

Rochester Joint Schools Construction Board
Project Labor Agreement
September 12, 2016
4:30 PM

Present

Chair Allen Williams, Charles Benincasa, Bob Brown, Ineabelle G. Cruz, Tom Richards (left at 6:26 pm), Vice Chair Mike Schmidt, Wayne Williams (left at 7:30 pm), and ICO Brian Sanvidge. Also present were: Executive Director Tom Renauto, General Counsel Ed Hourihan, and Program Managers Pepin Accilien and Roland Coleman from Savin and Tom Rog r from Gilbane.

Discussion

Chair Williams moved the Project Labor Agreement discussion and resolution to the top of the Agenda and opened the floor for comments from the public and then the Board.

Please see Project Labor Agreement transcript under separate cover.

Action Item

Resolution 2016-17: 59
Phase 2 PLA (Amendment to the Phase 1 PLA)

By Board Member Richards

WHEREAS, the Rochester School Facilities Modernization Program Act ("School Modernization Act") established the Rochester Joint Schools Construction Board ("RJSCB"), a seven voting member board consisting of equal representation by the City of Rochester ("City") and the Rochester City School District ("District"), as well as a member jointly selected by the City and the District; and

WHEREAS, under the School Modernization Act, the RJSCB has certain enumerated powers to act as agent for the District, the City, or both; and

WHEREAS, the authorizing legislation for Phase 2 of the Rochester Schools Modernization Program ("RSMP") was signed into law by the Governor of the State of New York on December 17, 2014; and

WHEREAS, the amended Act authorized up to 26 projects in Phase 2 of the RSMP including District Wide Technology improvements which involve technology upgrades and infrastructure work at several of the possible projects; and

WHEREAS, the School Modernization Act allows the RJSCB to "revise and extend the requirements of the Project Labor Agreement entered into for Phase 1 Projects to the Projects authorized in Phase 2, contingent upon the completion of a supplemental Project Labor Agreement Benefit Analysis"; and

WHEREAS, the RJSCB engaged Seeler Engineering, P.C. (the "PLA Consultant") to perform a PLA Study for Phase 2 (Resolution 2015-2016: 83) to evaluate potential costs/benefits of utilizing a PLA for Phase 2 of the RSMP; and

WHEREAS, the RJSCB, accepted the PLA study by Seeler Engineering, P.C. and authorized the Program Manager to begin negotiating the terms of a PLA for Phase 2 at a Special Meeting on April 25, 2016 (Resolution 2015-16 149); and

WHEREAS, the Board Chairman, the Program Manager, the Executive Director, the RJSCB's PLA Consultant, and the ICO, participated in negotiations with the Rochester Building and Construction Trades Council resulting in an Amendment to the Phase 1 PLA to revise and extend certain requirements of the PLA entered into for Phase 1 projects to all projects to be undertaken in Phase 2 of the RSMP; and

WHEREAS, the M/WBE and Services Procurement Committee reviewed and discussed the provisions described in the Amendment to the Phase 1 PLA at its July 14, 2016 meeting and further discussion and due deliberation occurred at the Board meeting on July 18, 2016; and

WHEREAS, on August 4, 2016, at a Special Meeting of the RJSCB, Resolution 2016-17: 23 concerning a proposed Amendment to the Phase 1 PLA was rejected by the RJSCB by a 4 to 3 vote; and

WHEREAS, pursuant to an Order of the New York State Supreme Court, Monroe County (Justice John J. Ark, J.S.C.) issued on September 7, 2016, the RJSCB has been ordered to have an open meeting for reconsideration and revote on the issue of a project labor agreement for Phase 2 of the RSMP;

THEREFORE, BE IT RESOLVED:

1. The RJSCB hereby approves the Amendment to the Phase 1 PLA and authorizes the Program Manager for Phase 1 and the Program Manager for Phase 2 to sign the Amendment to the Phase 1 PLA as the respective PLA Administrators for Phase 1 and Phase 2; and
2. The Amendment to the Phase 1 PLA shall be incorporated into the project specifications for each of the projects in Phase 2; and

**Second by Board Member Brown
Rejected 4-3**

Roll call vote

Member Richards: Yes

Member Brown: Yes

Member Benincasa: No

Member Williams: No

Member Cruz: No

Vice Chair Schmidt: Yes

Chair Williams: No

In the Matter of:

IN RE ROCHESTER JOINT SCHOOL CONSTRUCTION BOARD

v.

PUBLIC HEARING

September 12, 2016



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ROCHESTER JOINT SCHOOL CONSTRUCTION BOARD

PHASE 2 PLA RESOLUTION

SEPTEMBER 12, 2016

Public Hearing in the Above-Titled Matter

Location: Rochester Joint School
Construction Board
1776 North Clinton Avenue
Rochester, New York 14621

Date: September 12, 2016

Time: 4:30 p.m.

Reported By: LYNN A. MULLEN, RPR

Alliance Court Reporting, Inc.

120 East Avenue, Suite 200

Rochester, New York 14604

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A P P E A R A N C E S

Appearing on Behalf of RJSCB:

Edward P. Hourihan, Jr., Esq.
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Appearing on Behalf of RCCI and RBCTC:

Joseph A. Gawlowicz, Esq.
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Also Present:

Rochester Joint School Construction Board Members

Allen Williams
Mike Schmidt
Tom Richards
Wayne Williams
Ineabelle Cruz
Bob Brown
Charles Benincasa

* * *

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2 SEPTEMBER 12, 2016;

3 (Proceedings in the above-titled matter
4 commencing at 4:35 p.m.)

