



00063910201200085900060069

I, Dana W. Jenkins, County Clerk, do hereby certify that the within instrument was recorded in the Lincoln County Book of Records on the above date and time. WITNESS my hand and seal of said office affixed.

Dana W. Jenkins, Lincoln County Clerk



GRANTOR:

Wal-Mart Real Estate Business Trust,
A Delaware statutory trust
2001 SE 10th Street
Bentonville, AR 72712

GRANTEE:

City of Newport
169 SW Coast Highway
Newport, OR 97365

After recording return to:

City Recorder

City of Newport
169 SW Coast Highway
Newport, OR 97365

NO CHANGE IN TAX STATEMENTS

**CITY OF NEWPORT, OREGON
PUBLIC UTILITY EASEMENT**

Wal-Mart Real Estate Business Trust, a Delaware statutory trust, hereinafter referred to as "Grantor", owns the real property described below and does hereby give and grant unto the City of Newport, an Oregon Municipal Corporation of Lincoln County, Oregon, hereinafter referred to as "Grantee", an exclusive, perpetual 15-foot wide Easement for public utilities, including the right to lay, construct, and maintain a pressure water pipeline, and all related appurtenances, hereinafter referred to as "Public Utility", as described in Exhibit A, to be constructed and located on, across, under or over the surface of the following described real property (Grantor Tract):

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 10 SOUTH, RANGE 11 WEST, OF THE WILLAMETTE MERIDIAN IN LINCOLN COUNTY, OREGON DESCRIBED AS FOLLOWS:
BEGINNING AT AN IRON ROD MARKING THE SOUTHWEST CORNER OF BLOCK 46 OF BEACH PARK ADDITION TO NEWPORT; THENCE WEST ACROSS NYE STREET AND ALONG THE SOUTH BOUNDARY OF BLOCK 47 OF SAID SUBDIVISION A DISTANCE OF 172.48 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF OCEAN VIEW DRIVE (OLD COAST HIGHWAY); THENCE NORTH 9° 23'59" EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID OCEAN VIEW DRIVE, A DISTANCE OF 203.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 9° 23' 59" EAST CONTINUING ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 200.40 FEET TO AN IRON ROD OPPOSITE ENGINEERS STATION P.T. 444+32.6; THENCE NORTHEASTERLY ALONG THE RIGHT-OF-WAY LINE ON THE ARC OF A 1004.93 FOOT RADIUS CURVE TO THE LEFT (THE CHORD OF WHICH BEARS NORTH 5°18'12" EAST 135.56 FEET) A DISTANCE OF 135.66 FEET TO AN IRON ROD OPPOSITE ENGINEERS STATION 443+00; THENCE SOUTH 88° 33' 49" EAST 30.00 FEET TO AN IRON ROD MARKING THE SOUTHEAST CORNER OF THE THIRD PARCEL AWARDED TO THE STATE OF OREGON, BY AND THROUGH IT'S STATE



