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October 26, 2026

Hon. Hope Knight  
President, CEO and Commissioner  
Empire State Development  
633 Third Avenue  
New York, New York 10017

Re: Atlantic Yards Redevelopment Project — Draft Scope of Work for  
Second Supplemental Environmental Impact Statement

Dear Commissioner Knight:

The City Club of New York appreciates the opportunity to comment on the August 24, 2026 Draft Scope of Work for the Second Supplemental Environmental Impact Statement ("SSEIS") for the Atlantic Yards Redevelopment Project. These comments focus on the purpose and need for the proposed Phase II amendments, the public benefits ESD proposes to rely upon, and the alternatives that should be evaluated before ESD modifies a General Project Plan that has governed the site for approximately two decades.

The Atlantic Yards Project was approved in 2006 with the “overarching goal” to “to transform a blighted area into a vibrant mixed-use community.” In support of that purpose, ESD produced a blight study of some 381 pages. The 2026 Draft Scope of Work states that the Proposed Project retains the purposes described in the 2006 FEIS and Findings, while adding that Phase II “would deliver an increased number of housing units to help address the State’s housing crisis.” (Draft Scope at 9.) However, neither a definition of the housing crisis nor a needs assessment of affected populations are included in as tasks under the Draft Scope of Work. If addressing the current housing crisis is now an independent or expanded purpose, the SSEIS should say so clearly, explain how that purpose relates to those previously relied upon, and evaluate reasonable alternatives capable of advancing it.

The Atlantic Yards Project also raises a broader issue. UDC projects can extend over decades, during which market conditions, public policies, financing, neighborhoods and development teams may change



materially. Environmental review of a major amendment should therefore explain not only its technical impacts, but why the amended project remains an appropriate means of accomplishing the public purposes for which extraordinary public powers and resources are being used.

The City Club's comments on other major public projects have emphasized clear objectives, transparent decision criteria, comparable alternatives, and durable governance and implementation arrangements. Those principles are especially important here because the proposed action would substantially revise the remaining development program while continuing under the existing MGPP and environmental commitments. The City Club is concerned that without them, the proposed action in this case may both ignore the two-decade history of the Atlantic Yards Project (in particular its failure to achieve affordable housing goals and commitments) and also embed risks to future elements that when realized will again stall development and prevent important benefits from addressing public needs.

### **1. The Final Scope Should Reconcile the Project's Original Purposes With the Purposes Now Being Advanced**

The 2006 environmental review described Atlantic Yards Project as transforming a blighted area into a vibrant mixed-use community through the arena, housing and affordable housing, publicly accessible open space, local retail and community services, a new subway entrance, new office space, an improved rail yard, and a platform over the Vanderbilt Yard. Many of those elements have now been realized, including the arena, eight residential buildings, the transit entrance, improved rail yard, a school and health-care facility, and approximately three acres of publicly accessible open space. (Draft Scope at 9.)

The remaining decision therefore occurs in a materially different setting. ESD should identify which original purposes remain to be accomplished; which have been substantially achieved; which have changed in importance; which have been removed from the plan; and which new or expanded purposes now support the proposed Phase II program.

The Draft Scope's statement that Phase II would help address the State's housing crisis may be a logical response to present conditions. But the SSEIS should clarify whether this is a policy consideration, an additional project objective, or an independent public purpose supporting increased density and public investment. That distinction affects the public-benefit analysis, ESD's statutory findings, and the range of reasonable alternatives.

The Final Scope should therefore require the SSEIS to distinguish: (1) remaining site-specific land-use-improvement objectives; (2) remaining commitments and benefits from earlier approvals; (3) the role of platform cost and financial feasibility in determining density; and (4) current housing-production and affordability objectives. Where these objectives point in different directions, the tradeoffs should be disclosed.

### **2. Long-Duration UDC Projects Require Current Findings Based on Current Conditions**

The Urban Development Corporation Act distinguishes among project types and their required findings. A land-use-improvement project addresses a substandard and insanitary area; a



residential project is separately defined as one designed to provide housing for persons or families of low income. (UDC Act § 3(6)(a), (c); see also § 10.) ESD has broad discretion, but the amended project should rest on a current record identifying the applicable statutory purposes and their factual basis.

