

**Determination and Findings by the New York State Urban Development Corporation
d/b/a Empire State Development Corporation Pursuant to EDPL Section 204 with Respect
to the Atlantic Yards Land Use Improvement and Civic Project**

The Atlantic Yards Land Use Improvement and Civic Project (the "Project") involves the renewal and redevelopment of a blighted area in the Atlantic Terminal section of Brooklyn through the clearance, replanning and reconstruction of such area and the construction thereon of a mixed-use development. Occupying an approximately 22-acre area, the Project site (the "Project Site") is roughly bounded by Flatbush and 4th Avenues to the west, Vanderbilt Avenue to the east, Atlantic Avenue to the north, and Dean and Pacific Streets to the south and includes the approximately 9-acre (including the land under the 6th and Carlton Avenue Bridges), below-grade Long Island Rail Road ("LIRR") Vanderbilt Storage Yard (the "LIRR Yard") and MTA storage yard for inactive New York City Transit buses (the "MTA Yard"; together with the LIRR Yard, the "Yard"). The Project is being undertaken by the New York State Urban Development Corporation ("UDC") d/b/a the Empire State Development Corporation ("ESDC"), the City of New York (the "City"), the New York City Economic Development Corporation ("EDC") and affiliates of Forest City Ratner Companies ("Forest City Ratner"; together with its affiliates, "FCRC"), including, without limitation, Atlantic Yards Development Company, LLC ("FC-AYDC"), and Brooklyn Arena, LLC ("FC-BA"; together with FC-AYDC, the "Project Sponsors"). The Metropolitan Transportation Authority ("MTA") is also participating in the Project.

The Project calls for the acquisition of approximately 22 acres, including an open rail storage yard, and the clearance, replanning and replatting of this area for development of an arena, 16 mixed-use buildings and a newly reconfigured LIRR train yard, generally, to be developed within two phases. The portion of the Project Site west of 6th Avenue (the "Phase I

Site") would include Blocks 1118, 1119, 1127 and the intervening beds of 5th Avenue and Pacific Street (inclusive of the small traffic island), and a portion of the Yard located underneath 6th Avenue between Atlantic Avenue and Dean Street, as well as Lots 1 and 16 on Block 927. A new arena (the "Arena") for the New Jersey Nets National Basketball Association Team (the "Nets") and five other buildings with commercial office and retail, market-rate and affordable residential, community facility and potentially hotel uses and a new subway entrance would be built on the Phase I Site. In conjunction with Phase I of the Project, FCRC would also completely reconfigure, rebuild and partially relocate the LIRR Yard. The western portion of the Yard would be incorporated into the Phase I Site, and a reconfigured and upgraded yard (the "Upgraded Yard") would be built below grade on the eastern end of the existing Yard footprint and on a portion of Block 1121 not currently occupied by the existing Yard. In addition, a west portal, drill track and ancillary storage and parking space would be built as part of the permanent Yard construction.

The portion of the Project Site east of 6th Avenue (the "Phase II Site") would include the platform building pad to be constructed in the volume of air space ("Air Space") over the Upgraded Yard, starting at an elevation which will generally be 22 feet above the rails (the "Platform Elevation"), to be acquired by FCRC or ESDC from MTA pursuant to a term sheet executed by FCRC and MTA. Such Platform would also be built above that portion of Block 1121 expected to be added to, and become a part of, the Upgraded Yard. Eleven buildings would be developed on the Phase II Site with primarily residential uses and a number of local retail and community facility uses. The Phase II Site would also include eight acres of publicly accessible open space.

Public Process

On August 23, 2006, a duly noticed public hearing was held in accordance with the provisions of Article 2 of the EDPL (simultaneously with a hearing under Sections 6 and 16 of the New York State Urban Development Corporation Act (Chapter 174, Section 1, Laws of 1968, as amended, the "UDC Act") and the State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law) and the regulations adopted pursuant thereto (6 NYCRR Part 617) (collectively, "SEQRA")) in order, among other things, to inform the public about the Project and to review the public uses to be served by the Project and the impact on the environment and residents of the locality where the Project will be constructed.

At the opening of the hearing, the public was informed of the public uses, benefits and purposes to be served by the Project, the location of the Project, and the general effect of the Project on the environment and residents of the locality. Copies of the General Project Plan and the executive summary of the Draft Environmental Impact Statement ("DEIS") were made available to the public at the hearing. A complete copy of the DEIS and General Project Plan, including all exhibits referenced therein, were also made available on CD-ROM's to the public at the hearing, and are incorporated herein by reference. The hearing provided an opportunity for the public to comment on the Project; the public uses, benefits and purposes to be served by the Project; the proposed acquisitions of properties within the Project area; and the general effect of the Project on the environment and residents of the locality.

Written comments concerning the Project were received until September 29, 2006 at 5:30 p.m., at which time the comment period closed. In addition, ESDC scheduled community forums at the same location as the public hearing on September 12, 2006 and September 18, 2006 for the purpose of receiving additional oral and written comments.

All testimony and written comments received at the public hearing or at the community forums and all written comments received by ESDC during the comment period have been reviewed and afforded full consideration.

