

**RESOLUTION**

*(Palisades Point Project – approval of transition to MCRT Investments, LLC, an affiliate of Mill Creek Residential Trust)*

A regular meeting of the City of Yonkers Industrial Development Agency was convened on November 18, 2015.

The following resolution was duly offered and seconded, to wit:

**Resolution No. 11/2015 - 43**

RESOLUTION OF THE CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY APPROVING CERTAIN AMENDMENTS TO THE PALISADES POINT LEASES WHEREBY SFC H AND I LLC, SHALL ASSIGN ITS OPTION TO ACQUIRE FEE TITLE FROM YONKERS COMMUNITY DEVELOPMENT AGENCY TO CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY AND THERAFTER CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY AND YONKERS COMMUNITY DEVELOPMENT AGENCY SHALL TERMINATE THE DEVELOPMENT LEASE, CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY AND SFC H AND I LLC SHALL AMEND AND RESTATE THE FINANCING LEASE AND SFC H AND I LLC SHALL ASSIGN THE FINANCING LEASE TO MCRT INVESTMENTS, LLC, an AFFILIATE OF MILL CREEK RESIDENTIAL TRUST, ALL WITH RESPECT TO THE “PALISADES POINT PROJECT” ON PARCELS H AND I

WHEREAS, on or about November 5, 2008 the City Council by Resolution No. 176-2008 adopted a Statement of Environmental Findings for certain redevelopment projects proposed by Struever Fidelco Cappelli, LLC, including the redevelopment of “Parcel H” and “Parcel I,” as designated in the City’s Master Plan & Design Guidelines for the Yonkers Downtown Waterfront (the “Redevelopment Projects”); and

WHEREAS, City of Yonkers Industrial Development Agency (“YIDA”), Yonkers Community Development Agency, the City, Struever Fidelco Cappelli LLC (“SFC”), and others, entered into a certain Land Disposition Agreement dated January 26, 2010 (the “LDA”), pursuant to which SFC was required to construct the Redevelopment Projects; and

WHEREAS, CDA and YIDA entered into a Development Lease Agreement dated September 28, 2010 (the “Development Lease”), and YIDA and SFC H and I LLC, as the permitted successor to SFC, entered into a Financing Lease Agreement dated September 28, 2010 (the “Financing Lease”), for the redevelopment by SFC H and I LLC of Parcel H and Parcel I (the “Palisades Point Project”) in accordance with the LDA; and

WHEREAS, on December 17, 2013, YIDA by Resolution No. 12/2013-04 approved execution of a Termination of Agreements, terminating all of the Redevelopment Projects except the Palisades Point Project; and

WHEREAS, YIDA, CDA, the City, SFC H and I LLC, and others, entered into the Termination of Agreements dated as of April 9, 2014, pursuant to which the LDA was

terminated, but not modifying the Development Lease or Financing Lease, both of which are in full force and effect as of the date of this Resolution; and

WHEREAS, SFC H and I LLC has obtained development approvals to amend the Palisades Point Project in accordance with the Site Rendering depicted on Exhibit C annexed hereto; and

WHEREAS, SFC H and I LLC now desires to cause YIDA to: (i) acquire the fee title to Parcel H and Parcel I, as well as the remainder of the property designated on the City tax map as Section 1, Block 640, Lot 1; Section 1, Block 640, Lot 25; Section 1, Block 640, Lot 38; Section 1, Block 643, Lot 1; Section 1, Block 643, Lot 24; and Section 1, Block 643, Lot 40, as more particularly described on Exhibit A annexed hereto (the “Palisades Point Parcels”); (ii) terminate the Development Lease; (iii) amend and restate the Financing Lease with respect to the portion of the Palisades Point Parcels described on Exhibit B annexed hereto (as so amended and restated, the “Restated Financing Lease”); and (iv) authorize the assignment by SFC H and I LLC to MCRT Investments, LLC or its affiliate (“Mill Creek”), of the Restated Financing Lease.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY:

Section 1. YIDA shall accept from CDA fee title to the Palisades Point Parcels, which include all lands that were the subject of the Development Lease, as contemplated by the CDA Resolution attached hereto as Exhibit D, and to Block 2600, Lot 7 (collectively, the “Palisades Point Site”), as approved by subsequent action of CDA. Upon receipt of fee title to the Palisades Point Site, YIDA shall terminate the Development Lease.

