

## RESOLUTION

*(River Tides LLC Park Improvement Project)*

A regular meeting of the City of Yonkers Industrial Development Agency was convened on December 8, 2021.

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

### **Resolution No. 12/2021-27**

RESOLUTION OF THE CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING A DEVIATION FROM THE UNIFORM TAX EXEMPTION POLICY OF THE AGENCY WITH RESPECT TO A PROJECT FOR RIVER TIDES LLC AND THE FACILITATION OF IMPROVEMENTS FOR A TO BE CONSTRUCTED PUBLIC PARK

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 83 of the Laws of 1982 of the State of New York, as amended (hereinafter collectively called the "Act"), the **CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **RIVER TIDES LLC**, a Delaware limited liability company (the "Company") has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of an amendment of the existing Tax Agreement, dated as of October 1, 2014, by and between the Agency and the Company (the "Tax Agreement"), which amendment will credit the Company up to \$525,000.00 (the "Financial Assistance") towards Tax Payments (as that term is defined in the Tax Agreement) due and owing under the Tax Agreement in exchange for the improvement of a City of Yonkers ("City") owned parcel located at 1104 Warburton Avenue (the "1104 Warburton Parcel"), which 1104 Warburton Parcel is located approximately 250 feet from the Company's existing residential rental apartment complex known as "River Tides" located at 1105-1135 Warburton Avenue, in City of Yonkers, New York (the "Facility"); and

WHEREAS, the 1104 Warburton Parcel will be developed as a passive public park in accordance with design drawings approved by the City (the 1104 Warburton Parcel being so renovated shall hereinafter be referred to as the "Park Improvements"); and

WHEREAS, the cost of the Park Improvements is estimated at \$1,050,000, and the Company has agreed to construct the Park Improvements if it is granted the Financial Assistance; and

WHEREAS, the Agency contemplates that it will provide Financial Assistance to the Company in the form of a credit toward Tax Payments due by the Company under the Tax Agreement. The proposed Financial Assistance deviates from the Agency's Uniform Tax Exemption Policy (“Policy”); and

WHEREAS, the Agency is contemplating a deviation from the Policy as follows: the Financial Assistance deviates from the Agency's requirement that Tax Payments shall not be less than the amount of taxes that were due on the parcel in the previous tax year. The proposed deviation from the Policy will positively impact the health, community, environment and economy of the residents of the City and County of Westchester, New York. The residents of Warburton Avenue have asked for a park that will lead to the Old Croton Aqueduct (“Aqueduct”). The Warburton Parcel is adjacent to the Aqueduct and in close proximity to other Agency projects, namely 1077 Warburton Avenue and 1177@Greystone. The Park Improvements will enhance the quality-of-life of City and County of Westchester residents and visitors by providing a critical public amenity and more green space. In addition, the Company's construction of the Park Improvements will save taxpayer funds since half of the costs will be paid by the Company; and

WHEREAS, pursuant to Section 874(4) of the Act on November 12, 2021, the Agency caused a letter (the “Pilot Deviation Notice Letter”) to be mailed to the chief executive officer of each affected tax jurisdiction (“ATJ”), informing said individuals that the Agency would, at a public hearing held on November 23, 2021 (the “IDA Meeting”), consider a proposed deviation from the Policy with regard to the Financial Assistance; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 874(4) of the Act with respect to the proposed deviation from the Policy; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, the Project appears to constitute a Type “II” action (as said quoted term is defined in the Regulations), and therefore it appears that no further determination or procedure under SEQRA is required with respect to the Project; and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:

Section 1. Prior to making the determinations set forth in this resolution, the members of the Agency have considered the following factors set forth in the Policy: (1) the extent to which the Project would create or retain permanent jobs; (2) the estimated value of tax exemptions to

be provided with respect to the Project; (3) whether the ATJ's shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; (4) the impact of a proposed project on existing and proposed business and economic development projects in the vicinity; (5) the amount of private sector investment generated or likely to be generated by the Project; (6) the demonstrated public support for the Project; (7) the likelihood of the Project being accomplished in a timely fashion; (8) the effect of the Project on the environment, (9) the extent to which the Proposed Project would require the provision of additional services, and (10) the extent to which the Project will provide additional sources of revenue for municipalities and school districts.

Section 2. The Agency hereby determines that the Agency has fully complied with the requirements of Section 874(4) of the Act relating to the proposed deviation from the Tax Exemption Policy.

