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MEMORANDUM OF OPPOSITION

BILL: A.8757 (Abbate) / S.6618 (Savino)

SUBJECT: Job Order Contracting for Public Work Projects

DATE: May 14, 2014

The Associated General Contractors of New York State, LLC (AGC NYS), the leading statewide trade association representing the construction industry opposes A.8757/S.6618, because it would place needless limitations on job order contracts (JOCs) utilized by New York State agencies, authorities, and municipal governments for public work projects.

Job order contracts are small construction and maintenance projects that are competitively bid, pay prevailing wage rates and are subject to the Wick's Law. New York State agencies and authorities such as the Department of Transportation; Office of General Services; Dormitory Authority; State University Construction Fund; and others utilize job order contracting for hundreds of capital projects. The City of New York Department of Education; School Construction Authority; Housing Authority; Health and Hospitals Corporation; and other agencies use job order contracting for its vast building portfolio. All job order contracts are approved by either the New York State Office of the Comptroller or New York City Corporation Counsel.

In December 2013, Governor Andrew Cuomo vetoed similar legislation (S.3564-A/A.4810 - Veto Message No. 259) related to job order contracting. As stated in the veto message, *"this bill may reduce the use of job order contracts which, if used properly, have the ability to lower the administrative costs of implementing public contracts so that those costs do not fall on taxpayers."* Furthermore, the veto message concludes with a directive for *"the New York State Department of Labor and other agencies, such as the Office of General Services, to examine the issue to ensure that job order contracts comply with the Labor and competitive bidding laws."*

In February 2014, new legislation was introduced (S.6618/A.8757) to regulate the practice of job order contracting on public work projects. However, the sponsors did not address the key concern raised in the veto message which is that JOCs lower administrative costs. JOCs streamline the administrative process of designing, engineering and contracting of multiple projects and save scarce taxpayer dollars by reducing the amount of bid packages for relatively small projects. On average job order public works projects are 75%-85% faster than traditional contracting resulting in a savings of 8%-15%.

New York must reform its long history of appropriating scarce capital funding for administrative and operational costs. For example, the Dedicated Highway and Bridge Trust fund (DHBTF) was created in 1991 to fund the reconstruction, replacement and preservation of New York's roads and bridges. Since its inception, the DHBTF spends a higher percentage on state operations, such as snow and ice removal, and debt service than it spends on capital projects. Capital spending from the DHBTF has dropped from 50 percent to just 25 percent resulting in New York's transportation infrastructure system being ranked as one of the worst in the nation.

Therefore, AGC NYS urges the Legislature to reject (S.6618/A.8757) because job order contracting is an important procurement method that reduces administrative costs while helping to rebuild New York's deteriorating infrastructure.