



Sent Via Email (*Updated Letter*)

April 11, 2024

Hon. Kathy Hochul
Governor, State of New York
Executive Chamber
Albany, New York 12246

Hon. Andrea Stewart-Cousins
New York State Senate Majority Leader
907 State Legislative Office Building
Albany, New York 12247

Hon. Carl Heastie
New York State Assembly Speaker
932 State Legislative Office Building
Albany, New York 12248

Re: New York City Joint Bidding Law Sunset Extension

Dear Governor Hochul, Leader Stewart-Cousins and Speaker Heastie:

On behalf of industry and membership organizations represented in this letter, we ask for your support of extending the “Joint Bidding” law, which is set to sunset in December. Should the sunset not be extended, the City of New York will lose its authority to utilize joint bidding and it will no longer be able to include utility interference work in its contracts. We shouldn’t return to the prior situation that required City and utility work to be bid out separately, often requiring the street to remain open longer, or reopened, causing more nuisance and traffic delays for all New Yorkers.

Public rights-of-way contain municipally-owned utility services such as water mains and sewer lines, as well as privately-owned broadband and energy transmission infrastructure owned by companies like Con Edison, National Grid, AT&T, etc. Often times, these privately owned networks need to be temporarily moved so that municipal work can proceed. These private companies are responsible for the costs of relocating their facilities. Joint bidding requires

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contractors to include interference work in their bid price for the project being let by the City of New York.

If joint bidding were to go away, many of these companies will be left with no option but to negotiate their private work with the winning bidder for the municipal work, as opposed to being able to bid this work on the open market. The publicly regulated utility companies have little to no leverage in connection with these negotiations as they have a statutory obligation to remove the interferences at their own expense and can be fined or penalized by the City if they unduly delay the public project. The utility has no other cost-effective option but to utilize the services of the private contractor hired by the City. On the other hand, the privately owned contractors have unfettered bargaining power as they hold the permit for the work site. Due to the vast discrepancies in bargaining positions, these negotiations for the interference work are often contentious, lengthy, with the contractors seeking prices well in excess of the market price for such work. Notably, costs paid to these private contractors are borne by the customer/ratepayers of each of these utilities. As a result, the already disruptive process of opening up city streets and sidewalks with heavy equipment is often extended unnecessarily. The net result of this inefficient process without joint bidding is costly delays for the contractor, New York City and the impacted energy and broadband companies and its customers. It also means greater disruption for local businesses and residents.

Moreover, New York City resources and taxpayer dollars are unnecessarily spent as the City often needs to intervene in these negotiations to resolve open disputes and attempt to bring the negotiations to closure. By contrast, joint bidding requires construction bidders to provide a single bid for both the municipal and private work required to accomplish public works projects, thereby eliminating the additional delays and wasteful processes described above.

The State Legislature has previously authorized joint bidding in the Coordinated Construction Act for Lower Manhattan in 2004. In 2010, the use of joint bidding was authorized in contracts for public works relating to the Third Water Tunnel in Manhattan. In 2014, the legislature authorized joint bidding throughout the city. This legislation would simply extend the current sunset to 2034. This is appropriate and good public policy. The joint bidding experience since 2004 has been extremely successful by reducing street construction time, lessening the adverse impact on local businesses and residents and establishing more reasonable prices for private interference work.

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It is critical that street work throughout New York City be completed as quickly and efficiently as possible so as to minimize the negative impact on residents, businesses and the city's economy and to ensure the City's infrastructure is adequately reinforced before the next catastrophic weather event. Joint bidding is necessary to expedite the municipal work associated with any construction project in a fair and safe manner without increasing costs. Improved coordination between New York City contractors and the private companies that share the streets results in fewer delays and lower costs.

For these reasons, we respectfully urge that you consider extending the sunset in the budget.

Sincerely yours,

Paul Zuber
Business Council

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