

ANNOTATED AGENDA
CITY COUNCIL OF THE CITY OF YONKERS
SPECIAL MEETING
TUESDAY DECEMBER 22, 2009

TIME: 10:13PM

PRESENT: PRESIDENT OF THE COUNCIL
 CHUCK LESNICK

DISTRICT

2 MAJORITY LEADER SANDY ANNABI
4 MINORITY LEADER LIAM J. McLAUGHLIN

COUNCIL MEMBERS:
DISTRICT:

1 PATRICIA D. McDOW
3 JOAN GRONOWSKI
5 JOHN M. MURTAGH
6 DEE BARBATO

I, THE UNDERSIGNED PRESIDENT OF THE CITY COUNCIL,
PURSUANT TO RULE 1 (2) OF THE CITY COUNCIL RULES, DO HEREBY
CALL A SPECIAL MEETING OF THE CITY COUNCIL, TO BE HELD ON
TUESDAY, DECEMBER 22, 2009 IN THE CITY COUNCIL CHAMBERS,
FOURTH FLOOR, CITY HALL, YONKERS, NEW YORK AT 8 P.M. FOR THE
FOLLOWING PURPOSE:

TO DISCUSS AND TAKE ACTION ON:

1. A SPECIAL ORDINANCE DETERMINING THE TERMS, FORM AND
 DETAILS OF ISSUANCE OF \$13,836.000 GENERAL OBLIGATION
 QZABS.
2. A SPECIAL ORDINANCE AUTHORIZING THE BOND ORDINANCE OF
 THE CITY OF YONKERS FOR THE FISCAL YEAR 2009/10
 FUNDING FOR GENERAL REHABILITATION OF VARIOUS SCHOOL
 BUILDINGS INCLUDED IN THE CAPITAL BUDGET FOR THE BOARD
 OF EDUCATION (\$11,000,000)
3. RESOLUTION -DETERMINATION OF PROPOSED STRUEVER
 FIDELCO CAPPELLI LLC RIVER PARK CENTER AND CACACE
 CENTER SITES AS A DESIGNATED DEVELOPMENT SITE IN
 ACCORDANCE WITH SECTION 43-46 OF THE ZONING CODE
 OF THE CITY OF YONKERS.

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4. RESOLUTION APPROVING STRUEVER FIDELCO CAPPELLI LLC FTA (FULL TAX AGREEMENT) AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME ON BEHALF OF THE CITY OF YONKERS.

5. ALL OTHER ITEMS PROPERLY COMING BEFORE THE COUNCIL.

CHUCK LESNICK
CITY COUNCIL PRESIDENT

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COMMITTEE OF THE WHOLE

SPEAKERS

<u>NAME:</u>	<u>ADDRESS</u>	<u>ITEM NO.:</u>
1. Ann Marie Smith	Yks Resident	2
2. Assemblyman Spano	NYS Assembly	Farewell
3. Terry Joshi		1
4. John Larkin		Farewell
5. Dennis Shepherd		Farewell
6. Anthony Merante		1
7. Kelly Chiarella		1
8. Bernard Pierorazio		1

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SPECIAL ORDINANCE NO.32-2009

1. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, & BARBATO:

AN ORDINANCE OF THE CITY OF YONKERS, NEW YORK, ADOPTED DECEMBER 22, 2009 DETERMINING THE TERMS, FORM AND DETAILS OF ISSUANCE OF \$13,836,000 GENERAL OBLIGATION QZABS – 2009-A OF THE CITY, DIRECTING THEIR PRIVATE SALE, AND PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SAID BONDS AND OTHER OBLIGATIONS OF THE CITY.

THIS SPECIAL ORDINANCE WAS ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING HELD ON TUESDAY, DECEMBER 22, 2009 BY A VOTE OF 5-2. COUNCILMEMBERS GRONOWSKI AND MURTAGH VOTING “NAY.”