Pursuant to EDPL §204, and having given due consideration to the complete record, which includes the hearing record, the Final Environmental Impact Statement for the Project (the "FEIS"), which is incorporated herein by reference, the statements at the community forums and all documents submitted by the public during the public comment period, ESDC makes the following findings and determination concerning the Project:

I. The Public Use, Benefit, or Purpose To Be Served by the Project [EDPL § 204(B)(1)].

The principal public use, benefit and purpose of the Project is to eliminate the blighted conditions on the Project Site and the blighting influence of the below-grade Yard. As detailed in the Blight Study, incorporated herein by reference, in 1968 the City designated the Atlantic Terminal Urban Renewal Area ("ATURA"), an area of approximately 104 acres of land including five of the eight blocks (Blocks 927, 1118, 1119, 1120 and 1121) on the Project Site, to be substandard and unsanitary, and proposed actions aimed at eradicating the blighted conditions. The most recent amendment to the ATURA plan was issued by the City in 2004, and it cites a continued presence of blighted conditions in parts of ATURA and extends the duration of ATURA for another 40 years. The southernmost blocks of ATURA (but not Site 5, i.e., Block 927, Lots 1 & 16, which has minimal improvements), which include the Yard, have yet to be improved since the City designated the area as blighted in 1968. The Yard is a significant visual and physical gap in the urban landscape and impairs the sound growth of the surrounding area.

The non-Yard portion of the Project Site is characterized by unsanitary and substandard conditions including vacant and underutilized buildings, debris-filled vacant lots, irregularly shaped lots, building facades in ill repair and structures suffering from serious

physical deterioration. 51 of the 73 parcels on the Project Site (i.e., 86% of the land area on the Project Site) exhibit one or more blight characteristics, including buildings or lots that exhibit signs of significant physical deterioration, buildings that are at least 50% vacant, and lots that are built to 60% or less of their allowable Floor Area Ratio under current zoning and vacant lots. Six buildings on the Project Site were found upon acquisition by FCRC and its structural engineer to be so physically deteriorated that they were found to be structurally unsound and a threat to public safety. With agreement from ESDC, those buildings were slated for demolition by FCRC. Subsequently, a lawsuit was filed against ESDC and FCRC asserting that ESDC acted improperly in allowing FCRC to demolish the buildings and seeking to prevent demolition of those buildings. In February 2006, the Supreme Court denied the petitioners' motion for a preliminary injunction seeking to prevent the demolition of the buildings, and in March 2006, the Appellate Division upheld that decision. Those buildings have since been demolished.

The Project will eliminate the blighted conditions on the Project Site and the blighting influence of the Yard by transforming the area into a mixed-use development. In addition, the Project will provide for the following public uses, benefits and purposes: (i) a publicly owned state-of-the-art arena to accommodate the return of a major-league sports franchise to Brooklyn while also providing a valuable athletic facility for the City's colleges and local academic institutions, which currently lack adequate athletic facilities, and a new venue for a variety of musical, entertainment, educational, social and civic events; (ii) 2,250 affordable rental housing units and between 3,075 and 4,180 market-rate housing units; (iii) between 336,000 and 1,606,000 million square feet of new office space and possibly a hotel; (iv) 8 acres of publicly accessible open space that links together the surrounding neighborhoods; (v) new ground level retail spaces to activate the street frontages; (vi) community facility spaces, programmed in coordination with local community groups, including a health care center and an

intergenerational facility, offering child care as well as youth and senior center services; (vii) a state-of-the-art rail storage, cleaning and inspection facility for the LIRR that would enable it to better accommodate simultaneously its new fleet of multiple-unit series of electric propulsion cars operated by LIRR which are compliant with the American with Disabilities Act and other transit improvements; (viii) a subway connection on the south side of Atlantic and Flatbush Avenues, with sufficient capacity to accommodate fans entering or leaving an event at the arena, eliminating the need for pedestrians approaching Brooklyn's major transportation hub (located in the vicinity of the intersection of Flatbush and Atlantic Avenues) from the south to cross Atlantic Avenue to enter the subway, thereby enhancing pedestrian safety; (ix) sustainability and green design through the application of comprehensive sustainable design goals that make efficient use of energy, building materials and water, and (x) environmental remediation of the Project Site.

It is projected that the Project will also provide the following economic benefits during construction and for the first 30 years of operations: (i) construction of the Project will generate 12,568 new direct job years and 21,976 total job years (direct, indirect, and induced); (ii) direct personal income related to construction activities will be \$590.0 million and total personal income will be \$1.2 billion (direct, indirect, and induced); (iii) total construction employment will generate \$42.1 million in City tax revenues and \$89.9 million for New York State; (iv) operations at the Arena and mixed-use development will support an annual average 4,538 new jobs in the City (direct, indirect, and induced) and an annual average 5,065 jobs (direct, indirect and induced) in New York State (inclusive of New York City); and (v) on a present value basis, the Project will generate \$652.3 million of City tax revenues and \$745.3 million of State tax revenues. Thus the Project will generate \$944.2 million in net tax revenues in excess of the public contribution to the Project. In addition, the Project will produce an estimated \$554 million in public improvements and infrastructure including improvements for

the LIRR and for New York City Transit.