5 * * *

6 MR. ALLEN WILLIAMS: Call the meeting to
7 order.

8 As I said before, we will reverse the
9 order of our -- the printed agenda and deal with the
10 project labor agreement first.

11 And just by way of background, on
12 August 4, the board met, and by a vote -- majority
13 vote of four to three, we decided to forego the
14 project labor agreement for Phase 2.

15 Subsequent to that, there was a lawsuit
16 filed, the outcome of which the judge ordered the
17 board to go back, basically reconsider -- reconsider
18 the vote, and have a full discussion on the record of
19 why we decided not to go with the project labor
20 agreement for the Phase 2.

21 And with that, I will open it up -- well,
22 before I do that, if there's anyone in the audience
23 who would like to address the board on the PLA issue,
24 I'd ask you to come forward now. And identify
25 yourself for the record, also.

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2 MR. YOUNG: Absolutely. Would you like me
3 to also start speaking now or --

4 MR. ALLEN WILLIAMS: Yes.

5 MR. YOUNG: I'm David Young. I'm with the
6 Rochester Building and Construction Trades. I'm also
7 with -- now with Rochester Careers in Construction.

8 And, basically, what I want to bring up is
9 Phase 1 had a project labor agreement. It was proven
10 to be a tremendous success for us in this region with
11 over 29.35 percent of the hours worked were performed
12 by women and minorities, along with 40 percent of the
13 wages went to city residents in this community;
14 probably one of the best anti-poverty programs this
15 area has ever seen going forward.

16 That project labor agreement increased
17 diversity in each and every one of our building trades
18 unions. I know in my union, when these were started,
19 we had around a 4 percent diversity. We're up to
20 12 percent and growing, and going forward with that.

21 The Phase 2 project labor agreement is
22 critical for us to continue adding diversity to the
23 electricians' union and to keep our workers of women
24 and minorities working through the winters when times
25 are hard. And it's typically, in my union, when the

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2 employers -- not the union, but the employers -- tend
3 to let people go, and they starve out.

4 Unions don't hire people. We represent
5 them; we make them available to our employers. All
6 right? And this is for the electricians. There's
7 laws out there right now that protect women and
8 minority-owned businesses, but project labor
9 agreements are the only thing out there that protect
10 women and minority workers, period, in this -- and
11 helps ensure employment for them. Those are our
12 neighborhoods, our friends, some family.

13 What the Phase 1 project labor agreement
14 did is lowered the costs to the project, it increased
15 the bidding opportunities for different businesses,
16 both union and nonunion. We have statistics that will
17 show that. And most of all, it helped protect the
18 women and minorities in our community right here. I'd
19 like to know why a person who cares about our
20 community and the people who live and work here would
21 possibly ever oppose such -- such an agreement as this
22 project labor agreement. Thank you.

23 MR. ALLEN WILLIAMS: Anybody else?

24 MR. LEONE: Yes.

25 MR. HOURIHAN: Mr. Williams, would you

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2 want to point out that there's a two-minute limitation
3 on everybody's remarks?

4 MR. ALLEN WILLIAMS: Yes.

5 MR. LEONE: I already had it timed for
6 three.

7 AUDIENCE PARTICIPANT: He's very verbose.

8 AUDIENCE PARTICIPANT: Had to stand up
9 when they set the limit, huh?

10 (Audience participants and board members
11 overlap.)

12 MR. LEONE: My name is Joe Leone. I
13 represent a multi-craft labor management association
14 called UNICON. I've worked with many of you over the
15 years. We work to try and enhance the opportunities
16 for everyone in our community. UNICON fully supports
17 the project labor agreement. It is a -- we represent
18 both contractors and the workforce, the labor unions
19 within the construction industry.

20 I want to talk to you briefly about some
21 of the misconceptions I've heard. I don't know that
22 they come from here. I haven't come to the board
23 meetings of late. It's a public works project.

24 Article 8 of the labor laws pays prevailing rates.

25 So, union, nonunion, does not affect the labor rates

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2 that are paid. The only workers that can work on
3 these projects are either journey-level workers or
4 registered apprentices with the New York State
5 Department of Labor program. So, that's a critical
6 piece here. Estimators in this industry quite often
7 will work on crew rates. The crew rate would then --
8 the pricing of the labor component of the project is
9 just that. So, if we -- the primary way to reduce
10 that is to incorporate both mechanics and
11 apprentices -- or journey-level workers and
12 apprentices on those projects. No other workers can
13 work on those projects. You can't have utility
14 workers, pre-apprentices, or the like. You have to
15 pay them the journeyman rate.

16 The PLA has a form within it, a letter of
17 assent, that allows contractors that don't have union
18 affiliation or apprenticeship programs access to those
19 programs, effectively giving them a competitive
20 equality.

21 MR. HOURIHAN: 15 seconds.

22 MR. LEONE: I do have a question for you.
23 How would you help contractors that don't have access
24 to those apprenticeship programs gain access to them?
25 So, you know, the unions work very hard. It's the

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2 gold standard of apprenticeships is what they provide.

3 And I've also heard this fictitious number
4 of five apprentices. UNICON recently -- just very
5 recently --

6 MR. HOURIHAN: We should --

7 MR. LEONE: Very quick survey. We found
8 1,086 apprentices registered in the time frame 2011 to
9 2016. About 24 percent of them are minorities,
10 roughly 258.

