

July 14, 2016

Mr. Alphonso B. David
Counsel to the Governor
Executive Chamber, Room 210
New York State Capitol
Albany, New York 12224

Re: Support for S.6906/A.10136

Dear Mr. David:

My name is _____ and I am the [title] of [organization]. I am writing in support of S.6906/A.10136, before you for consideration. This necessary, common-sense legislation address a growing and unfair situation in many public works contracts.

Increasingly, contractors are being forced to comply with sneaky, “gotcha” notice and damage recordkeeping provisions being inserted into public works contracts. If they fail to comply, they risk losing all rights to any recovery in the event of a contract dispute, even if the failure to comply with the contract notice provision resulted in no harm to the public owner. Still worse, many courts are now blindly enforcing such provisions, with no consideration given to the overall context within which major public works construction contracts operate.

As a result, contractors and subcontractors are being harmed and government agencies are wrongfully obtaining unfair windfalls, greatly damaging the contracting community. Alarming, this abusive practice is growing among some public agencies in New York. Subcontractors and contractors are being hurt while public agencies reap the benefits by imposing unjustified forfeitures of valuable contractor rights. S. 6906/A.10136 addresses this unfair practice.

S.6906/A.10136 would provide protection for contractors and subcontractors against such unfair prosecution, which is why I am a strong advocate for this bill. The bill simply preserves a contractor’s opportunity to prove their claims if there is no material prejudice to the public owner, and also allows the public owner to defend themselves against unjust claims or to claim material prejudice, when appropriate.

I urge Govern Cuomo to sign S.6906/A.10136 into law.

Very truly yours,

Cc: Nadine Fontaine
Assistant Counsel to the Governor