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SPECIAL ORDINANCE

2. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

BOND ORDINANCE OF THE CITY OF YONKERS, NEW YORK AUTHORIZING FISCAL YEAR 2009/10 FUNDING FOR GENERAL REHABILITATION OF VARIOUS SCHOOL BUILDINGS INCLUDED IN THE CAPITAL BUDGET FOR THE BOARD OF EDUCATION; STATING THE TOTAL ESTIMATED MAXIMUM COST THEREOF IS \$11,000,000; APPROPRIATING SAID AMOUNT THEREFOR; AND AUTHORIZING THE ISSUANCE OF \$11,000,000 BONDS OF SAID CITY TO FINANCE SAID APPROPRIATION.

THE CITY COUNCIL OF THE CITY OF YONKERS, IN THE COUNTY OF WESTCHESTER, NEW YORK, HEREBY ORDAINS (by the favorable vote of not less than two-thirds of all the members of said City Council) AS FOLLOWS:

Section 1. The City of Yonkers, in the County of Westchester, New York (herein called "City"), is hereby authorized to finance the cost of general rehabilitation of various school buildings for the Board of Education including partial reconstruction and related improvements, at an estimated maximum cost of \$11,000,000, all as more particularly described in the duly adopted Capital Budget of said City for Fiscal Year 2009/2010, as amended, and said amount is hereby appropriated therefor pursuant to the Capital Budget. The plan of financing includes the issuance of \$11,000,000 aggregate principal amount of bonds of the City and any bond anticipation notes issued in anticipation of the sale of such bonds to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the City to pay the principal of and interest on said bonds and notes as the same shall become due and payable. Any amounts received by the City or Board of Education from the United States of America and/or the State of New York are hereby authorized to be expended, towards the cost of the applicable class of objects or purposes or the redemption of any notes and bonds issued therefor or to be budgeted as an offset to the taxes for the repayment of the principal of and interest on said notes and bonds.

Section 2. Bonds of the City in the principal amount of \$11,000,000 are hereby authorized to be issued pursuant to the provisions of the Local

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SPECIAL ORDINANCE (CONTINUED)

Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said appropriation.

Section 3. The period of probable usefulness of such class of objects or purposes, within the limitations of Section 11.00 a. 97 of the Law, is thirty (30) years.

Section 4. Each of the bonds authorized by this ordinance and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds, shall be general obligations of the City, payable as to both principal and interest by general tax upon all the taxable real property within the City without limitation of rate or amount. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this ordinance and of the Law and pursuant to the provisions of Section 30.00, Section 50.00, Sections 56.00 to 60.00, and Section 168.00 of the Law, the powers and duties of the City Council relative to authorizing bond anticipation notes and prescribing the terms, form and contents and all other powers or duties pertaining or incidental to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, and the power to enter into agreements for credit enhancement for said bonds and notes, are hereby delegated to the Commissioner of Finance & Management Services of the City.

Section 6. Pursuant to the provisions of Section 17 of the Special Local Finance and Budget Act of the City of Yonkers constituting Chapters 488 and 489 of the Laws of 1976 of the State of New York (herein called the "Act"), the City is authorized and directed to include the following pledge and agreement of the State of New York (herein called the "State") contained in said Section 17 in this ordinance, and the Act provides that upon payment for the Bonds by the original and all subsequent holders thereof the inclusion of such pledge and agreement shall be deemed

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SPECIAL ORDINANCE (CONTINUED)

conclusive evidence of valuable consideration received by the State and City for such pledge and agreement and of reliance upon such pledge and agreement by any holder and that any action by the State contrary to or inconsistent with the provisions of such pledge and agreement shall be void:

“The state does hereby pledge to and agree with the holders of obligations of the city issued pursuant to the local finance law or this act that the state will not (a) repeal, revoke, repudiate, limit, alter, stay, suspend or otherwise reduce or rescind or impair the power or duty of the city to exercise, perform, carry out and fulfill its responsibilities under this act to the extent that the city incorporates in any bond ordinance or credit agreement covenants and agreements to so exercise, perform, carry out and fulfill such responsibilities, (b) repeal, revoke, repudiate, limit, alter, stay, suspend or otherwise reduce or rescind or impair the rights and remedies of any such holders to fully enforce in a court of law such covenants and agreements so incorporated in the bond ordinance or credit agreement or to enforce the pledge and agreement of the state contained in this section, or (c) otherwise exercise any sovereign power contrary to or inconsistent with the provisions of such bond ordinance or credit agreement, it being hereby determined and declared that the provisions of this act and the powers and duties of the city authorized and imposed hereunder are proper, reasonable and appropriate means by which the state can and should exercise and has exercised its duty under section twelve of article eight of the constitution to prevent abuses by the city in taxation and in the contracting of indebtedness and that the provisions hereof are necessary and in the public interest and proper means to improve market reception for the purchase of bonds and other obligations of the city; provided, however, the foregoing pledge and agreement shall be of no further force and effect if at any time there is on deposit in a separate trust account with the fiscal agent sufficient moneys or direct obligations of the United States of America or the state the principal of and/or interest on which will provide moneys to pay punctually when due at maturity or prior to maturity by redemption in accordance with their terms all principal and interest on all such obligations of the city outstanding, (i) irrevocable instructions from the state and city to the fiscal agent for such payment of such principal and interest with such moneys have been given, and (ii) notice to the holders of such obligation as provided in the bond ordinance or credit agreement has been given, and provided further that such pledge and agreement by the state may be temporarily suspended upon the declaration of martial law in the city in the

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SPECIAL ORDINANCE (CONTINUED)

event of circumstances in the city deriving directly out of a natural disaster (such as an earthquake or major conflagration or flood but not a snowstorm) or civil disturbance (such as military invasion or civil insurrections but not strikes or crises created by financial abuses or economic events).”

Section 7. The validity of the bonds authorized by this ordinance and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such ordinance are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 8. This bond ordinance shall take effect immediately, and the City Clerk is hereby authorized and directed to publish the foregoing ordinance, in summary, together with a Notice attached in substantially the form prescribed by §81.00 of the Law in “THE JOURNAL NEWS,” a newspaper published in Yonkers, New York, and in “YONKERS RISING”, a newspaper published in Yonkers, New York, each having a general circulation in the City and hereby designated the official newspapers of said City for such publication.

THIS SPECIAL ORDINANCE WAS DEFEATED BY A ROLL CALL VOTE OF 7-0.

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RESOLUTION NO.197-2009

3. BY COUNCIL PRESIDENT LESNICK, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, BARBATO AND MURTAGH:

DETERMINATION OF PROPOSED STRUEVER FIDELCO CAPPELLI LLC RIVER PARK CENTER AND CACACE CENTER SITES AS A DESIGNATED DEVELOPMENT SITE IN ACCORDANCE WITH SECTION 43-46 OF THE ZONING CODE OF THE CITY OF YONKERS.

WHEREAS, in accordance with the provisions of §43-46 of the Zoning Code of the City of Yonkers, Struever Fidelco Cappelli LLC as the applicant for site plan approval of a redevelopment proposal, has submitted a petition to have the land known commonly as the River Park Center and Cacace Center sites (including the Government Center site and the site of the Palisades Avenue Office Building) and located within a GB or GC Zoning District, designated by the City Council as a Designated Development Site;

NOW THEREFORE, BE IT RESOLVED, that in accordance with the standards set forth in §43-46 of the Zoning Code of the City of Yonkers, the City Council hereby determines and declares that the aforementioned property which is more fully described in the list of affected parcels attached hereto, meets the standards as set forth in this section, and shall be considered a Designated Development Site; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING HELD ON TUESDAY, DECEMBER 22, 2009 BY A ROLL CALL VOTE OF 5-2. MAJORITY LEADER ANNABI AND COUNCILMEMBER GRONOWSKI VOTING "NAY."

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Parcels Which Comprise the Designated Development Site (as shown on the Tax Map of the City of Yonkers)

The Designated Development Site includes the beds of the former streets discontinued by the City Council pursuant to Special Ordinance No. 9-2009 and the former parkland discontinued by the City Council pursuant to Resolution No. 92-2009, and the following parcels:

BLOCK	LOT
0475	001
0475	009
0475	019
0475	022
0475	025
0475	026
0475	035
0475	043
0475	050
0475	051
0475	053
0475	055
0475	059
0475	064
0475	065.66
0475	067
0475	070
0475	075
0475	200
0475	202
0476	10
0476	14
0483	005
0483	007
0483	009
0483	010
0483	012
0483	013
0483	016
0483	050
0483	060
0484	001
0484	003