II. Project Location and Reasons for Selection of that Location [EDPL § 204(B)(2)].

The Project Site encompasses approximately 22 acres in Brooklyn and includes (i) all the property bounded by Atlantic Avenue, Flatbush Avenue, Dean Street and Vanderbilt Avenue, except that within Block 1128 (bounded by 6th Avenue, Dean Street, Carlton Avenue and Pacific Street) only lots 1, 2, 4, 85, 86, 87, 88 and 89 are included in the Project Site and (ii) a parcel bounded by Atlantic Avenue, Flatbush Avenue, Pacific Street and 4th Avenue, including Block 927, lots 1 and 16 but excluding Block 927 lot 26 (the site of a community garden).

Set forth on the attached Schedule is a list of the specific parcels and street beds that would be acquired in fee by eminent domain, which list includes parcels owned by the City, FCRC, or unrelated third parties.

The Project Site is located at the intersection of three major arterials: Atlantic Avenue, Flatbush Avenue, and 4th Avenue. Despite its location on these major arterials and the presence of ten subway lines and the LIRR Atlantic Terminal across the street and two other subway lines and 11 bus routes in the vicinity, the Project Site has been a center of blight and decay. The Project will transform this blighted area into a vibrant, mixed-use development that capitalizes on the tremendous mass transit service available at this unique location.

A discussion of reasons for selecting the Project Site as the site for a publicly owned sports arena is set forth at pages 1-9 through 1-13 of the FEIS. In addition, the density of residential use that can be accommodated on the Project Site offers an opportunity for development of a substantial number of affordable housing units and community facilities to support new residents and residents in the surrounding area. Selection of the Project Site also facilitates transit-oriented development and provides the opportunity for the subway and LIRR improvements at the site that the Project will achieve.

III. General Effect of the Project on the Environment and the Residents of the Locality [EDPL § 204(B)(3)].

The general effects of the Project on the environment and the residents of the locality are summarized below. A complete description of the Project's effects on the environment and the residents of the locality is set forth in the FEIS.

A. Land Use, Zoning, and Public Policy

The Project's effects on land use will be significant, but will not result in significant adverse impacts to land use, zoning, or public policy. The Project will demolish existing buildings, platform over the below-grade LIRR rail yard, and introduce a high-density mix of uses, including arena, residential, commercial office, retail, community facility, publicly accessible open space, accessory parking, and possible hotel uses. The location of the Project adjacent to Brooklyn's largest transportation hub makes it suitable for this high-density development. The new arena use will be compatible with most of its surroundings, particularly with Downtown Brooklyn and the Brooklyn Academy of Music (BAM) Cultural District to the north. The arena will, however, have localized adverse land use impacts on a few residential buildings on the south side of Dean and Pacific Streets in the immediate vicinity of the arena due to direct views of the arena signage on Flatbush Avenue or proximity to the arena's loading dock. The localized impacts on these residential uses will not constitute significant adverse land use impacts.

With respect to zoning and public policy impacts, the non-conformance with existing zoning that will result from ESDC's override of New York City zoning regulations will not be a significant adverse impact. The presence of greater density on the Project Site is not expected to induce material changes in density elsewhere in the surrounding area, and land use patterns in the surrounding areas are expected to remain relatively stable. Land uses and

densities introduced by the Project will relate rationally to uses and densities allowed under the existing zoning in the area. Furthermore, the Project will complement and support the goals and objectives of other City policies and plans such as the Special Downtown Brooklyn District, the Atlantic Terminal Urban Renewal Area, policies for housing and commercial development in Brooklyn, and policies for transit-oriented development.

B. Socioeconomic Conditions

The Project will not result in significant adverse socioeconomic impacts. The Project will not cause a significant adverse direct residential displacement impact because the residents who will be displaced by the Project do not represent a significant proportion of the study area population and are not likely to have socioeconomic characteristics that differ markedly from the study area population as a whole. The Project will not cause a significant adverse direct business or institutional impact because the displaced businesses and institutions do not have substantial economic value to the City or region; are not subject to publicly adopted plans to preserve, enhance, or protect them; do not individually or collectively contribute substantially to neighborhood character; and can be relocated elsewhere in the City, since their operation is not tied to their current location.

The Project will not result in significant adverse indirect residential displacement impacts. The number of at-risk households (those at risk of displacement if property values, and therefore rental rates, were to increase in the study area) has been decreasing and will probably continue to do so in the future independent of the Project, and the Project will not be likely to affect residential property values in areas identified as containing these at-risk populations for several reasons. First, similarities between the Project housing mix and the housing mix currently present in the vicinity indicate that the Project will not substantially change the socioeconomic profile of the area. Second, the substantial number of housing units to be added

could alleviate upward pressure on rental rates. Third, most at-risk households identified are more than one-half mile from the Project Site, and there are intervening established residential communities with upward trends in property values and incomes and active commercial corridors separating the Project Site from the areas with at-risk populations.

