to relocate a portion of the trail as legally described in Exhibit A and depicted in Exhibit B.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1. Legal Description. The legal description of the relocated portion of trail is attached hereto as Exhibit A, and as graphically depicted as Exhibit B. Exhibits A and B shall fully supersede and control over the Legal Description from the Easement and first amendment.
- 2. Effect. Except as otherwise provided herein, the terms and provisions of the Easement remain in full force and effect and are hereby ratified by the parties. In the event of a conflict between the Easement and this Third Amendment, the terms and provisions of this Second Amendment shall control.
- 3. Governing Law. This Third Amendment is being executed, delivered and is intended to be performed in El Paso County, Colorado, and the substantive laws of the State of Colorado will govern the validity, construction and enforcement of this Third Amendment.

4. Integration. It is agreed by the parties that this Third Amendment shall be and become an integral part of the Easement.
5. Binding Effect. This Third Amendment shall be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties heretofore duly executed this Amendment as of the day and year first above written.

GRANTOR:
CRADDOCK-WALDEN INVESTMENTS, LLC,
A Colorado limited liability company

By: _____

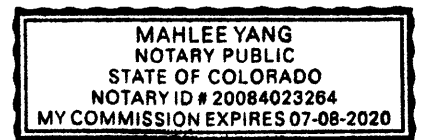
STATE OF COLORADO)
)
COUNTY OF EL PASO)

The foregoing document was acknowledged before me this __ day of September, 2018 by Matthew Craddock by CRADDOCK-WALDEN INVESTMENTS, LLC, a Colorado limited liability company, the Grantor

Witness my hand and official seal.

Mahlee Yang
Notary Public

My Commission expires: 07/08/2020



GRANTEE:
EL PASO COUNTY

By: _____

By: _____
Darryl Glenn, President
El Paso County Board of County
Commissioners

APPROVED AS TO FORM:

Office of the County Attorney

STATE OF COLORADO)
)
COUNTY OF EL PASO)

The foregoing document was acknowledges before me this _____ day of
September, 2018 by _____ by Darryl Glenn as President of The
Board of County Commissioners of El Paso County, Colorado, as Grantee and attested
to by
_____, Deputy County Clerk.

Witness my hand and official seal.

Notary Public
My Commission expires: _____

✓

Exhibit A
Legal Description
Third Amendment to Conservation Easement (Trail Easement)

PROPERTY DESCRIPTION - EL PASO COUNTY REGIONAL TRAIL

A STRIP OF LAND 25 FEET IN WIDTH LYING 12.5 FEET ON EACH SIDE OF THE CENTERLINE, MORE OR LESS, OF THE GRAVEL TRAIL AS RE-LOCATED IN MARCH OF 2018, LOCATED IN THE EAST HALF OF SECTION 14 AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 15 SOUTH, RANGE 66 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO AND SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE 25, AS DESCRIBED IN BOOK 2273 AT PAGE 841 OF THE EL PASO COUNTY RECORDS, SAID POINT ALSO BEING ON THE WESTERLY RIGHT OF WAY LINE OF BANDLEY ROAD AS PLATTED BY SOUTHPARK TECHNOLOGICAL CENTER, FILING NO. 1, AS SHOWN ON THE SUBDIVISION PLAT THEREOF RECORDED AT RECEPTION NO. 203073816 OF SAID EL PASO COUNTY RECORDS;

THENCE N52°21'18"E ON THE NORTHERLY RIGHT OF WAY LINE OF BANDLEY DRIVE AND THE NORTHERLY LINE OF LOT 1, OF SAID SOUTHPARK TECHNOLOGICAL CENTER, FILING NO. 1, A DISTANCE OF 90.54 FEET TO THE POINT OF BEGINNING OF THE CENTERLINE DESCRIBED HEREIN;

