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## MEMORANDUM OF OPPOSITION

**BILL:** Senate Resolution 672 - S.1508-B (Budget – Part D)

**SUBJECT:** Project Labor Agreement Mandate on Design-Build Procurements

**DATE:** March 14, 2019

The Associated General Contractors of New York State, (AGC NYS) the leading statewide trade association representing union and open shop construction companies strongly opposes the mandated project-labor agreement (PLA) provision of Senate Resolution 672 - S.1508-B (Budget – Part D) which extends the Infrastructure Investment Act and expands the definition of an authorized entity that may utilize design-build contracts.

By amending the Executive Budget design-build and CM at Risk proposal to add mandated PLAs, Senate Resolution 672 – S.1508-B (Budget – Part D), is a dramatic departure from the Executive Budget proposal because it will negate the program's benefits rendering the application of design-build and CM at Risk useless. The Design-Build Institute of America (DBIA), an organization that teaches and promotes best practices in design-build, is opposed to mandating PLAs because and no other state in the nation that utilizes design-build is limited by such a law. The DBIA's position is that design-build can work successfully when executed by a project team that works collaboratively with the owner and has demonstrated the qualifications needed to successfully complete the project. Through this delivery method, union versus open shop status becomes irrelevant, and there are even instances when union and open shop teams work successfully side by side.

AGC NYS supports full and open competition among general and specialty contractors, their suppliers and service providers. As referenced in the State of New York 2016 Minority and Women Business Enterprises (MWBE) Disparity Study, many union and open shop interviewees expressed concern about the impact of PLAs have on nonunion MWBEs. For example, a minority male owner of a construction company reported that some provisions in PLAs can have a negative impact on small businesses: ***“PLAs stipulate that the benefits for my workers be paid to the union hall instead to my workers and unless he becomes a union mechanic down the line, he will not receive those benefits.”*** A Caucasian female owner of a construction company believes that PLAs prevent MWBEs from working on construction projects because they are primarily non-union businesses: ***“The use of project labor agreements on State projects are more of an exclusionary practice. The agreements prevent MWBEs from participating on the job. Many MWBEs are non-union shops.”***

AGC NYS supports the Executive Budget proposal (S.1508 – Part D) that would make the Infrastructure Investment Act permanent, expand design-build authorization to other alternative project delivery methods, and expand the current list of authorized entities that may utilize design-build contracts to include the Dormitory Authority of the State of New York (DASNY), the New York State Urban Development Corporation (UDC), New York State Office of General Services (OGS), the New York State Department of Health (DOH) and the New York State Olympic Regional Development Authority (ORDA). The bill would expand the types of contract that may be utilized under the Infrastructure Investment Act to also include construction manager-build and construction manager at risk.

**In the final budget agreement, AGC NYS urges the Senate and Assembly to approve S.1508 – Part D of the 2019-20 Executive Budget.**

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