The City Club does not contend that the 2006 findings simply expire. Rather, when a project is substantially amended after much of the area has changed, the record should identify the current conditions to which ESD's findings apply. Historical findings should not substitute for explaining the relationship between remaining conditions and the scale and program of the amended project.

For Atlantic Yards, the SSEIS should update the factual basis for the land-use-improvement rationale. The 2006 blight analysis covered the approximately 22-acre project area and relied heavily on the open rail yard, vacant and underutilized land, deteriorated buildings, and alleged adverse effects on surrounding development. Much of the project area and surrounding neighborhood has since been redeveloped. The SSEIS should identify which material conditions remain, their present extent, and how Phase II responds to them.

That analysis also bears on alternatives. If the remaining site-specific purpose can be achieved through different development intensities or implementation structures, the SSEIS should not assume that the maximum program proposed is synonymous with completion of the original land-use-improvement purpose.

### **3. Affordable Housing as a Public Purpose Should Be Grounded in a Demonstrated Needs Analysis**

Affordable housing has been a stated public benefit of Atlantic Yards from the outset, and the Draft Scope now places housing production more prominently within the amended project's purpose and need. The more weight ESD assigns to housing and affordable housing as public purposes, the more important it is to ground the program in a transparent analysis of need.

The earlier approvals established affordability commitments and analyzed socioeconomic conditions, but the City Club is not aware of a conventional needs analysis that first identified the incomes, household types, rent burdens and unmet needs of the population to be served and then calibrated the affordability mix accordingly. The current Phase II program appears to derive primarily from the MOU, tax-program parameters, development feasibility and negotiated affordability levels. Community preferences are relevant, but they are not a substitute for determining where need is greatest. (Draft Scope at 7, 9-10.)

The SSEIS should identify the households whose needs the Project is intended to address using current data on incomes, rent burdens, housing costs, household size, tenure, displacement risk and housing availability. It should group completed and proposed units into comparable AMI ranges and compare the project-wide distribution with documented need in appropriate Brooklyn and citywide geographies.

Financial feasibility and housing need are different questions. The first asks what affordability a particular development and financing structure can support; the second asks what housing would best respond to the public problem ESD invokes. If the answers differ, the SSEIS should disclose



the divergence rather than treat the terms a developer is willing to offer as a proxy for demonstrated need.

When government invokes affordable housing as a public purpose, the program should be informed by objective need and measurable outcomes, not simply the result of project-specific negotiation. That relationship should be transparent because housing benefits will be weighed against environmental impacts and public costs.

#### **4. If Addressing the Housing Crisis Is an Expanded Project Purpose, the Alternatives Analysis Should Expand Accordingly**

SEQRA requires an EIS to evaluate a reasonable range of feasible alternatives in light of the sponsor's objectives and capabilities. The regulations expressly identify alternative sites, scale or magnitude, design, timing, use and types of action; DEC guidance recognizes a broader obligation to consider alternative locations for government-sponsored actions. (6 NYCRR § 617.9(b)(5)(v); NYSDEC, SEQR Handbook, 4th ed., ch. 5.)

Purpose should be applied consistently. If Atlantic Yards is defined narrowly as completion of a particular private program over a particular rail yard, many alternatives can be dismissed. If ESD instead relies on the broader goal of addressing the State's housing crisis to justify greater density and public assistance, alternative means of producing housing become correspondingly more relevant.

The Final Scope should therefore add alternatives that test both development structure and allocation of public resources, rather than limiting review to variations on the Development Team's proposal.

#### **4A. Public Platform / Multiple-Developer Alternative**

The SSEIS should evaluate an alternative under which the State, ESD, the MTA, or another public entity would assume or regain sufficient control of the remaining rail-yard development rights to procure platform infrastructure independently, then offer resulting development sites competitively to multiple qualified developers. The SSEIS need not presuppose the legal mechanism; it can identify acquisition, contractual, financing or other constraints and evaluate feasibility.