HIGHWAY COMMISSION AS SAID THIRD PARCEL IS DESCRIBED IN JUDGMENT ORDER DATED JUNE 24, 1969 IN LINCOLN COUNTY CIRCUIT COURT CASE NO. 28349, STATE OF OREGON BY AND THROUGH IT'S STATE HIGHWAY COMMISSION VS. RICHARD ANDERSEN, ET AL; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID THIRD PARCEL ON THE ARC OF A 1034.93 FOOT RADIUS CURVE TO THE LEFT (THE CHORD OF WHICH BEARS NORTH 4° 37' 25" WEST 218.53 FEET) A DISTANCE OF 218.94 FEET TO AN IRON ROD MARKING THE MOST NORTHERLY NORTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO RICHARD M. RUGGIERO AND BEVERLY A. RUGGIERO, HUSBAND AND WIFE, BY DEED RECORDED IN BOOK 217, PAGE 2367, DEED RECORDS FOR LINCOLN COUNTY, OREGON; THENCE NORTH 79° 35' 12" EAST ALONG THE NORTHERLY LINE OF SAID RUGGIERO TRACT, A DISTANCE OF 509.98 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE RELOCATED HIGHWAY 101; THENCE SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE ON THE ARC OF A 7519.44 FOOT RADIUS CURVE TO THE RIGHT (THE CHORD OF WHICH BEARS SOUTH 5° 18' 54" EAST 631.14 FEET) A DISTANCE OF 632.12 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID RUGGIERO TRACT; THENCE NORTH 89° 54' 46" EAST ALONG THE EASTERLY EXTENSION OF THE SOUTH LINE OF SAID RUGGIERO TRACT, A DISTANCE OF 40.05 FEET TO A POINT MARKING AN ANGLE CORNER IN THE WESTERLY RIGHT-OF-WAY LINE OF SAID HIGHWAY 101; THENCE SOUTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE ON THE ARC OF A 7559.44 FOOT RADIUS CURVE TO THE RIGHT (THE CHORD OF WHICH BEARS SOUTH 2° 08' 46" EAST 197.61 FEET) A DISTANCE OF 197.61 FEET TO A POINT OPPOSITE ENGINEERS STATION P.C.S. 995+93.92; THENCE SOUTHERLY ALONG SAID RIGHT-OF-WAY LINE ON THE ARC OF A SPIRAL CURVE TO THE RIGHT (THE CHORD OF WHICH BEARS SOUTH 00° 44'08" EAST 204.43 FEET) A DISTANCE OF 204.43 FEET TO A POINT OPPOSITE ENGINEERS STATION 998+00, MARKING AN ANGLE CORNER IN SAID RIGHT-OF-WAY LINE; THENCE NORTH 89° 46' 03" EAST 20.00 FEET TO AN ANGLE CORNER IN SAID RIGHT-OF-WAY LINE; THENCE SOUTHERLY ALONG SAID RIGHT-OF-WAY LINE ON THE ARC OF A SPIRAL CURVE TO THE RIGHT (THE CHORD OF WHICH BEARS SOUTH 00° 05' 34" EAST 32.05 FEET) A DISTANCE OF 32.05 FEET; THENCE WEST A DISTANCE OF 81.01 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A 320.00 FOOT RADIUS CURVE TO THE RIGHT (THE CHORD OF WHICH BEARS NORTH 83° 10' 00" WEST 76.15 FEET) A DISTANCE OF 76.33 FEET; THENCE NORTH 76° 20' 00" WEST A DISTANCE OF 203.53 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A 200.00 FOOT RADIUS CURVE TO THE RIGHT (THE CHORD OF WHICH BEARS NORTH 50° 40' 00" WEST 173.25 FEET) A DISTANCE OF 179.19 FEET; THENCE NORTH 25° 00' 00" WEST 106.02 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A 330.00 FOOT RADIUS CURVE TO THE LEFT (THE CHORD OF WHICH BEARS NORTH 44° 31' 02" WEST 220.50 FEET) A DISTANCE OF 224.82 FEET TO THE TRUE POINT OF BEGINNING.

The Easement is given and granted on the following terms:

1. The Easement hereby granted shall include the right of the Grantee, its agents, assignees, contractors and representatives, to enter and occupy the Easement Area, and to install, construct, lay, operate, maintain, inspect, repair, reconstruct, use, remove, keep, and replace pipelines and other utilities and related facilities within the Easement Area, including but not limited to the right to enter (and to that end, to cross over and upon) the Grantor Tract and occupy the Easement with men, equipment and supplies to carry out activities related to the purposes above described, including but not limited to the right to cut and remove trees, improvements and vegetation, dig, grade and excavate, improve and repair, and carry out other activities incidental thereto or as otherwise convenient and appropriate to the use and

enjoyment of the Grantee's Easement and rights hereunder.

2. Whenever the Grantee, or any successor, employee, contractor, representative, permittee, assignee or licensee of Grantee, shall carry out any work within the Easement Area, such party shall restore the affected areas as follows:

a. If the work is carried out within any portion of the Easement which is paved or improved, Grantee shall repair the pavement, curbs and permitted improvements affected by the work, to a condition substantially similar to, or better than, that which existed immediately prior to carrying out such work. Such work shall be completed, and the area re-paved, within 90 days following commencement of such work, and if such work is not completed within such period, the area shall be filled and re-paved for the winter, and re-paved again after the work is completed;

b. If the work is carried out within a landscaped area, the vegetation planted as landscaping shall be replaced with plantings of substantially the same type or appearance as previously placed in the Easement, provided, however, that although such replacement plantings shall be similar in size, they may not be exactly the same size as those now in place, and there shall be no obligation to replace trees and shrubs having a height in excess of six (6) feet or which are merely unlandscaped brush;

c. Except in case of emergency, Grantee shall endeavor to give Grantor reasonable notice prior to commencement of work within the Easement.