11 MR. HOURIHAN: We're well over the two-
12 minute limit.

13 MR. LEONE: I'm done?

14 MR. HOURIHAN: Yes. If everyone wants an
15 opportunity to speak, we have to --

16 MR. LEONE: That's fine.

17 MR. HOURIHAN: Thank you.

18 MR. ALLEN WILLIAMS: Anyone else?

19 MR. SAMPSON: My name is Brian Sampson.

20 I'm the President of Associated Builders and
21 Contractors. We represent about 400 merit shops or
22 nonunion construction firms across the State of New
23 York. Here locally in the Finger Lakes, it's about
24 200 different companies, employing over 10,000 people
25 in this industry.

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2 When you put a project labor agreement on
3 Phase 1, you excluded about 75 percent of the
4 construction market that is nonunion, that chooses to
5 be nonunion. They -- when you put that PLA in place,
6 what you said was three out of every four workers have
7 to come from the union hall. And that's okay, except
8 for the fact that you excluded those people that
9 choose not to be a part of the union.

10 So, in Phase 2, you're going to open
11 yourself up to more competition, more bidding. More
12 bidding, more competition means your prices should go
13 down, which means you could put more schools up.

14 But the piece of it that, in the last
15 meeting that I attended I heard, was the PLA will also
16 guarantee there won't be any work stoppages. I'd have
17 to beg to differ on that. You know, just last summer,
18 down in New York City --

19 MR. BROWN: We're not in New York.

20 MR. SAMPSON: Just making a point. The
21 carpenters' union walked off of 16 PLA jobs. They
22 were only forced back to work by a judge. So,
23 although your promise that there won't be a work
24 stoppage, work stoppages do exist.

25 And the last point that I'll leave you

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2 with is we hear that the project labor agreements are
3 wonderful, more diversity, more cost savings, and the
4 like. I would challenge anybody to come up with a
5 post-PLA project-specific study about whether or not
6 the PLA came through and met the financial goals it
7 purported to meet. We can't find one. We've looked.
8 There are studies, but a PLA-specific, post-PLA study,
9 they're not out there, and they're not out there
10 because the results will be very clear.

11 AUDIENCE PARTICIPANT: He's well over two
12 minutes.

13 MR. SAMPSON: The results will be clear
14 that the financial savings weren't there. Please move
15 forward with Phase 2 without the PLA.

16 MR. ALLEN WILLIAMS: Anyone else? Any
17 other speakers?

18 MR. HILGER: I'll go. Good to see you,
19 Allen, as always.

20 My name is Aaron Hilger. I'm the
21 president of the Builders Exchange of Rochester.
22 Builders Exchange has 600 members in Monroe and the
23 surrounding counties. Unlike my colleague Brian
24 Sampson, who has 28 members that are contractors
25 listed in his directory in the Rochester region, we

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2 have 450 contractors in the Rochester region. We also
3 represent about 70 percent of the people who have done
4 work on this particular project. ABC's contractors
5 are less than 1 percent of bidders on all school
6 construction projects in 2015 and 2016 in the
7 Rochester MSA. I have no idea, then, how that
8 1 percent is going to make a significant difference.
9 And those are four bidders, four individual
10 contractors, who have worked on those pieces. So,
11 unfortunately, the claims of increased competition are
12 probably limited.

13 Builders Exchange supported the PLA for
14 this project because of the social policy goals in the
15 project. This project has aggressive minority
16 contracting goals, and it has aggressive hiring goals.
17 The PLA is well-designed to doing that and, by the
18 way, well more than half of our members are nonunion.

19 On your project already, 58 percent of the
20 contractors who are working on it are nonunion
21 contractors at the time of their bid. Today, 52
22 percent of those contractors are, because nine of them
23 decided to sign collective bargaining agreements
24 during the course of the project. They must have had
25 a very good experience. I think the building trades

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2 guys have done a good job here recruiting minorities
3 and women, and you guys are making a mistake.

4 MR. ALLEN WILLIAMS: Thank you.

5 Anyone else?

6 MR. CHRISTMAS: My name is Quinton
7 Christmas. I was a participant in the Aurora Academy,
8 part of the laborers' program. I graduated one of the
9 top students in my class.

10 And I don't know exactly what all the
11 issues you guys have with the PLA is, but I know when
12 I was working on School 12, at least 70 percent of the
13 workforce that I was working with was minority. Most
14 of us lived in the city. I know that if you take away
15 the PLA, it's going to hurt the minorities and the
16 inner-city workers working on the project more so than
17 helping.

18 MR. ALLEN WILLIAMS: Thank you.

19 Any other comments from the floor?

20 MR. HOURIHAN: With Al's -- I would
21 suggest, if you wanted to continue, it looks like
22 we're not going to have as many speakers as we
23 wanted --

24 MR. JAMAN: Can I say something?

25 Hi. My name is Jafar (phonetic) Jaman

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2 (phonetic), and ever since I've been working here --
3 you know, for Strong and Chase -- I've been able to
4 feed my family, you know, take care of my elderly mom,
5 grandmother, aunts, uncles. You know, and I met a lot
6 of good people, too. But if you take this away,
7 that's definitely going to stop.

8 AUDIENCE PARTICIPANT: If you're going to
9 give one person more than two minutes, will you give
10 everybody?

11 MR. HOURIHAN: Well, I think you finished.

12 MR. JAMAN: And I was under two minutes.

13 MR. HOURIHAN: We want to give everybody
14 an opportunity.

15 (Audience participants and board members
16 overlap.)

17 AUDIENCE PARTICIPANT: That's fine.

18 MR. ALLEN WILLIAMS: Anyone else? Thank
19 you.

20 Now what I want to do is open it up for
21 the board discussion, and from there we will follow up
22 with whether we vote.

