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## PRELIMINARY STATEMENT

At the heart of this case is a dispute about whether the Atlantic Yards Land Use Improvement and Civic Project (the “Project”) is in the public interest. New York State Urban Development Corporation d/b/a Empire State Development Corporation (“ESDC”) concluded, in its December 8, 2006 decision documents, that the Project offers many significant benefits and should proceed, subject to the comprehensive program of mitigation measures imposed by ESDC’s Findings Statement under the State Environmental Quality Review (“SEQRA”).

The benefits identified by ESDC include the construction of a new arena in Brooklyn, the return of a professional sports team to the borough, the construction of 2,250 affordable housing units and thousands of units of market rate housing, the construction of new office space, the requirement that the new buildings be certified “green buildings,” the location of intensive development at a major transit hub, the creation of 8 acres of publicly accessible open space, significant subway station improvements, a new and more efficient LIRR rail yard, thousands of new jobs and, over the life cycle of the facility, and billions of dollars of new tax revenues for City and State governments. Administrative Record (“AR”) 19-21 (SEQRA Findings Statement at 18-20).

At the same time, the record establishes that the Project will result in a number of significant adverse impacts with respect to cultural resources, visual resources, open space availability (until the Project’s open space is phased in), shadows, traffic, noise, construction, and school seat availability (if the Department of Education does not implement the mitigation measures). AR 25.62-25.64 (SEQRA Findings Statement at 86-88).

The balance to be struck between the Project’s significant public benefits and significant environmental impacts is a question of public policy and is properly left to the sound discretion of ESDC. ESDC documented its decision-making in its SEQRA Findings Statement

