

MINUTES OF A SPECIAL MEETING
OF THE LEGAL AFFAIRS COMMITTEE
OF
NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
March 5, 2019

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 Tuesday, March 5, 2019.

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 4:47 p.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. Nixon Peabody LLP Legal Retainer

Richard Palumbo, a Senior Counsel of NYCEDC, presented a proposed agreement with Nixon Peabody LLP (“Nixon Peabody”) for the provision of legal services to NYCEDC with respect to the Times Square project, primarily with regard to a reset of base rent pursuant to the Agreement of Lease between the City of New York (the “City”), as landlord, and FC 42nd Street Associates, L.P., as tenant, on substantially the terms set forth in Exhibit A hereto.

Mr. Palumbo noted that the proposed agreement was to provide for additional counsel to work with Carter Ledyard & Milburn LLP (“Carter Ledyard”) on the Project. Ms. Jones then stated that NYCEDC had consulted with the New York City Law Department (the “Law Department”), which approved bringing this matter to the Committee. Ms. Woo added that the proposed rates were the same as the rates that NYCEDC was paying to Carter Ledyard, that NYCEDC had also spoken to a few other firms, and that it was ultimately determined that Nixon Peabody was a good choice and fit for this matter.

In answer to a question from Mr. O'Sullivan, Mr. Palumbo stated that the parties involved in the possible arbitration included the City and Brookfield Asset Management Inc., as well as Madison International as an equity partner. He added that the Project involved a base rent reset under a City ground lease and that it was for the second rental period which occurred 20 years after the initial commencement of the lease term. In answer to a question from Ms. Woo, Mr. Palumbo stated that the current rent reset period was 15 years, that the third period would be 5 years and that the fourth and fifth periods were Consumer Price Index adjustments, and that there would be another market reset after that.

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 substantially as described in Exhibit A hereto. The motion was seconded and approved. Mr. O'Sullivan recused himself from voting on this matter.

2. 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 4:53 p.m.

Assistant Secretary

Dated: _____, 2019

New York, New York

Exhibit A

**NIXON PEABODY LLP
Legal Affairs Committee
March 5, 2019**

Project: Provision of legal services to NYCEDC with respect to the Times Square project (the "Project"), primarily with regard to a reset of base rent pursuant to the Agreement of Lease, between the City of New York (the "City"), as landlord, and FC 42nd Street Associates, L.P., as tenant (the "Lease")

Contractor: Nixon Peabody LLP ("Nixon Peabody")

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

Amount to be Approved: Up to \$100,000

Source of Funds to NYCEDC: NYCEDC's programmatic budget

Scope: Legal services related to the Project, including negotiation of a reset of base rent pursuant to the Lease and a potential arbitration of the same.

Carter Ledyard & Milburn LLP has been retained to represent NYCEDC/City as outside counsel for the Project, but additional outside counsel is recommended. Considering the pressing nature of this valuation dispute, and the timing provided in the Lease, NYCEDC seeks to retain Nixon Peabody as such additional outside counsel, which has experience in arbitrating rent resets for ground leases.

Nixon Peabody will charge the following rates per hour: \$550 for partners, \$450 for senior associates with at least 6 years' experience and other counsel, \$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. It should be noted that the City's Law Department, pursuant to its role under NYCEDC's annual contracts with the City, has approved the rates and retention of Nixon Peabody for this matter.

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

NYCEDC Project Code: 6985

Staff: Darryl Connelly, Senior Vice President, Asset Management
Richard E. Palumbo, Senior Counsel, Legal