

MINUTES OF A SPECIAL MEETING
OF THE LEGAL AFFAIRS COMMITTEE
OF
NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
December 5, 2018

A special meeting of the Legal Affairs Committee (the “Committee”) of the Board of Directors of New York City Economic Development Corporation (“NYCEDC”) was held, pursuant to notice by an Assistant Secretary, on Wednesday, December 5, 2018.

The following members of the Committee were present by conference telephone:

Mitchell Draizin
Matthew Hiltzik
Patrick J. O’Sullivan, Jr.
Betty Woo

Members of NYCEDC staff also were present.

The meeting was chaired by Ms. Woo and called to order at 11:35 a.m. Meredith Jones, General Counsel, Executive Vice President and Secretary of NYCEDC, served as secretary of the duly constituted meeting, at which a quorum was present.

1. Approval of the Minutes of the August 1, 2018 Legal Affairs Committee Special Meeting

There being no questions or comments with respect to the minutes of the August 1, 2018 special Committee meeting, a motion was made to approve such minutes, as submitted. Such motion was seconded and unanimously approved.

2. Approval of the Minutes of the October 26, 2018 Legal Affairs Committee Special Meeting

There being no questions or comments with respect to the minutes of the October 26, 2018 special Committee meeting, a motion was made to approve such minutes, as submitted. Such motion was seconded and unanimously approved.

3. Early Stage Investment Programs Legal Retainer

Léon Willis, a Senior Counsel of NYCEDC, presented a proposal for (i) an increase in the amount payable under NYCEDC's existing legal retainer contract with Lowenstein Sandler LLP ("Lowenstein") for the provision of legal services related to funding an early stage company through NYCEDC's Life Sciences Expansion Space Fund (the "Lowenstein Agreement") and (ii) the use of such funds for project services in an amount authorized by the President or another empowered officer of NYCEDC, on substantially the terms set forth in Exhibit A hereto.

In answer to a question from Mr. Draizin, Ms. Jones stated that Lowenstein was a full service firm, that the team that would be working on NYCEDC's matters specialized in venture capital, and that NYCEDC was very satisfied with the work that Lowenstein had performed on the initial transaction under the retainer. She added that the team NYCEDC is working with had worked for Empire State Development Corporation before and was sensitive to issues that public entities care about. In answer to a question from Ms. Woo, Ms. Jones stated that it was estimated that there would be no more than 10 transactions under the Fund in the next year.

It was moved that the Committee approve to (i) increase the amount payable under the Lowenstein Agreement for legal services and (ii) use the authorized funds for services, substantially as described in Exhibit A hereto. The motion was seconded and unanimously approved.

4. Nixon Peabody LLP

Ms. Jones presented a proposed agreement with Nixon Peabody LLP ("Nixon Peabody") to provide for legal representation of NYCEDC and The City of New York (the "City") regarding the New York Wheel project, primarily with regard to matters related to the Agreement of Lease, dated as of December 24, 2013, between the City, as landlord, and New York Wheel Owner LLC, as tenant, for the New York Wheel project, on substantially the terms set forth in Exhibit B hereto.

At this time, Ms. Jones noted that NYCEDC had worked with Nixon Peabody on many matters for New York City Industrial Development Agency and Build NYC Resource Corporation, as well as on matters for NYCEDC involving new markets tax credits and historic tax credits. Ms. Jones further stated that the New York Wheel project developer had a lot of creditors and that NYCEDC, therefore, wanted to retain Nixon Peabody to help ensure that the City retained control over the project site.

It was moved that the Committee approve the selection of Nixon Peabody and authorize NYCEDC to enter into a legal retainer agreement with Nixon Peabody (subject to approval by the Executive Committee) substantially as described in Exhibit B hereto. The motion was seconded and unanimously approved.

5. Adjournment

There being no further business to come before the meeting, pursuant to a motion made, seconded and unanimously approved, the meeting of the Committee was adjourned at 11:52 a.m.

