



FOR CONSIDERATION

April 10, 2018

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: BROOKLYN ARENA LOCAL DEVELOPMENT CORPORATION - Amendment to Lease between Brooklyn Arena Local Development Corporation and Brooklyn Events Center, LLC

REQUEST FOR: Board Authorization to Enter into a Second Amendment to Agreement of Arena Lease

I. INTRODUCTION

The Board of the Brooklyn Arena Local Development Corporation (“BALDCO” or the “Corporation”) is being asked to approve the execution of a second amendment to the Agreement of Arena Lease to expand the types of operating and capital expenditures that may be paid with funds available in the landlord’s operating and maintenance account (“O&M Fund”). The tenant, Brooklyn Events Center, LLC, a Delaware limited liability company (“ArenaCo”), operates the arena located in the Atlantic Yards area of Brooklyn, New York, now known as the Arena at Barclays Center (the “Arena”), and has requested that the Corporation approve the Second Amendment to the Agreement of Arena Lease, providing for the payment of some additional categories of expenditures.¹

II. BACKGROUND

The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the New York Not-For-Profit Corporation Law (“NYPNCL”) and is a charitable not-for-profit corporation as defined under Section 201 (b) of the NYPNCL and Section 1411 of the NYPNCL.

The Corporation was formed in 2009 to finance certain components of a redevelopment project in the Atlantic Yards area of Brooklyn, New York (the “Atlantic Yards Redevelopment Project”). The redevelopment project included the design, development, construction and

¹ In October 2017, Mikhail Prokhorov, the 100% owner of the Nets and ArenaCo, announced his intention to sell a minority stake in the Nets. As part of the sale process, the NBA has required that the Arena and the Nets amend the Nets License Agreement to reallocate a portion of revenue from the Arena to the Team. The proposed amendment to the Original Lease (as defined below) will facilitate this revenue reallocation.

operation of the Arena for use by a professional basketball team and for other sports and arena events and, if deemed beneficial to the overall Atlantic Yards Redevelopment Project, the infrastructure and land related to such project, all in furtherance of its statutory public objectives. It undertakes its public purpose by issuing federally tax-exempt and/or taxable bonds. Construction of the Arena was completed in 2012 and the Arena is currently being used as the home venue of the Brooklyn Nets and New York Islanders and as a venue for cultural, sporting and civic events and other entertainment.

A. The Bonds

In 2009, the Corporation, as issuer (the "Issuer"), issued \$510,999,996.50 of PILOT Revenue Bonds, Series 2009 (the "Series 2009 PILOT Bonds"). The Series 2009 PILOT Bonds were issued primarily for the purpose of providing a portion of the costs of acquisition, design, development, and construction of the Arena and certain other improvements related to the Arena.

In 2016, the Issuer refinanced a portion of its Series 2009 PILOT Bonds with its PILOT Revenue Refunding Bonds, Series 2016A and PILOT Revenue Refunding Bonds, Series 2016B (Federally Taxable), which are collectively the "Series 2016 PILOT Bonds". All the remaining Series 2009 PILOT Bonds and the Series 2016 PILOT Bonds are the "PILOT Bonds". This partial Series 2009 PILOT Bond refunding has resulted in a greater amount of funds available in the O&M Fund, after all bond debt service requirements have been satisfied.

The PILOT Bonds are special limited obligations of the Issuer, payable primarily out of revenues of the Issuer derived from certain payments in lieu of ad valorem real property taxes ("PILOTs") made under a Payment-in-Lieu-of-Tax Agreement, dated as of May 12, 2010 (the "PILOT Agreement") among the Issuer, ArenaCo, as tenant of the Arena, New York City (the "City") and Empire State Development ("ESD").