The Project will not result in significant adverse indirect business or institutional displacement impacts. In general, existing businesses will benefit from the larger customer base that will be created by the population introduced by the Project. Most of the institutional uses in the vicinity are owner-occupied or government-owned and therefore will not be vulnerable to indirect displacement pressures. The potential for indirect business or institutional displacement is limited to a small number of businesses and institutions mainly along Vanderbilt Avenue, Flatbush Avenue, and 4th Avenue, within a quarter-mile of the Project Site. These businesses and institutions are not unique to the study area, do not have substantial economic value to the City, and do not have locational needs that would preclude them from relocating elsewhere in the surrounding area or City, were their rents to be indirectly affected by the Project.

The Project will not result in a significant adverse impact on any specific industry because it will not directly affect business conditions in any industry or category of business within or outside of the area, nor will it indirectly substantially reduce employment or impair the economic viability of any industry or category of business.

C. Community Facilities

The Project will not have significant adverse impacts on police protection, fire protection and emergency services, libraries, hospitals and health care centers, or day care centers. The Project will increase the demand for publicly funded day care beyond the capacity of existing day care facilities, but with the inclusion of an intergenerational facility containing a day care center on the Project Site, there will be sufficient capacity.

The Project will have significant adverse impacts on schools in Phase II because it will result in a shortfall in elementary and intermediate school seats in schools located within one-half mile of the Project Site. This shortfall will be partially mitigated by the Project Sponsors' provision, upon the Department of Education's request, of adequate space for the construction and operation of an approximately 100,000-square-foot elementary and intermediate school in the base of one of the buildings on the Phase II Site.

D. Open Space

The Project will have no permanent significant adverse impacts on open space and recreational resources. The Project will, however, have a temporary significant adverse open space impact in the Project's non-residential study area upon completion of the first phase of construction. The impact will be eliminated with the phasing-in of the Project's eight acres of publicly accessible open space during the second phase of construction. Despite the decline in the residential study area's open space ratios upon completion of Phase I, there will be no temporary significant adverse impact in the residential study area. The decline in the open space ratios will be offset by qualitative factors such as the Project's Phase I open spaces and public amenities (including the private open space on the roof of the arena, plaza areas, and the Urban Room) and the presence of Prospect Park and Fort Greene Park just outside the residential study area.

Upon completion of Phase II, passive open space ratios in both the residential and non-residential study areas will increase compared to existing conditions and the future without the Project. The active open space ratio in the residential study area will decrease, but the reduction of the active open space ratio will not be a significant adverse impact because it will be offset by qualitative factors, including the presence of Fort Greene and Prospect Parks just outside the Project's residential study area boundaries.

The Project will also result in a significant adverse shadows impact on the public open space at the Atlantic Terminal Houses. The Project Sponsors will implement measures in consultation with the New York City Housing Authority (“NYCHA”) to partially mitigate the effect of the shadows on this open space with measures that focus on improving the attractiveness and usability of the open space.

The Project will also result in a significant adverse noise impact on the Dean Playground during both construction and operation of the Project. Due to safety and aesthetic concerns, there are no feasible measures to fully mitigate noise impacts to the Dean Playground, but the Project Sponsors have committed to working with the New York City Department of Parks and Recreation (“DPR”) to supplement DPR’s planned improvements to the Dean Playground with a comfort station that will make this space attractive to a wider spectrum of users and more enjoyable to the general public.

E. Cultural Resources

The Project will result in significant adverse cultural resources impacts. The Project will require the demolition of two resources eligible for the State or National Registers of Historic Places: (1) the former Long Island Rail Road (LIRR) Stables at 700 Atlantic Avenue (one of the parcels proposed for acquisition); and (2) the former Ward Bread Bakery complex at 800 Pacific Street (already owned by the Project Sponsors). Both demolitions will constitute significant adverse impacts. The potential reuse of these properties as part of the Project was studied, but it was concluded that there is no feasible or prudent alternative to demolishing them. Measures to document these historic resources and partially mitigate their demolition will be developed and implemented in consultation with the New York State Office of Parks, Recreation and Historic Preservation (“OPRHP”), pursuant to the LOR between the Project Sponsors, ESDC and OPRHP.

To avoid demolition- and construction-related impacts to the Atlantic Avenue Subway Station and other nearby historic resources, the Project Sponsors will prepare and implement a Construction Protection Plan, which will be submitted to OPHRP for review and approval prior to implementation. With respect to on-site archaeological resources, the Project Sponsors will conduct additional research and testing to determine whether such resources may be present on potentially

sensitive areas on Blocks 1119 and 1127, and, in the event significant archaeological resources are found to be present at such locations, ESDC will develop appropriate mitigation measures after consultation among ESDC, OPHRP and the New York City Landmarks Preservation Commission.