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0484	005
0484	008
0484	015
0484	051
0484	053
0484	055
0484	056
0484	057
0484	059
0484	061.62
0484	063
0485	001
0485	002
0485	003
0485	004
0485	006
0485	007
0485	008
0485	010
0485	012
0485	014
0485	016
0485	018
0486	015
0486	016
0487	013.15
0488	001
0488	030
0488	200
0489	001
0489	200
0490	003
0490	014
0490	015
0490	016
0490	017
0490	018
0490	020
0490	021
0490	022
0490	024
0490	072

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0490	080
0490	200
0490	201
0490	202
0492	1
2027	045
2027	048
2027	050
2027	051
2027	052
2027	054

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RESOLUTION NO.198-2009

4. BY COUNCIL PRESIDENT LESNICK, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, MURTAGH AND BARBATO:

RESOLUTION APPROVING THE FULL TAX AGREEMENT WITH CITY OF YONKERS CONSENT AND AGREEMENTS TO FUND PUBLIC USE IMPROVEMENTS

WHEREAS, in furtherance of the objectives of Articles 15 and 15-A of the General Municipal Law of the State of New York, the City of Yonkers (the "City") and the Yonkers Community Development Agency (the "Agency") have undertaken a program for clearance and reconstruction of the Riverview Urban Renewal Area in accordance with an urban renewal plan known as the Modified Urban Renewal Plan for N.D.P. Areas No. 1 and No. 2 (the "Riverview Urban Renewal Plan"), and have caused to be prepared an urban renewal plan for the downtown and government center area known as the Getty Square Urban Renewal Area (the "Getty Square Urban Renewal Plan"); and

WHEREAS, on April 4, 2006, the City Council of the City of Yonkers ("City Council"), by Resolution No. 71-2006, approved the terms and provisions of a proposed master developer designation agreement ("MDDA") for the designation of Struever Fidelco Cappelli, LLC (hereinafter referred to as "SFC") as a qualified and eligible sponsor for redevelopment of several blighted areas in urban renewal areas, including the "Chicken Island" section of the Getty Square Urban Renewal Area and the waterfront area of the Riverview Urban Renewal Area (the "Redevelopment Projects"), and approved the designation of SFC as a qualified and eligible sponsor for the redevelopment of the Redevelopment Projects, subject to the approval of the Agency; and

WHEREAS, by Resolution No. 16-2006 adopted on May 17, 2006, the Agency approved the MDDA and approved SFC as a qualified and eligible sponsor of the Redevelopment Projects; and

WHEREAS, on or about October 24, 2006, SFC filed an Application/Petition, including an Environmental Assessment Form, with the City Clerk for certain approvals from the City Council required for the development of the Redevelopment Projects; and

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RESOLUTION NO.198-2009 (CONTINUED)

WHEREAS, pursuant to 6 NYCRR Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law (collectively "SEQRA") and based on the information contained in the Environmental Assessment Form, the City Council determined at its October 24, 2006 meeting that the Redevelopment Projects as described in the Application/Petition constitute a Type I action as defined under 6 NYCRR §617.4(b) of the SEQRA regulations and declared its intent to act as SEQRA Lead Agency in accordance with 6 NYCRR§617.6(b); and

WHEREAS, on or about October 26, 2006 the City Council initiated coordinated review and Lead Agency designation with the circulation of its Notice of Intent to Act as Lead Agency; and

WHEREAS, on or about November 29, 2006, the City Council confirmed that it would act as Lead Agency for the SEQRA review of said Application/ Petition; and

WHEREAS, on December 19, 2006 the City Council determined that the Redevelopment Projects may have a significant effect on the environment and accordingly directed that an Environmental Impact Statement be prepared; and

WHEREAS, on October 24, 2006, Struever Fidelco Cappelli, LLC ("SFC") duly filed an Application/Petition with the City Clerk for certain approvals from the City Council for the development of the projects known and described in the Application/Petition as "Palisades Point", "River Park Center" and "Cacace Center" (collectively, the "SFC Project"); and