3. Grantor shall not construct or permit any improvements within the Easement Area as would endanger or interfere with the use or benefit of the easement rights herein granted and the utility improvements now existing, or hereafter to be constructed. Grantor shall not construct any improvements in the Easement Area, other than pavement of the surface, landscaping and curbs. Grantor may also construct signs and fences, upon condition that the same shall not injure or damage the utilities within the easement.

4. The Easement shall be perpetual, unless the Grantee releases the Easement in a duly executed and recorded Release of Easement.

5. The terms, conditions, covenants, and agreements contained in this Easement and the benefits and burdens thereof are intended to be perpetual and to run with the land and shall be binding upon and inure to the benefit of the owners of the Grantor's Property underlying said Easement, and the heirs, successors and assigns of the Grantor and of the Grantee. Except to the extent otherwise provided in this Easement, any person succeeding to all or a part of the interest of the Grantor shall succeed to all of the Grantor's rights, interests, and obligations, subject to and with the benefit of all terms and conditions of this Easement.

6. This Easement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

Although this Easement is initially for the installation of a water pressure pipeline, Grantee shall have the right to install, and to authorize and permit the installation of, other City utilities (such as pressure sanitary sewer, gravity sanitary sewer, storm drain, water, fiber optic cable, and related equipment) within the boundaries of the Easement, and to do, and authorize to be done, all things as are herein mentioned in connection with any and all such utilities.

In addition to all other remedies allowed by law, Grantee, its successors and assigns, shall have



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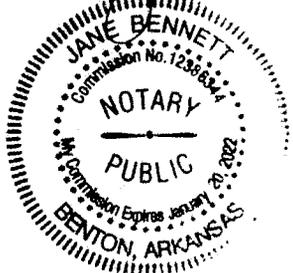
the right to seek injunctive relief for the enforcement of the terms and conditions of this Easement against Grantor. If Grantee is required to bring suit or action to enforce the terms of this Easement, Grantee shall be entitled to recover from Grantor such sums that the court may adjudge reasonable as attorney fees and costs in such suit or action, or upon appeal. The true and actual consideration for this easement is \$ NONE.

DATED this 12th day of July, 2012.

Walmart Real Estate Business Trust,
A Delaware statutory trust
[Signature]
Authorized Representative

STATE OF ARKANSAS }
County of Benton } ss

Personally appeared before me this 12th day of July, 2012 the above named John E. Clarke, U.P. of Real Estate



[Signature]
Notary Public for Arkansas

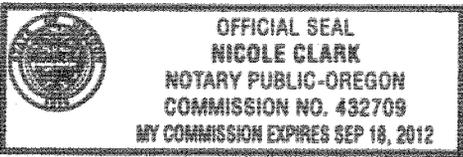
ACCEPTANCE OF EASEMENT

The City of Newport, Oregon, does hereby accept the above described Public Utility Easement this 24 day of July, 2012

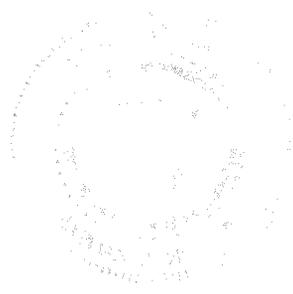
[Signature]
Mark McConnell, Mayor

STATE OF OREGON)
County of Lincoln) ss

This instrument was acknowledged before me on the 24 day of July, 2012 by Mark McConnell as Mayor of the City of Newport.