23 So, where would we like to start off?
24 Board member?

25 MR. RICHARDS: Well, I'll go first.

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2 As you know, I supported the PLA. I did
3 it for a series of reasons. One, the history. The
4 history has been referred to here already. It was
5 very successful in Phase 1. We met the goals that
6 were in Phase 1; in fact, exceeded the goals in Phase
7 1. And someone has to realize what those goals were.
8 There isn't anybody in this region who has goals like
9 that or has achieved anything like that. And, so,
10 there's something different about this project than
11 the history, and that includes the City of Rochester
12 and other people that -- you know, municipalities that
13 are supposed to be in it.

14 What I think was different was that we had
15 a PLA that committed the labor unions to these goals.
16 Remember in the past, the traditional issue was, well,
17 the contractor agreed to do it. He goes to hire
18 somebody, and they say, "Well, I don't have anybody.
19 It's tough," and that's where it died, and that became
20 a perpetual excuse for not meeting these goals. And,
21 so, by getting the unions to commit to this, now we've
22 got everybody in the tent, and we've got everybody
23 willing to commit to these goals, and we made them.
24 And, in fact, in this Phase 2 PLA, we're increasing
25 the goals.

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2 Second of all, we were proceeding along
3 here on the assumption that we were going to have a
4 PLA. The Monroe bid documents referred to a PLA. The
5 Seeler Engineering study, which was a study that's
6 necessary to justify the PLA, was approved unanimously
7 by the board. The review of both Phase 1 and -- was
8 reviewed by both Phase 1 and Phase 2 counsel and
9 negotiated over a number of weeks with the board's
10 knowledge.

11 One thing that we need to get on the
12 record here is that there's been confusion between the
13 PLA and the RCCI program, which has in Phase 1 --
14 although it won't be in Phase 2 -- there was \$0.15 set
15 aside committed to that program. It was \$0.15 an hour
16 worked on the job. It's funded by a union wage
17 package. And the reason it's in the PLA is the PLA is
18 an agreement, actually, between the contractor and the
19 union, and it modifies the union contract with respect
20 to these various terms that are in the PLA. That's
21 what it was doing in there. It's not our money. It's
22 their money. They earned it, and they chose to spend
23 it on this purpose. And it's no more public money
24 than the salary paid to city employees. Once it's
25 paid and they've earned it, it's theirs, and they can

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2 spend it the way they want to, and this is the way
3 they chose to spend it. It's admirable that they did
4 it.

5 There were no requirements in the first
6 PLA with respect to outcome for that program, the RCCI
7 program. There was no requirement that any particular
8 things be done. And the reason it wasn't in there is
9 because that was up to the people who ran it. It was
10 their money. In no way was it essential to the PLA
11 justification. It's a minor related issue. It does
12 not justify the PLA, and it's -- whatever you think of
13 it does not justify not having the PLA.

14 What the PLA promised to do, and what the
15 unions and the contractors promised to do in the PLA,
16 they did, and they met those goals. So, I think that
17 that's important to make sure that that is -- that we
18 distinguish that issue.

19 Why do I think the PLA is important? I
20 mentioned already what I considered to be the
21 traditional problem with respect to meeting these kind
22 of employment goals. Remember, employment goals are
23 different than the statutes that require certain
24 people to be hired and certain businesses to be hired.
25 If you don't agree to this, if you don't have it in

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2 there through the PLA, then it doesn't exist. It's
3 gone. This is something we impose on ourselves as
4 part of this process and use this device to do it.

5 There are savings, there are workflow --
6 or work rule flexibility associated with it. There's
7 a no-strike, a job action requirement. With all due
8 respect to what might have happened in New York City
9 sometime, it didn't happen here, and we've been at
10 this for four or five years. And those are
11 significant here, because we work on a tough schedule.
12 We move kids out, we get -- have to get the work done
13 and move them back in, and we have to meet the school
14 schedule to do that. And it isn't like a regular job
15 where if you're a couple months late, oh, well, it's
16 no big deal. This is a big deal. It's very
17 disruptive and ripples through the whole job.

18 And we're going to have union labor on
19 these jobs, even if -- even if there is no PLA. In
20 order to meet the requirements for the kind of labor
21 that we need, particularly with respect to the
22 technical aspects of these projects, which dominate
23 them, by the way -- HVAC, electrical, and things like
24 that -- we will have some union labor on this job no
25 matter what. And, so, the issue of having an

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2 agreement or not having any job actions or other
3 disputes is important and continues to be important.

4 But what was unique about this? What was
5 unique about this was what I said before, and that is
6 we got the unions to commit to these hiring goals, and
7 that brings minority and women into the unions, and it
8 gives them not just a job, but a career, an
9 opportunity over a long period of time to not just
10 work here. This project will be done some day,
11 believe it or not, and -- and they will have the
12 opportunity to work other places and other times as
13 part of that career. And it worked. The numbers
14 support it. And this is a change, a major change, and
15 a commitment that we now will lose if we don't have a
16 PLA.

17 It also means people get work. If you
18 joined the union in the last couple of years, you're a
19 junior employee, and that means that if we go back to
20 the old seniority rules -- and the PLA changes that --
21 you may never see the job, because they're hiring off
22 on a basis of longevity, and you're a junior person,
23 and you don't get a chance. This moves you up and
24 gives you a chance in a way that now will be lost.