The Project will have significant adverse impacts with respect to two historic resources in the Project's study area. Views of the Williamsburgh Savings Bank Building will be obstructed from certain public vantage points south and southeast of the Bank Building and along the Flatbush Avenue view corridor from south of the Project Site except from vantage points immediately adjacent to the Project Site. The Church of the Redeemer on 4th Avenue will be adversely affected by new incremental shadows cast on its stained glass windows in the morning. To offset the effect of the Project's shadows on the stained glass windows, the Project Sponsors will implement measures consisting of removing the existing protective coverings from all of the stained glass windows, including any patching and repair associated with the removal; cleaning the interior and exterior of the windows; and installing new transparent protective coverings of similar or greater durability as the existing coverings.

F. Urban Design and Visual Resources

The Project will not result in significant adverse impacts on urban design. The Project will transform an underutilized 22-acre site into a major mixed-use development at the southern gateway to Downtown Brooklyn, and establish physical and visual connections between several vibrant Brooklyn neighborhoods. The Project will alter the built form of the Project Site and surrounding area, as well as the Brooklyn skyline, with the introduction of dramatically designed modern buildings, most of which will be taller and of a larger scale than most buildings in the surrounding area. However, the Project's larger buildings and most active uses will surround the transit hub at the crossroads of Flatbush and Atlantic Avenues and will be of a scale comparable to buildings in Downtown Brooklyn. Development at the eastern end of the Project Site will serve as a transition and connection to the surrounding residential neighborhoods and will include eight acres of publicly accessible open space that will enhance pedestrian activity and connect the neighborhoods surrounding the Project Site.

The Project will also close streets and join blocks, but these changes will not result in significant adverse urban design impacts. The creation of the large residential block between Dean Street and Atlantic, Carlton, and Vanderbilt Avenues will allow the development of the eight acres of publicly accessible open space. The arena block bounded by Dean Street and Flatbush, Atlantic, and 6th Avenues, which will be necessary to accommodate the arena's footprint, will facilitate access to the arena from the subway. The four buildings surrounding the arena will incorporate a variety of uses, including ground-floor retail and landscaping amenities, that will promote street activity.

The Project will result in significant adverse impacts on one visual resource because it will obstruct views of the Williamsburgh Savings Bank Building from certain public vantage points south and southeast of the Project Site including the Flatbush Avenue view corridor from south of the Project Site except from vantage points on Flatbush Avenue immediately adjacent to the Project Site. Other visual resources in the area will remain visible, and generally the east-west tree-lined residential street view corridors will not be affected since most views along these view corridors will not include views of the Project Site. The tops of the Project's buildings will be visible from some areas farther east and west of the Project Site, but the intervening blocks and buildings will limit the visibility and presence of the Project's buildings from these areas. The Project's creation of new visual resources will transform views along the Atlantic Avenue and Flatbush Avenue view corridors, but this transformation is not considered adverse.

The Project's special lighting and signage on the Atlantic and Flatbush Avenue frontages of the arena block and Site 5 will not result in significant adverse impacts. The special signage will be oriented towards the commercial corridors of Atlantic and Flatbush Avenues. Although the signage will be visible in a relatively small residential area on Pacific and Dean Streets in the immediate vicinity of the arena, this will not result in a significant adverse impact. Other signage on the Project Site will be typical for local retail and commercial areas throughout New York City.

G. Shadows

The Project will result in incremental shadows generally west, north and east of the Project as the sun moves across the sky. (The extent of these incremental shadows at different times of the year is disclosed in figures in Chapter 9 of the FEIS.) In analyzing whether such shadows constitute significant adverse impacts, the analysis focuses on sun-sensitive resources such as public open space and historic resources with significant sunlight-dependent features. The Project will result in significant adverse shadow impacts on the public open space at NYCHA's Atlantic Terminal Houses and on one historic resource—the Church of the Redeemer. Shadows will otherwise have no significant adverse impacts on the surrounding area or on the Project's new open space. The significant adverse impact on the Church of the Redeemer will be partially mitigated by the measures described in Section III.E, "Cultural Resources." The significant adverse impact on the Atlantic Terminal Houses open space will be partially mitigated by the measures described in Section III.D, "Open Space and Recreational Facilities."

H. Hazardous Materials

Construction of the Project will involve both demolition of existing structures (which are known to contain lead-based paint, asbestos-containing materials and PCB-containing electrical components) and excavation, disturbance, and removal of much of the existing fill and soil. Sampling has confirmed and characterized contamination in the subsurface, related primarily to local current/former gas stations and historic fill. Contaminated soils on the Project Site will be remediated in connection with the construction of the Project and the oil spills that have been identified will be remediated under the supervision of the New York State Department of Environmental Conservation. With the implementation of a variety of site investigation, remediation and construction health and safety protocols and procedures that will precede or govern both demolition and soil disturbance activities and design controls to prevent vapor intrusion after construction, no significant adverse impacts related to hazardous materials are expected to occur as a result of the Project's construction or operation.

