

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: February 9, 2021 Consent Regular
 Ordinance Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

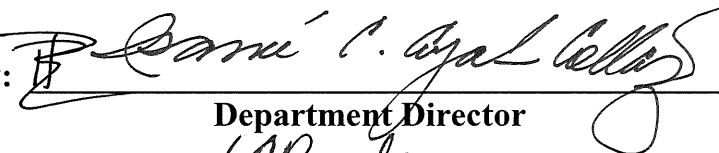
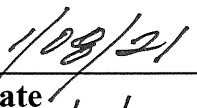

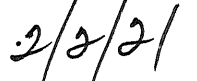
Motion and Title: Staff recommends motion to approve: a Mortgagee's Joinder and Consent to a Public Access Sidewalk Easement, pursuant to the Mortgage by The Raymond F. Kravis Center for the Performing Arts, Inc. (Center) dated December 6, 1989 (R89-1537-D) in favor of the City of West Palm Beach (City) and the County.

Summary: The Kravis Center recently completed its expansion project. As a condition of issuing the final Certificate of Occupancy for the project, the City requires the Kravis Center to provide the City with a sidewalk easement for the realignment of the sidewalk within the Kravis Center expansion project. The County has a security interest in said property pursuant to the Mortgage, as affected by a Partial Release of Mortgage; therefore, the Center has requested that the County execute the Mortgagee's Joinder and Consent to join in and subordinate the County's interest as mortgagee, to the granting of the Public Access Sidewalk Easement. On December 11, 2020, the Center granted the City a Public Access Sidewalk Easement, which was recorded by the City on December 16, 2020, in Official Record Book 32011, Page 1480, in the public records of Palm Beach County, Florida, without the inclusion of Mortgagee's Joinder and Consent for the County. The County's Mortgagee's Joinder and Consent, will be recorded into the public records as a separate instrument and will make reference to the recorded Public Access Sidewalk Easement recently granted. **(Property & Real Estate Management) District 7 (HJF)**

Background and Justification: The Kravis Center was constructed in 1992 and has recently been redeveloped. Pursuant to a Tri-Party Agreement between the Center, City and County, dated August 29, 1989 (R89-1537-D), the City and County committed to contribute \$5,000,000 (City contribution) and \$10,000,000 (County contribution) in matching funds for the development and construction of a performing arts facility. In December 1989, a Mortgage was recorded in Official Record Book 6283, Page 673, as affected by a Partial Release of Mortgage, recorded in Official Record Book 7424, Page 410. The Center is requesting that the County execute the Mortgagee's Joinder and Consent, which will reference the recorded Public Access Sidewalk Easement that was recently granted by the Center to the City.

Attachments:

- 1. Location Map
- 2. Mortgagee's Joinder and Consent
- 3. Public Access Sidewalk Easement (w/ Exhibits A and B)

Recommended By:		
	Department Director	Date
Approved By:		
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No X

Does this item include the use of federal funds? Yes _____ No X

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

No Fiscal Impact.

Fixed Asset Number N/A

C. Departmental Fiscal Review: *[Signature]*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 1/19/21
 OFMB 1/19/21
 LM 1/19