Section 2. YIDA hereby authorizes the execution of the Assignment Agreement between SFC H and I LLC and YIDA (the “Assignment Agreement”), pursuant to which SFC H and I LLC assigns to YIDA the option under the Development Lease to purchase fee title to the portion of the Palisades Point Parcels subject to the Restated Financing Lease (the “Purchase Option”).

Section 3. YIDA hereby: (i) exercises the Purchase Option; (ii) authorizes termination of the Development Lease; (iii) authorizes execution of (a) the Restated Financing Lease, (b) a Tax Agreement and Tax Agreement Mortgage (with SFC H and I LLC), (c) an Agent Agreement (with Mill Creek), and (d) a Park Construction Maintenance and Access Agreement (with Mill Creek) attached hereto as Exhibit E, subject to such minor modifications as the Executive Director and YIDA transactional counsel determine to be desirable; and (iv) consents to the assignment of the Restated Financing Lease, Tax Agreement and Tax Agreement Mortgage to Mill Creek; provided, Mill Creek shall not assume the obligations related to the creation of fourteen (14) of the affordable housing units required as a component of the Palisades Point Project under the Restated Financing Lease, Tax Agreement and Tax Agreement Mortgage, which will be created, operated and maintained by SFC H and I LLC, or an entity that either (i) controls, (ii) is controlled by, or (ii) is under common control with, SFC H and I LLC,

or such other designee as is acceptable to the City (the “Affordable Housing Developer”), at 58-60 Hudson Street, Yonkers, and which shall be an obligation solely of, and enforceable by YIDA and the City solely against, the Affordable Housing Developer. YIDA acknowledges that the Tax Agreement will contain offset should the Company be obligated to pay City of Yonkers obligations under the State Assistance Contract No. C300984 between NYS DEC and City/CDA recorded in Control #410860346, correction of Control #411660452.

Section 4. YIDA hereby further authorizes the execution and delivery of any and all documents and the taking of all action necessary to effectuate the foregoing resolutions.

Section 5. All actions heretofore taken, and documents executed, in the furtherance of the foregoing resolutions are hereby ratified and confirmed by YIDA.

Section 6. That this Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	Yea	Nay	Absent	Abstain
Mayor Mike Spano	[ ✓ ]	[ ]	[ ]	[ ]
Susan Gerry	[ ✓ ]	[ ]	[ ]	[ ]
Cecile D. Singer	[ ✓ ]	[ ]	[ ]	[ ]
Peter Kischak	[ ✓ ]	[ ]	[ ]	[ ]
Martin Ball, Sr	[ ✓ ]	[ ]	[ ]	[ ]
Melissa Nacerino	[ ]	[ ]	[ * ]	[ ]
Robert Maccariello	[ ✓ ]	[ ]	[ ]	[ ]

The Resolutions was thereupon duly adopted.

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November 18, 2015

**SECRETARY'S CERTIFICATION**

*(Palisades Point Project – approval of transition to MCRT Investments, LLC, an affiliate of Mill Creek Residential Trust)*

STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        )     SS.:

The undersigned, Susan Gerry, being the Secretary of the City of Yonkers Industrial Development Agency, DOES HEREBY CERTIFY THAT:

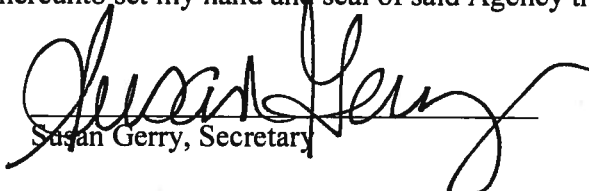
I have compared the foregoing extract of the minutes of the meeting of City of Yonkers Industrial Development Agency (the "Agency") including the resolution contained therein, held on the 18<sup>th</sup> day of November 2015, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject in matters therein referred to.