I. Infrastructure

The Project will not result in significant adverse infrastructure impacts. The Project will create new infrastructure demands on water supply, sanitary wastewater treatment, stormwater management, solid waste, and energy, but the municipal systems and utilities serving the Project Site will have adequate capacity to meet the projected increases in demand from the Project. The conclusion that there will be adequate capacity to meet the Project's demand is based in part on the Project Sponsors' construction of local improvements in City infrastructure, including local sewers and water mains, as well as on the Project Sponsors' implementation of a comprehensive on-site stormwater management plan. The frequency of combined sewer overflow (CSO) discharges to the Gowanus Canal and East River will not significantly increase and the aggregate volume of discharges will decrease with the Project. There will be no significant adverse water quality impacts on the Gowanus Canal or the East River.

J. Traffic and Parking

The Project will have significant adverse impacts on traffic. Without mitigation, a total of 58 intersections will experience significant adverse impacts in one or more peak hours after the first phase of construction (in 2010). With completion of the Project in 2016, a total of 68 intersections will experience significant adverse impacts. The most severe traffic impacts are for the most part attributable to demand generated by major events at the arena, so the Project's traffic mitigation measures are targeted to address this issue, as well as to address the traffic impacts attributable to the Project's residential and commercial uses and its reconfigured street grid. Mitigation measures include physical roadway improvements (which will include reconfiguration of the Atlantic Avenue/Flatbush Avenue/4th Avenue intersection); a demand management program designed to reduce traffic congestion associated with basketball games at the arena; transit service recommendations for increased weekday evening and weekend service to the Atlantic Avenue/Pacific Street subway station complex; and traffic operational improvements. With the implementation of all practicable traffic mitigation measures in 2010 and 2016, unmitigated impacts will remain for at least one movement in one or more peak hours at 25 and 35 intersections, respectively. The Saturday post-game peak hour will have the highest number of

intersections with unmitigated impacts, but this condition will occur fewer than four times per year when a Saturday afternoon Nets basketball game would be scheduled. Other Saturday afternoon arena events will typically attract substantially fewer spectators than a Nets game.

The Project will not have significant adverse impacts on parking. Street closures and operational changes associated with the Project will result in a loss of on-street parking spaces, but the loss of on-street spaces will not result in a deficit of on-street parking capacity, and sufficient off-street parking capacity will be available both on site and at existing public facilities within one-half mile of the arena to fully meet the Project's demands in all peak periods. However, as some drivers en route to the Project Site will choose to park on street if spaces are available, it is likely that much of the on-street parking capacity available near the arena will be used by Project-generated demand during a Nets basketball game or other major arena event.

K. Transit and Pedestrians

The Project will have a significant adverse impact on westbound B38 bus service in the AM peak travel hours in 2016. New York City Transit routinely conducts ridership counts and adjusts bus service frequency to meet its service criteria, within fiscal and operating constraints, and such service adjustments would mitigate the impact to westbound B38 service.

On-site entrance and internal circulation improvements at the Atlantic Avenue/Pacific Street subway station complex will be adequate to accommodate new Project-generated demand at acceptable levels of service, as will existing analyzed stairways and fare arrays at this facility. However, crowding on the platforms at the Atlantic Avenue/Pacific Street subway station complex could occur under certain post-game situations. Such crowding, if it were to occur, would be a significant adverse impact that will be addressed by providing additional subway service (i.e., more trains) after major arena events. All analyzed stairways and fare arrays at other nearby subway stations will also continue to operate at acceptable levels of service.

All subway routes serving the Project Site are expected to continue to operate below their practical capacity in the peak direction during commuter peak periods. The Project is therefore not expected to result in significant adverse impacts to subway line haul conditions.

The Project will increase ridership on the Long Island Rail Road ("LIRR"), but this increase will not result in significant adverse impacts. The Project will also expand storage and servicing capacity and improve yard functionality at the LIRR rail yard.

The Project will have significant adverse pedestrian impacts at two crosswalks, but widening these two crosswalks will fully mitigate the impacts. All other analyzed sidewalks and corner areas will continue to operate at acceptable levels of service.

L. Air Quality

The Project will not result in significant adverse impacts on air quality either from the vehicular traffic it generates or its stationary sources, and there will be no significant adverse air quality impacts on the Project from nearby industrial sources. To reduce the Project's emissions, the boilers will operate exclusively on natural gas and will be equipped with low-nitrogen oxides burners.

M. Noise

The Project will result in significant adverse noise impacts at a number of locations. These locations are on Flatbush Avenue in the area near Dean Street, on Dean Street from approximately Flatbush to Vanderbilt Avenues (including the Dean Playground), and 6th and Carlton Avenues from approximately Dean Street to Atlantic Avenue. With implementation of the traffic mitigation measures in 2010, noise levels from Project-generated traffic will no longer result in significant adverse noise impacts at the receptor on Flatbush Avenue in the area near Dean Street. With implementation of the traffic mitigation measures in 2016, noise levels from Project-generated traffic will no longer result in significant adverse noise impacts at the receptors on Flatbush Avenue in the area near Dean Street and on Dean Street between Carlton and Vanderbilt Avenues. Noise impacts will be localized and occur on street segments immediately adjacent to the Project Site.