1. THENCE N60°00'32"W A DISTANCE OF 8.47 FEET TO A POINT OF CURVATURE;
2. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 100.00 FEET, THROUGH A CENTRAL ANGLE OF 27°29'03", AN ARC DISTANCE OF 47.97 FEET;
3. THENCE N32°31'29"W A DISTANCE OF 179.72 FEET TO A POINT OF CURVATURE;
4. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 100.00 FEET, THROUGH A CENTRAL ANGLE OF 10°37'17", AN ARC DISTANCE OF 18.54 FEET;
5. THENCE N21°54'12"W A DISTANCE OF 210.06 FEET TO A POINT OF CURVATURE;
6. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 250.00 FEET, THROUGH A CENTRAL ANGLE OF 15°02'30", AN ARC DISTANCE OF 65.63 FEET TO A POINT OF COMPOUND CURVE;
7. THENCE NORTHEASTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 800.00 FEET, THROUGH A CENTRAL ANGLE OF 13°54'40", AN ARC DISTANCE OF 194.24 FEET TO A POINT OF COMPOUND CURVE;
8. THENCE NORTHEASTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 554.39 FEET, THROUGH A CENTRAL ANGLE OF 21°45'07", AN ARC DISTANCE OF 210.47 FEET TO A POINT OF COMPOUND CURVE;
9. THENCE NORTHEASTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 119.00 FEET, THROUGH A CENTRAL ANGLE OF 69°36'08", AN ARC DISTANCE OF 144.56 FEET;
10. THENCE S81°35'47"E A DISTANCE OF 115.42 FEET TO A POINT OF CURVATURE;
11. THENCE NORTHEASTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 150.00 FEET, THROUGH A CENTRAL ANGLE OF 66°32'14", AN ARC DISTANCE OF 174.19 FEET;

Exhibit A Continued

12. THENCE N31°51'59"E A DISTANCE OF 169.07 FEET TO A POINT OF CURVATURE;
13. THENCE NORTHERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF 36°34'23", AN ARC DISTANCE OF 31.92 FEET;
14. THENCE N04°42'24"W A DISTANCE OF 50.39 FEET TO A POINT OF CURVATURE;
15. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 806.00 FEET, THROUGH A CENTRAL ANGLE OF 10°01'21", AN ARC DISTANCE OF 140.99 FEET TO A POINT OF REVERSE CURVE;
16. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 94.00 FEET, THROUGH A CENTRAL ANGLE OF 26°14'43", AN ARC DISTANCE OF 43.06 FEET;
17. THENCE N11°30'58"E A DISTANCE OF 146.53 FEET TO A POINT OF CURVATURE;
18. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 85.00 FEET, THROUGH A CENTRAL ANGLE OF 51°46'09", AN ARC DISTANCE OF 76.80 FEET;
19. THENCE N40°15'10"W A DISTANCE OF 130.85 FEET TO A POINT OF CURVATURE;
20. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 350.00 FEET, THROUGH A CENTRAL ANGLE OF 14°27'01", AN ARC DISTANCE OF 88.27 FEET;
21. THENCE N54°42'12"W A DISTANCE OF 129.32 FEET TO A POINT OF CURVATURE;
22. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 180.42 FEET, THROUGH A CENTRAL ANGLE OF 35°29'04", AN ARC DISTANCE OF 111.74 FEET;
23. THENCE N19°13'08"W A DISTANCE OF 116.42 FEET TO A POINT OF CURVATURE;
24. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 150.00 FEET, THROUGH A CENTRAL ANGLE OF 10°38'10", AN ARC DISTANCE OF 27.85 FEET TO A POINT OF REVERSE CURVE;
25. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 600.00 FEET, THROUGH A CENTRAL ANGLE OF 03°21'51", AN ARC DISTANCE OF 35.23 FEET;
26. THENCE N26°29'27"W A DISTANCE OF 101.65 FEET TO A POINT OF CURVATURE;
27. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 150.00 FEET, THROUGH A CENTRAL ANGLE OF 34°07'49", AN ARC DISTANCE OF 89.35 FEET;
28. THENCE N07°38'22"E A DISTANCE OF 41.21 FEET TO A POINT OF CURVATURE;
29. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 112.00 FEET, THROUGH A CENTRAL ANGLE OF 26°02'37", AN ARC DISTANCE OF 50.91 FEET TO A POINT OF COMPOUND CURVE;
30. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 715.13 FEET, THROUGH A CENTRAL ANGLE OF 08°44'52", AN ARC DISTANCE OF 109.18 FEET;