25 Also, it was mentioned before -- and I

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2 think it's important here -- is all of these jobs have
3 a legal requirement, in the statute that created this
4 program, to have apprenticeship programs. These
5 apprenticeship programs are -- exist best with the
6 unions. There are some others who have them, but
7 there are not many, and they're difficult to maintain,
8 and they certainly would be impossible to maintain by
9 smaller, newer contractors who, by the way, are able
10 to get union labor with the PLA without being a
11 signatory to the contract, without signing up in the
12 long run. And as was mentioned before, a significant
13 number of them worked on this job. That's unique.
14 That's unique; access to union labor without being a
15 signatory to the agreement and moving up the seniority
16 list.

17 It worked in Phase 1. It worked in a way
18 that it's never worked in this community before, and
19 there's no other local program, as I said before, that
20 has done anything close to this. And if we don't have
21 a PLA on this job, we will not get it done the same
22 way, and I'm convinced of that. And, so, I think it
23 would be a mistake to lose this advantage and not to
24 have a PLA on this project.

25 MR. BROWN: I've -- I saw this from two

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2 different ways. For one, if a union contractor has to
3 do this on his own, what -- what will he do? Because
4 it's not a mandate, it's not a set-aside; it's a goal.
5 Knowing that's a fact and been here all of my life in
6 construction, you will never meet a goal in this
7 community doing it that way.

8 What happened was -- right now the
9 question was raised why you need a PLA when all the
10 jobs go to union? Interesting question because what
11 happens is, what the PLA did was force unions to do
12 something they had never done before; that is, agree
13 to put a man -- a union man on a project, whether he
14 had a signatory agreement or not, and the union
15 contractor pushed back like a stun gun. If I was a
16 union contractor, I would be upset with this idea.
17 Why? Because now they're saying to a person walking
18 off the street, a young contractor -- whoever she --
19 he or she is -- can call any union hall, and the
20 unions, by signing this PLA, agrees, "I'm going to
21 give them a competent person to work on their
22 project," while the union contractor has paid to
23 train those people. And I would be highly upset if I
24 was union guys. I've got a nonunion contractor, a
25 person, and by the way, when he finish the PLA, he or

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2 she can walk away and have no strings attached.

3 And for me, being a former business
4 manager, it was ten times worse for the simple reason
5 the PLA allowed us to be able to screen people, help
6 people, that you couldn't have helped before. If
7 you -- you saw a minority contractor go out of
8 business because they signed the PLA, because on every
9 union contractor's PO says, "You shall work on my
10 terms and conditions," meaning if he union, you got to
11 be union. So, now the minority contractor who signs
12 the agreement to work on the project, not knowing that
13 when he leave this project or any other project he
14 works on, he signs that collective bargaining
15 agreement, and he has to pay those wages or wind up at
16 the Department of Labor and get sued, and almost
17 universally loses.

18 So, to go back and say we're not going to
19 have a PLA because for some reason you didn't train
20 but five people, to me, is nonsense, because what we
21 did before that, before the PLA started, we had
22 careers -- Rochester Careers in Construction. We
23 started 15 years ago with the idea of being just that,
24 and the union -- and the union contractor will never
25 get any credit for it because union contractors

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2 realize they need to have minority workers, too. So,
3 we started Careers in Construction and had a job fair
4 every year, either at the fairgrounds, or we -- and
5 the county executive gave us the garage over on Paul
6 Road to have -- and we had kids come through. We
7 figure we need to start the children at 8th or 9th
8 grade to get them prepared to go on this project.

9 And in this process, what happened is, the
10 unions never came out and bragged about what they did.
11 They just did it because it was one of the things that
12 they thought they were trying to do or needed to do to
13 make their union survive. So, they did that.

14 So, if we had to vote again tonight, I
15 would vote again to vote for the PLA for that simple
16 reason.

17 MR. BENINCASA: From Bob's point there,
18 with respect to the training program, we take -- I
19 take a big objection to what was produced. Some have
20 said that it was not the public's money, but, in fact,
21 the \$325 million that was approved by the state for
22 this project is all the public's money, and that money
23 was paid to the contractors. And there was, in fact,
24 an explicit clause within the PLA with respect to the
25 training program.

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2 The one -- how should you say? One
3 benefit given to the unions was the fact that all
4 nonunion workers would have to pay union dues -- some
5 may object to that -- for certain benefits. What are
6 the benefits? One of the benefits cited is training.
7 So, \$0.15 an hour was given to the unions in order to
8 produce a training program. Over five years -- five
9 years -- \$325 million project, out of that, only
10 \$154,000 went to five individuals. 90 graduates.
11 These were numbers confirmed by our independent
12 compliance officer. Out of the 90 graduates, five
13 received work; \$154,000 out of a \$325 million project.
14 That is a significant objection to me. This was a
15 signature piece of this project labor agreement, and
16 it was the one area that we, the board -- I wasn't on
17 the board at the time -- but we, the board, were
18 looking for something in return with respect to
19 training, particularly with respect to developing city
20 residents, city school students and minorities within
21 the city. It failed. It failed miserably. The one
22 thing we were looking for failed miserably. It was an
23 abysmal result.

24 It took me five months to get that
25 information. It took me five months from the time I

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2 made a request in February of 2016. I had the
3 report -- and I'll use a somewhat hard term -- foisted
4 on me one hour before the vote on the PLA, in
5 committee, to move it forward. No time to review. No
6 time to absorb. I did not feel we were being dealt
7 with in good faith. Five months. I was even told by
8 certain individuals, some who are around this table,
9 that I'll never get those numbers; I'll never get an
10 accounting of the money. I was even told by someone
11 else on this table that, when I brought up the issue
12 that CHAR500s, IRS filings, 990s had to be filed, "No,
13 they never filed that. That doesn't exist. It
14 doesn't happen." Guess what? I got them sitting on
15 my desk in my office right now. It was produced.