[Signature] 1/27/21
 Contract Development and Control
 1-26-21 TW

B. Legal Sufficiency:

[Signature] 1-28-21
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

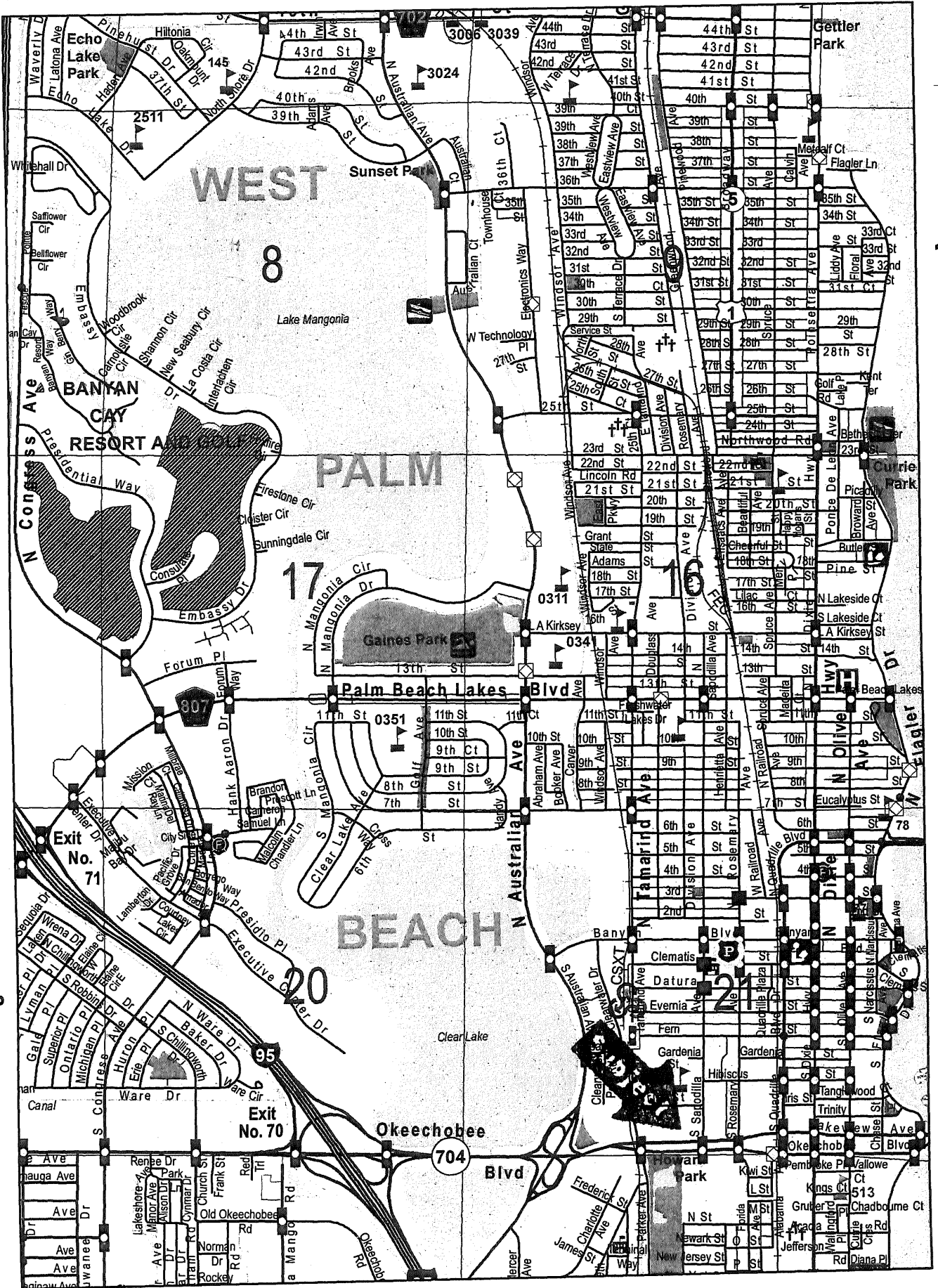
TWP 43

TWP 43

TWP 43

16

18



RNG 43

RNG 43

Handwritten signature or initials.

Prepared by and Return to:

John F. Flanigan, Esq.
HAILE, SHAW & PFAFFENBERGER, P.A.
660 U.S. Highway One, Third Floor
North Palm Beach, FL 33408

Parcel No. 74-43-43-21-36-001-0020

MORTGAGEE'S JOINDER AND CONSENT

The undersigned hereby certifies that it is the co-mortgagee and partial holder of a Mortgage upon the property described herein and does hereby join in and consent to the grant of the Public Access Sidewalk Easement by the Grantor thereof, which Public Access Sidewalk Easement is recorded in Official Record Book 32011, Page 1480, Public Records of Palm Beach County, Florida, and agrees that its Mortgage which is recorded in Official Record Book 6283, at Page 673, as affected by Partial Release of Mortgage recorded in Official Record Book 7424, Page 410 both of the Public Records of Palm Beach County, Florida, shall be subordinated to the said Public Access Sidewalk Easement.