The PILOTs are transferred to The Bank of New York Mellon, in its capacity as the PILOT Trustee under a PILOT Assignment and Escrow Agreement, dated as of May 12, 2010 and are applied to first pay debt service on the Bonds and then to fund the O&M Fund to pay for the Landlord O&M Costs (as defined below) pursuant to the terms of the PILOT Assignment, the Ground Lease and the Original Lease (as defined below).

B. The Lease and Lease Amendment.

The Arena was leased to ArenaCo, pursuant to an Agreement of Arena Lease dated May 12, 2010 (as amended by the First Amendment dated August 3, 2011, the "Original Lease") between the Corporation and ArenaCo. Under the terms of the Original Lease, the Corporation, as landlord, agrees to pay for certain operating expenses of the Arena, specifically, the costs of operating, maintaining and repairing the heating, ventilation, air conditioning, utility and energy systems of the Arena, and the costs of certain insurance ("Landlord O&M Costs") from,

funds are available in the O&M Fund. ArenaCo, as tenant, agrees to pay all the remaining operating expenses and capital improvements relating to the Arena.

In the prior fiscal year, ArenaCo generated insufficient operating revenues to cover the operating expenses of the Arena. As a result of the 2016 PILOT Bond refinancing, additional funds are anticipated to be available for deposit in the O&M Fund. AreanaCo has requested that the Corporation amend the Original Lease pursuant to the terms of a Second Amendment to the Agreement of Arena Lease to include in Landlord O&M Costs certain additional operating costs, including cleaning and janitorial services, trash collection and disposal, utilities, insurance, graffiti removal and Arena-related maintenance and repair costs. The inclusion of these additional Landlord O&M Costs is consistent with the leases for other sports facilities financed in the same manner as the Arena. This will allow the Tenant to use the additional funds available in the O&M Fund for more types of operating costs than those contemplated in the Original Lease. The Landlord's obligation to pay Landlord O&M Costs shall continue to be limited to the amount available for disbursement from the O&M Fund and ArenaCo will remain responsible for all O&M costs to the extent they are not covered by the O&M Fund.

As described above, PILOTs transferred to the PILOT Trustee under a PILOT Assignment and Escrow Agreement are applied first to pay debt service on the Bonds, therefore there will be no interruption or diminution in funds available to pay such debt service as a result of the proposed amendment. Additionally, the Landlord's obligations to pay such additional operating expenses under the amendment are expressly limited to the amount on deposit in the O&M Fund. Therefore BALDCO will only be obligated to pay for any operating expenses up to the balance of funds available in the O&M Fund, which represents PILOTs in excess of debt service.

III. REQUESTED ACTIONS

In accordance with the attached resolution, you are hereby requested to: (1) approve the terms and authorize the execution and delivery of the Second Amendment to the Agreement of Arena Lease; and (2) authorize certain officers and employees of the Corporation to take all actions deemed necessary to effect the entry of the Second Amendment to the Agreement of Arena Lease.

IV. ATTACHMENTS

Resolutions

Exhibit A - Second Amendment to Agreement of Arena Lease

April 10, 2018

BROOKLYN ARENA LOCAL DEVELOPMENT CORPORATION – Amendment to Lease
between Brooklyn Area Local Development Corporation and Brooklyn Events Center,
LLC – Board Authorization to Enter into a Second Amendment to Agreement of Arena
Lease

WHEREAS, the Corporation issued its PILOT Revenue Bonds (Barclays Center Project), Series 2009 (the “Series 2009 PILOT Bonds”), its PILOT Revenue Refunding Bonds (Barclays Center Project), Series 2016A (the “Series 2016A PILOT Bonds”) and its PILOT Revenue Bonds (Barclays Center Project), Series 2016B (Federally Taxable) (the “Series 2016B PILOT Bonds” and together with the Series 2009 PILOT Bonds and the Series 2016A PILOT Bonds, the “PILOT Bonds” to finance and refinance the design, development, construction and operation of an arena in the Atlantic Terminal area of Brooklyn, New York (“Arena”); and