The Project Sponsors will make double-glazed or storm-windows and alternative ventilation (i.e., air conditioning) available, at no cost for purchase and installation, to owners of residences at locations where significant adverse noise impacts are predicted to occur. In addition, the Project Sponsors will make available and install free of charge storm windows for the windows facing Dean Street on the second floor of the Temple of Restoration that do not currently have double-glazed or storm windows. These measures will fully mitigate noise impacts for interior uses, but at locations where owners elect not to take advantage of these mitigation measures, the Project will have unmitigated noise impacts. Due to safety and aesthetic concerns, there are no feasible measures to mitigate the Project's noise impacts on the Dean Playground. Measures to partially mitigate the noise impacts on Dean Playground are described above in Section III.D, "Open Space and Recreational Facilities." Noise levels within the new on-site open space areas will be above the standard for outdoor areas requiring serenity and quiet, but the noise levels at these open spaces will be comparable to noise levels in other urban open space areas and parks in New York City.

N. Neighborhood Character

The Project will not result in significant adverse neighborhood character impacts. The Project will significantly change the character of the Project Site, transforming it from an underutilized and blighted area to a vibrant mixed-use community. The Project Site's character under existing conditions stands in stark contrast to the character of much of the surrounding area. The change in character on the Project Site will not alter the basic character of the surrounding neighborhoods, whose defining elements are located at some distance from the Project Site and are protected by zoning and historic district designations.

However, the Project will affect the character of areas immediately surrounding the site and will result in localized adverse neighborhood character effects in a few of those areas. The greatest change will occur on Dean Street between Flatbush and Vanderbilt Avenues, which forms the southern border of the Project Site and is at the northern edge of Prospect Heights. The character of Dean Street will change from a nondescript, but quiet, mixed-use former industrial street to an active street with a mix

of uses; there will be adverse impacts due to increases in traffic and noise, as well as to the arena's loading facility on Dean Street between Flatbush and 6th Avenues. The Project will also affect the character of a few residential rowhouses on Pacific Street facing Site 5 (within sight of the arena's illuminated signs). In addition, Project-generated traffic will result in a deterioration of traffic flow on Bergen Street in Prospect Heights. These affected locations are clustered in proximity to the Project Site, in areas located along the perimeters of and not in the cores of their respective neighborhoods. The localized effects of the Project in these areas will not be significant adverse impacts to neighborhood character.

O. Construction

The Project's ten-year construction period will be disruptive to the local area, and significant adverse impacts are predicted to occur from construction-related traffic on the local street network, from construction-related noise, and from the demolition of two historic buildings. Construction activity will also result in significant adverse localized neighborhood character impacts, but no portion of the areas immediately adjacent to the project site will be subject to the full effects of construction for the entire ten-year period. To reduce adverse impacts with respect to air quality and noise, the Project Sponsors will implement a state-of-the-art emissions and noise reduction program. The Project will also implement other measures to reduce adverse impacts from construction, including an on-site paid parking area to accommodate construction workers and reduce their use of on-street spaces, a construction health and safety plan (to be implemented with respect to excavation and remediation activities), early implementation of operational traffic mitigation measures, and a rodent control program. The use of Blocks 1128 and 1129 as a construction staging and temporary parking area will minimize the impacts of construction-related activities on surrounding streets and neighborhoods. Where impacts could not be avoided, mitigation has been developed to address these impacts to the extent practicable. The partial mitigation for the demolition of the two historic buildings on the Project Site is described in Section III.E, "Cultural Resources," and the partial mitigation for the noise impact at Dean Playground is described in Section III.D, "Open Space and Recreational Facilities." Although the Project will use noise barriers to

provide shielding, full mitigation of noise impacts at open spaces is not feasible for safety and aesthetic reasons, and there will therefore be unmitigated noise impacts at the Dean Playground, as well as at the Brooklyn Bear's Pacific Street Community Garden (during 2008 and 2009) and the northern portion of South Oxford Park (from 2008 through 2012). To address the significant adverse construction noise impact at the Pacific Branch of the Brooklyn Public Library, the Project Sponsors will make available to the library, and install, free of charge, interior-fitted storm windows on the façades facing Pacific Street. Mitigation measures for construction noise impacts on other interior uses, including residences and the Temple of the Restoration are described in Section III.M, "Noise."

The Project will not result in significant adverse construction impacts in the following areas: land use; socioeconomic conditions; community facilities; open space; hazardous materials; infrastructure; parking; transit; pedestrians; or air quality.

P. Public Health

The Project will have no significant adverse impacts on public health.

DETERMINATION

Based on due consideration of the foregoing findings, it is determined that ESDC should exercise its power of condemnation in order to implement the Project and specifically to acquire the Properties as shown on the Schedule hereto.