Section 3. Having reviewed all comments and correspondence received at or prior to the IDA Meeting, the Agency hereby approves the proposed deviation from the Policy as described in the Pilot Deviation Notice Letter (a copy of which is attached hereto as Exhibit A) because the proposed deviation is necessary to induce the Applicant to undertake the Project and hereby grants the Financial Assistance.

Section 4. The Chairman, Vice Chairman, President, Executive Director, and Secretary are each hereby authorized and directed, acting individually or jointly, to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 5. The Chairman, the Vice Chairman, President, Executive Director, and Secretary of the Agency are each hereby authorized and directed, acting individually or jointly, to cause the Agency to enter into an amendment of the Tax Agreement to reflect the Financial Assistance and file such amendment with the appropriate assessor(s) with respect to the Facility.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 7. Based on the foregoing, the Agency makes the following findings and determinations with respect to the Project: (i) pursuant to Sections 617.5 (c) (1), (8), (25), and (26) of the Regulations, the Project is a "Type II action" and (ii) therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under SEQRA.

Section 8. This Resolution shall take effect immediately.

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

	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Absent</i>
Mayor Mike Spano	[ ✓ ]	[ ]	[ ]	[ ]
Peter Kischak	[ ✓ ]	[ ]	[ ]	[ ]
Marlyn Anderson	[ ]	[ ]	[ ]	[ x ]
Melissa Nacerino	[ ✓ ]	[ ]	[ ]	[ ]
Hon. Cecile D. Singer	[ ✓ ]	[ ]	[ ]	[ ]
Henry Djonbalaj	[ ✓ ]	[ ]	[ ]	[ ]
Roberto Espiritu	[ ✓ ]	[ ]	[ ]	[ ]

The Resolutions were thereupon duly adopted.

**CERTIFICATION**  
*(River Tides LLC Park Improvement Project)*

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

I, the undersigned, Secretary of the City of Yonkers Industrial Development Agency DO  
HEREBY CERTIFY:

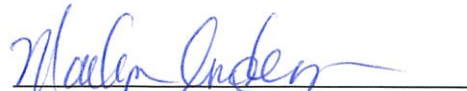
That I have compared the annexed extract of minutes of the meeting of the City of Yonkers Industrial Development Agency (the “Agency”), including the resolution contained therein, held December 8, 2021, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject 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 affixed the seal of said Agency this 10 day of December, 2021.

  
\_\_\_\_\_  
Marlyn Anderson, Secretary

[SEAL]

IDA Resolution No. 12/2021-27  
Resolution - River Tides Park Improvement  
December 8, 2021  
TC: Harris Beach PLLC

**EXHIBIT A**

**NOTICE OF PUBLIC HEARING AND NOTICE OF DEVIATION**

**VIA CERTIFIED MAIL**

**No. 9489-0090-0027-6389-5373-79**

Hon. Michael J. Spano  
Mayor, City of Yonkers  
40 South Broadway, Suite 200  
Yonkers, New York 10701

**VIA CERTIFIED MAIL**

**No. 9489-0090-0027-6378-5373-86**

Hon. George Latimer  
Westchester County Executive  
148 Martine Avenue, 9<sup>th</sup> Floor  
White Plains, New York 10601

**Re: City of Yonkers Industrial Development Agency and  
River Tides, LLC Proposed Financial Assistance**

Dear Gentlemen:

River Tides, LLC (the "Company") has submitted a request to the Agency that it amend that certain Tax Agreement, dated as of October 1, 2014, as amended and restated from time to time (the "Tax Agreement") with respect to the Company's residential rental apartment complex, known as "River Tides", located at 1105-1135 Warburton Avenue, City of Yonkers, New York (the "Facility").

The purpose of the amendment will be to credit the Company up to \$525,000.00 towards Tax Payments (as that term is defined in the Tax Agreement) due and owing under the Tax Agreement (“Financial Assistance”) in exchange for the improvement of a City of Yonkers (“City”) owned parcel located at 1104 Warburton Avenue, approximately 250 feet from the Facility (“Warburton Parcel”), as a passive public park in accordance with design drawings approved by the City (the “Park Improvements”). The cost of the Park Improvements is estimated at \$1,050,000 and the Company has agreed to construct the Park Improvements if it is granted the Financial Assistance.

The Agency will hold a public hearing on Tuesday, November 23, 2021, at 3:00 p.m., local time, at the office of the Agency at 470 Nepperhan Avenue, Suite 200, Yonkers, New York 10701, to consider the Financial Assistance contemplated by the Agency. Enclosed is a copy of the Notice of Public Hearing. The Notice of Public Hearing has been submitted to *The Journal News* for publication. You are welcome to attend such public hearing, at which time you will have an opportunity to present your views, both orally and in writing, with respect to the proposed Financial Assistance. The public hearing is being conducted pursuant Section 859-a of the General Municipal Law, and we are providing this notice of public hearing to you, pursuant to General Municipal Law Section 859-a, as the chief executive officer of an affected tax jurisdiction within which the Facility is located.