IN WITNESS WHEREOF, the Board of the County Commissioners of Palm Beach County, Florida has caused these presents to be signed by its Mayor and its seal to be affixed hereto this ____ day of _____, 20____.

ATTEST:

JOSEPH ABRUZZO
CLERK AND COMPTROLLER

PALM BEACH COUNTY, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners

By: _____
Deputy Clerk

By: _____
Dave Kerner, Mayor

WITNESSES:

(OFFICIAL SEAL)

Witness Signature

Printed Name

Witness Signature

Printed Name

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

By: Anne Delmont
Assistant County Attorney

STATE OF FLORIDA } SS:
COUNTY OF PALM BEACH }

The foregoing was acknowledged before me by means of ____ physical presence or ____ online notarization this ____ day of _____, 20____, by David Kerner, as Mayor, of Palm Beach County, a Political Subdivision of the State of Florida, who is personally known to me or has produced _____ as identification.

Notary Public Signature

Printed or Stamped Name of Notary

Commission Number: _____

ATTACHMENT NO. 3
PUBLIC ACCESS SIDEWALK EASEMENT – 10 Pages

PREPARED BY AND RECORD & RETURN TO:

CITY OF WEST PALM BEACH
City Attorney's Office- Farah L. Nerette, Esq.
401 Clematis St.
City Hall, 5th Floor
West Palm Beach, FL 33401

WPB No. 24911

Parcel No. 74-43-43-21-36-001-0020

PUBLIC ACCESS SIDEWALK EASEMENT

THIS PUBLIC ACCESS SIDEWALK EASEMENT is made and entered into between:

THE RAYMOND F. KRAVIS CENTER FOR THE PERFORMING ARTS, INC., a Florida non-profit corporation, having an address at 701 Okeechobee Boulevard, West Palm Beach, FL 33401 ("Grantor") and the

CITY OF WEST PALM BEACH, a municipal corporation organized and existing under the laws of the State of Florida, whose address P.O. Box 3366, West Palm Beach, Florida 33402-3366 ("City").

W I T N E S S E T H:

The Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration paid by the City, the receipt and sufficiency of which is hereby acknowledged, does hereby grant to the City, for the benefit of the public, subject to the terms and conditions hereinafter provided, a perpetual non-exclusive easement for a public walkway / sidewalk in, on, over, under and across an approximately eight (8) foot wide strip of land located on that certain parcel of real property owned by the Grantor described as follows, and further described in **Exhibit "A"** attached hereto (the "Property").

Property: 701 Okeechobee Boulevard, West Palm Beach, Florida
PCN No. 74-43-43-21-36-001-0020

The Easement area is an approximately eight (8) foot wide strip of land running across the Property, as described in **Exhibit "B"** attached hereto ("Easement Property") and incorporated herein.

This Easement shall permit the general public to walk across the Easement Property at any time and from time to time as a public pedestrian way of passage for ingress, egress and access to and from the public walkway contiguous thereto.

Grantor, at its sole cost and expense, shall install the public walkway/sidewalk on the Easement Property and shall ensure all work is performed in a good and workman like manner in accordance with the terms and conditions in that Right of Way Maintenance Agreement ("Agreement") dated September 1, 2020. Grantor shall maintain the public walkway/sidewalk constructed on the Easement Property in safe and good repair at Grantor's sole expense. Grantor shall keep the Easement Property cleared of all obstructions and shall trim, cut or remove all landscaping located within or outside the Easement Property which might interfere with the public's use of the Easement Property as permitted by this Easement.

Grantor warrants and represents that there shall be no discrimination against any person because of race, color, religion, sex, gender identity or expression, genetic information, national origin, age, disability, familial status, marital status or sexual orientation in the use of the public walkway/sidewalk and Easement Property by the public.

