

The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.



560053273DAG002V

Westchester County Recording & Endorsement Page

Submitter Information

Name:	STATEWIDE ABSTRACT CORP	Phone:	914-683-5900
Address 1:	202 MAMARONECK AVENUE	Fax:	914-683-5905
Address 2:		Email:	MUSAVICH@STATEWIDEA.COM
City/State/Zip:	WHITE PLAINS NY 10601	Reference for Submitter:	SA-113665

Document Details

Control Number:	560053273	Document Type:	Deed Agreement (DAG)
Package ID:	2015030500031001006	Document Page Count:	21
		Total Page Count:	23

Parties

Additional Parties on Continuation page

1st PARTY		2nd PARTY	
1:	YONKERS CITY OF INDUSTRIAL DVLP AGENCY	1:	WATER GRANT ST LLC
2:		2:	

Property

Additional Properties on Continuation page

Street Address:	100 MAIN STREET	Tax Designation:	-2800-7
City/Town:	YONKERS	Village:	

Cross-References

Additional Cross-Refs on Continuation page

1:	2:	3:	4:
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Supporting Documents

Recording Fees

Statutory Recording Fee:	\$40.00
Page Fee:	\$110.00
Cross-Reference Fee:	\$0.00
Mortgage Affidavit Filing Fee:	\$0.00
RP-5217 Filing Fee:	\$0.00
TP-584 Filing Fee:	\$0.00
Total Recording Fees Paid:	\$150.00

Mortgage Taxes

Document Date:	
Mortgage Amount:	
Basic:	\$0.00
Westchester:	\$0.00
Additional:	\$0.00
MTA:	\$0.00
Special:	\$0.00
Yonkers:	\$0.00
Total Mortgage Tax:	\$0.00

Transfer Taxes

Consideration:	\$0.00
Transfer Tax:	\$0.00
Mansion Tax:	\$0.00
Transfer Tax Number:	

Dwelling Type: Exempt:

Serial #:

RECORDED IN THE OFFICE OF THE WESTCHESTER COUNTY CLERK



Recorded: 01/27/2016 at 09:22 AM
 Control Number: 560053273
 Witness my hand and official seal

Timothy C. Itoni
Westchester County Clerk

Record and Return To

Pick-up at County Clerk's office

STATEWIDE ABSTRACT CORP
202 MAMARONECK AVENUE

WHITE PLAINS, NY 10601

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Properties Addendum

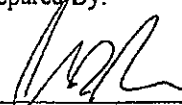
20 WATER GRANT STREET 10701

YONKERS

1.643 1

SA 113665
B 2600 643
C 7 1

Record and Return to:
Andy S. Norin
Drinker Biddle & Reath LLP
600 Campus Drive
Florham Park, New Jersey 07932

Prepared By:

Andy S. Norin, Esq.

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OPEN SPACE CONSTRUCTION ACCESS AND MAINTENANCE AGREEMENT

THIS OPEN SPACE CONSTRUCTION ACCESS AND MAINTENANCE AGREEMENT (the "**Agreement**") is made on this 29 day of December, 2015, by and between the **CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation organized and existing under the laws of the State of New York, with offices at 470 Nepperhan Avenue, Suite 200, Yonkers, New York 10701 (the "**Grantor**"), and **WATER GRANT STREET LLC**, a limited liability company organized and existing under the laws of the State of Delaware, authorized to conduct business in the State of New York, having an office for the transaction of business located at c/o Mill Creek Residential Trust, 135 Route 202/206, Suite 9; 1st Floor, Bedminster, New Jersey 07921 (the "**Grantee**").

WITNESSETH:

WHEREAS, Grantor is the fee title owner of Block 640, Lot 1 and Block 643, Lot 1 (portions of former Block 640, Lots 1, 25, and 38, Block 643, Lots 1, 24 and 40) and Block 2600, Lot 7 on the tax map of the City of Yonkers, shown on Exhibits A-1 through A-3 attached hereto (the "**Grantor's Property**"); and

WHEREAS, Grantor leased the portion of Grantor's Property, identified in Exhibit A-2 attached hereto (the "**Development Parcel**"), to SFC H and I LLC ("**SFC**"), pursuant to that certain Amended and Restated Financing Lease Agreement, dated of even date herewith, a memorandum of which was recorded in the office of the Westchester County Clerk immediately prior to this Agreement (the "**Project Lease**"); and

WHEREAS, SFC assigned all of its right, title and interest as lessee in, to and under the Project Lease to Grantee pursuant to that certain assignment and assumption agreement, dated of even date herewith, which was recorded in the office of the Westchester County Clerk immediately prior to this Agreement; and

WHEREAS, Grantee has obtained all required permits and approvals to develop a multi-family apartment building with structured parking and other related improvements on the Development Parcel (the "**Development Project**"); and

WHEREAS, Grantee desires to enter upon and use the portion of Grantor's Property, shown on Exhibit B annexed hereto (the "Open Space Parcel") for temporary construction access and staging and temporary parking in connection with the Development Project; and

WHEREAS, upon completion of the Development Project, Grantee has agreed to make certain improvements to the Open Space Parcel for use as public open space; and

WHEREAS, Grantor has agreed to grant to Grantee, and Grantee is willing to accept from Grantor, certain rights upon and across the Open Space Parcel for temporary construction access and staging, temporary parking, to construct improvements on the Open Space Parcel, and to ensure the proper maintenance of the Open Space Parcel.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the promises, covenants and conditions hereinafter contained, Grantor and Grantee agree as follows:

1. Temporary Construction Easement. Grantor hereby grants to Grantee, and Grantee hereby accepts from Grantor, a temporary, exclusive easement (the "Temporary Construction Easement") over, under, in, upon and across the Open Space Parcel, for the purpose of construction access and staging in connection with the construction of the Development Project, including without limitation parking and the storage of vehicles, equipment and soil, by Grantee and Grantee's employees, consultants, agents, contractors, subcontractors and invitees. The Temporary Construction Easement shall commence on the date hereof and shall terminate upon the issuance of a certificate of occupancy for the Development Project. Grantee shall, upon the request of Grantor, execute and deliver such documents in recordable form as Grantor may reasonably request to evidence the termination of the Temporary Construction Easement as hereinbefore set forth.

2. Temporary Parking Easement. Grantor hereby grants to Grantee, and Grantee hereby accepts from Grantor, a temporary, exclusive easement (the "Temporary Parking Easement") over, under, in upon and across the Open Space Parcel, for vehicular parking for the owners of residential units in the adjacent Pierpointe on the Hudson Condominium located at 23 Water Grant Street, Yonkers, New York. The Temporary Parking Easement shall commence on the date hereof and shall terminate upon the issuance of a certificate of occupancy allowing the use of the structured parking deck within the Development Project. Grantee shall, upon the request of Grantor, execute and deliver such documents in recordable form as Grantor may reasonably request to evidence the termination of the Temporary Parking Easement as hereinbefore set forth.

3. Open Space Improvements. (a) Upon completion of the Development Project, Grantee shall, at Grantee's sole cost and expense, construct on the Open Space Parcel, the improvements shown and described on the plans and specifications annexed hereto as Exhibit C (the "Open Space Improvements"). Grantee shall have the right to access the Open Space Parcel as necessary to construct and install the Open Space Improvements.

(b) All work performed by Grantee hereunder shall be performed in a good and workmanlike manner, and in accordance with all permits and approvals and all applicable legal requirements. All work shall be undertaken and completed in a prompt manner and with all due diligence after completion of the Development Project.

(c) The parties acknowledge that (i) a portion of the Open Space Parcel currently contains a sculpture garden containing the sculptures identified on Exhibit E annexed hereto (the "Sculptures"), and (ii) the construction and installation of the Open Space Improvements includes the temporary off-site storage of the Sculptures during construction of the Development Project and the reinstallation of the Sculptures on the Open Space Parcel after completion of the Development Project. Notwithstanding anything to the contrary contained herein, if the Sculptures suffer any damage or destruction in connection with Grantee's obligations under this Section 3 (including without limitation, removal, transport, storage or reinstallation of the Sculptures by Grantee), then Grantee shall repair and or replace any such damaged or destroyed Sculptures provided, however, that the cost of repairing or replacing any Sculpture shall not exceed the replacement value set forth on Exhibit E hereto and Grantee shall have no further liability in the event of such damage or destruction.

4. **Use of Open Space Parcel as Public Open Space.** Grantor covenants and agrees that the Open Space Parcel shall, in perpetuity, be used and operated as public open space for the purposes of providing (a) public pedestrian access to the Hudson River waterfront, and (b) passive recreation opportunities for the public, and for no other purpose.

5. **Maintenance.** (a) Following completion by Grantee of the Open Space Improvements to the satisfaction of Grantor, Grantor shall maintain, repair, and replace the Open Space Parcel and Open Space Improvements at Grantor's sole cost and expense in a manner consistent with the use thereof as public open space.

(b) Such maintenance, repair and replacement shall be performed in a good and workmanlike manner, and, to the extent applicable, in accordance with all permits and approvals and all applicable legal requirements. Any damage caused in the course of such work shall be promptly repaired and any property restored to its condition immediately prior to such damage, at the sole cost and expense of the Grantor. All work shall be undertaken and completed in a prompt manner and with all due diligence.