16 What was there to hide? I'll tell you
17 what was there to hide. A travesty and abysmal result
18 of a training program with the public's money. I was
19 even told by a representative of the unions that,
20 "This is contractors' money. What are you so worried
21 about?"

22 And I said, "No, it's the public's money.
23 It is the public's money." We are here to protect the
24 public's money.

25 Now, I'm going to move on to the next

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2 point, and that is PLAs save money. Do they now?

3 Well -- and, yes, I did vote to accept the study. For
4 the record, I did accept it. However, I've had more
5 time to look at this and also noted that in the study,
6 a 1987 study was cited, upon which the numbers were
7 calculated to the projected savings that we would have
8 with a PLA in Phase 2.

9 Well, in fact, that study was 1987. It
10 was a study. I found another study, just recently
11 searching, that was done for the American Society of
12 Civil Engineers, 2008, a much more current study done
13 by a professor here. I did not call him before this
14 or try to contact him, but I hope he doesn't object to
15 me using his abstract here.

16 Eddy Rojas, Associate Professor,
17 Department of Construction Management, University of
18 Washington. "Policies regarding public building
19 construction affect the interests of taxpayers,
20 construction authorities, general contractors,
21 specialty contractors, and other stakeholders. At the
22 state level, the debate as to the optimal form such
23 policies should take has become an ongoing struggle
24 among competing interests. This study presents a
25 systematic analysis of the main issues regarding

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2 single versus multiple prime contracting with the
3 purpose of providing objective data to illuminate the
4 debate. A statistical analysis of project bids and
5 final costs from a national sample of state
6 construction projects reveals that public construction
7 projects organized with multiple prime contracts tend
8 to have 5 percent less direct costs than projects
9 using a single prime contractor. Moreover,
10 approximately 80 percent of these savings are
11 attributable to lower bid costs for multiple prime
12 projects. The results of this study are in agreement
13 with theoretical bidding models and efficient risk
14 allocation models. Theoretical bidding models suggest
15 that, in the absence of disruptions, multiple prime
16 projects should have lower direct costs than single
17 prime jobs. Efficient cost allocation models suggest
18 that when specialty contractors do not bear the risks
19 associated with the single prime contracting method --
20 example, bid shopping and payment delays -- they are
21 willing to lower their bids, and forego the premium
22 they would normally charge in response to such risks,
23 as seems to be the risk in multiple prime jobs."

24 Point I'm making is here's a more recent
25 study, 2008. The savings attributed in the Seeler's

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2 study were that -- were such that the -- was basically
3 a -- how should you say? A projection based on a
4 Wicks study, a prior Wicks study. If you apply these
5 numbers, you'd say, "Well, costs are going to go up
6 5 percent if we do Wicks' work-around." Okay? And
7 the fact of the matter is, is that when we did the
8 first phase, and we had P -- the first PLA in effect,
9 we only had two projects that did a work-around Wicks,
10 where it was single prime. All the rest were in
11 compliance with the Wicks Law.

12 So, unless you don't comply with the Wicks
13 Law, based on the argument that I'm hearing, then you
14 would have savings, okay? However, au contraire,
15 we're finding that the Wicks Law, which was put in
16 place to lower costs, increase competition, has really
17 been a benefit for the taxpayers. It was also done as
18 an anti-corruption move many, many, many decades ago.
19 And the labor unions themselves were very supportive.

20 I have another article here on just that.
21 "Wicks Law Saves Money, Combats Construction,"
22 Rochester Business Journal, by Clarke Conde,
23 January 2010. I won't read the whole thing, but
24 suffice it to say, "Without Wicks, competition goes
25 down dramatically and the costs go up, because only

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2 those specialty contractors willing to play ball with
3 the general contractor are invited to bid. Without
4 Wicks, the municipality hires from a small handful of
5 GCs who are responsible for subcontracting for the
6 plumbing, electrical, and HVAC work, based on their
7 relationships. This is when the potential for
8 corruption begins. When the door is closed and
9 taxpayers can no longer keep an eye on where their
10 money is being spent, you can bet that taxpayer
11 protection is the last thing anyone will be
12 discussing." This is a very pro Wicks article, and it
13 was written by Clarke Conde, who was the director of
14 the Rochester Building and Construction Trades
15 Council.

16 AUDIENCE PARTICIPANT: No.

17 MR. BENINCASA: No?

18 AUDIENCE PARTICIPANT: He was not. He
19 worked for the Rochester Building and Construction
20 Trades Council. Sounds like you're confusing the
21 Wicks Law with the PLA study.

22 MR. BENINCASA: No.

23 AUDIENCE PARTICIPANT: They're two
24 different things.

25 MR. BENINCASA: No.

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2 AUDIENCE PARTICIPANT: There's savings
3 without -- with or without the Wicks, there's two
4 different savings.

5 MR. BENINCASA: The savings attributable
6 within the PLA study is based on the Wicks.

7 AUDIENCE PARTICIPANT: There's also a
8 savings based without the Wicks.

9 MR. RICHARDS: It's expressed in the
10 alternative.

11 MR. BENINCASA: Suffice it to say, we also
12 do not have, as a point was made earlier, any
13 documented savings from Phase 1 with respect to the
14 PLA. The study that we do have is a projection.
15 There is no -- there are no actual savings recorded.
16 So, based on that, it's conjecture to say that the PLA
17 will, in fact, bring about savings.