[Signature]
Notary Public for Oregon



MY COMMISSION EXPIRES SEP 18 2015
 COMMISSION NO. 43209
 NOTARY PUBLIC-OREGON
 NICOLE CLARK
 OFFICIAL SEAL



EXHIBIT 'A'

A PORTION OF THE LAND DESCRIBED IN BOOK 388, PAGE 1273, LOCATED IN THE SOUTHEAST 1/4 OF SECTION 32, TOWNSHIP 10 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN, CITY OF NEWPORT, LINCOLN COUNTY, OREGON, BEING A 15' WIDE STRIP OF LAND 7.50 FEET ON EACH SIDE OF THE CENTERLINE, AS SHOWN ON THE ATTACHED EXHIBIT "B", AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE WEST RIGHT-OF-WAY LINE OF NORTH COAST HIGHWAY 101, SAID POINT BEING AT STATION 993+94.46, 80.00 FEET RIGHT OF THE CENTERLINE OF SAID HIGHWAY, BEING MARKED BY A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP INSCRIBED "CES NW INC."; THENCE 35.14 FEET ALONG SAID WEST RIGHT-OF-WAY LINE THROUGH A 7550.96 FOOT RADIUS CURVE CONCAVE WESTERLY WITH A CENTRAL ANGLE OF 0°16'00" (THE CHORD OF WHICH BEARS SOUTH 02°37'46" EAST, 35.14 FEET) TO THE POINT OF BEGINNING; THENCE LEAVING SAID WEST LINE SOUTH 88°14'30" WEST, 65.15 FEET; THENCE NORTH 04°46'35" WEST, 133.62 FEET; THENCE SOUTH 85°13'25" WEST 16.88 FEET TO POINT 'A'; THENCE SOUTH 85°13'25" WEST, 386.49 FEET TO POINT 'B'; THENCE SOUTH 85°13'25" WEST, 40.62 FEET TO THE TERMINUS OF THIS CENTERLINE DESCRIPTION BEING ON THE CENTERLINE OF THE WATERLINE EASEMENT DESCRIBED IN DOCUMENT NUMBER 200402797, LINCOLN COUNTY RECORDS, SAID POINT BEING SOUTH 05°15'23" EAST 36.52 FEET FROM POINT 'C' AS DESCRIBED IN SAID WATERLINE EASEMENT DOCUMENT.

ALSO AND TOGETHER WITH 15.00 FOOT WIDE STRIPS OF LAND BEING 7.50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINES:

BEGINNING AT POINT 'A';
THENCE NORTH 04°46'35" WEST, 22.48 FEET TO THE TERMINUS OF THIS CENTERLINE DESCRIPTION.

BEGINNING AT POINT 'B';
THENCE SOUTH 04°46'35" EAST, 11.52 FEET TO THE TERMINUS OF THIS CENTERLINE DESCRIPTION.

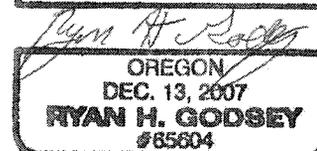
COMMENCING AT A POINT ON THE WEST RIGHT-OF-WAY LINE OF NORTH COAST HIGHWAY 101, SAID POINT BEING AT STATION 993+94.46, 80.00 FEET RIGHT OF THE CENTERLINE OF SAID HIGHWAY, BEING MARKED BY A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP INSCRIBED "CES NW INC."

THENCE NORTH 89°55'16" WEST, 40.00 FEET TO A POINT AT STATION 993+92.45, 120.00 FEET RIGHT OF THE CENTERLINE OF SAID HIGHWAY, BEING MARKED BY A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP INSCRIBED "CES NW INC."; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE 561.47 FEET THROUGH A 7510.96 FOOT RADIUS CURVE CONCAVE WESTERLY WITH A CENTRAL ANGLE OF 04°16'59" (THE CHORD OF WHICH BEARS NORTH 04°55'10" WEST, 561.34 FEET) TO THE POINT OF BEGINNING; THENCE LEAVING SAID WEST LINE NORTH 85°20'54" WEST, 10.86 FEET TO THE TERMINUS OF THIS CENTERLINE DESCRIPTION.

SIDELINES OF ALL ABOVE DESCRIBED CENTERLINES ARE SUBJECT TO LENGTHENING AND/OR SHORTENING TO TERMINATE UPON THE PROPER BOUNDARIES.