Exhibit A Continued

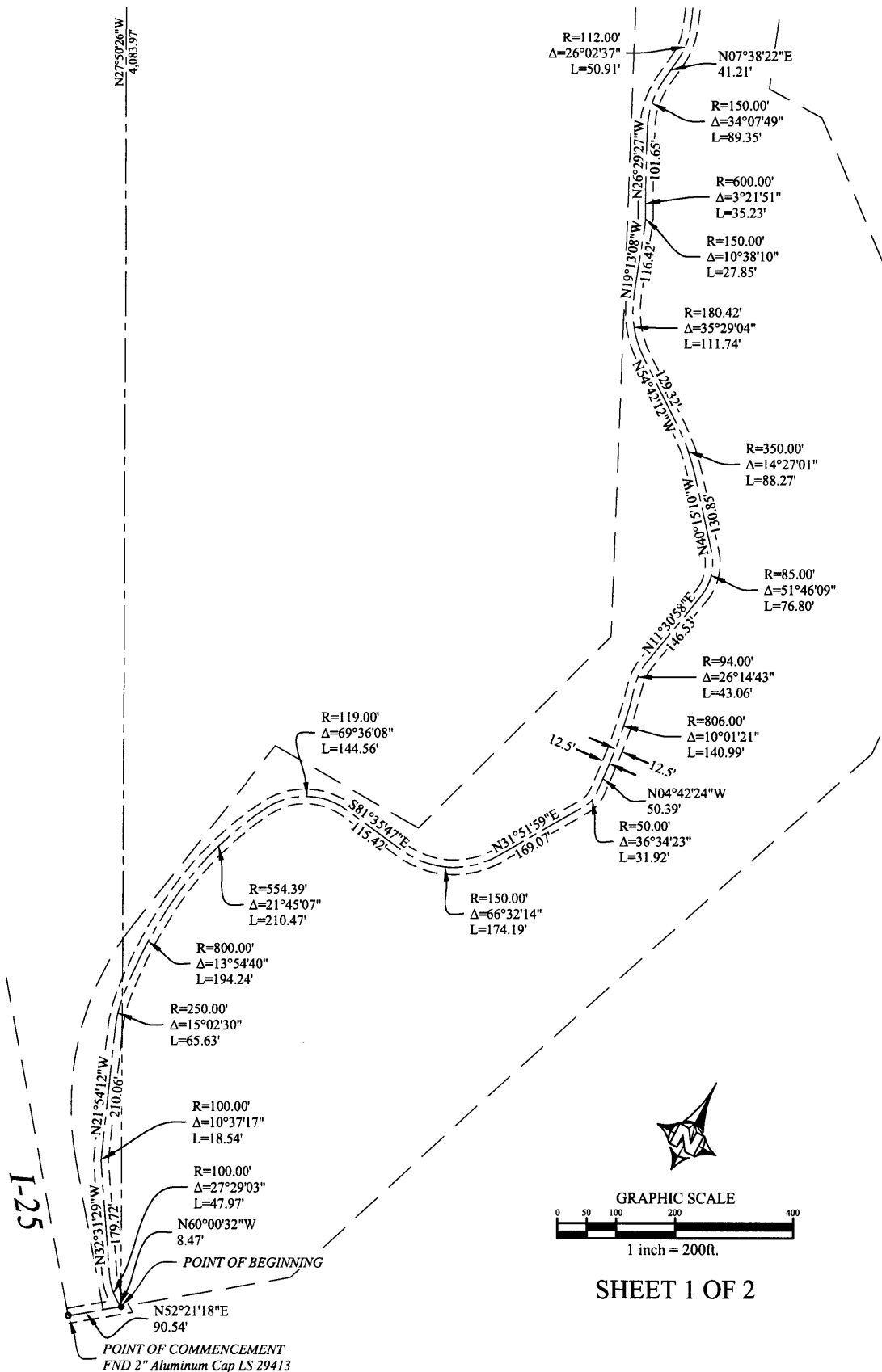
31. THENCE N27°09'07"W A DISTANCE OF 23.16 FEET TO A POINT OF CURVATURE;
32. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 512.00 FEET, THROUGH A CENTRAL ANGLE OF 12°07'55", AN ARC DISTANCE OF 108.41 FEET TO A POINT OF REVERSE CURVE;
33. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 531.49 FEET, THROUGH A CENTRAL ANGLE OF 16°52'53", AN ARC DISTANCE OF 156.60 FEET TO A POINT OF REVERSE CURVE;
34. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 62.00 FEET, THROUGH A CENTRAL ANGLE OF 24°29'35", AN ARC DISTANCE OF 26.50 FEET TO A POINT OF REVERSE CURVE;
35. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 150.00 FEET, THROUGH A CENTRAL ANGLE OF 23°18'07", AN ARC DISTANCE OF 61.00 FEET;
36. THENCE N23°35'37"W A DISTANCE OF 112.16 FEET TO A POINT OF CURVATURE;
37. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 112.00 FEET, THROUGH A CENTRAL ANGLE OF 09°46'39", AN ARC DISTANCE OF 19.11 FEET;
38. THENCE N33°22'16"W A DISTANCE OF 93.80 FEET TO A POINT OF CURVATURE;
39. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 144.57 FEET, THROUGH A CENTRAL ANGLE OF 36°04'44", AN ARC DISTANCE OF 91.04 FEET;
40. THENCE N02°42'28"E A DISTANCE OF 35.75 FEET TO A POINT OF CURVATURE;
41. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 512.00 FEET, THROUGH A CENTRAL ANGLE OF 17°08'25", AN ARC DISTANCE OF 153.17 FEET;
42. THENCE N14°25'57"W A DISTANCE OF 158.53 FEET TO A POINT OF CURVATURE;
43. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 612.00 FEET, THROUGH A CENTRAL ANGLE OF 15°51'32", AN ARC DISTANCE OF 169.40 FEET;
44. THENCE N30°17'29"W A DISTANCE OF 24.34 FEET TO A POINT OF CURVATURE;
45. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 132.00 FEET, THROUGH A CENTRAL ANGLE OF 55°01'11", AN ARC DISTANCE OF 126.76 FEET;
46. THENCE N85°18'40"W A DISTANCE OF 150.55 FEET TO A POINT OF CURVATURE;
47. THENCE SOUTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 501.54 FEET, THROUGH A CENTRAL ANGLE OF 17°16'33", AN ARC DISTANCE OF 151.22 FEET TO A POINT OF COMPOUND CURVE;
48. THENCE SOUTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 262.00 FEET, THROUGH A CENTRAL ANGLE OF 23°55'21", AN ARC DISTANCE OF 109.39 FEET TO A POINT OF REVERSE CURVE;