I FURTHER CERTIFY that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Agency this  
18 day of November 2015.

  
Susan Gerry, Secretary

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## EXHIBIT A Palisades Point Site



DATE: October 5, 2015  
BCG Proj. 080239

DESCRIPTION OF A PARCEL OF LAND SITUATED IN THE CITY OF YONKERS,  
WESTCHESTER COUNTY, NEW YORK.

BLOCK 640 LOTS 1, 25, 38  
BLOCK 643 LOTS 1, 24, 40  
CITY OF YONKERS, WESTCHESTER COUNTY, NEW YORK

BEGINNING at a point on the westerly right-of-way line of the New York Central Railroad Company where the same is intersected by the division line between Tax Lot 40, Block 643, herein described, and Tax Lot 1 Block 625, and running, thence

1. Along said division line and the division line between Tax Lot 38, Block 640, herein described, and Tax Lot 1 Block 625, North  $87^{\circ}02'24''$  West a distance of 564.00 feet to a point in the pierhead and bulkhead line of the Hudson River, thence

2. Along said pierhead line and along the westerly line of Tax Lots 1, 25 and 38, Block 640, North  $08^{\circ}55'49''$  East a distance of 850.14 feet to a point where the same is intersected by the division line between Tax Lot 25, Block 640 and Lot 6, Block 2600, thence

3. Along said division line, South  $78^{\circ}40'50''$  East a distance of 280.55 feet to a point where the same is intersected by the division line between Tax Lot 25, Block 640 and Lot 7, Block 2600, thence the following 12 courses along the division line between Lots 1 and 25, Block 640 and Lot 7, Block 2600

4. South  $24^{\circ}55'44''$  West a distance of 5.95 feet to an angle point in same, thence

5. South  $20^{\circ}42'47''$  East a distance of 11.06 feet to an angle point in same, thence

6. South  $15^{\circ}13'55''$  West a distance of 114.45 feet to an angle point in same, thence

7. South  $65^{\circ}00'36''$  West a distance of 34.39 feet to an angle point in same, thence

8. North  $79^{\circ}51'15''$  West a distance of 54.35 feet to an angle point in same, thence

9. South  $53^{\circ}59'21''$  West a distance of 11.39 feet to an angle point in same, thence

10. South  $15^{\circ}19'18''$  West a distance of 59.79 feet to an angle point in same, thence

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11. South  $08^{\circ}59'50''$  West a distance of 39.90 feet to an angle point in same, thence

12. South  $14^{\circ}02'24''$  West a distance of 70.41 feet to an angle point in same, thence

13. South  $00^{\circ}31'26''$  West a distance of 25.28 feet to an angle point in same, thence

14. South  $78^{\circ}40'50''$  East a distance of 122.46 feet to an angle point in same, thence

15. North  $12^{\circ}40'23''$  East a distance of 330.10 feet to a point where the same is intersected by the division line between Tax Lot 25, Block 640 and Lot 4, Block 2600, thence

16. Along said division line, South  $78^{\circ}40'50''$  East a distance of 29.67 feet to a point, thence

17. Still along said line, South  $82^{\circ}57'56''$  East a distance of 77.27 feet to a point where the same is intersected by the division line between Tax Lot 24, Block 643 and Tax Lot 2 Block 2600, thence

18. Along said division line, South  $02^{\circ}07'28''$  West a distance of 85.00 feet to a point, thence

19. Still along said line, South  $84^{\circ}16'04''$  East a distance of 43.09 feet to a point in the aforementioned westerly right-of-way line of New York Central Railroad, thence

20. Along said right-of-way line South  $02^{\circ}07'28''$  West a distance of 702.50 feet to the PLACE OF BEGINNING

Containing 386,910 square feet of 8.8822 acres

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## EXHIBIT B Portions subject to Restated Financing Lease

DATE: October 8, 2015  
BCC Proj. 080239

DESCRIPTION OF A PARCEL OF LAND SITUATED IN THE CITY OF YONKERS,  
WESTCHESTER COUNTY, NEW YORK.