The Grantor represents and warrants to the City that Grantor is in exclusive possession of the Easement Property and owns fee simple title to the Easement Property and that it has good and lawful right to grant this Easement. The Grantor hereby grants this Easement subject only to comprehensive land use plans, zoning, restrictions, prohibitions and other requirements imposed by governmental authority and to the Mortgage (as hereinafter defined). As of the recording date of this Easement, the Grantor has obtained the City's subordination as mortgagee, under that certain Mortgage dated December 6, 1989 and recorded in Official Record Book 6283, Page 673, Public Records of Palm Beach County, Florida (the "Mortgage") to this Easement. The Grantor agrees that it shall use reasonable commercial efforts to obtain the subordination of Palm Beach County as mortgagee under that certain Mortgage within one hundred eighty (180) days from the date of the issuance by the City of the final Certificate of Occupancy for The Kravis 20/20 Expansion Project.

Grantor and City agree that Grantor may close access to the Easement Property for a period of three (3) hours before any performance at the Kravis Center, during such performance, and for three (3) hours after such performance, provided, however, the Easement Property will remain open for access by persons entitled to access under the Americans with Disabilities Act during periods when access is otherwise closed.

The Grantor shall not construct any structure or other improvement upon the Easement Property or engage in any use of the surface of the Easement Property which is inconsistent or interferes with the public walkway/sidewalk or the rights of the City under this Easement.

The City is a municipal corporation with sovereign immunity to the limits and protections set forth in Sec. 768.28, Florida Statutes.

The term of this Easement shall be perpetual; provided, however, that this Easement may be terminated at any time hereafter with the consent of the Grantor and City, by written instrument duly executed and acknowledged by the Grantor and City and duly recorded in the Public Records of Palm Beach County, Florida. Neither the failure to use the Easement Property nor the abandonment of the Easement Property shall constitute or be construed as a termination of this Easement.

This Easement shall run with the land and shall be binding upon the Grantor, all parties entitled to use or possession of the Easement Property by or through the Grantor, including lessees, and the successors and assigns of Grantor and City.

This Easement shall be construed and interpreted, and the rights of the parties hereto determined, in accordance with Florida law without regard to conflicts of law provisions. The parties submit to the jurisdiction of Florida courts and federal courts located in Florida. The parties agree that proper venue for any suit concerning this Agreement shall be Palm Beach County, Florida. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

This Easement shall be recorded in the Public Records of Palm Beach County, Florida.

IN WITNESS WHEREOF, the parties have executed this Public Access Easement on the day and year indicated below.

GRANTOR:
THE RAYMOND F. KRAVIS CENTER
FOR THE PERFORMING ARTS, INC.

WITNESSES:

By: *Glenn A. Mitchell*
Glenn A. Mitchell, Chief Executive Officer

Sally Ballenger
Witness Signature

Sally Ballenger
Printed Name

[Signature]
Witness Signature

SONN F. FLORIAN
Printed Name

STATE OF FLORIDA } SS:
COUNTY OF PALM BEACH }

NOTARY CERTIFICATE

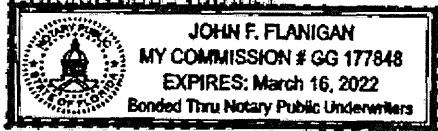
On this 9th day of December, 2020, JUDITH A. MITCHELL, the CEO of THE RAYMOND F. KRAVIS CENTER FOR THE PERFORMING ARTS, INC., appeared before me, by physical presence or on-line notarization, and acknowledged that she executed the foregoing Public Access Easement on behalf of the corporation. I relied upon the following form of identification:

- personally known to me;
- produced drivers license _____
- other (describe) _____

[Handwritten Signature]

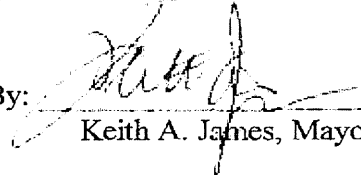
Notary Public Signature


Printed or Stamped Name of Notary
Commission Number:




CITY:
CITY OF WEST PALM BEACH

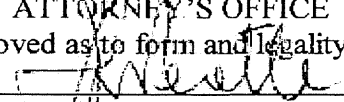
ATTEST:

By: 
Keith A. James, Mayor


Hazeline F. Carson, City Clerk


WITNESS:


Print Name: DELROY LOWE

CITY ATTORNEY'S OFFICE
Approved as to form and legality
By: 

STATE OF FLORIDA } SS:
COUNTY OF PALM BEACH }

The foregoing Public Access Easement was acknowledged before me this 11 day of December, ~~2012~~ ²⁰¹³, by personal presence, by KEITH A. JAMES, Mayor, and Hazeline Carson, City Clerk, of the City of West Palm Beach, who are personally known to me.


Notary Public Signature

Printed or Stamped Name
My Commission Expires

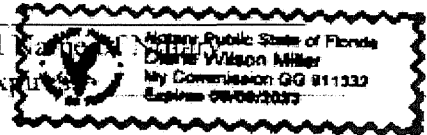


EXHIBIT 'A'
LEGAL DESCRIPTION
PROPERTY

PARCEL 'A' AS SHOWN ON THE PLAT OF KRAVIS CENTER AS RECORDED IN PLAT BOOK 127, PAGE 177 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

24911
120920

EXHIBIT "B"
LEGAL DESCRIPTION
EASEMENT AREA

24911
120920

EXHIBIT "B"

DESCRIPTION:

A PORTION OF PARCEL A, KRAVIS CENTER, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 127, PAGES 177 AND 178 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID PARCEL A; THENCE ALONG THE NORTH LINE OF SAID PARCEL A, NORTH 89°10'18" WEST A DISTANCE OF 232.38 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 40°00'26" WEST A DISTANCE OF 26.88 FEET; THENCE SOUTH 53°30'54" WEST A DISTANCE OF 11.62 FEET; THENCE SOUTH 45°50'27" WEST A DISTANCE OF 4.24 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 40.00 FEET AND A CENTRAL ANGLE OF 43°44'19"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 30.54 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 89°34'45" WEST A DISTANCE OF 7.91 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 30.00 FEET AND A CENTRAL ANGLE OF 40°46'50"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 21.35 FEET TO THE POINT OF TANGENCY; THENCE NORTH 49°38'25" WEST A DISTANCE OF 7.21 FEET; THENCE NORTH 45°05'04" WEST A DISTANCE OF 45.00 FEET TO THE NORTH LINE OF SAID PARCEL A; THENCE ALONG SAID NORTH LINE, SOUTH 89°10'18" EAST A DISTANCE OF 8.62 FEET; THENCE SOUTH 45°05'04" EAST A DISTANCE OF 38.57 FEET; THENCE SOUTH 49°38'25" EAST A DISTANCE OF 3.20 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 37.50 FEET AND A CENTRAL ANGLE OF 84°15'32"; THENCE EASTERLY ALONG THE ARC A DISTANCE OF 55.15 FEET TO THE POINT OF TANGENCY; THENCE NORTH 46°06'04" EAST A DISTANCE OF 21.78 FEET; THENCE NORTH 42°10'02" EAST A DISTANCE OF 15.00 FEET TO THE NORTH LINE OF SAID PARCEL A; THENCE ALONG SAID NORTH LINE, SOUTH 89°10'18" EAST A DISTANCE OF 7.73 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING AND BEING IN THE CITY OF WEST PALM BEACH, PALM BEACH COUNTY, FLORIDA.