BASIS OF BEARINGS AND STATIONING IS C.S. # 18764, LINCOLN COUNTY SURVEY RECORDS

PREPARED BY CESNW, INC



EXPIRES: 6-30-2012

7-6-2012

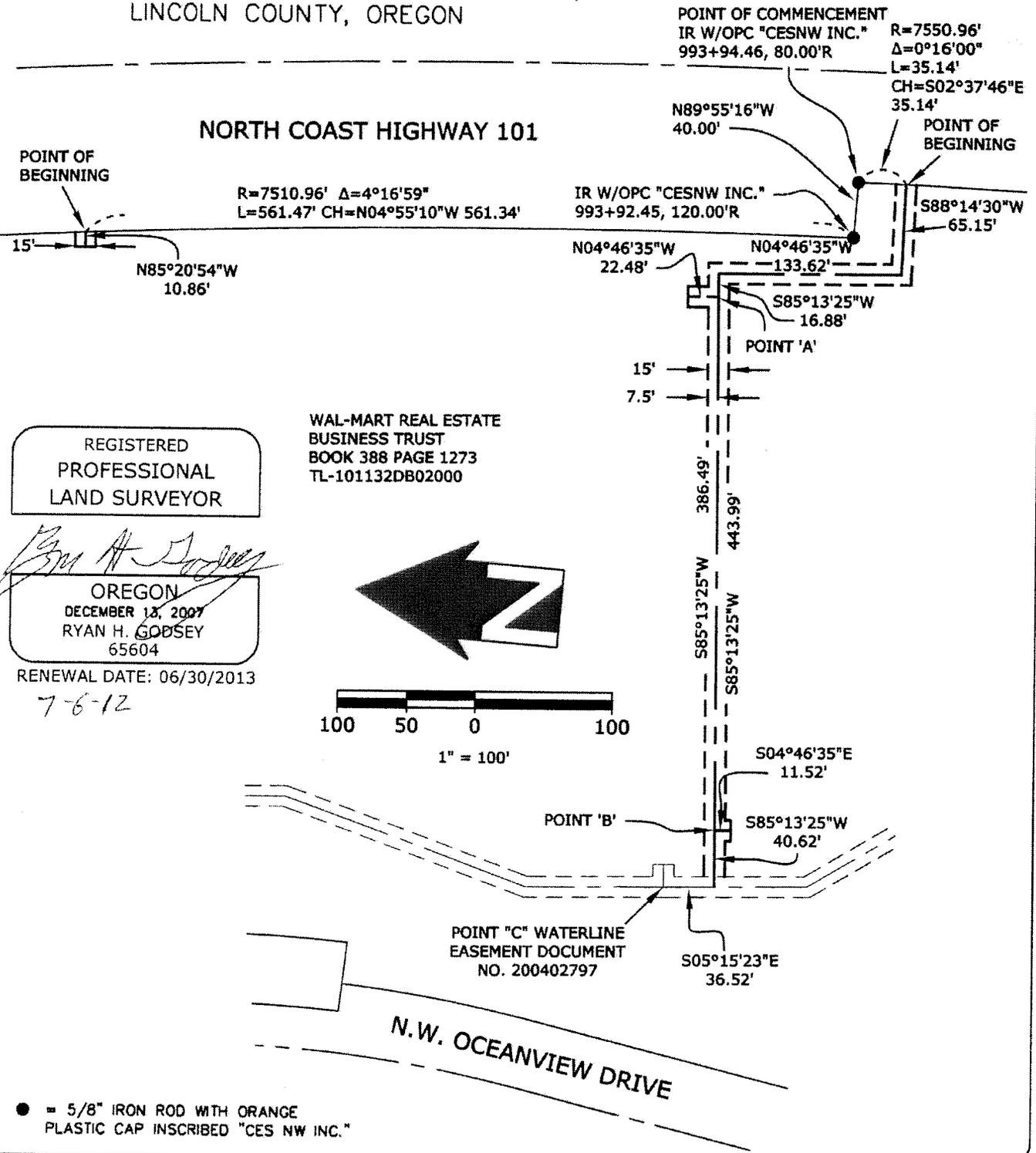
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EXHIBIT 'B'

LOCATED IN THE S.E. 1/4 OF SECTION 32,
TOWNSHIP 10 SOUTH, RANGE 11 WEST, W.M.,
LINCOLN COUNTY, OREGON



CES | NW 13190 SW 68TH PARKWAY, SUITE 150
TIGARD, OREGON 97223
503.968.6655 www.cesnw.com

DATE
07-06-12
EXHIBIT
B