(c) If the Grantor fails to properly maintain, repair, or replace, all or part of the Open Space Parcel and Open Space Improvements in accordance with the terms of this Agreement, then Grantee shall have the right, but not the obligation, to perform such work on Grantor's behalf, at Grantor's sole reasonable cost and expense; provided that Grantee first provides written notice to Grantor of Grantor's failure to perform such work, and Grantor does not remedy such failure within thirty (30) days after Grantee's notice is given pursuant to this Agreement; *provided, however*, in the event such failure on the part of Grantor to maintain, repair or replace the Open Space Parcel and Open Space Improvements is not reasonably capable of being cured or corrected within such

30-day period, Grantor shall have such additional period of time as may be necessary to cure or correct the same provided that it proceeds promptly after the giving of Grantee's notice to cure the same and thereafter prosecutes the curing of such failure with all due diligence. Notwithstanding the foregoing, Grantee shall have the right, but not the obligation, to access the Open Space Parcel and perform emergency maintenance, repairs, or replacement, at Grantor's reasonable expense, immediately upon notice to Grantor with respect to any situation that creates an immediate material threat to public safety or personal property. Grantor shall reimburse Grantee for any such reasonable maintenance, repairs, or replacements, within sixty (60) days after receipt of written notice of the reasonable reimbursement request, which shall include invoices for any and all such work, together with such other information and/or documentation that Grantor may reasonably require, for which reasonable reimbursement is sought.

6. **Regulation.** The use of the Open Space Parcel and Open Space Improvements shall be reasonably regulated by Grantor in accordance with all applicable ordinances of the City of Yonkers and all applicable laws of the State of New York.

7. **Indemnification and Insurance:** Grantee agrees to procure and maintain insurance, or contractually cause a third party to procure and maintain insurance, naming the Grantor as additional insured (including without limitation, a waiver of subrogation), as more provided and described in the Schedule entitled "Standard Insurance Provisions," which is attached hereto and made a part hereof as Exhibit "D." In addition to, and not in limitation of the foregoing, Grantee agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence or willful misconduct of the Grantor, and subject to the limitation of Grantee's financial liability for the cost of repairing or replacing any damaged Sculptures pursuant to the terms and conditions set forth in Section 3(c) hereof, the Grantee shall, at its sole cost and expense, defend, indemnify and hold harmless the Grantor, the City and their respective officers, employees, elected officials and agents from and against any and all liability, damage, claims, demands, causes of action, costs, judgments, fees, reasonable attorney's fees or loss (including but not limited to personal injury and death) to the extent arising directly or indirectly out of this Agreement or the willful misconduct or negligent performance or failure to perform hereunder by the Grantee or third parties under its direction or control.

(b) The Grantee further agrees to give immediate written notice to the Grantor and the City to any notice it may receive with respect to any cause of action or claim that has been or may be initiated against the Grantor in connection herewith.

The provisions of this Section will survive expiration, termination or other cancellation of this Agreement.

8. **Notices.** All notices or other communications required or permitted to be given under this Agreement shall be given in writing and delivered personally or mailed by certified or registered mail, postage prepaid, or by a respectable priority delivery service such as Federal

Express or UPS, addressed to the address first set forth above. Notice to the City should be sent to the attention of the Mayor with a copy to the Office of the Corporation Counsel, City Hall, 40 South Broadway, Yonkers, NY 109701. The foregoing addresses may be changed or supplemented by written notice given as above provided. Notice is effective upon receipt or refusal to accept receipt (as evidenced by the affidavit of the person who attempted to effect such delivery). Notice given by counsel shall be effective for all purposes.

9. **Binding Effect.** The terms, covenants and conditions herein contained shall run with fee title to the Open Space Parcel for the benefit of the Development Parcel and shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

10. **Controlling Law.** The parties agree that this Agreement shall be governed by and interpreted according to the laws of the State of New York. The Parties further agree that any claims relating to or arising out of this Agreement and the transactions contemplated thereby shall be tried before a Judge in New York State Supreme Court, Westchester County, and each party waives any right to a trial by jury.

11. **No Other Agreements.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof. This Agreement shall not be modified except by a written instrument signed by the party against whom enforcement is sought.

12. **Miscellaneous.** If any provision of this Agreement is found to be invalid or unenforceable, the remainder of this Agreement shall be unaffected thereby. The paragraph headings are for convenience and reference only and shall not limit or otherwise affect the meaning hereof. This Agreement may be simultaneously executed in several counterparts, each of which, when so executed and delivered, shall constitute an original, fully enforceable counterpart for all purposes.

13. **Third Party Beneficiary.** The City of Yonkers is an express third party beneficiary hereunder.

[No Further Text this Page.]

[SIGNATURE PAGE TO OPEN SPACE CONSTRUCTION
ACCESS AND MAINTENANCE AGREEMENT]

IN WITNESS WHEREOF, Grantor and Grantee sign this Agreement as of the date as
first set forth above.

ATTEST:

CITY OF YONKERS INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Kenneth Jenkins, President

ATTEST:

WATER GRANT STREET LLC,
a Delaware limited liability company

By: Water Grant Street REIT LLC,
a Delaware limited liability company,
its sole member

By: Water Grant Street Manager, LLC,
a Delaware limited liability company,
its manager

By: Water Grant Street Holdings LLC,
a Delaware limited liability company,
its sole member and manager

By: MCRT Yonkers LLC,
a Delaware limited liability company,
its authorized member

By: Richard G. Murphy
Name: Richard G. Murphy
Its: Managing Director


↳

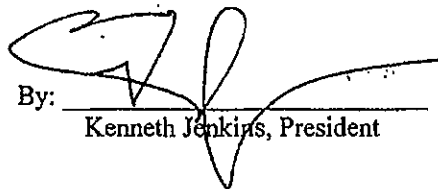
[SIGNATURE PAGE TO OPEN SPACE CONSTRUCTION
ACCESS AND MAINTENANCE AGREEMENT]

IN WITNESS WHEREOF, Grantor and Grantee sign this Agreement as of the date as
first set forth above.

ATTEST:

**CITY OF YONKERS INDUSTRIAL
DEVELOPMENT AGENCY**




By: _____
Kenneth Jenkins, President

ATTEST:

WATER GRANT STREET LLC,
a Delaware limited liability company

By: Water Grant Street REIT LLC,
a Delaware limited liability company,
its sole member

By: Water Grant Street Manager, LLC,
a Delaware limited liability company,
its manager

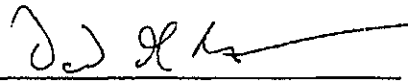
By: Water Grant Street Holdings LLC,
a Delaware limited liability company,
its sole member and manager

By: MCRT Yonkers LLC,
a Delaware limited liability company,
its authorized member

By: _____
Name: _____
Its: _____

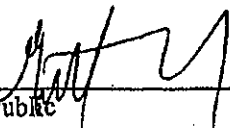
STATE OF New York)
)
COUNTY OF WESTCHESTER) SS.:

On the 29th day of December, 2015, before me, the undersigned, personally appeared KENNETH DENNIS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual executed the instrument.


Notary Public
DAVID M. ROTHMAN
Notary Public - State of New York
NO. 02A06187852
QUALIFIED IN WESTCHESTER COUNTY
MY COMMISSION EXPIRES APRIL 07, 2016

STATE OF New York)
)
COUNTY OF Westchester) SS.:

On the 29th day of December, 2015, before me, the undersigned, personally appeared Richard B. Murphy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual executed the instrument.


Notary Public


Mitchell Usavich
Notary Public - State of New York
No. 01US4956778
Qualified in Dutchess County
My Commission Expires 10/02/20 17

EXHIBIT A-1
(Description of Block 640, Lot 1)



DATE: December 11, 2015
BCG Proj. 080239

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

BEING NEW TAX LOT 1, BLOCK 640, A PORTION OF FORMER BLOCK 640 LOTS 1, 25,
38, CITY OF YONKERS, WESTCHESTER COUNTY, NEW YORK.

BEGINNING at a point along the northerly lot line of Tax Lot 1 Block 625, said point being North
87° 02' 24" West, 215.78 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 line North 87°02' 24" West a distance of 348.22 feet to a point in the pierhead and
bulkhead line of the Hudson River; thence
2. Along said pierhead line North 08°55' 49" East a distance of 850.14 feet to a point where the
same is intersected by the southerly line of Tax Lot 6, Block 2600; thence
3. Along said line, South 78°40' 50" East a distance of 280.53 feet to a point where the same is
intersected by the westerly lot line of Tax Lot 7, Block 2600; thence the following 12 courses
along said Tax Lot 7
4. South 24°55' 44" West a distance of 3.95 feet to an angle point in same; thence
5. South 20°42' 47" East a distance of 11.06 feet to an angle point in same; thence
6. South 15°13' 55" West a distance of 114.45 feet to an angle point in same; thence
7. South 65°00' 36" West a distance of 34.39 feet to an angle point in same; thence
8. North 79°51' 15" West a distance of 54.35 feet to an angle point in same; thence
9. South 53°59' 21" West a distance of 11.39 feet to an angle point in same; thence
10. South 15° 19' 18" West a distance of 39.79 feet to an angle point in same; thence
11. South 08°59' 50" West a distance of 39.90 feet to an angle point in same; thence
12. South 14°02' 24" West a distance of 70.41 feet to an angle point in same; thence

Bowman Consulting Group, Ltd.
54 Horsehill Road - Cedar Knolls, NJ 07027
Phone: 973.359.8400 - www.orland.com - www.bowmanconsulting.com