WHEREAS, the Application/Petition requests that the City Council establish a "redevelopment project" under New York General Municipal Law Article 18-C within the area of the City described in Exhibit 8 to the Application/Petition (such area, the "Survey Area"); and

WHEREAS, the Application/Petition requests that the City issue tax increment bonds and/or tax increment bond anticipation notes for the purpose of carrying out and/or administering a redevelopment plan for the proposed redevelopment project within the Survey Area, the proceeds of which would be used for the objects and purposes set forth in New York General Municipal Law Section 970-o(h)(i)-(iv) and the City is not prepared to take actions at this time on issuance of tax increment bonds

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RESOLUTION NO.198-2009 (CONTINUED)

by the City but is willing by these actions to authorize increment financing by the Agency; and

WHEREAS, SFC proposes to develop the SFC project within the Survey Area; and

WHEREAS, on February 13, 2007, the City Council adopted Resolution No. 17-2007 pursuant to which the City Council: (1) found that it is appropriate to undertake a survey area study to determine whether a redevelopment project in the Survey Area is feasible: (2) authorized and directed SFC to undertake, at SFC's sole cost and expense, the survey area study on behalf of the City Council: and

WHEREAS, SFC prepared a survey area study entitled "Tax Increment Financing Feasibility Study and Preliminary Redevelopment Plan," dated July, 2007 and revised January, 2008 (the "Survey Area Study"); and

WHEREAS, the Survey Area Study was attached to the Draft Environmental Impact Statement for the SFC Project (the "DEIS") as Appendix 1.F; and

WHEREAS, on March 18, 2008, the DEIS was accepted by the City Council as adequate and complete for the purpose of commencing public review; and

WHEREAS, the City Council has reviewed the Survey Area Study and the comment memoranda prepared by G. L. Blackstone & Associates, LLC, the Council's consultant, dated December 7, 2007, December 17, 2007 and April 14, 2008; and

WHEREAS, in the presentation to the Real Estate Committee of the City Council on April 15, 2008, G. L. Blackstone & Associates, LLC recommended that the City Council accept the Survey Area Study as complete, exclusive of the preliminary redevelopment plan, anticipating that certain minor technical revisions and the comments in the April 14, 2008 memorandum will be addressed to the satisfaction of the City Council, prior to the approval of the preliminary plan, and in accordance with the letter submitted by SFC dated April 22, 2008; and

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RESOLUTION NO.198-2009 (CONTINUED)

WHEREAS, the City Council approved, by Resolution No. 68-2008 dated April 22, 2008: (a) the Survey Area Study solely for the purposes set forth in New York General Municipal Law Section 970-d, and not as a preliminary plan under New York General Municipal Law Section 970-e; (b) the "project area" (as that term is defined in New York General Municipal Law Section 970-c(g)) is bounded as shown on the map attached to the April 22, 2008 Resolution; (c) pursuant to New York General Municipal Law Section 970-e, authorized and directed SFC to prepare a preliminary plan for the redevelopment project on behalf of the City Council addressing the comments in the April 14, 2008 memorandum prepared by G. L. Blackstone & Associates, LLC; (d) SFC to undertake the preparation of the preliminary plan at SFC's sole cost and expense; and

WHEREAS, the City Council completed the SEQRA process, and by Resolution No. 176-2008 adopted the Statement of Environmental Findings for the Redevelopment Projects on November 5, 2008; and

WHEREAS, in accordance with the MDDA, the City Council has approved by Resolution No. 148-2009 dated October 13, 2009, a certain Urban Renewal Land Disposition Agreement ("LDA") to be entered into by and among the Agency, the City, the City of Yonkers Industrial Development Agency ("YIDA"), Yonkers Economic Development Corporation ("YIDA Affiliate"), New Main Street Development Corporation ("NMSDC") and SFC in connection with the Redevelopment Projects, the disposition of lands owned by the City and the Agency and lands to be acquired by the Agency (collectively, "Disposition Parcels"), pursuant to the terms and provisions of the LDA and one or more development lease(s); and