BEGINNING at a point in the division line between Tax Lot 40, Block 643, and Tax Lot 1 Block 625, said point being North  $8^{\circ} 02' 24''$  West, 40.00 feet along said division line from a point where the same is intersected by the westerly right-of-way line of the New York Central Railroad Company, and running: thence

- 1) Along said division line and the division line between Tax Lot 38, Block 640, and Tax Lot 1 Block 625, North  $8^{\circ} 02' 24''$  West a distance of 175.78 feet to a point in same; thence the following 9 courses by a new line through Lots 38, 1 and 25, Block 640
- 2) Along a curve to the left having a radius of 157.00 feet, an arc length of 145.20 feet, the chord of which bears North  $51^{\circ} 22' 51''$  West, 138.29 feet to a point of reverse curve in same; thence
- 3) Along a curve to the right having a radius of 32.00 feet, an arc length of 14.24 feet, the chord of which bears North  $66^{\circ} 45' 51''$  West, 14.12 feet to a point of non-tangency in same; thence
- 4) North  $12^{\circ} 13' 48''$  East, a distance of 248.54 feet to an angle point in same; thence
- 5) North  $32^{\circ} 58' 32''$  East a distance of 63.42 feet to an angle point in same; thence
- 6) North  $04^{\circ} 02' 40''$  East a distance of 38.06 feet to an angle point in same; thence
- 7) North  $04^{\circ} 18' 15''$  East a distance of 51.28 feet to an angle point in same; thence
- 8) South  $89^{\circ} 01' 20''$  East a distance of 88.02 feet to an angle point in same; thence
- 9) North  $01^{\circ} 50' 41''$  East a distance of 144.90 feet to an angle point in same; thence
- 10) North  $03^{\circ} 19' 54''$  East a distance of 39.52 feet to a point in the easterly division line between Lot 25, Block 640 and Lot 7 Block 2600; thence
- 11) Along said division line, North  $12^{\circ} 30' 23''$  East a distance of 142.84 feet to a point where the same is intersected by the division line between Tax Lot 25, Block 640 and Lot 4, Block 2600; thence
- 12) Along said division line, South  $78^{\circ} 30' 50''$  East a distance of 29.67 feet to a point; thence

Bowman Consulting Group, LLC  
34 Heron Hill Road, Cedar Knolls, NJ 07927  
Phone: 973.539.8902 www.bowmanconsulting.com www.bowmanconsulting.com

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- 13) Still along said line, South  $82^{\circ} 57' 56''$  East a distance of 77.27 feet to a point where the same is intersected by the division line between Tax Lot 24, Block 643 and Tax Lot 2 Block 2600; thence
- 14) Along said division line, South  $02^{\circ} 07' 28''$  West a distance of 85.00 feet to a point; thence
- 15) Still along said line, South  $84^{\circ} 16' 04''$  East a distance of 5.01 feet to a point in same; thence
- 16) By a new line through said Lots, parallel and distant 40 (80) feet westerly of the aforementioned westerly right-of-way line of New York Central Railroad, South  $02^{\circ} 07' 28''$  West, 704.44 feet to a point where the same is intersected by the aforementioned division line between Tax Lot 40, Block 643, and Tax Lot 1 Block 625 and the PLACE OF BEGINNING.

Containing 162,175 square feet or 3.7230 acres

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**EXHIBIT C**  
**Site Rendering**



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**EXHIBIT D  
CDA RESOLUTION**



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**EXHIBIT E  
PARK AGREEMENT**