13. South $00^{\circ}31'26''$ West a distance of 23.28 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 187.26 feet to the westerly line of new Tax Lot 1, Block 643; thence the following 9 courses along the division line between new Lot 1, Block 640 and new Lot 1, Block 643
16. South $03^{\circ}19'54''$ West a distance of 39.52 feet to an angle point in same; thence
17. South $01^{\circ}50'41''$ West a distance of 144.90 feet to an angle point in same; thence
18. North $89^{\circ}01'20''$ West a distance of 88.02 feet to an angle point in same; thence
19. South $04^{\circ}18'15''$ West a distance of 51.28 feet to an angle point in same; Thence
20. South $04^{\circ}02'40''$ West a distance of 38.06 feet to an angle point in same; Thence
21. South $32^{\circ}58'32''$ West a distance of 63.42 feet to an angle point in same; Thence
22. South $12^{\circ}13'48''$ West a distance of 248.54 feet to a point of non-tangent curve in same;
Thence
23. Easterly, along a curve to the left having a radius of 32.00 feet, an arc length of 14.24 feet, the chord of which bears South $66^{\circ}45'51''$ East, 14.12 feet to a point of reverse curve in same;
Thence
24. Southeasterly, along a curve to the right having a radius of 157.00 feet, an arc length of 143.20 feet, the chord of which bears South $53^{\circ}22'51''$ East, 138.29 feet to a point in the aforementioned northerly line of Tax Lot 1, Block 625 and the PLACE OF BEGINNING

Containing 196,599 square feet or 4.5133 acres

Prepared by:



David B. Dixon, PLS Lic. 050509

EXHIBIT A-2

(Description of Block 643, Lot 1 – the Development Parcel)

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

BEING NEW TAX LOT 1, BLOCK 643, A PORTION OF FORMER BLOCK 640 LOTS 1, 25, 38 AND
BLOCK 643 LOTS 1, 24, 40, CITY OF YONKERS, WESTCHESTER COUNTY, NEW YORK.

BEGINNING at a point along the northerly lot line of Tax Lot 1 Block 625 said point being North 87° 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 line, North 87° 02' 24" West a distance of 175.78 feet to a point in same; thence the following 9 courses along a new line
- 2) Along a curve to the left having a radius of 157.00 feet, an arc length of 143.20 feet, the chord of which bears North 53° 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° 45' 51" West, 14.12 feet to a point of non-tangency in same; Thence
- 4) North 12° 13' 48" East, a distance of 248.54 feet to an angle point in same; thence
- 5) North 32° 58' 32" East a distance of 63.42 feet to an angle point in same; thence
- 6) North 04° 02' 40" East a distance of 38.06 feet to an angle point in same; thence
- 7) North 04° 18' 15" East a distance of 51.28 feet to an angle point in same; thence
- 8) South 89° 01' 20" East a distance of 88.02 feet to an angle point in same; thence
- 9) North 01° 50' 41" East a distance of 144.90 feet to an angle point in same; thence
- 10) North 03° 19' 54" East a distance of 39.52 feet to a point in the division line between said new Lot 1, Block 643 and Tax Lot 7, Block 2600; thence
- 11) Along said division line, North 12° 40' 23" East a distance of 142.84 feet to a point where the same is intersected by the southerly lot line of Tax Lot 4, Block 2600; thence
- 12) Along said division line, South 78° 40' 50" East a distance of 29.67 feet to an angle point in same; thence
- 13) Still along said line, South 82° 57' 56" East a distance of 77.27 feet to a point where the same is intersected by the westerly line of Tax Lot 2, Block 2600; thence
- 14) Along said westerly line, South 02° 07' 28" West a distance of 85.00 feet to an angle point in same;

81783899.12

thence

15) Still along said line, South $84^{\circ}16'04''$ East a distance of 3.01 feet to a point in same; Thence

16) Parallel and distant 40.00 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 northerly lot line of Tax Lot 1 Block 625 and the PLACE OF BEGINNING

EXHIBIT A-3

(Description of a Portion of Block 2600, Lot 7)



DATE: December 11, 2015
BCG Proj. 080239

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

BEING A PORTION OF BLOCK 2600, LOT 7, CITY OF YONKERS, WESTCHESTER
COUNTY, NEW YORK.

BEGINNING at a point at the southeast corner of Tax Lot 6, Block 2600 at the westerly line of Tax
Lot 7, Block 2600, and running; Thence the following 11 courses along said Lot 7

- 1) South 24° 55' 44" West, a distance of 3.95 feet to an angle point in same; Thence
- 2) South 20° 42' 47" East, a distance of 11.06 feet to an angle point in same; Thence
- 3) South 15° 13' 55" West, a distance of 114.45 feet to an angle point in same; Thence
- 4) South 65° 00' 36" West, a distance of 34.39 feet to an angle point in same; Thence
- 5) North 79° 51' 15" West, a distance of 54.35 feet to an angle point in same; Thence
- 6) South 53° 59' 21" West, a distance of 11.39 feet to an angle point in same; Thence
- 7) South 15° 19' 18" West, a distance of 39.79 feet to an angle point in same; Thence
- 8) South 08° 59' 50" West, a distance of 39.90 feet to an angle point in same; Thence
- 9) South 14° 02' 24" West, a distance of 70.41 feet to an angle point in same; Thence
- 10) South 00° 31' 26" West, a distance of 23.28 feet to an angle point in same; thence
- 11) South 78° 40' 50" East, a distance of 122.46 feet to an angle point in same; Thence
- 12) North 12° 40' 23" East a distance of 330.10 feet to a point in the same; thence
- 13) North 78° 40' 50" West a distance of 37.47 feet to a point where the same is intersected by the
aforementioned Tax Lot 6, Block 2600 and the PLACE OF BEGINNING

Containing 28,483 square feet or 0.6539 acres

Bowman Consulting Group, Ltd.
54 Horsehill Road · Cedar Knolls, NJ 07927
Phone: 973.359.8400 · www.onland.com · www.bowmanconsulting.com

EXHIBIT B

(Description of Open Space Parcel)

Bowman
CONSULTING
formerly OMLAND ENGINEERING ASSOCIATES

DATE: December 11, 2015
BCG Proj. 080239

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

BEING NEW TAX LOT 1, BLOCK 640 AND A PORTION OF LOT 7, BLOCK 2600, CITY OF
YONKERS, WESTCHESTER COUNTY, NEW YORK.

BEGINNING at a point along the northerly lot line of Tax Lot 1 Block 625 said point being North
87° 02' 24" West, 215.78 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 line North 87°02' 24" West a distance of 348.22 feet to a point in the pierhead and
bulkhead line of the Hudson River; thence
2. Along said pierhead line North 08°55' 49" East a distance of 850.14 feet to a point where the
same is intersected by the southerly lot line of Tax Lot 6, Block 2600; thence
3. Along said division line, South 78°40' 50" East a distance of 318.00 feet to a point where the
same is intersected by the easterly line of Tax Lot 7, Block 2600; Thence
4. Along said line, South 12° 40' 23" West a distance of 142.84 feet; thence the following 9
courses along the division line between new Lot 1, Block 640 and new Lot 1, Block 643
5. South 03° 19' 54" West a distance of 39.52 feet to an angle point in same; thence
6. South 01° 50' 41" West a distance of 144.90 feet to an angle point in same; thence
7. North 89° 01' 20" West a distance of 88.02 feet to an angle point in same; thence
8. South 04° 18' 15" West a distance of 51.28 feet to an angle point in same; Thence
9. South 04° 02' 40" West a distance of 38.06 feet to an angle point in same; Thence
10. South 32° 58' 32" West a distance of 63.42 feet to an angle point in same; Thence
11. South 12° 13' 48" West a distance of 248.54 feet to a point of non-tangent curve in same;
Thence

Bowman Consulting Group, Ltd.
54 Horsehill Road - Cedar Knolls, NJ 07927
Phone: 973.389.8400 - www.omland.com - www.bowmanconsulting.com

81783899.12


Description of Modified City Open Space
December 11, 2015
Page 2

12. Easterly, along a curve to the left having a radius of 32.00 feet, an arc length of 14.24 feet, the chord of which bears South 66° 45' 51" East, 14.12 feet to a point of reverse curve in same;
Thence

13. Southeasterly, along a curve to the right having a radius of 157.00 feet, an arc length of 143.20 feet, the chord of which bears South 53° 22' 51" East, 138.29 feet to a point in the
aforementioned northerly lot line of Tax Lot 1, Block 625 and the PLACE OF BEGINNING

Containing 225,082 square feet or 5.1672 acres

Prepared by:


David B. Dixon, PLS Lic. 050509

H:\Projects\Documents\OEA Projects\131201.C1\Descriptions\Desc-City Open Space w-Modified Part 1.doc

Bowman
CONSULTING

81783899.12

EXHIBIT C
(Plans and Specifications for Open Space Improvements)