WHEREAS, the Corporation entered into an Agreement of Arena Lease dated May 12, 2010 (the “Original Lease”) between the Corporation and Brooklyn Events Center, LLC (“ArenaCo”), pursuant to which ArenaCo has operated the Arena since 2012 as the home venue of the Brooklyn Nets and New York Islanders and as a venue for other entertainment, cultural, sporting and civic events; and

WHEREAS, under the terms of the Original Lease, the Corporation, as landlord, agrees to pay for certain operating expenses of the Arena, specifically, the costs of operating, maintaining and repairing the heating, ventilation, air conditioning, utility and energy systems of the Arena, and the costs of certain insurance (“Landlord O&M Costs”) from, and to the extent, funds are available in the O&M Fund and ArenaCo, as tenant, agrees to pay all the remaining operating expenses and capital improvements relating to the Arena.

WHEREAS, in the prior fiscal year, ArenaCo has generated insufficient operating revenues to cover operating expenses of the Arena, and has requested that the Corporation amend the Original Lease pursuant to the terms of a Second Amendment to the Agreement of Arena Lease to include in Landlord O&M Costs certain additional operating costs, such as cleaning and janitor services, trash collection and disposal, utilities, insurance, graffiti removal and Arena-related maintenance and repair costs. The Landlord’s obligation to pay Landlord O&M Costs shall continue to be limited to the amount available for disbursement from the O&M Fund.

WHEREAS, Corporation deems it advisable to authorize the execution and delivery of the Second Amendment to the Agreement of Arena Lease, and to authorize certain other matters related thereto.

NOW, therefore, the Board of Directors of the Corporation, in accordance with the materials presented at this meeting, including the Board Memorandum and the Exhibit

annexed to this Resolution (collectively, the "Materials"), upon motion duly made and seconded, duly adopts the following Resolution:

RESOLVED, that copies of the Materials are hereby ordered to be filed with the records of the Corporation and are deemed to be incorporated herein by reference; and further

RESOLVED, that the Second Amendment to the Agreement of Arena Lease, in substantially the form presented to this meeting, is hereby approved, and any Authorized Officer (as hereinafter defined) is hereby authorized and directed to execute and deliver the same on behalf of the Corporation, in such form as is approved with such changes, supplements and amendments thereto as any Authorized Officer executing the same may approve, such approval to be conclusively evidenced by such Authorized Officer's execution thereof; and further

RESOLVED, that each of the Chairperson, President, Vice President, Chief Financial Officer and Treasurer of the Corporation, and any other person duly authorized to act in such capacity, is designated an "Authorized Officer," and further

RESOLVED, that each of the Authorized Officers is hereby authorized and directed to approve and execute the Second Amendment to the Agreement of Arena Lease and all other related documents as he or she may reasonably deem necessary, desirable or appropriate to consummate the transactions authorized hereby and thereby, and take such other actions in the name of the Corporation and on its behalf, as he or she may reasonably deem necessary, desirable or appropriate to carry out the foregoing resolutions, and that all actions heretofore taken by any Authorized Officer or his or her designee are hereby ratified and approved.

* * *

EXHIBIT A

Second Amendment to Agreement of Arena Lease

SECOND AMENDMENT TO AGREEMENT OF ARENA LEASE

This SECOND AMENDMENT TO AGREEMENT OF ARENA LEASE (this “**Amendment**”) is made as of the ____ day of April, 2018, by and between BROOKLYN ARENA LOCAL DEVELOPMENT CORPORATION, a local development corporation formed under Article 14 of the New York Not-for-Profit Corporation Law having an office at c/o New York State Urban Development Corporation (d/b/a Empire State Development Corporation), 633 Third Avenue, New York, New York 10017, as landlord (together with its successors and assigns, “**Landlord**”), and BROOKLYN EVENTS CENTER, LLC, a Delaware limited liability company having an office at 15 MetroTech Center North, Brooklyn, New York 11201, as tenant (together with its permitted successors and assigns, “**Tenant**”).

