



July 8th, 2022

Commissioner Hope Knight
President and CEO
Empire State Development
Floor 37
633 Third Avenue
New York, NY 10017

Re: Atlantic Yards/Pacific Park Project - Provision of an Urban Room

Dear Commissioner Knight:

The 2009 Modified General Project Plan (MGPP) for the Atlantic Yards Project (the "Project") promised a publicly accessible "Urban Room" on the Arena Block, stating further:

... the Project would seek to provide a visual and physical connection between the Arena's indoor activity and the Urban Room, a significant public amenity comprised of a large, glass-enclosed public space that will provide access to the subway station, the Arena and Atlantic and Flatbush Avenues. This space would accommodate the major flows of people to and from the subway system during the day and night, serve as a direct subway entrance to the Arena and allow for a variety of public uses and programmed events throughout the year.

According to the master development agreement as amended in June 2014, the Urban Room had a deadline of the Outside Phase 1 Completion Date, which was 12 years after the effective date of the MGPP, which was May 12, 2010. As of the Outside Phase 1 Completion Date, May 12, 2022, the Urban Room had not been delivered. This is one of the Events of Default noted in the Master Development Agreement (MDA). Paragraph 17.2(a)(ii) states "upon an Event of Default ... AYDC, BALLC or Interim Developer, as applicable, shall pay liquidated damages ... to ESDC in the amount shown on Schedule 3 attached hereto." The schedule of liquidated damages is \$10,000,000 over a twelve-month period, starting with two monthly payments of \$200,000, then two of \$400,000, then two of \$600,000, \$800,000, \$1,000,000, and \$2,000,000. We believe that the liquidated damages should be invested in community and negotiated with the local elected officials.

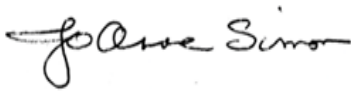
Although the developer for several years has stated its desire to transfer density originally approved for the arena block across Flatbush Avenue, no steps have yet been taken to modify the Atlantic Yards General Project Plan to accommodate that change. As ESD has stated publicly, there have been no new plans submitted by the developer. No environmental study has been released, no recommendation from the Atlantic Yards Community Development Corporation has been made, and no vote of the ESD board has been taken. Therefore, the Urban Room remains a significant public commitment of the project, and its completion deadline and remedies for non-performance by the developer remain in effect.

We request ESD to affirm that liquidated damages will be assessed, as provided in the MDA, for failure to deliver the Urban Room as required, and inform us when they have been collected. We note that the first payment is due this month. ESD's affirmative response is necessary to retain our confidence in the agency's

ability to ensure compliance with the upcoming affordable housing deadline (we estimate those liquidated damages to be \$1.75 million per month), and our support for the agency's continued role as the lead agency responsible for overseeing the Project.

Thank you for your prompt response to our request. You can contact us at 718-246-4889 to discuss further.

Sincerely,



Jo Anne Simon
NYS Assemblymember
AD 52



Jabari Brisport
NYS Senator
SD 25



Robert Carroll
NYS Assemblymember
AD 44



Phara Souffrant Forrest
NYS Assemblymember
AD 57



Crystal Hudson
NYC Council Member
District 35