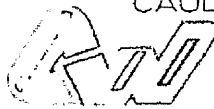
SURVEYOR'S NOTES:

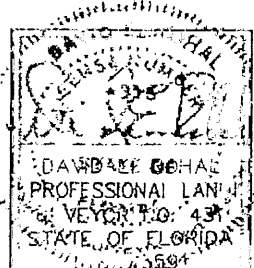
1. SURVEY MAPS OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND ORIGINAL SEAL OF A FLORIDA LICENSED PROFESSIONAL LAND SURVEYOR.
2. ADDITIONS OR DELETIONS TO SURVEY MAPS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
3. LANDS SHOWN HEREON WERE NOT ABSTRACTED, BY THE SURVEYOR, FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
4. BEARINGS SHOWN HEREON ARE RELATIVE TO A GRID BEARING OF NORTH 89°10'18" WEST ALONG THE NORTH LINE OF PARCEL A, KRAVIS CENTER, RECORDED IN PLAT BOOK 127, PAGES 177-178, PALM BEACH COUNTY PUBLIC RECORDS, RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, TRANSVERSE MERCATOR PROJECTION, NORTH AMERICAN DATUM OF 1983 WITH THE 1990 ADJUSTMENT.
5. INSTRUMENTS OF RECORD SHOWN HEREON ARE RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, UNLESS OTHERWISE SHOWN.
6. DATA SHOWN HEREON WAS COMPILED FROM INSTRUMENTS RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND DOES NOT CONSTITUTE A FIELD SURVEY AS SUCH.

CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH AND DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON JULY 10, 2020. I FURTHER CERTIFY THAT THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

SHEET 1 OF 2

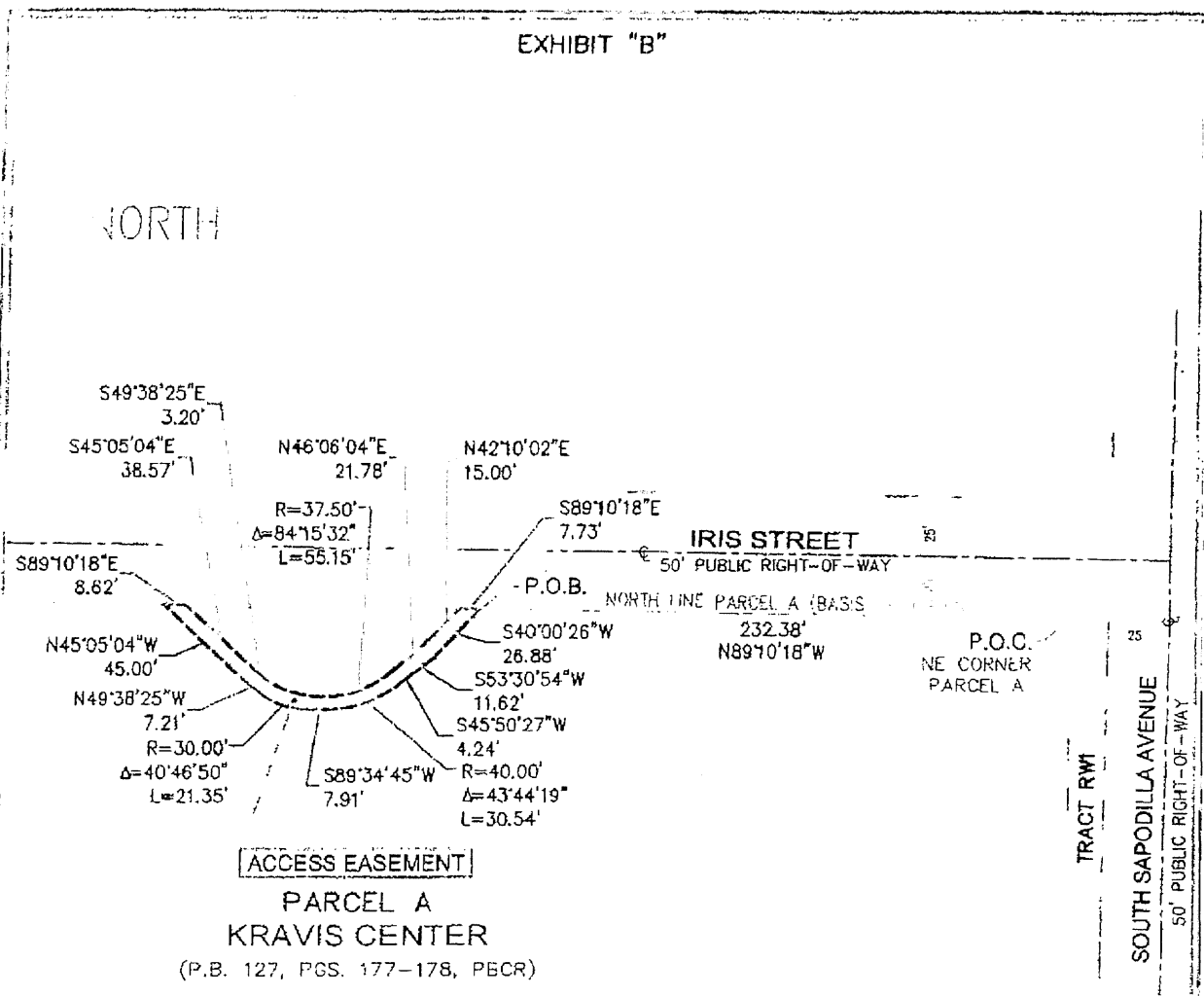
CAULFIELD & WHEELER, INC.