WITNESSETH:

WHEREAS, Landlord and Tenant entered into that certain Agreement of Arena Lease, dated May 12, 2010, as amended by that certain First Amendment to Agreement of Arena Lease, dated August 3, 2011 (collectively, the “**Original Lease**”), pursuant to which Landlord leased to Tenant certain premises located in the Atlantic Terminal area of the Borough of Brooklyn, City and State of New York, on which Tenant has constructed the Arena, which Tenant maintains and operates in accordance with the terms and conditions thereof; and

WHEREAS, the operating expenses of the Arena have increased from projections and the operating revenues of the Tenant were insufficient to cover operating expenses in the prior fiscal year;

WHEREAS, the Tenant is requesting that the Landlord agree to cover additional operating expenses of the Arena as part of the “Landlord O&M Costs” to offset a portion of such additional expenses;

WHEREAS, Landlord has agreed to cover such additional “Landlord O&M Costs” to the extent of funds available in the “O&M Fund;”

WHEREAS, the Landlord and Tenant desire to amend the Original Lease on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Original Lease. All references to “this Lease” contained in the Original Lease shall mean the Original Lease as modified by this Amendment.
2. The Original Lease is hereby amended by deleting Section 9.5(a) in its entirety and inserting the following in lieu thereof:

*“O&M Fund. Provided that (i) no Event of Default shall have occurred and be continuing under this Lease, (ii) ESDC shall have made available to Landlord the Landlord O&M Costs, as provided for in Section 3.3 of the Ground Lease, and (iii) funds have been paid to Tenant, as agent of Landlord, from the “O&M Fund” (as defined in and pursuant to the PILOT Assignment and the Bond Documents) and such funds have not been theretofore allocated by Tenant, as agent of Landlord, to pay other Landlord O&M Costs or Landlord Allowance (as provided in this Section), and subject to the limitations of **Section 9.5(c)** and **Section 9.5(f)** below, Landlord shall pay for the costs of operating, maintaining and repairing the Arena incurred pursuant to **Sections 9.1(a), 9.3, 10.1(a)-(d)** of this Lease (the “**Landlord O&M Costs**”). All such costs shall be paid by Tenant, as agent of Landlord, either from (A) the funds transferred from the O&M Fund or (B) funds of Tenant and thereafter reimbursed to Tenant from funds, if any, subsequently paid to Tenant as agent of Landlord from the O&M Fund. In the event the cost of such operation, maintenance and repair exceeds the amount of the Landlord O&M Costs actually and indefeasibly received from ESDC, then Tenant shall be entirely responsible for such excess costs.”*

3. All costs and expenses associated with preparing, executing and delivering this Amendment shall be paid by Tenant, including without limitation, an agreed upon fee to the Landlord.

4. Each of Landlord and Tenant represents and warrants to the other that it has not dealt with any broker, finder or other party entitled to a broker's or finder's fee, or other commissions or compensation arising out of or in connection with the execution of this Amendment or any transactions relating thereto. Tenant shall be liable for, and shall indemnify Landlord against, all brokerage commissions or other compensation due to any broker, finder or other party caused by a breach of the foregoing representation. This Section 4 shall survive the expiration or earlier termination of the Original Lease, as amended by this Amendment.

5. Nothing contained herein is intended to be for, or to inure to, the benefit of any Person other than Landlord, Tenant, Recognized Mortgagees, the City and their respective successors and assigns.