Copies of this Determination and Findings are available and will be forwarded without cost and upon request by writing to:

Atlantic Yards c/o ESDC
Empire State Development Corporation
633 Third Avenue
New York, New York 10017
Tel.: (212) 803-3233
atlanticyards@empire.state.ny.us

ATTENTION: ANY PERSON WHO WISHES TO SEEK JUDICIAL REVIEW OF THE DETERMINATION AND FINDINGS, OR WHO CLAIMS TO BE AGGRIEVED BY SUCH DETERMINATION AND FINDINGS AND WISHES TO CHALLENGE SAME, MUST DO SO, IF AT ALL, (1) BY SERVING AND FILING LEGAL PAPERS IN THE APPELLATE

DIVISION, SECOND DEPARTMENT, 45 MONROE PLACE, BROOKLYN, NEW YORK, NO LATER THAN JANUARY 11, 2007, OTHERWISE ANY SUCH CHALLENGE OR JUDICIAL REVIEW MAY BE TIME BARRED, AND (2) BY SERVING A DEMAND UPON THE EMPIRE STATE DEVELOPMENT CORPORATION TO FILE THE RECORD UNDERLYING THE DETERMINATION AND FINDINGS. THE APPELLATE DIVISION MAY CONSIDER THE PUBLIC USES, BENEFITS OR PURPOSES TO BE SERVED BY THE PROPOSED ACQUISITION AND THE OTHER MATTERS SET FORTH IN NEW YORK EMINENT DOMAIN PROCEDURE LAW SECTION 207. ANYONE WISHING TO CHALLENGE THE DETERMINATION AND FINDINGS IS ADVISED TO CONSULT AN ATTORNEY PROMPTLY.

Parcels and Street Beds to be Acquired by Eminent Domain

Brooklyn Tax Block	Lot(s)	Address(es)	
927	1	15 4th Avenue;	578-592 Atlantic Avenue
927	16	617 Pacific Street;	140 Flatbush Avenue
1118	1	179 - 183 Flatbush Avenue	
1118	5	177 Flatbush Avenue	
1118	6	175 Flatbush Avenue	
1118	21	608 Atlantic Avenue	
1118	22	610 Atlantic Avenue	
1118	23	612 Atlantic Avenue	
1118	24	614 Atlantic Avenue	
1118	25	616 Atlantic Avenue	
1118	27	620 Atlantic Avenue	
1119	1	622 Atlantic Avenue	
1119	64	613 Pacific Street (5th Avenue)	
1120	19	696 - 716 Atlantic Avenue	
1120	28	718 - 728 Atlantic Avenue	
1120	35	730-740 Atlantic Avenue	
1121	42	516 Vanderbilt Avenue	
1121	47	524 Vanderbilt Avenue	
1127	1	195 Flatbush Avenue	
1127	10	193 Flatbush Avenue	
1127	11	191 Flatbush Avenue	
1127	12	189 Flatbush Avenue	
1127	13	185 Flatbush Avenue	
1127	18	618 Pacific Street	
1127	19	620 Pacific Street	
1127	20	622 Pacific Street	
1127	21	624 Pacific Street	
1127	22	626 Pacific Street	
1127	1101-1131 (Formerly 27)	636 Pacific Street (Unit #'s MEWS E-W, 101-103, 201-204, 301-304, 401-404, 501-504, 601-604, 701- 703, 801-803)	
1127	29	640 Pacific Street	
1127	30	642 - 646 Pacific Street	
1127	33	648 Pacific Street	
1127	1001-1021 (Formerly 35)	24 6th Avenue (Unit #'s B1, 101- 105, 201-205, 301-305, 401-405)	
1127	43	483-485 Dean Street	
1127	45	481 Dean Street	
1127	46	479 Dean Street	
1127	47	477 Dean Street	
1127	48	475 Dean Street;	38 6th Avenue
1127	50	473 Dean Street	
1127	51	467 Dean Street	
1127	54	465 Dean Street	
1127	55	463 Dean Street	
1127	56	461 Dean Street	
1128	1	37 6th Avenue	

1128	2	31-35 6th Avenue	
1128	4	21-29 6th Avenue;	662 - 668 Pacific Street
1128	85	495 Dean Street	
1128	86	493 Dean Street	
1128	87	491 Dean Street	
1128	88	489 Dean Street	
1128	89	487 Dean Street	
1129	1	551 Carlton Avenue	
1129	3	549 Carlton Avenue	
1129	4	547 Carlton Avenue	
1129	5	545 Carlton Avenue	
1129	6	543 Carlton Avenue	
1129	13	750 Pacific Avenue	
1129	21	768 - 772 Pacific Street	
1129	25	800 Pacific Street	
1129	39	802 Pacific Street	
1129	43	810 Pacific Street	
1129	44	812 Pacific Street	
1129	45	814 Pacific Street	
1129	46	818 Pacific Street	
1129	49	540 Vanderbilt Avenue	
1129	50	542 Vanderbilt Avenue	
1129	54	546 Vanderbilt Avenue	
1129	62	645 Dean Street	
1129	76	603 Dean Street	
1129	81	585 - 601 Dean Street	

The above-identified street addresses are included for ease of reference only. In the event of any inconsistency between the street addresses and the tax block and lots, the block and lot information shall control.

In addition, the following street beds would be acquired by eminent domain: (i) 5th Avenue between Atlantic and Flatbush Avenues (inclusive of the small traffic island bounded by Flatbush and 5th Avenues and Dean Street); (ii) Pacific Street between Flatbush and 6th Avenues; and (iii) Pacific Street between Carlton and Vanderbilt Avenues.