Assistant Secretary

Dated: _____, 2019

New York, New York

DRAFT

Exhibit A

**EARLY STAGE INVESTMENT PROGRAMS LEGAL RETAINER
Legal Affairs Committee Meeting
December 5, 2018**

Project: Provision of legal services for programs that incentivize new private sector seed and/or early stage financing for companies based in the City and facilitate the expansion of the City's entrepreneurial sector

Contractor: Lowenstein Sandler LLP ("Lowenstein")

Matters to be Approved: (i) Increase in the amount payable under NYCEDC's existing legal retainer contract with Lowenstein for the provision of legal services related to funding an early stage company through NYCEDC's Life Sciences Expansion Space Fund (the "Lowenstein Agreement") and (ii) the use of such funds for Project services in an amount authorized by the President or another empowered officer of NYCEDC, subject to aggregate and transactional limits set forth below

Procurement Method: Small purchase

Amounts to be Approved: Up to \$50,000 (in addition to the previously approved up to \$10,000) in payments may be made to Lowenstein based on flat-fee arrangements. The fee for legal services with regard to any particular matter shall not exceed \$10,000.

Source of Funds: NYCEDC's programmatic budget or other funds then available.

Scope: The additional funding will pay for Lowenstein's legal services, under the terms of the Lowenstein Agreement, with respect to future Project matters, which are comparable to the previously approved transaction with the early stage company through NYCEDC's Life Sciences Expansion Space Fund.

Pursuant to its role under NYCEDC's annual contracts with the City, the City's Law Department has approved the retention of Lowenstein and up to \$10,000 for any particular matter with a maximum aggregate of an additional \$50,000.

Proposed Resolution: To (i) increase the amount payable under the Lowenstein Agreement for legal services for the Project and (ii) use the authorized funds for Project services, substantially as described herein

Staff: Meredith Jones, General Counsel, Legal
Léon Willis, Senior Counsel, Legal

Exhibit B
NIXON PEABODY LLP
Executive Committee Meeting
December 19, 2018

Project: Legal representation of NYCEDC and The City of New York (the "City") regarding the New York Wheel project, primarily with regard to matters related to the Agreement of Lease, dated as of December 24, 2013, between the City, as landlord, and New York Wheel Owner LLC, as tenant (the "Lease"), for the New York Wheel project. New York Wheel was proposed to be an approximately 625-foot high observation wheel to be situated on the St. George Waterfront of Staten Island. Additionally there were to be approximately 95,000 square feet of retail space in a now partially completed terminal building and an approximately 950 parking space garage.

Contractor: Nixon Peabody LLP ("Nixon Peabody")

Agreement to be Approved: An agreement with Nixon Peabody for Project services (the "Retainer Agreement")

Procurement Method: Sole source

Amount to be Approved: Up to \$250,000

Source of Funds to NYCEDC: NYCEDC's programmatic budget

Proposed Resolution: To authorize the President and any empowered officer to enter into the Retainer Agreement substantially as described herein

Scope: NYCEDC understands that the tenant under the Lease, the developer of the New York Wheel project, has ceased operating the premises on which the New York Wheel and related facilities were to be located.

NYCEDC and the City wish to retain counsel with related expertise to help with any issues that may arise therefrom. Nixon Peabody has this expertise and has provided various legal services to NYCEDC and IDA for several years.

Nixon Peabody will charge the following rates per hour: \$550 for partners and counsel, \$450 for senior associates with at least 6 years' experience, \$350 for associates with more than two but less than 6 years' experience, and \$175 for associates with less than 2 years of experience and paralegals. Nixon Peabody will also be reimbursed for certain expenses. The City's Law Department has approved the rates and retention of Nixon Peabody for this matter.

NYCEDC Project Code: 4907

Staff: Meredith Jones, General Counsel, Legal
Richard Palumbo, Senior Counsel, Legal