This alternative could preserve the site-specific objectives of covering the rail yard, completing the public realm and producing substantial housing while testing whether reliance on a single development team is necessary. The comparison should address platform cost, procurement and coordination, sequencing, housing and affordability yield, public funding, transaction costs, schedule, and enforceable parcel-level obligations.

It should also assess developer-concentration and implementation risk. Dividing the remaining program among independently financeable parcels could increase coordination costs, but it could also reduce the risk that a financing or performance problem affecting one developer delays the entire buildout. That tradeoff should be studied, not assumed.



#### **4B. Reduced Atlantic Yards Program With Alternative Housing Investment**

The SSEIS should also evaluate a reduced Atlantic Yards program that completes remaining site-specific land-use and infrastructure objectives while comparing use of some contemplated public assistance for housing at other feasible sites. The question is not whether to abandon Atlantic Yards, but whether resources beyond those needed to address the rail-yard condition and other site-specific obligations could produce more or deeper affordability elsewhere.

The August 2026 MOU contemplates \$350 million in State resources for the Block 1120 platform and infrastructure and substantial tax, PILOT, sales-tax and mortgage-recording-tax arrangements. (MOU §§ 12-13.) The SSEIS should estimate direct and indirect public assistance and compare alternatives using common metrics: total and affordable units, affordability depth, family-sized units, delivery schedule, public cost per unit, infrastructure cost, environmental effects and implementation risk.

An off-site or mixed-site comparison is especially relevant if generalized housing production is a central justification for the amendment. It would show whether the extraordinary cost of building over an active rail yard is justified by site-specific purposes, housing yield, or both.

#### **4C. Needs-Based Affordability Alternative**

The alternatives analysis should include a housing program calibrated to the needs analysis requested above. If current need differs materially from the MOU's AMI distribution, the SSEIS should test whether changes in subsidy, development structure, unit mix, density or phasing, as well as concentration of affordable housing on the least costly development sites, could provide more units at the affordability levels and bedroom sizes most responsive to documented need.

This alternative should not be rejected merely because it departs from the Development Team's underwriting. If ESD concludes that a needs-based program would require materially different subsidy or make particular buildings infeasible, that conclusion should be supported by sufficient financial information for meaningful comparison.

#### **4D. Apply a Common Feasibility Standard**

The SSEIS should apply a consistent feasibility framework. Engineering impossibility, legal or contractual constraint, lack of market demand, higher public cost, lower developer return, inconsistency with current underwriting, and conflict with another project objective are different considerations and should be identified separately. An alternative should not be screened out merely because it requires a different public-finance structure when the Proposed Project itself depends on substantial public funding and exemptions.

#### **5. The SSEIS Should Compare Alternatives Using Transparent Measures of Feasibility, Implementation Risk, and Accountability**

The SSEIS should conclude its alternatives analysis with a comparative matrix showing how each alternative performs against principal project objectives. Measures should include completion of rail-yard infrastructure, total and affordable housing by income band,



responsiveness to documented need, open-space and community-facility delivery, public cost, schedule, environmental impacts and implementation risk.

The matrix should distinguish public objectives from developer constraints and identify which benefits are binding commitments, analytical assumptions, or dependent on future financing or agreements. For a project extending well into the next decade, implementation risk and enforceability are part of a meaningful alternatives comparison.

This would be consistent with the City Club's view that environmental review should disclose not only adverse impacts, but also the assumptions, criteria and tradeoffs that lead an agency to prefer one alternative.

The SSEIS should also evaluate whether the proposed accountability mechanisms provide reasonable assurance of project completion. The MOU contains sequencing requirements and completion milestones, but several remedies depend on future discretionary enforcement by ESD. A remedy that permits, but does not require, default or other action does not provide the same assurance as an obligation backed by automatic, financially secured or parcel-specific consequences.

That distinction matters because the SSEIS and ESD's findings will rely on public benefits to be delivered many years from now. The MOU provides extension payments and possible default, pauses or contractor replacement while also allowing further extensions in ESD's discretion. The SSEIS should therefore examine whether other accountability mechanisms would provide greater assurance that credited benefits are delivered on the assumed schedule.