6. Landlord enters into this Amendment in Landlord's "proprietary" capacity only. Except to the extent of the Overridden Provisions and the tax exemptions permitted by the Original Lease, as amended by this Amendment (and any mortgage recording tax exemption), nothing in this Amendment shall be deemed in any way to expand, restrict, burden, or waive any right, privilege, obligation, claim or immunity that any Governmental Authority would possess, be subject to, or be entitled to exercise if the lessor under this Amendment were a private party. Without limiting the effect of the immediately preceding sentence, nothing in this Amendment is intended to burden or restrict the exercise by any Governmental Authority of its "police power" or impose any liability upon any Governmental Authority for (or entitle Tenant to any credit, offset, defense, claim or counterclaim on account of) the exercise of such "police

power". In keeping therewith, Tenant's relations with all Governmental Authorities, when acting in their capacity as Governmental Authorities, shall be governed by otherwise applicable law.

7. The Original Lease, as amended by this Amendment, is hereby ratified and confirmed in all respects and remains in full force and effect.

8. Tenant hereby acknowledges and agrees that, as of the date hereof, (i) it has obtained all consents, waivers, approvals and authorizations required in connection with the full execution and delivery of this Amendment, including, without limitation, the consent of each Recognized Mortgagee and the National Basketball Association, (ii) the Original Lease has not been amended or modified (except as set forth herein) and the Original Lease, as amended by this Amendment, remains in full force and effect, and (iii) neither Tenant nor Landlord is in default of its obligations under the Original Lease and Tenant is obligated to comply with all of the terms thereof and currently has no defense thereto.

9. Each party shall execute and deliver such further documents, and perform such further acts, as may be reasonably necessary to achieve the parties' intent in entering into this Amendment.

10. This Amendment shall be governed by and construed and enforced in accordance with the laws of the State of New York, without regard to choice of law rules and without the reference to any rule, custom or canon requiring construction against the draftsman.

11. This Amendment may be executed in any number of counterparts (whether original, facsimile, electronic mail or portable document format), each of which when executed and delivered shall be deemed to be an original and all such counterparts together shall constitute one and the same instrument.

[Signatures on the following page]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the day and year first above written.

LANDLORD:

BROOKLYN ARENA LOCAL
DEVELOPMENT CORPORATION,
a local development corporation formed
under Article 14 of the New York Not-for-
Profit Corporations Law

By: _____
Name:
Title:

TENANT:

BROOKLYN EVENTS CENTER, LLC, a
Delaware limited liability company

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the day and year first above written.

LANDLORD:

BROOKLYN ARENA LOCAL
DEVELOPMENT CORPORATION,
a local development corporation formed
under Article 14 of the New York Not-for-
Profit Corporations Law

By: _____
Name:
Title:

TENANT:

BROOKLYN EVENTS CENTER, LLC, a
Delaware limited liability company

By: _____
Name:
Title:

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Item II. B.



FOR CONSIDERATION

April 10, 2018

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: BROOKLYN ARENA LOCAL DEVELOPMENT CORPORATION – Procurement of Legal Services – Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

REQUEST FOR: Authorization to Accept an Assignment of a Contract to Provide Legal Services in Connection with Granting Consent to an Amendment to the Lease of the Arena at Barclays Center in Brooklyn, NY and to Take Related Actions

I. CONTRACT SUMMARY

Counsel: Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. (“Counsel” or “Mintz”)

Scope of Services: Counsel would serve as co-bond and real estate counsel to provide legal services to the Brooklyn Arena Local Development Corporation (“BALDC”) in connection with granting consent to an amendment of the lease of the Arena at Barclays Center.

Contract Amount: All Counsel fees for the transaction, including any co-counsel’s fee and all affiliated eligible Costs of the lease amendment or related bond transaction, shall not exceed \$90,000. Counsel will be required to subcontract, and use good faith efforts to achieve an allocation of 30% of total billings on this matter, to co-bond and real estate counsel, the Hardwick Law Firm, LLC.

Funding Source: The contract is expected to be funded in its entirety by the Brooklyn Events Center, LLC (the “Developer”). Counsel will agree that BALDC and the New York Transportation Development Corporation (“TDC”) will not be obligated to pay any amounts for services described herein except to the extent funded by the Developer.