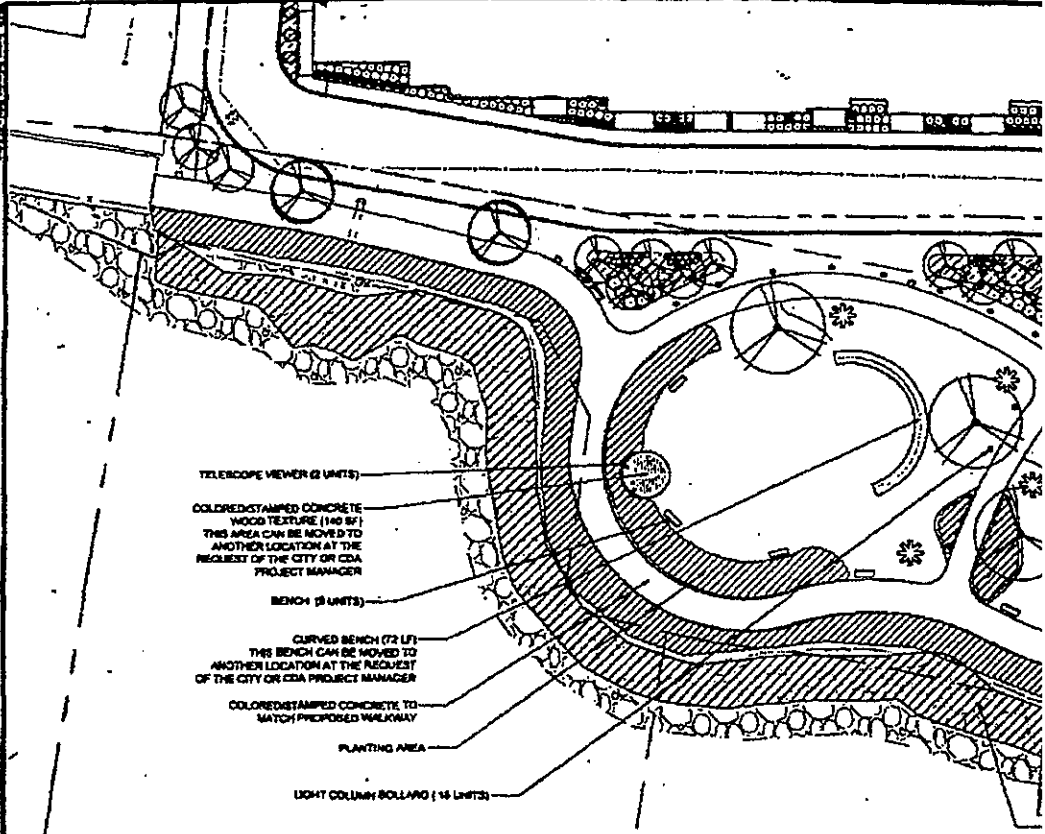
Description of Palisades Point Park

The Grantee will construct Palisades Point Park ("Park"), a waterfront park located on the Open Space Parcel, for the purpose of providing public access to the Hudson River and for passive recreational opportunities. The park will consist of a series of walkways; seating areas, decorative lighting, planting of trees, shrubs, ornamental grasses and a slope stabilization effort of live stakes/whips which will be planted along the existing rip rap embankment. The project includes the construction of approximately 1,300 linear feet of walkway (approx. 15,000 sq. ft.), twenty three (23) existing decorative light fixtures to be reset, sixteen (16) new shade trees, thirteen (13) new ornamental trees, and approximately 10,000 sq. ft. of new plantings including shrubs, grasses and perennials.

The riverfront walkway will include the installation of nine (9) new Victor Stanley produced benches (or similar) with curved armrests. Accent lighting in the form of eighteen (18) new light column bollards manufactured by Forms & Surfaces (or similar) will line the secondary (eastern) walkway from the park entrance. The walkways within the park will be grey colored concrete and stamped with a hexagonal pattern and a 12" smooth non-stamped border. The proposed layout of the walkways throughout the park has been revised from the existing layout allowing for a more fluid walking experience. The improvements will also include the relocation of the existing site furnishings including benches, trash receptacles and decorative light fixtures (as referenced above). The Grantee will remove six (6) existing sculpture pieces made up of multiple pieces known in their entirety as the "Sculpture Garden" (which includes the 9/11 memorial tablets), store them during the construction period, repair and reinstall the pieces in the new park. The sculptures will dot the park in a more dispersed fashion than the clustering of their current locations. At the southernmost point of the park, there will be two (2) non-coin operated telescope viewers available for public use in proximity to a small gathering / seating area. A series of two (2) outdoor table tennis tables will be placed next to the existing light fixtures between the shade trees.

Grantee will install (and pay for) a seventy-two (72) linear foot curved bench (manufacturer TBD at Grantee's discretion), which shall be located in a place selected by the CDA project manager. Grantee will install (and pay for) a 140 sq. ft. stamped/colored concrete-wood pad (or similar), which shall be located in a place selected by the CDA project manager.

DATE: 11/15/11
BY: [illegible]
PROJECT: [illegible]

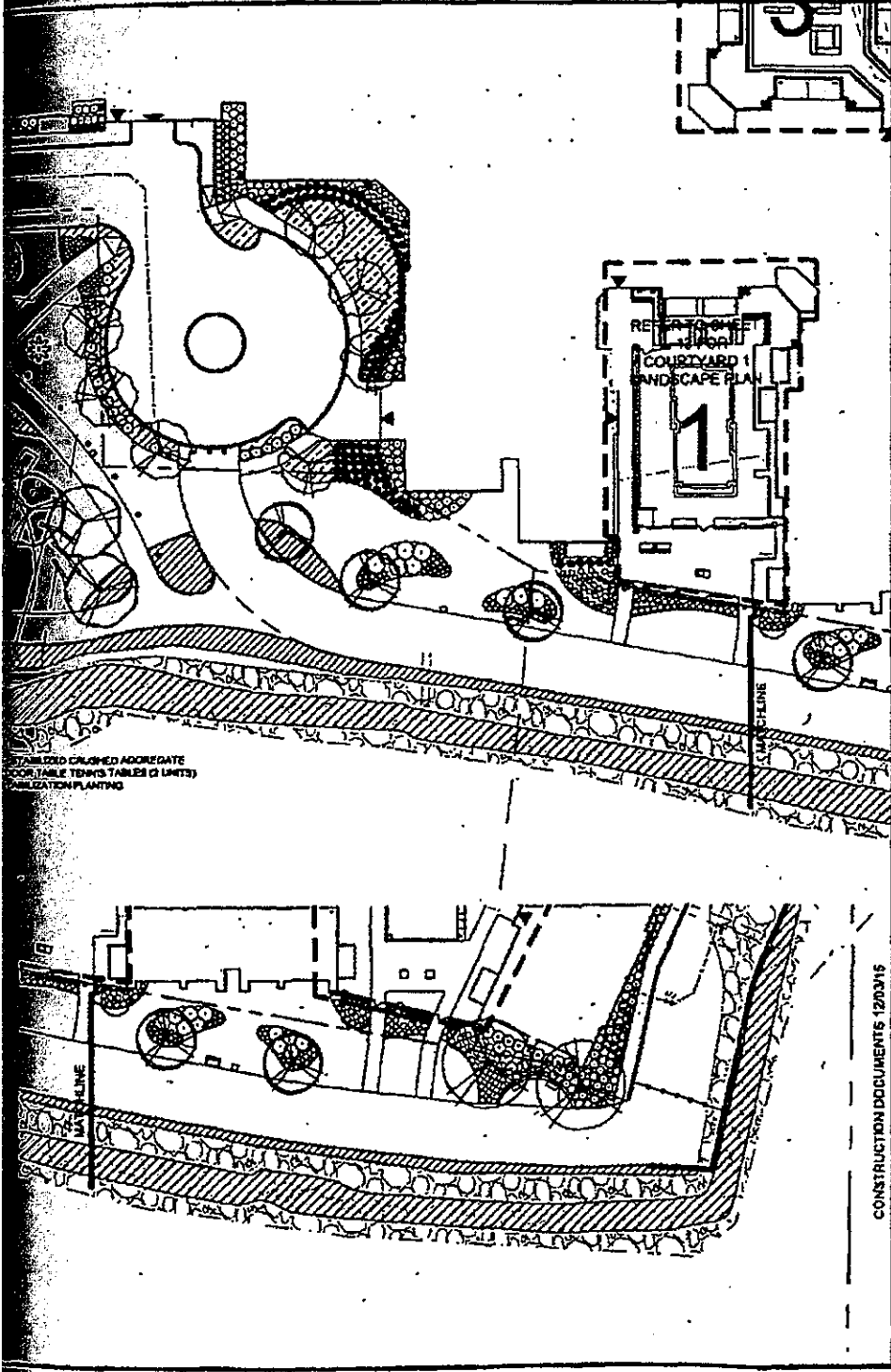


- TELESCOPE VIEWER (2 UNITS)
- COLOR DYE STAMPED CONCRETE WOOD TEXTURE (140 SF)
THIS AREA CAN BE MOVED TO ANOTHER LOCATION AT THE REQUEST OF THE CITY OR CDA PROJECT MANAGER
- BENCH (5 UNITS)
- CURVED BENCH (72 LF)
THIS BENCH CAN BE MOVED TO ANOTHER LOCATION AT THE REQUEST OF THE CITY OR CDA PROJECT MANAGER
- COLOR DYE STAMPED CONCRETE TO MATCH PROPOSED WALKWAY
- PLANTING AREA
- LIGHT COLUMN BOLLARD (16 UNITS)

- NOTES:
1. TOTAL LANDSCAPED AREA IS APPROXIMATELY 10,000 SF.
 2. 23 EXISTING LIGHT FIXTURES (NOT SHOWN) TO BE RE-INSTALLED IN VARIOUS LOCATIONS PER DIRECTION FROM CITY OR CDA PROJECT MANAGER.