The Financial Assistance is a deviation from the Agency’s Uniform Tax Exemption Policy (“Policy”). The Agency is contemplating a deviation from the Policy as follows: the Financial Assistance deviates from the Agency's requirement that PILOT payments shall not be less than the amount of taxes that were due on the parcel in the previous tax year. The Agency has concluded that the proposed deviation from the Policy will positively impact the health, community, environment and economy of the residents of the City and County of Westchester. The residents of Warburton Avenue have asked for a park that will lead to the Old Croton Aqueduct (“Aqueduct”). The Warburton Parcel is adjacent to the Aqueduct and in close proximity to other Agency projects, namely 1077 Warburton Avenue and 1177@Greystone. The Park Improvements will enhance the quality-of-life of City and County residents and visitors and provide a critical public amenity and more green space. In addition, the Company’s construction of the Park Improvements will save taxpayer funds since half of the costs will be paid by the Company.

Very truly yours,

CITY OF YONKERS INDUSTRIAL  
DEVELOPMENT AGENCY

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held on Tuesday, November 23, 2021, at 3:00 p.m., local time, by the City of Yonkers Industrial Development Agency (the "Agency") at the Agency's offices at 470 Nepperhan Avenue, Suite 200, Yonkers, New York 10701, in connection with the following matter:

River Tides LLC, a Delaware limited liability company, for itself or on behalf of an entity to be formed (the "Company") has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of an amendment of the existing Tax Agreement, dated as of October 1, 2014, by and between the Agency and the Company (the "Tax Agreement"), which amendment will credit the Company up to \$525,000.00 (the "Financial Assistance") towards Tax Payments (as that term is defined in the Tax Agreement) due and owing under the Tax Agreement in exchange for the improvement of a City of Yonkers ("City") owned parcel located at 1104 Warburton Avenue (the "1104 Warburton Parcel"), which 1104 Warburton Parcel is located approximately 250 feet from the Company's existing residential rental apartment complex known as "River Tides" located at 1105-1135 Warburton Avenue, in City of Yonkers, New York (the "Facility"). The 1104 Warburton Parcel will be developed as a passive public park in accordance with design drawings approved by the City (the 1104 Warburton Parcel being so renovated shall hereinafter be referred to as the "Park Improvements"). The cost of the Park Improvements is estimated at \$1,050,000, and the Company has agreed to construct the Park Improvements if it is granted the Financial Assistance.

The Agency will retain its leasehold interest in the Facility and continue to lease its interest in the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Agency's leasehold interest will be terminated. The Agency contemplates that it will provide Financial Assistance to the Company in the form of a credit toward Tax Payments due by the Company under the Tax Agreement. The proposed Financial Assistance deviates from the Agency's Uniform Tax Exemption Policy ("Policy").

The Agency is contemplating a deviation from the Policy as follows: the Financial Assistance deviates from the Agency's requirement that PILOT payments shall not be less than the amount of taxes that were due on the parcel in the previous tax year. The proposed deviation from the Policy will positively impact the health, community, environment and economy of the residents of the City and County of Westchester, New York. The residents of Warburton Avenue have asked for a park that will lead to the Old Croton Aqueduct ("Aqueduct"). The Warburton Parcel is adjacent to the Aqueduct and in close proximity to other Agency projects, namely 1077 Warburton Avenue and 1177@Greystone. The Park Improvements will enhance the quality-of-life of City and County of Westchester residents and visitors by providing a critical public amenity and more green space. In addition, the Company's construction of the Park Improvements will save taxpayer funds since half of the costs will be paid by the Company.



A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

The Agency will provide access to the public hearing by broadcasting the public hearing in real time online at <https://yonkersida.com/live-stream/>.

The Agency encourages all interested parties to submit written comments to the Agency, which will be included within the public hearing record. Any written comments may be sent to City of Yonkers Industrial Development Agency, 470 Nepperhan Avenue, Suite 200, Yonkers, New York 10701, Attention: Executive Director and/or via email at [info@yonkersida.com](mailto:info@yonkersida.com) with the subject line being "River Tides" no later than Monday, November 22, 2021.

Dated: November 12, 2021

CITY OF YONKERS INDUSTRIAL  
DEVELOPMENT AGENCY