 CIVIL ENGINEERING - LAND SURVEYING
 7900 GLADES ROAD - SUITE 100
 BOCA RATON, FLORIDA 33434
 PHONE (561)-392-1991 / FAX (561)-750-1452



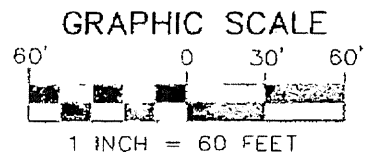
DATE 7/10/20
 DRAWN BY der
 F.B./ PG. NONE
 SCALE NONE
 JOB NO. 7432

KRAVIS CENTER
 ACCESS EASEMENT
 SKETCH AND DESCRIPTION

EXHIBIT "B"



LEGEND:
 P.O.B. - POINT OF BEGINNING
 P.O.C. - POINT OF COMMENCEMENT
 LB - LICENSED BUSINESS
 P.B. - PLAT BOOK
 PG. - PAGE
 PBCR - PALM BEACH COUNTY RECORDS
 CL - CENTERLINE
 R - RADIUS
 Δ - CENTRAL ANGLE (DELTA)
 L - ARC LENGTH



SHEET 2 OF 2

CAULFIELD & WHEELER, INC.
 CIVIL ENGINEERING - LAND SURVEYING
 7900 GLADES ROAD - SUITE 100
 BOCA RATON, FLORIDA 33434
 PHONE (561) 392-1991 / FAX (561)-750-1452

DATE	7/10/20
DRAWN BY	der
F.B./ PG.	NONE
SCALE	AS SHOWN
JOB NO.	7432

KRAVIS CENTER
ACCESS EASEMENT
SKETCH AND DESCRIPTION

**JOINDER AND CONSENT OF MORTGAGEE TO PUBLIC ACCESS SIDEWALK
EASEMENT**

The undersigned Mortgagee, hereby joins in and consents to the foregoing Public Access Sidewalk Easement across the lands therein described and agrees that its mortgage, which is recorded in Official Record Book 6283, Page 673 of the Public Records of Palm Beach County, Florida, shall be subordinate to said Public Access Sidewalk Easement.

IN WITNESS WHEREOF, the Mortgagee has caused this Joinder and Consent to be executed by its duly authorized officer this 11 day of December, 2020.

MORTGAGEE:
CITY OF WEST PALM BEACH

ATTEST:

By: [Signature]
Keith A. James, Mayor

[Signature]
Hazeline F. Carson, City Clerk

WITNESS:

[Signature]
Print Name: DELOY LOWE

CITY ATTORNEY'S OFFICE
Approved as to form and legality
By: [Signature]

STATE OF FLORIDA } SS:
COUNTY OF PALM BEACH }

The foregoing Public Access Easement was acknowledged before me this 11 day of December, 2020, by personal presence, by KEITH A. JAMES, Mayor, and Hazeline Carson, City Clerk, of the City of West Palm Beach, who are personally known to me.

[Signature]
Notary Public Signature

Printed or Stamped Name of My Commission