WHEREAS, the planning for the Redevelopment Projects began in 2002 and envisioned infrastructure upgrades that would benefit the whole downtown area and not serve just the needs of SFC. The infrastructure needs for the downtown area have since been estimated at \$212,000,000. Funding such a massive undertaking is beyond the ability of any single development project or the City of Yonkers and cannot reasonably be anticipated from State and federal grant programs. Therefore, increment financing has always been a critical part of the financing package for the Redevelopment Projects. Given the current economic climate, increment financing is more critical than ever for the future of the City of Yonkers. In order to proceed with increment financing, while addressing unique New York state issues, the City proposes to proceed with a borrowing on a

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RESOLUTION NO.198-2009 (CONTINUED)

limited recourse (no recourse to the City) basis by YIDA for improvements approved by City Council with repayment from increments in an Increment District designated by City Council. This structure provides increment financing in a form required by the financing markets but avoids direct involvement by the City and avoids the unique New York state limitations on true tax increment financing. The structure requires a written agreement on property tax payments to be made by SFC which will include certain covenants to enable the YIDA bonds to be repaid with 60% of the increment in the Increment District with 40% of the increment in the Increment District being paid to the City in all events. The Full Tax Agreement ("FTA") in the form submitted to the City Council addresses the foregoing issues.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL
OF THE CITY OF YONKERS,

Section 1. That, the principal terms and provisions of the FTA as set forth in Exhibit A attached hereto, with schedules identifying the Increment District and Approved FTA Funded Public Use Improvements, is hereby approved; subject to further City Council approval of said FTA if the terms and conditions of the FTA as set forth in Exhibit A are materially changed.

Section 2. That, the Mayor, the Deputy Mayor, the Commissioner of Planning and Development, the Commissioner of Finance, the Corporation Counsel and any designee of the Mayor is hereby authorized to execute and deliver all documents, certificates, affidavits and any other documents necessary or desirable to effect the transactions approved and as contemplated by the Resolution in Section 1, and said officers may make, approve, execute and deliver any modifications to such documents, including but not limited to the FTA and exhibits thereto; provided that the Corporation Counsel and the Counsel to the City Council recommend such modifications as not material and adverse changes to actions and documents approved by the City Council, and provided that such modifications are in the best interests of the City to enable the Redevelopment Projects to proceed.

Section 4. Subsequent to the execution of the FTA and until completion and stabilization of operations of the Guaranteed Phase I Development, the Company and the Agency shall provide quarterly written reports to the City (with copies to the City Council) of its progress in

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RESOLUTION NO.198-2009 (CONTINUED)

implementing the Projects. Additionally, the Agency and Company shall provide the City Council with notice of any proposed amendments and modifications to this Agreement. Upon the determination by the Corporation counsel and Counsel to the City Council that any such proposed amendment or modifications is deemed a material change then said amendment or modification will only take effect upon the approval of the City Council. Upon request from the City Council, all parties agree to appear and answer reasonable inquiries regarding the status and operations concerning the FTA. In addition, the Company agrees to cooperate with the City and Agency in meeting any applicable reporting requirements of Westchester County and the New York State Comptroller as fiscal agent for the City. The transfer restrictions in Sections 7.1, 7.2 and 7.3 of the LDA shall apply to interests in this FTA and notwithstanding any provisions to the contrary in the LDA or this FTA, in the event CDA approval is required under said sections of the LDA, then said action shall be considered a material change and require City Council approval.

Section 3. That, these resolutions shall take effect immediately. The parties to the FTA agree that time is of the essence and will use best efforts to obtain any necessary approvals and execute the FTA as soon as practicable. Providing the statutory requirements for approvals have been met the Company shall execute the FTA when presented. The LDA and FTA must be executed and delivered simultaneously. If the FTA and LDA are not executed and delivered by the Company (with deposit paid) by February 19, 2010, the authority of the City and its agencies to proceed with the LDA and FTA shall terminate as of the sixty-first (61st) day unless further City Council action is taken.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING HELD ON TUESDAY DECEMBER 22, 2009 BY A ROLL CALL VOTE OF 5-2. MAJORITY LEADER ANNABI AND COUNCILMEMBER GRONOWSKI VOTING "NAY."

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COMMITTEE REPORTS

THIS MEETING WAS ADJOURNED AT 12:34AM