Potential mechanisms include escalating monetary remedies tied to delayed public benefits; letters of credit, guarantees, performance bonds, escrow or other security; automatic restrictions on transfers, public disbursements, tax benefits or development rights until cure; step-in or parcel-reassignment rights; independent milestone certification and public reporting; and formal findings before material deadlines are extended or remedies waived. The SSEIS should also consider whether parcel-level enforceability would avoid an all-or-nothing choice between tolerating delay and destabilizing the remaining program.

The point is not to prescribe contract terms, but to determine whether the implementation structure reasonably supports the assumed timing and delivery of public benefits.

## **6. Public Investment and Public Benefits Should Be Compared on a Consistent Basis**

Because Phase II combines extraordinary development conditions with substantial public assistance, the public should be able to understand what that assistance is expected to accomplish. The SSEIS should provide a consolidated accounting of reasonably quantifiable direct expenditures, tax and PILOT benefits, infrastructure expenditures and other material public support.

That accounting should distinguish costs needed to address site-specific infrastructure or land-use conditions from those principally supporting vertical development or affordability. It should compare those costs with measurable benefits, including total and affordable housing by



income band, family-sized units, open space, community facilities, platform completion, and the timing and enforceability of each benefit.

This need not become a generalized cost-benefit analysis of State housing programs. It should provide a transparent comparison among alternatives before ESD relies on public benefits to justify a materially larger and more subsidized program.

## **7. The SSEIS Should Address the Public-Policy Implications of Expanding the Purpose of a Long-Running UDC Project**

Atlantic Yards may have significance for other large, long-duration UDC projects. The Brooklyn Marine Terminal, for example, is undergoing environmental review for an ESD GPP that includes approximately 6,000 dwelling units and substantial public infrastructure, with full buildout analyzed for 2038. (Brooklyn Marine Terminal Draft Scope of Work, 2025.)

The City Club does not suggest that this SSEIS analyze unrelated projects. The institutional question is what standards govern a long-duration UDC project when the conditions, policies, financing structure or benefits supporting its original approval change materially.

If ESD treats addressing a generalized housing crisis as an independent or materially expanded purpose, the SSEIS should say whether that is project-specific or reflects a broader UDC policy. If broader, the record should identify limiting principles: how much additional density or public investment may a new purpose justify; how are new objectives balanced against earlier commitments and findings; when does a broader purpose expand the range of alternatives; and what prevents a long-term project from retaining old justifications while substituting new purposes as circumstances change?

A clear answer would improve the Atlantic Yards record and provide a more coherent framework for future projects. Amendments to long-duration plans should be evaluated under principles that are transparent, replicable and capable of application beyond a single transaction.

## **Conclusion**

Atlantic Yards is unusual not only because of its scale, but because ESD is considering substantial changes approximately twenty years after the original approval. The project is therefore an important test of how a public agency evaluates changed conditions, benefits and purposes within a long-running UDC plan.

The City Club respectfully recommends that the Final Scope require the SSEIS to clarify whether addressing the State's housing crisis is an expanded project purpose; update the factual and statutory basis for the remaining land-use-improvement program; ground affordable housing in a documented needs analysis; evaluate the public-platform/multiple-developer, reduced-program/alternative-investment, and needs-based affordability alternatives; compare alternatives using transparent measures of feasibility, implementation risk and accountability; compare public assistance with measurable benefits; and address the broader policy implications of changing project purposes over time.



These requests do not prescribe an outcome. They seek a record that allows ESD and the public to determine whether the amended program is an appropriate means of accomplishing the purposes now asserted, what tradeoffs are involved, and whether reasonable alternatives could achieve those purposes with different environmental, fiscal or implementation consequences.

Thank you for your consideration of these comments.

Sincerely,

Layla Law-Gisiko  
President

cc:

Governor Kathy Hochul  
Mayor Zohran Mamdani  
Borough President Antonio Reynoso  
State Senator Jabari Brisport  
Assembly Member Jo Anne Simon  
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