II. BACKGROUND

On December 23, 2009, BALDC issued approximately \$511,000,000 of bonds (the "Initial Bonds") to finance a portion of the costs, and related Initial Bond costs, of a project consisting of the design, development, acquisition, construction and equipping of the now completed arena at Barclay's Center (the "Arena") in the Atlantic Terminal area of Brooklyn, NY, being used as the home venue of the NBA's Brooklyn Nets basketball team (the "Nets" or the "Team") and as a venue for other entertainment, cultural, sporting and live events. The Initial Bonds were financed by payments in lieu of taxes pursuant to ESD's ownership of the Arena, ESD's lease of the Arena to BALDC and a further lease (the "Lease") by BALDC to the Developer. Additional refunding bonds, (collectively with the Initial Bonds, the "Arena Bonds") were issued in 2016.

In October 2017, Mikhail Prokhorov, 100% owner of the Nets and the Arena, announced his intention to sell a minority stake in the Nets. As part of the sale process, the NBA has required that the Arena and Team amend the Nets License Agreement to reallocate a portion of revenue from the Arena to the Team, which will require an amendment to the Lease (the "Amendment Transaction").

Pursuant to a Notice to Proceed ("NTP") issued by the TDC, Counsel has commenced providing legal services to issue the Bonds. Counsel agreed in the NTP that any contract for services, such as the NTP, would be deemed assigned to BALDC. Counsel also agreed to then did enter into a retainer, along with related procurement documents (collectively the "Retainer"), with TDC for all services and obligations described herein. The retainer was capped, along with all other issuer counsel fees and affiliated costs of the transaction, at \$90,000.

As detailed below, today BALDC has adopted a Pre-Qualified List of Counsel and can now accept an assignment of the Retainer to provide legal services for the Amendment Transaction.

III. COUNSEL SELECTION PROCESS

On June 27, 2016 the New York State Urban Development Corporation d/b/a Empire State Development ("ESD") staff reached out to multiple law firms, including firms on the existing Pre-Qualified Counsel List and placed an advertisement in the New York State Contract Reporter requesting proposals from law firms to create a new Pre-Qualified Counsel List in the following practice areas (including, in each instance, litigation capabilities): (1) real estate and land use; (2) construction; (3) environmental; (4) condemnation; (5) bankruptcy; (6) taxation; (7) bond financing; (8) foreclosure; (9) employment; (10) transactional direct and indirect investments; and (11) regulatory litigation.

Seventy-eight (78) firms responded to the solicitation. The responses were evaluated by a Review Committee consisting of seven ESD attorneys, including the attorneys responsible for environmental, litigation, contractor and supplier diversity, bond financing, and employment matters and the Deputy General Counsel. ESD's Board of Directors approved this new Pre-

Qualified Counsel List on February 16, 2017 and Counsel is on the new Pre-Qualified Counsel List for bond counsel and related services. Based on ESD's review process, TDC's Directors adopted the new ESD List of pre-qualified counsel and BALDC is approving the same list in separate materials before the BALDC Board of Directors on this date.

It is recommended that Mintz serve as co-bond and real estate counsel for the Amendment Transaction. Selection of Counsel was based on the firm's experience and familiarity with the Arena Bonds financing and the related Leases. More specifically, Mintz was the same firm that represented BALDC as bond counsel on the Arena Bonds in both 2006 and the 2016. Mintz also served as co-bond counsel on the issuance of Liberty Bonds to finance the construction of the Goldman Sachs global headquarters in lower Manhattan. Accordingly staff recommends the retention of Counsel for the Amendment Transaction based on: a) Counsel's specific and necessary expertise as bond counsel, b) Counsel's performance with distinction on the Bonds, (c) Counsel's rate proposal, and (d) the ESD pre-qualification process.

The appointment of Counsel also represents an equitable distribution of work among the rotating slate of Senior and Junior Tier law firms and MWBE firms to handle ESD's, BALDC's and the TDC's debt in terms of size of transaction, fees received, length of time since their last engagement and total number of transactions.