DATE: 11/15/11 BY: [illegible] PROJECT: [illegible]

DATE: 11/15/11 BY: [illegible] PROJECT: [illegible]



STABILIZED CRUSHED AGGREGATE
 (CONFORMANCE TABLES 21 LIMITS)
 SEE SECTION PLANTING

CONSTRUCTION DOCUMENTS 120316

LANDSCAPE AND ARCHITECTURE CONSULTANTS FOR
PALISADES POINT
PALISADES POINT
WATERFRONT PARK
 SECTION 11, PORTS OF NEW YORK AND NEW JERSEY
 CITY OF LONDON, WESTCHESTER COUNTY, NEW YORK

OMLAND
 ARCHITECTS AND PLANNERS
 100 WEST 10TH STREET, SUITE 200
 NEW YORK, NY 10011
 TEL: 212 693 1234
 FAX: 212 693 1235
 WWW.OMLAND.COM

DATE: 08/11/16
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 SCALE: 1/4" = 1'-0"

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	08/11/16
2		
3		
4		
5		
6		
7		
8		
9		
10		

EXHIBIT D

**STANDARD INSURANCE PROVISIONS
(Grantee hereinafter Consultant)**

1. Prior to commencing work, the Consultant shall obtain at its own cost and expense the required insurance from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better, and shall provide evidence of such insurance to the City of Yonkers, as may be required and approved by the Office of Corporation Counsel of the City of Yonkers. The policies with respect to general liability thereof shall provide that thirty days prior to cancellation in the policy, notices of same shall be given to the certificate holder. . All notices shall name the Consultant and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the City, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the City, the Consultant shall upon notice to that effect from the City, promptly obtain a new policy and submit a certificate to the Office of Corporation Counsel of the City of Yonkers for approval. Upon failure of the Consultant to furnish, deliver and maintain such insurance, the Agreement, at the election of the City, may be declared suspended, discontinued or terminated. Failure of the Consultant to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Consultant from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Consultant concerning indemnification. All property losses shall be made payable to and adjusted with the City. It is acknowledged and agreed that the limits of the City's coverage, as an additional insured hereunder, is the greater of the limits set forth herein or under the policy holder's limits.

In the event that claims, for which the City may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under the Agreement, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Consultant until such time as the Consultant shall furnish such additional security covering such claims in form satisfactory to the City of Yonkers.

2. The Consultant shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the "Special Conditions" of the contract specifications):

(a) Workers' Compensation. Certificate form C-105.2 (9/07) or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Yonkers, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: www.wcb.state.ny.us (click on Employers/Businesses, then Business Permits/Licenses/Contracts to see instruction manual).

If the employer is self-insured for Worker's Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either S1-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

(b) Employer's Liability with minimum limit of \$100,000.

(c) Commercial General Liability Insurance with a minimum limit of liability per occurrence of \$500,000 for bodily injury, and \$500,000 for property damage or a combined single limit of \$2,000,000 (c.s.l), naming the City of Yonkers, NY as an additional insured. This insurance shall include the following coverages:

- (i) Premises - Operations.
- (ii) Broad Form Contractual.
- (iii) Independent Contractor and Sub-Contractor.
- (iv) Products and Completed Operations.

All Contracts involving the use of explosives and demolition shall provide the above coverage with elimination of the XCU exclusion from the policy, or proof that XCU is covered:

(d) Where professional services are to be performed under this Contract, the Consultant shall carry Professional Liability Insurance with a minimum limit of liability per claim of \$1,300,000 or a combined single limit of \$3,900,000, with a company or companies licensed in New York State with an A or better Best Rating and in a form satisfactory to Yonkers.

(e) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages: (i) Owned automobiles; (ii) Hired automobiles; and (iii) Non-owned automobiles.

EXHIBIT E
SCULPTURES



Yonkers Sculpture list

Artists: Barbara Segal
Vermont marble and black Italian marble

Cloud Living Room:

Large couch

Smaller couch

2 lounges

Appraised Value - \$175,000

Artist: Alfredo Cardenas

Indiana Limestone

Early American Dining Room

Large table

2 throne chairs

4 stools

Appraised Value - \$150,000

Artist: Susan Abraham

Indiana Limestone and Vermont marble

River Bedroom

Large Bed

Side tables

Mirror

Appraised Value - \$150,000

Artist: Paul Greco
Indiana limestone and Vermont marble
Meditation Circle
2 large sculptures
6 stools
Marble ring path will be demolished in removal of work
Appraised Value - \$75,000

Artist: Lou Lalli
Vermont Marble
Fish
One loveseat
Appraised Value - \$50,000

9/11 Memorial
Appraised Value - \$18,000

16

The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.



560063010EAS002L

Westchester County Recording & Endorsement Page

Submitter Information

Name:	STATEWIDE ABSTRACT CORP	Phone:	914-683-5900
Address 1:	202 MAMARONECK AVENUE	Fax:	914-683-5905
Address 2:		Email:	MUSAVICH@STATEWIDEA.COM
City/State/Zip:	WHITE PLAINS NY 10601	Reference for Submitter:	SA-113665

Document Details

Control Number:	560063010	Document Type:	Easement (EAS)
Package ID:	2015030500031001006	Document Page Count:	17
		Total Page Count:	19

Parties

Additional Parties on Continuation page
2nd PARTY

1st PARTY		2nd PARTY	
1:	YONKERS CITY OF INDUSTRIAL DVLP AGENCY	1:	WATER GRANT ST LLC
2:		2:	

Property

Additional Properties on Continuation page

Street Address:	20 WATER GRANT STREET	Tax Designation:	1-640-1
City/Town:	YONKERS	Village:	

Cross-References

Additional Cross-Refs on Continuation page

1:	2:	3:	4:
----	----	----	----

Supporting Documents

1: TP-584

Recording Fees

Statutory Recording Fee:	\$40.00
Page Fee:	\$90.00
Cross-Reference Fee:	\$0.00
Mortgage Affidavit Filing Fee:	\$0.00
RP-5217 Filing Fee:	\$0.00
TP-584 Filing Fee:	\$5.00
Total Recording Fees Paid:	\$135.00

Mortgage Taxes

Document Date:	
Mortgage Amount:	
Basic:	\$0.00
Westchester:	\$0.00
Additional:	\$0.00
MTA:	\$0.00
Special:	\$0.00
Yonkers:	\$0.00
Total Mortgage Tax:	\$0.00

Transfer Taxes

Consideration:	\$0.00
Transfer Tax:	\$0.00
Mansion Tax:	\$0.00
Transfer Tax Number:	8199

Dwelling Type: Exempt:
Serial #:

RECORDED IN THE OFFICE OF THE WESTCHESTER COUNTY CLERK

Record and Return To



Recorded: 01/27/2016 at 09:23 AM
Control Number: **560063010**
Witness my hand and official seal

Timothy C. Idoni
Westchester County Clerk

Pick-up at County Clerk's office

STATEWIDE ABSTRACT CORP
202 MAMARONECK AVENUE

WHITE PLAINS, NY 10601

The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.

560063010EAS002L

Westchester County Recording & Endorsement Page

Document Details

Control Number: **560063010**

Document Type: **Easement (EAS)**

Package ID: 2015030500031001006

Document Page Count: 17

Total Page Count: 19

Properties Addendum

20 WATER GRANT STREET 10701	YONKERS	1.643 1
20 WATER GRANT STREET 10701	YONKERS	1.643 24
100 MAIN STREET 10701	YONKERS	2.-2600-7

113665
 SECTION
 B 640 643 2600
 Lot 1 24 7
 +
 1

Record and Return To:
 Andy S. Norin, Esq.
 Drinker Biddle & Reath LLP
 600 Campus Drive
 Florham Park, New Jersey 08512
 (973) 549-7234

CROSS-DRAINAGE EASEMENT AGREEMENT

THIS CROSS-DRAINAGE EASEMENT AGREEMENT is dated as of December 27, 2015 (this "Agreement"), between **CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at 470 Nepperhan Avenue, Suite 200, Yonkers, New York 10701 ("YIDA"), and **WATER GRANT STREET LLC**, a limited liability company organized and existing under the laws of the State of Delaware, authorized to conduct business in the State of New York, having an office for the transaction of business located at c/o Mill Creek Residential Trust, 135 Route 202/206, Suite 9, 1st Floor, Bedminster, New Jersey 07921 ("WGS"). YIDA and WGS are sometimes collectively or individually referred to herein as the "Parties" or "Party."

PRELIMINARY STATEMENT

WHEREAS, YIDA is the owner of certain real property identified as Block 640, Lot 1, Block 643, Lot 24, and a portion of Block 2600, Lot 7 on the City of Yonkers Tax Map (the "YIDA Property") and more particularly described on Exhibit A-1 through A-3 attached hereto; and

WHEREAS, YIDA is also the owner of certain real property identified as Block 643, Lot 1 on the City of Yonkers Tax Map and more particularly described on Exhibit B attached hereto (the "Development Parcel"; and the YIDA Property and the Development Parcel may be individually or collectively referred to as a "Property" or the "Property").