Exhibit A Continued

49. THENCE SOUTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 250.00 FEET, THROUGH A CENTRAL ANGLE OF 13°11'02", AN ARC DISTANCE OF 57.53 FEET;
50. THENCE S66°40'28"W A DISTANCE OF 106.59 FEET TO A POINT OF CURVATURE;
51. THENCE SOUTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 112.00 FEET, THROUGH A CENTRAL ANGLE OF 08°44'02", AN ARC DISTANCE OF 17.07 FEET;
52. THENCE S57°56'26"W A DISTANCE OF 137.51 FEET TO A POINT OF CURVATURE;
53. THENCE SOUTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 100.00 FEET, THROUGH A CENTRAL ANGLE OF 49°01'27", AN ARC DISTANCE OF 85.56 FEET TO A POINT OF COMPOUND CURVE;
54. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 299.00 FEET, THROUGH A CENTRAL ANGLE OF 14°31'57", AN ARC DISTANCE OF 75.84 FEET;
55. THENCE N58°30'10"W A DISTANCE OF 175.81 FEET TO A POINT OF CURVATURE;
56. THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 494.00 FEET, THROUGH A CENTRAL ANGLE OF 07°53'22", AN ARC DISTANCE OF 68.02 FEET TO A POINT OF REVERSE CURVE;
57. THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 106.00 FEET, THROUGH A CENTRAL ANGLE OF 34°08'13", AN ARC DISTANCE OF 63.16 FEET TO A POINT OF COMPOUND CURVE;
58. THENCE SOUTHWESTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 257.11 FEET, THROUGH A CENTRAL ANGLE OF 11°18'33", AN ARC DISTANCE OF 50.75 FEET, MORE OR LESS, TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 14 AND THE POINT OF TERMINUS FOR THE CENTERLINE DESCRIBED HEREIN; SAID POINT BEARS S00°39'05"E A DISTANCE OF 40.92 FEET FROM THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER AND N27°50'26"W A DISTANCE OF 4083.97 FEET FROM THE POINT OF BEGINNING.

EXHIBIT B
EL PASO COUNTY PROJECT NUMBER 385702
25 FOOT WIDE TRAIL EASEMENT

LOCATED IN
 THE SECTIONS 14 AND 23, TOWNSHIP 15 SOUTH, RANGE 66 WEST OF THE 6th P.M.
 EL PASO COUNTY, COLORADO.