18 MR. ALLEN WILLIAMS: Let me -- let me pick
19 up on your point, Charlie.

20 And first of all, with the savings -- and
21 it was one of the two reasons why I voted against
22 implementing the PLA in Phase 2. When you look at the
23 Seeler report, the most recent report for Phase 2, it
24 states we would achieve \$14 million in savings, and
25 that 14 million was a combination of savings from

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2 labor efficiencies, as well as the fact that we would
3 avoid the application of the Wicks Law, the
4 14 million. Now, given the fact that it -- and it was
5 a prospective look in terms of, you know, we would
6 save this money if we did these things. And these
7 savings would accrue at some point in time in the
8 future. Whether or not that will happen, we don't
9 know.

10 However, I went back and looked at the
11 Seeler report that he did initially for Phase 1. And
12 in Phase 1, the projections were that we would save
13 anywhere from 6 to \$11 million, and that depended on
14 whether or not we implemented something called --
15 well, the Workers' Compensation Alternative Disputes
16 Resolution. Now, whether or not we implemented that,
17 I'm not sure. Does anybody know whether or not we did
18 that?

19 MR. BROWN: We did have Alternate Dispute
20 Resolution. We only had one of those in Rochester in
21 the history, and that was 20 years ago.

22 MR. ALLEN WILLIAMS: But, was that -- so,
23 it wasn't implemented on this program?

24 MR. BROWN: There was an option to do it.
25 The problem you have in this community, most

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2 contractors buy their Workmen's Comp. and DBL
3 independently. The ADR meant that you -- everybody
4 would be in a pool, and you would -- you would create
5 savings by doing your own Workmen's Comp., and that
6 would be savings from a Comp. carrier. The problem
7 was, you wasn't going to get everybody in this
8 community to sign on to it, so it's a moot point.

9 MR. ALLEN WILLIAMS: Right. But it's not
10 a moot point, because those savings that he projected
11 were based on implementation of the ADR, and since we
12 didn't implement it, we can't say that we accrued --
13 that those savings were achieved. We can't say it.
14 So, that means at least half of the projected savings
15 didn't occur on this PLA in Phase 1.

16 The other piece of the 6 million or so, I
17 would submit that there's never been any sort of
18 documentation that said we indeed achieved those
19 savings. And when we went from Phase 1 to Phase 2,
20 Seeler was silent on that point in terms of whether or
21 not we achieved any savings at all. So, I -- I could
22 only assume that we didn't. And in looking back, you
23 know, at the overall experience of what went on in
24 Phase 1, we did not achieve those savings. So, that's
25 the first point.

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2 So, looking at -- and Seeler used the same
3 methodology in -- to make the projections in Phase 2
4 as he did in Phase 1. So, given that -- and no one
5 has yet either demonstrated or proved that we did
6 indeed achieve those savings, and that was one of the
7 main underpinnings of why we looked at or entered into
8 a PLA for Phase 1 and why, again, when we looked at
9 Phase 2, you know, he said that we would achieve these
10 \$14 million in savings, and it didn't happen. It
11 didn't happen. It was the main reason why -- it's the
12 main reason why we adopted the PLA.

13 MR. BROWN: Did you just say you had no
14 way to check? So, how do you know they didn't save?

15 MR. ALLEN WILLIAMS: Well, because --
16 well, one, we had cost overruns. Secondly -- and the
17 second point is, if indeed we had achieved those
18 savings, he would have said so in the beginning of the
19 report -- at the beginning of the Phase 2 report, but
20 he's totally silent. Didn't even mention it.

21 MS. ELLIOTT: Can I ask a question? I
22 just want to know if you'll let me ask a question.

23 Cynthia Elliott, vice president of the
24 Rochester Board of Education.

25 The question for me comes, now that we --

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2 the PLA has been rejected, what's the next step? Is
3 that something to ask at another time?

4 MR. ALLEN WILLIAMS: No.

5 MS. ELLIOTT: So -- so, where -- okay.
6 So, how do we ensure that the MWB goals are going to
7 be met? And I have another question, too. I'm
8 hearing talk about the training program, but I'm also
9 hearing people say that we have exceeded some goals.
10 And, so, if the training program is the issue, is that
11 sufficient to really throw away the PLA? And to --
12 and if we reach these -- if, you know, we have an
13 independent compliance officer, and they're saying
14 that we've exceeded those goals, but it seems that the
15 issue is around the training program, does that
16 outweigh the goals that people are able -- that were
17 able to be met by people who were not in the training
18 program, but that were regular workers?

19 MR. ALLEN WILLIAMS: Okay. Let me -- and
20 I'll get to that. Just let me finish.

21 MS. ELLIOTT: I'm sorry.

22 MR. ALLEN WILLIAMS: In terms of one of
23 the major reasons why we adopted the PLA, or the
24 major -- one of the major reasons why the
25 justifications for PLA were these cost savings. And

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2 in Phase 1, we didn't -- we didn't achieve them. And
3 the other issue with the PLA came -- well, the
4 overall --

5 MR. RICHARDS: How do we know we didn't
6 achieve them? I understand we haven't been able to
7 document it.

8 MR. ALLEN WILLIAMS: We haven't documented
9 it.

10 MR. RICHARDS: But other than the fact
11 that we haven't documented it one way or the other;
12 isn't that true?

13 MR. ALLEN WILLIAMS: Right. Well, at
14 least for the -- for at least \$6 million --

15 MR. RICHARDS: I understand. But you're
16 talking about the efficiencies part.

17 MR. ALLEN WILLIAMS: Right, the
18 efficiencies. But those efficiencies were based on
19 not having to apply the Wicks Law. And on every
20 project --

21 MR. RICHARDS: Some were, and some
22 weren't.

23 MR. ALLEN WILLIAMS: But my understanding
24 is for every project in Phase 1, except for East, we
25 had multiple prime contracts.