WHEREAS, YIDA leased the Development Parcel to SFC H and I LLC ("SFC") pursuant to that certain Amended and Restated Financing Lease dated as of the date hereof a memorandum of which was recorded in the office of the Westchester County Clerk prior to this Agreement (the "Financing Lease");

WHEREAS SFC assigned its right title and interest under the Financing Lease to WGS pursuant to that certain Assignment and Assumption Agreement dated as of the date hereof a memorandum of which was recorded in the office of the Westchester County Clerk prior to this Agreement;

WHEREAS WGS intends to construct a multi-family residential building and related improvements on the Development Parcel; and

WHEREAS, the Parties have agreed to grant certain drainage easements upon, under and across, the YIDA Property and the Development Parcel in accordance with the terms hereof.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, YIDA and WGS hereby agree as follows:

1. Drainage Easement. (a) YIDA hereby grants to WGS, as lessee of the Development Parcel, and YIDA, as fee owner of the Development Parcel, for the benefit of the Development Parcel, a perpetual, non-exclusive easement (the "WGS Drainage Easement") across, under and through the YIDA Property, for the purpose of locating, installing, constructing, using, relocating, removing, reconstructing, maintaining, inspecting, replacing, preserving and repairing the stormwater drainage facilities shown on Exhibit C annexed hereto that are located on the YIDA Property, as is reasonably necessary for the drainage and discharge of stormwater from the Development Parcel across the YIDA Property to the Hudson River (the "YIDA Drainage Facilities").

(b) WGS, as lessee of the Development Parcel, and YIDA as fee owner of the Development Parcel, hereby grant to YIDA, for the benefit of Block 643, Lot 24, a perpetual, non-exclusive easement (the "YIDA Drainage Easement") to utilize the stormwater drainage facilities constructed by WGS and located on the Development Parcel shown on Exhibit C annexed hereto, as is reasonably necessary for the drainage and discharge of stormwater from Block 643, Lot 24 across the Development Parcel to the Hudson River (the "WGS Drainage Facilities"; and together with the YIDA Drainage Facilities, the "Facilities").

2. Construction.

(a) **Construction of Facilities.** WGS shall, at WGS' sole cost and expense, construct the Facilities.

(b) **Temporary Construction Easement.** During the time that a Party performs any work permitted hereunder, the performing Party shall have a temporary construction easement allowing the performing Party and its architects, contractors, subcontractors, materialmen and others engaged in the project to use such portion or portions of the other Party's Property as is reasonably necessary for the purpose of performing such work, but only to the extent necessary for the purpose of performing such work, and only (i) at reasonable times, (ii) for the period reasonably necessary to perform such work, (iii) in accordance with and subject to good construction practice, and (iv) in such manner so as to minimize, to the fullest extent practicable, interference with the lawful use of the other Party's Property. Upon completion of any such work, the temporary construction easement area shall be restored to substantially the same condition in which it was prior to commencement of such work.

(b) **Standard of Care.** Each Party shall perform all work (including, without limitation, construction, installation and Maintenance, as hereinafter defined) relating to any portion of the Facilities in a good and workmanlike manner consistent with the standards of a first-class

multi-family residential building in Westchester County, New York, with a minimum of inconvenience to the other Party and its tenants and invitees, and, if applicable, in accordance with all applicable legal requirements. Any damage caused to the Facilities or the Property of the other Party in the course of such work shall be promptly repaired and such lands restored to their condition immediately prior to such damage, at the sole cost and expense of the Party performing such work. All work shall be undertaken and completed in a prompt manner and with all due diligence. Each Party shall perform all work hereunder in a manner that does not unreasonably interfere with or interrupt the use of the Facilities by the other Party.

(c) **Governmental Approvals.** A Party performing any construction, Maintenance or other work hereunder shall have the sole responsibility for obtaining all permits and approvals and providing any financial security or assurances which may be required from any governmental authorities in connection therewith.

3. **Maintenance.** (a) For the purposes herein, "Maintenance" means all necessary inspection, maintenance, repairs, replacements and renewals of any Facilities, whether ordinary or extraordinary, and whether foreseen or unforeseen; and "Maintain" means to perform Maintenance.

(b) Each Party shall, at its sole cost and expense, Maintain, or cause to be Maintained, the portion of the Facilities located on its Property.

(c) No Party may perform Maintenance with respect to any portion of the Facilities that are the obligation of another Party, unless such other Party defaults in its obligation to perform such Maintenance hereunder and fails to cure such default in accordance with Section 5 below.

4. **Rights Reserved.** The Parties shall each have the right to occupy and enjoy the surface of, air space above, and subsurface under, their respective Property for any purpose which does not unreasonably interfere with the easement rights granted to the other Party hereunder.

5. **Default; Remedies.** If any Party defaults in the performance of any of its obligations under this Agreement, and such default continues for a period of thirty (30) days after notice has been given to such Party of the default and demanding that the same be cured, except in the case of an emergency, in which case such cure period shall be reduced to an amount of time that is reasonable under the circumstances (unless, subject to the foregoing in the case of an emergency, such default cannot with due diligence be wholly cured within such period of 30 days, in which case such Party shall have such longer period as is reasonably necessary to cure the default), the Party delivering such notice shall have the right (but not the obligation), without waiving or releasing any other right or remedy in connection with the default, to cure such default for the account of the defaulting Party. Thereafter, the defaulting Party shall pay the cost of such cure to the curing Party within thirty (30) days after demand.

6. **Notices.** All notices or other communications required or permitted to be given under this Agreement shall be given in writing and delivered personally or mailed by certified mail, postage prepaid, or by a reputable overnight delivery service such as Federal Express or UPS, addressed to the address first set forth above, with a copy to the City Engineer, City Hall, 40 South

Broadway, Suite 315., Yonkers, New York 10701-3888 and the Corporation Counsel, City Hall, 40 South Broadway, Suite 300, Yonkers, New York 10701-3888. The foregoing addresses may be changed or supplemented by written notice given as above provided. Any notice, if sent by mail, shall be deemed to have been received by the addressee on the third business day after posting in the United States mail, or, if sent by overnight delivery service, on the first business day after being deposited with such service, or if delivered personally, on the day of such delivery. Notice given by legal counsel for either Party shall be effective for all purposes hereunder.

7. **Amendments.** This Agreement may be modified only by a recorded document executed by all of the Parties hereto.

8. **Indemnification; Insurance.** (a) WGS agrees to procure and maintain insurance, or contractually cause a third party to procure and maintain insurance, naming YIDA as an additional insured (including without limitation, a waiver of subrogation), as more provided and described in the Schedule entitled "Standard Insurance Provisions," which is attached hereto and made a part hereof as **Exhibit D**. The amount of insurance required by WGS as set forth in Exhibit D shall automatically increase annually during the term of this Agreement based on inflation in accordance with the Consumer Price Index, New York-Northern New Jersey-Long Island Area.

(b) WGS hereby agrees to indemnify, defend and hold YIDA and its officers, employees, and agents (and the City and any elected or appointed officials), harmless from and against any and all loss, cost, damage, liability and expense (including without limitation, reasonably attorneys' fees) for any damage to property, or for injury to death of any person arising from the negligence or willful misconduct of WGS, or its employees, agents or contractors, during the exercise by WGS of the rights or obligations under this Agreement.

(c) YIDA hereby agrees to indemnify, defend and hold WGS and its officers, employees, and agents harmless from and against any and all loss, cost, damage, liability and expense (including without limitation, reasonably attorneys' fees) for any damage to property, or for injury to death of any person arising from the negligence or willful misconduct of YIDA, or its employees, agents or contractors, during the exercise by YIDA of the rights or obligations under this Agreement.

(d) Each Party shall give an indemnifying Party prompt written notice of any suit, proceeding, or claim entitling such Party to indemnification. The provisions of this Section 8 shall survive expiration, termination or other cancellation of this Agreement.

9. **Indemnification Against Construction Liens.** Either Party performing work hereunder on the Property of the other Party shall promptly discharge or cause to promptly be discharged all construction liens, mechanics' liens, claims, stop notices, lien claims, amended lien claims, notices of unpaid balance and right to file lien, amended notices of unpaid balance and right to file lien, and any other encumbrance under the construction lien law, mechanic's lien law, or other applicable law, filed against such Property in connection with any such work, and shall indemnify and hold the other Party harmless from and against all liabilities, losses, claims, demands,

costs and expenses (including reasonable attorneys' fees) and judgments occurring from or in connection with the performance of such work.

10. **Easements Run with the Land.** The YIDA Drainage Easement shall run with fee title to the Development Parcel for the benefit of YIDA's Property. The WGS Drainage Easement shall run with fee title to YIDA's Property for the benefit of the Development Parcel, including all future successors of WGS' leasehold interest in the Development Parcel. Each Party shall be responsible for performance of its obligations under this Agreement only during its period of ownership of its Property. Upon transfer of a Party's interest in its respective Property, the transferor shall be released from complying thereafter with the provisions of this Agreement with respect to such Property so transferred, and shall have no further obligation by reason thereof, except that a transferor shall not be released from any actual obligations that may exist at the time of such conveyance by it. Notwithstanding anything to the contrary contained herein, the Parties acknowledge and agree that YIDA is executing this Agreement, as fee title owner of the Development Parcel and as a grantor of the YIDA Drainage Easement, solely to ensure that fee title to the Development Parcel is encumbered by this Agreement, and YIDA shall have no obligations or liability under this Agreement as fee title owner of the Development Parcel, and Grantor of the YIDA Drainage Easement, during the term of the Financing Lease.

11. **Third Party Beneficiaries.** Notwithstanding anything herein to the contrary, the parties acknowledge and agree that the City is an express third party beneficiary of the rights, but not the obligations, of the YIDA hereunder.