IV. SCOPE OF WORK

Counsel would advise the BALDC in securities, bonds, taxes, real estate and other related matters in connection with the Amendment Transaction. Such work may include, but not be limited to, drafting, negotiating, and finalizing the following types of documents: sale contracts, resolutions, amendments, disclosure documents, amendments to lease agreements and tax opinions.

V. CONTRACT - NEED, PRICE AND FUNDING

A. NEED FOR CONTRACT

In accordance with Federal tax law, an opinion from bond counsel is required to opine upon tax exempt bonds and recommended for the subject Amendment transaction. In addition, bond counsel expertise is necessary to ensure compliance with applicable securities laws and market practices. The Directors are accordingly being requested to authorize accepting the assignment of the Retainer from the TDC.

B. CONTRACT PRICE AND FUNDING

All counsel costs and expenses are expected to be paid by the Developer on or about the closing of the Amendment Transaction. Compensation to Mintz under this authorization shall not exceed \$90,000. Counsel acknowledges that BALDC and TDC will have no obligation to pay any legal fees except to the extent funds are received from the Developer.

VI. RESPONSIBLE PARTY

Pursuant to State Finance Law Section 139-j and 139-k and the Authority's policy related thereto, staff has: (a) considered Counsel's ability to perform the services provided for in the proposed contract; and (b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers Counsel to be responsible.

VII. ENVIRONMENTAL REVIEW

Staff has determined that the proposed authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York Department of Environmental Conservation. No further environmental review is required in connection with this authorization.

VIII. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this contract. Counsel shall be required to include minorities and women in any job opportunities created, to solicit and utilize MWBE's for any contractual opportunities generated in connection with this procurement, and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE participation goal of 30% related to the total amount of TDC's legal fees. Mintz will agree that its compensation will be subject to an allocation of 30% of billings and subcontracting to co-bond counsel, the Hardwick Firm.

IX. REQUESTED ACTION

The Directors are asked to authorize the Corporation to accept an assignment of the Retainer to engage Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. as counsel to BALDC for such legal services as are described in these materials.

X. RECOMMENDATION

Based on the foregoing, I recommend approval of the requested action.

XI. ATTACHMENTS

Resolution

Schedule B - Schedule of Maximum Billing Rates and Reimbursement Allowances

April 10, 2018

BROOKLYN ARENA LOCAL DEVELOPMENT CORPORATION ("BALDC") – Authorization to Accept an Assignment of a Contract to Provide Legal Services from Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C. to Provide Legal Services in Connection with Granting Consent to an Amendment to the Lease of the Arena at Barclays Center in Brooklyn, NY and to Take Related Actions

RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered to be filed with the record of the BALDC (the "Materials"), BALDC hereby finds the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. ("Counsel") to be responsible; and be it further

RESOLVED, that the BALDC is hereby authorized to accept the assignment of a contract with Counsel for the purposes and services, and substantially on the terms and conditions, as set forth in the Materials; and be it further

RESOLVED, that the President and his designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the BALDC to execute and deliver any and all documents and to take all such actions as may be necessary or appropriate to effectuate the foregoing. Any actions previously taken by the BALDC or Counsel consistent with this authorization are hereby ratified and affirmed.

* * *

SCHEDULE B

SCHEDULE OF MAXIMUM BILLING RATES AND REIMBURSEMENT ALLOWANCES

	<u>Maximum Rate Structure (per hr.)</u>
Partner/Of Counsel	\$600.00
Senior Associate (At least four years of experience)	\$550.00
Mid-level Associate (Three or four years of experiences)	\$500.00
Junior Associate (Passed the bar exam but less than three years of experience)	\$425.00
Law Clerk (Law student interns or first year associates who have yet to pass the bar exam)	\$325.00
Legal Assistant/Paralegal	\$150.00