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MEMORANDUM OF OPPOSITION

A.9375 (Camara)

The NYC BID Association, representing 67 Business Improvement Districts (“BIDs”) dedicated to promoting business development and improving the quality of life throughout New York City, strongly opposes A.9375 which could subject BIDs to costly wage mandates and dramatically reduce the services BIDs provide.

The NYC BID Association is concerned that expanding the prevailing wage requirement at a precarious time for our economy and in a manner that would apply this wage mandate to private entities, such as electric and gas utilities, among others, is short-sighted. Invariably, these additional costs would be borne by businesses, consumers and ratepayers and would further exacerbate the City’s and State’s slow economic growth.

Of particular concern to the NYC BID Association, A.9375 would expand the mandate to pay prevailing wages to “janitorial”¹ and security service workers by contractors (i.e., those “under contract with a public agency which is in excess of two thousand dollars”) whose “principal purpose...is to furnish services through the use of service employees.” By way of background, New York City collects special assessments on properties within the boundaries of a BID. These are private, non-public tax levy dollars. The BIDs execute contracts with the New York City Department of Small Business Services which provides oversight, while the New York City Department of Finance disperses the collected special assessment funds to the BIDs pursuant to the contract. The contract typically states that the funds are for BIDs to provide supplemental services such as street sweeping, litter removal, and security services, among others programs and services. Accordingly, by its terms, this provision could require BIDs to pay prevailing wages to any person performing janitorial or security services, whether in a building or outside of such structures.

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¹ This is an undefined term and potentially encompasses several categories of workers.

Notably, the bill purports to exempt BIDs from the prevailing wage requirement. However, this exemption would not apply if such work would have been subject to the prevailing wage mandate in effect on January 1, 2011. This limitation is of great concern to the BIDs since the principal proponent of the bill – 32 BJ – has sought to expand the prevailing wage mandate to BID workers who are providing janitorial and security service work on public sidewalks *outside of buildings* by filing what we understand is a still-pending complaint with the New York City Comptroller. In effect, this bill could codify an administrative determination – whether it be the pending complaint or another complaint - that is adverse to the BIDs rather than addressing the issue in statute by exempting BIDs from the expanded prevailing wage mandate, without limitation.

The NYC BID Association estimates that subjecting BIDs to the wage mandates in this bill would cause its costs to rise between 30% and 50%, forcing job and program cuts, and undermining the ability of BIDs to function effectively. BIDs provide employment for thousands of workers, ranging from long-term employees in union jobs to transitional workers supported by respected non-profit organizations. Subjecting BIDs to the expanded prevailing wage requirement would undermine these carefully balanced services and, in particular, currently active collective bargaining agreements. Unfortunately, this bill would result in layoffs and workforce changes, at a time of high unemployment.

These additional costs and the subsequent job cuts would have an especially devastating impact upon large numbers of unskilled workers, many of whom will face great barriers in finding employment if they were to be laid off. Several BIDs, for instance, have partnered with various non-profits which provide workforce training programs for thousands of low-income, formerly incarcerated, or homeless persons who face unique challenges in securing employment.

The model for many of these workforce training programs is that the worker trainee is typically paid minimum wage (plus, the training, reduced cost shelter and food and other benefits noted below) by the non-profit. The trainees live and work under the auspices of the non-profit until they “graduate” after a short period, at which time they have obtained essential job-training, treatment and savings to build their lives. The employment opportunity offered by the participating BIDs is critical to the successful skill training and/or re-entry of many of these individuals.

If the prevailing wage mandate were expanded, it would be untenable for BIDs to partner with workforce training non-profits since BIDs would be required to pay sanitation worker trainees the current prevailing wage of over \$22.50 per hour, plus an hourly wage for supplemental benefits of between \$6.37 and \$8.76 – for a total of nearly \$29 per hour, minimum. Hundreds of unskilled workers would lose the opportunity to participate in these workforce training programs and to earn a living while doing so. Moreover, BIDs which use their own in-house employees would inevitably be forced to reduce their workforce, putting currently employed individuals out of work.

BIDs have been a tremendous force in the revitalization of New York City over the past three decades; in the current fiscal climate, the supplemental services they provide are more necessary than ever. Because we want to build upon this progress, the NYC BID Association opposes the job-killing wage mandate in A.9375 and urges the Assembly to reject this bill as currently drafted.

If you have any questions about this issue, please contact our government affairs representatives, Jim Lytle or Jim Walsh, at (518) 431-6700.