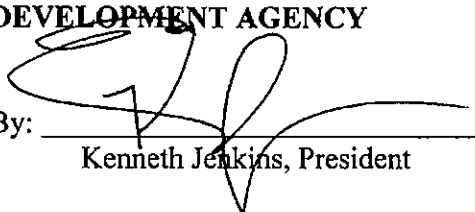
12. **Miscellaneous.** This Agreement contains the entire Agreement between the parties hereto and supersedes all prior or contemporaneous agreements, conditions or understandings, warranties or representations, oral or written, express or implied, between and among the parties hereto, other than as expressly set forth herein. If any provision of this Agreement shall be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby. The paragraph headings are for convenience of reference only and shall not limit or otherwise affect the meaning hereof. This Agreement will be simultaneously executed in several counterparts, each of which, when so executed and delivered, shall constitute an original, fully enforceable counterpart for all purposes. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[Signature Page Follows]

[SIGNATURE PAGE TO DRAINAGE EASEMENT]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date first above written.

**CITY OF YONKERS INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Kenneth Jenkins, President

**WATER GRANT STREET LLC, a Delaware
limited liability company**

By: Water Grant Street REIT LLC, a Delaware
limited liability company, its sole member

By: Water Grant Street Manager, LLC, a
Delaware limited liability company,
its manager

By: Water Grant Street Holdings LLC, a
Delaware limited liability company, its sole
member and manager

By: MCRT Yonkers LLC, a Delaware limited
liability company, its authorized member

By: _____
Name: _____
Its: _____

[SIGNATURE PAGE TO DRAINAGE EASEMENT]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date first above written.

**CITY OF YONKERS INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
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Delaware limited liability company, its sole
member and manager

By: MCRT Yonkers LLC, a Delaware limited
liability company, its authorized member

By: Richard G. Murphy
Name: Richard G. Murphy
Its: Managing Director

ACKNOWLEDGEMENT

STATE OF New York)
)
) SS.:
COUNTY OF WESTCHESTER)

On the 29th day of December, 2015, before me, the undersigned, personally appeared KENNETH JENKINS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual executed the instrument.

David M. Rothman

Notary Public -
DAVID M. ROTHMAN
NOTARY PUBLIC - STATE OF NEW YORK
No. 02R06184052
QUALIFIED IN WESTCHESTER COUNTY
MY COMMISSION EXPIRES APRIL 07, 2016

STATE OF New York)
)
) SS.:
COUNTY OF Westchester)

On the 29 day of December, 2015, before me, the undersigned, personally appeared Richard B. Murphy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual executed the instrument.

Mitchell Usavich

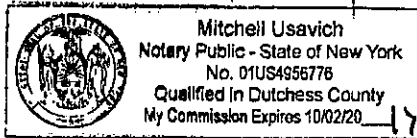


EXHIBIT A-1
(Description of Block 640, Lot 1)



DATE: December 11, 2015
BCG Proj. 080239

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

**BEING NEW TAX LOT 1, BLOCK 640, A PORTION OF FORMER BLOCK 640 LOTS 1, 25,
38, CITY OF YONKERS, WESTCHESTER COUNTY, NEW YORK.**

BEGINNING at a point along the northerly lot line of Tax Lot 1 Block 625, said point being North 87° 02' 24" West, 215.78 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

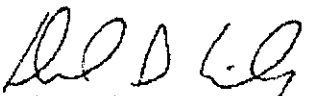
1. Along said line North 87°02' 24" West a distance of 348.22 feet to a point in the pierhead and bulkhead line of the Hudson River; thence
2. Along said pierhead line North 08°55' 49" East a distance of 850.14 feet to a point where the same is intersected by the southerly line of Tax Lot 6, Block 2600; thence
3. Along said line, South 78°40' 50" East a distance of 280.53 feet to a point where the same is intersected by the westerly lot line of Tax Lot 7, Block 2600; thence the following 12 courses along said Tax Lot 7
4. South 24°55' 44" West a distance of 3.95 feet to an angle point in same; thence
5. South 20°42' 47" East a distance of 11.06 feet to an angle point in same; thence
6. South 15°13' 55" West a distance of 114.45 feet to an angle point in same; thence
7. South 65°00' 36" West a distance of 34.39 feet to an angle point in same; thence
8. North 79°51' 15" West a distance of 54.35 feet to an angle point in same; thence
9. South 53°59' 21" West a distance of 11.39 feet to an angle point in same; thence
10. South 15° 19' 18" West a distance of 39.79 feet to an angle point in same; thence
11. South 08°59' 50" West a distance of 39.90 feet to an angle point in same; thence
12. South 14°02' 24" West a distance of 70.41 feet to an angle point in same; thence

Bowman Consulting Group, Ltd.
54 Hershfield Road - Cedar Knolls, NY 10527
Phone: 914.378.1100 www.ombcd.com www.bowmanconsulting.com

13. South 00°31' 26" West a distance of 23.28 feet to an angle point in same; thence
14. South 78°40' 50" East a distance of 122.46 feet to an angle point in same; thence
15. North 12°40' 23" East a distance of 187.26 feet to the westerly line of new Tax Lot 1, Block 643; thence the following 9 courses along the division line between new Lot 1, Block 640 and new Lot 1, Block 643
16. South 03° 19' 54" West a distance of 39.52 feet to an angle point in same; thence
17. South 01° 50' 41" West a distance of 144.90 feet to an angle point in same; thence
18. North 89° 01' 20" West a distance of 88.02 feet to an angle point in same; thence
19. South 04° 18' 15" West a distance of 51.28 feet to an angle point in same; Thence
20. South 04° 02' 40" West a distance of 38.06 feet to an angle point in same; Thence
21. South 32° 58' 32" West a distance of 63.42 feet to an angle point in same; Thence
22. South 12° 13' 48" West a distance of 248.54 feet to a point of non-tangent curve in same;
Thence
23. Easterly, along a curve to the left having a radius of 32.00 feet, an arc length of 14.24 feet, the chord of which bears South 66° 45' 51" East, 14.12 feet to a point of reverse curve in same;
Thence
24. Southeasterly, along a curve to the right having a radius of 157.00 feet, an arc length of 143.20 feet, the chord of which bears South 53° 22' 51" East, 138.29 feet to a point in the aforementioned northerly line of Tax Lot 1, Block 625 and the PLACE OF BEGINNING

Containing 196,599 square feet or 4.5133 acres

Prepared by:


David B. Dixon, PLS Lic. 050509

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Bowman
CONSULTING

EXHIBIT A-2
(Description of Block 643, Lot 24)



DATE: December 11, 2015
BCG Proj. 080239

DESCRIPTION OF A PARCEL OF LAND TO BE DEDICATED AS A PUBLIC ROAD
SITUATED IN THE CITY OF YONKERS, WESTCHESTER COUNTY, NEW YORK.

BEING NEW TAX LOT 24, BLOCK 643, A PORTION OF FORMER BLOCK 643
LOTS 1, 24, 40, CITY OF YONKERS, WESTCHESTER COUNTY, NEW YORK.

BEGINNING at a point along the northerly lot line of Tax Lot 1 Block 625, 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, North $87^{\circ}02'24''$ West a distance of 40.00 feet to a point in same;
thence
- 2) By a line, parallel and distant 40.00 feet westerly of the aforementioned westerly right-of-
way line of New York Central Railroad North $2^{\circ}07'28''$ East, a distance of 704.44 feet to a
point along the southerly lot line of Tax Lot 2, Block 2600; Thence
- 3) Along said line, South $84^{\circ}16'04''$ East, a distance of 40.08 feet to a point where the same is
intersected by the aforementioned right-of-way line of the New York Central Railroad
Company; Thence
- 4) Along said right-of-way line, South $02^{\circ}07'28''$ West, 702.50 feet to a point where the same
is intersected by the aforementioned northerly lot line of Tax Lot 1 Block 625 and the
PLACE OF BEGINNING

Containing 28,139 square feet or 0.6460 acres

Prepared by:


David B. Dixon, PLS Lic. 050509

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Bowman Consulting Group, LLC
141 Forest Hill Road, Cedar Knolls, NY 10517
Phone: 914-436-4000 www.umland.com www.bowmanconsulting.com

EXHIBIT A-3

(Description of a Portion of Block 2600, Lot 7)



DATE: December 11, 2015
BCG Proj. 080239

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

BEING A PORTION OF BLOCK 2600, LOT 7, CITY OF YONKERS, WESTCHESTER
COUNTY, NEW YORK.

BEGINNING at a point at the southeast corner of Tax Lot 6, Block 2600 at the westerly line of Tax
Lot 7, Block 2600, and running: Thence the following 11 courses along said Lot 7

- 1) South 24° 55' 44" West, a distance of 3.95 feet to an angle point in same; Thence
- 2) South 20° 42' 47" East, a distance of 11.06 feet to an angle point in same; Thence
- 3) South 15° 13' 55" West, a distance of 114.45 feet to an angle point in same; Thence
- 4) South 65° 00' 36" West, a distance of 34.39 feet to an angle point in same; Thence
- 5) North 79° 51' 15" West, a distance of 54.35 feet to an angle point in same; Thence
- 6) South 53° 59' 21" West, a distance of 11.39 feet to an angle point in same; Thence
- 7) South 15° 19' 18" West, a distance of 39.79 feet to an angle point in same; Thence
- 8) South 08° 59' 50" West, a distance of 39.90 feet to an angle point in same; Thence
- 9) South 14° 02' 24" West, a distance of 70.41 feet to an angle point in same; Thence
- 10) South 00° 31' 26" West, a distance of 23.28 feet to an angle point in same; thence
- 11) South 78° 40' 50" East, a distance of 122.46 feet to an angle point in same; Thence
- 12) North 12° 40' 23" East a distance of 330.10 feet to a point in the same; thence
- 13) North 78° 40' 50" West a distance of 37.47 feet to a point where the same is intersected by the
aforementioned Tax Lot 6, Block 2600 and the PLACE OF BEGINNING

Containing 28,483 square feet or 0.6539 acres

Bowman Consulting Group, Ltd
541 Sawahl Road Cedar Knoll, NJ 07922
Phone: 973 359-8400 www.bcg.com www.bowmanconsulting.com

EXHIBIT B

(Description of Block 643, Lot 1 – the Development Parcel)

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

BEING NEW TAX LOT 1, BLOCK 643, A PORTION OF FORMER BLOCK 640 LOTS 1, 25, 38 AND
BLOCK 643 LOTS 1, 24, 40, CITY OF YONKERS, WESTCHESTER COUNTY, NEW YORK.