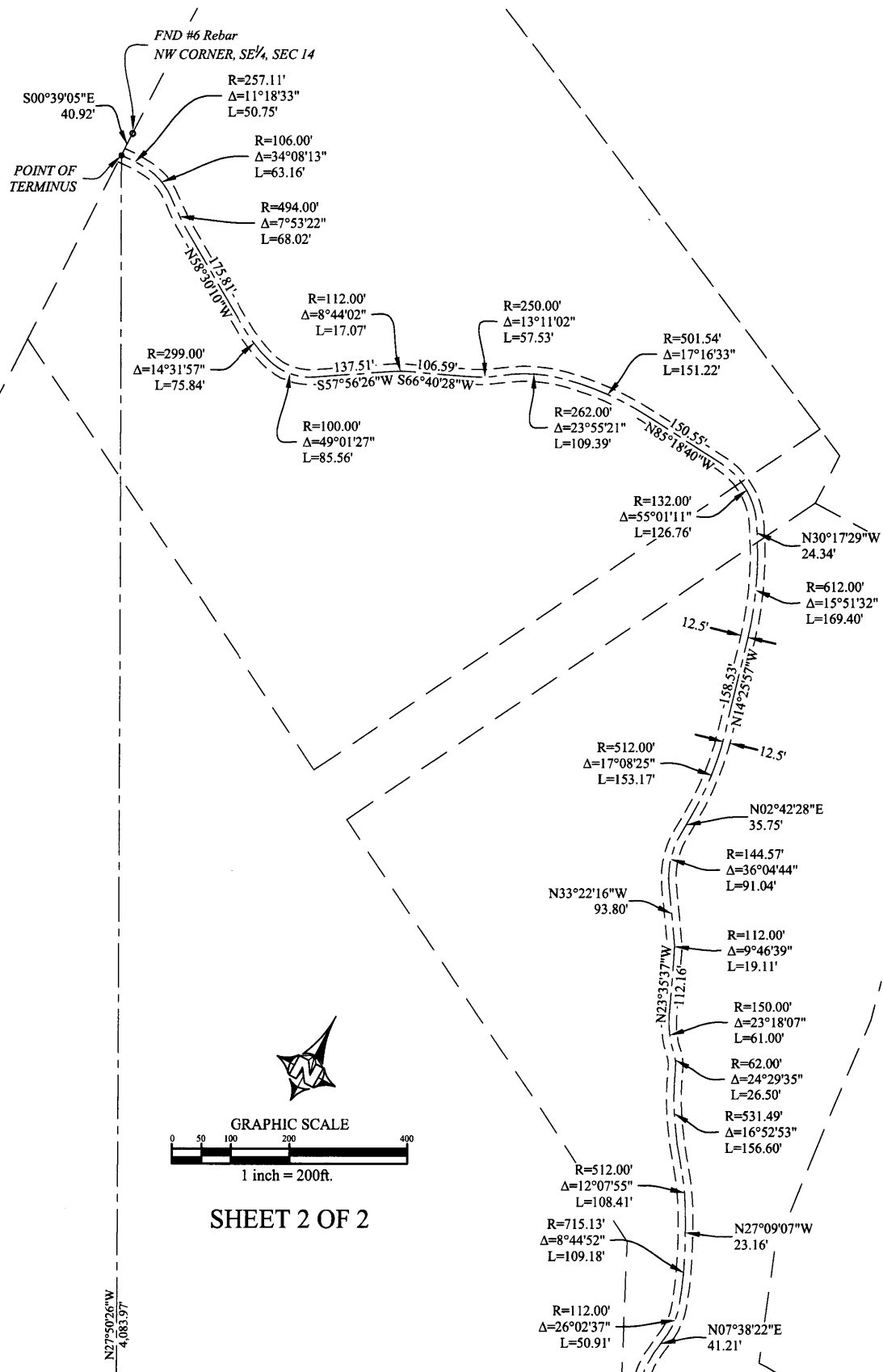
SCALE: 1"=200' DATE: 04/24/18
 DRAWING: Exhibit B to Description.dwg BY: RM

EL PASO COUNTY
DEPARTMENT OF PUBLIC WORKS

EXHIBIT B

**EL PASO COUNTY PROJECT NUMBER 385702
25 FOOT WIDE TRAIL EASEMENT**

LOCATED IN
THE SECTIONS 14 AND 23, TOWNSHIP 15 SOUTH, RANGE 66 WEST OF THE 6th P.M.
EL PASO COUNTY, COLORADO.



SHEET 2 OF 2