BEGINNING at a point along the northerly lot line of Tax Lot 1 Block 625 said point being North 87° 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 line, North 87°02' 24" West a distance of 175.78 feet to a point in same; thence the following 9 courses along a new line
- 2) Along a curve to the left having a radius of 157.00 feet, an arc length of 143.20 feet, the chord of which bears North 53° 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° 45' 51" West, 14.12 feet to a point of non-tangency in same; Thence
- 4) North 12° 13' 48" East, a distance of 248.54 feet to an angle point in same; thence
- 5) North 32° 58' 32" East a distance of 63.42 feet to an angle point in same; thence
- 6) North 04° 02' 40" East a distance of 38.06 feet to an angle point in same; thence
- 7) North 04° 18' 15" East a distance of 51.28 feet to an angle point in same; thence
- 8) South 89° 01' 20" East a distance of 88.02 feet to an angle point in same; thence
- 9) North 01° 50' 41" East a distance of 144.90 feet to an angle point in same; thence
- 10) North 03° 19' 54" East a distance of 39.52 feet to a point in the division line between said new Lot 1, Block 643 and Tax Lot 7, Block 2600; thence
- 11) Along said division line, North 12° 40' 23" East a distance of 142.84 feet to a point where the same is intersected by the southerly lot line of Tax Lot 4, Block 2600; thence
- 12) Along said division line, South 78°40' 50" East a distance of 29.67 feet to an angle point in same; thence
- 13) Still along said line, South 82°57' 56" East a distance of 77.27 feet to a point where the same is intersected by the westerly line of Tax Lot 2, Block 2600; thence
- 14) Along said westerly line, South 02°07' 28" West a distance of 85.00 feet to an angle point in same; thence
- 15) Still along said line, South 84°16' 04" East a distance of 3.01 feet to a point in same; Thence

16) Parallel and distant 40.00 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 northerly lot line of Tax Lot 1 Block 625 and the PLACE OF BEGINNING

EXHIBIT C
(Map of Facilities)

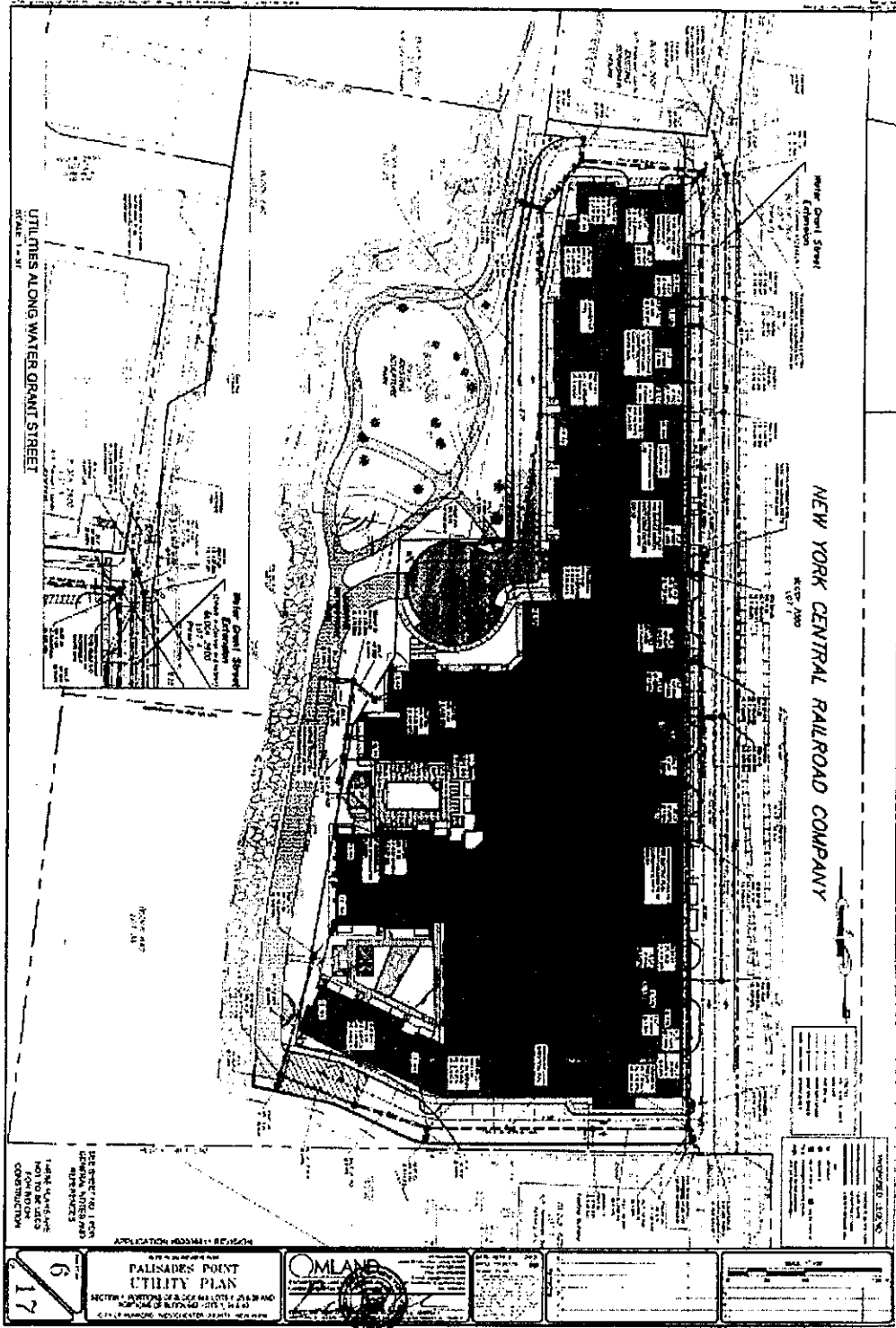


EXHIBIT D

STANDARD INSURANCE PROVISIONS (Grantee hereinafter Consultant)

1. Prior to commencing work, the Consultant shall obtain at its own cost and expense the required insurance from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better, and shall provide evidence of such insurance to the City of Yonkers, as may be required and approved by the Office of Corporation Counsel of the City of Yonkers. The policies with respect to general liability thereof shall provide that thirty days prior to cancellation in the policy, notices of same shall be given to the certificate holder. . All notices shall name the Consultant and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the City, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the City, the Consultant shall upon notice to that effect from the City, promptly obtain a new policy and submit a certificate to the Office of Corporation Counsel of the City of Yonkers for approval. Upon failure of the Consultant to furnish, deliver and maintain such insurance, the Agreement, at the election of the City, may be declared suspended, discontinued or terminated. Failure of the Consultant to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Consultant from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Consultant concerning indemnification. All property losses shall be made payable to and adjusted with the City. It is acknowledged and agreed that the limits of the City's coverage, as an additional insured hereunder, is the greater of the limits set forth herein or under the policy holder's limits.

In the event that claims, for which the City may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under the Agreement, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Consultant until such time as the Consultant shall furnish such additional security covering such claims in form satisfactory to the City of Yonkers.

2. The Consultant shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the "Special Conditions" of the contract specifications):

(a) Workers' Compensation. Certificate form C-105.2 (9/07) or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Yonkers, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: www.wcb.state.ny.us (click on Employers/Businesses, then Business Permits/Licenses/Contracts to see instruction manual).

If the employer is self-insured for Worker's Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of

Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

(b) Employer's Liability with minimum limit of \$100,000.

(c) Commercial General Liability Insurance with a minimum limit of liability per occurrence of \$500,000 for bodily injury and \$500,000 for property damage or a combined single limit of \$2,000,000 (c.s.l), naming the City of Yonkers, NY as an additional insured. This insurance shall include the following coverages:

- (i) Premises - Operations.
- (ii) Broad Form Contractual.
- (iii) Independent Contractor and Sub-Contractor.
- (iv) Products and Completed Operations.

All Contracts involving the use of explosives and demolition shall provide the above coverage with elimination of the XCU exclusion from the policy, or proof that XCU is covered.

(d) Where professional services are to be performed under this Contract, the Consultant shall carry Professional Liability Insurance with a minimum limit of liability per claim of \$1,300,000 or a combined single limit of \$3,900,000, with a company or companies licensed in New York State with an A or better Best Rating and in a form satisfactory to Yonkers.

(e) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages: (i) Owned automobiles; (ii) Hired automobiles; and (iii) Non-owned automobiles.