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2 MR. RICHARDS: But there were some savings
3 projected in there with respect to the other things,
4 and it's correct that we can't prove one way or the
5 other whether we got them. I don't think it's fair to
6 say that therefore we didn't get them.

7 MR. ALLEN WILLIAMS: Well, okay. We can't
8 prove it -- we couldn't prove it in Phase 1, and the
9 same thing applied to Phase 2. So, we go from a
10 projection of \$11 million that we were supposed to
11 have achieved in Phase 1, to \$14 million in -- in --

12 MR. RICHARDS: I understand. I didn't
13 want to -- I don't want to argue with you.

14 MR. ALLEN WILLIAMS: Okay.

15 MR. RICHARDS: I just want to correct that
16 one point.

17 MR. BENINCASA: But the burden of proof is
18 on the proponents of the PLA in order to show that it
19 does have savings and it is something that we should
20 do, because remember that we're still subject to
21 public bidding laws, the Wicks Law, and that will
22 continue, just as it does on all public construction
23 projects that we practice both in the city, the school
24 district, and here. So, the burden, why do -- why do
25 something different? Why do a PLA? The burden of

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2 proof is on the proponents of the PLA to show that it
3 has some benefits, and it would be in their interest
4 to show that it has quantified savings.

5 MR. BROWN: The first benefit in this
6 community -- whether it be the county, the city -- you
7 go to the City School District in the City of
8 Rochester, show me a program that has hourly and goals
9 for workforce in the contract. They have minority
10 goals for contracts. Not one has any. The only
11 project in this community that ever had a contracting
12 goal for the workers on the project is this -- is this
13 School Modernization Program. The School
14 Modernization is the only project that's done that,
15 because what you will find in every state project,
16 every city project, they have minority goals of a
17 certain percentage, and that's for the contract. This
18 project has a minority goal for workforce in the
19 contract. So, any contractor that gets the contract
20 has to meet these minority goals, which has never been
21 done in this community before. The only project that
22 did it was this one.

23 MR. ALLEN WILLIAMS: But, Bob, those goals
24 would have been in place even without the PLA.

25 MR. BROWN: You couldn't have met them.

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2 You couldn't have met them.

3 MR. ALLEN WILLIAMS: No, no. No, because
4 that's what's going on now in Phase 2. I mean, we
5 have a very robust diversity plan in Phase 2. In
6 addition to that, we also have the Business
7 Opportunity Plan -- or the Business Opportunity
8 Program. You know, what -- what -- and, again, it's
9 never been done in this community before.

10 MR. BROWN: Exactly.

11 MR. ALLEN WILLIAMS: Right.

12 MR. BROWN: So, now -- so, now you've got
13 a union contractor who bid this last one project. You
14 had one bidder who's union, who now, all he has to do
15 is go and says, "I can't meet the goals because I
16 can't find a contractor." There's no repercussions
17 that we can put on him.

18 MR. ALLEN WILLIAMS: Well, that's not
19 true.

20 MR. RICHARDS: It is true.

21 MR. BROWN: What can you make them do?
22 Nothing.

23 MR. RICHARDS: These things are goals,
24 they're not --

25 MR. ALLEN WILLIAMS: Right, they are goals

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2 and not set-asides, correct.

3 MS. ELLIOTT: So, let me just ask this; go
4 back to what my question was. So, you're saying that
5 there is a plan in place. Now, that plan was -- is
6 that the same plan that was in place when the PLA was
7 still a part of the -- or is -- has there been a
8 different plan that's been put in place?

9 MR. ALLEN WILLIAMS: Well, it's the same
10 plan, except in the -- the diversity plan in Phase 1
11 called for a 20 percent -- I think it's 22 percent MBE
12 and on a 6 percent WBE. Under the current plan, it's
13 more robust. So, now we're looking at a 30 percent
14 minority -- minority -- MWBE goal requirement.

15 MR. RICHARDS: What the difference is,
16 though, is in Phase 1, we had a PLA that signed the
17 unions up to the program. In Phase 2, we won't. And
18 the unions will therefore -- don't have to
19 participate.

20 MR. ALLEN WILLIAMS: Well, but -- but,
21 again --

22 MR. RICHARDS: That's the difference.

23 MR. ALLEN WILLIAMS: But in Phase 1 and in
24 Phase 2, they are goals, not set-asides. So -- and
25 the same thing that happened -- the same thing that

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2 the union would have done or could have done in
3 Phase -- or a contractor would do in Phase 2 in terms
4 of refusing to hire or to have a diverse workforce,
5 they could have done the same thing in Phase 1 without
6 any kind of repercussions.

7 MR. RICHARDS: But the point is, they
8 didn't. That's -- that's -- why is it that on this
9 project, we met those goals, and all these other
10 projects in our community, we didn't? What's the
11 difference?

12 MR. ALLEN WILLIAMS: Because --

13 MR. RICHARDS: And the difference is, we
14 had a PLA, and the unions couldn't -- they had to
15 become a participant, not an excuse. And that's
16 what's different.

17 MR. ALLEN WILLIAMS: No. No. But the
18 same thing applies in Phase 2. The same thing applies
19 in Phase 2.

20 MR. RICHARDS: No, it doesn't.

21 MR. ALLEN WILLIAMS: Yes, it does. How
22 can you -- but the same logic applies. You're saying
23 that we can't show that -- we won't meet our goals in
24 Phase 2 without a PLA, but we met the goal in Phase 2
25 with a PLA, and I -- and I challenge that, and I

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2 challenge --

3 MR. RICHARDS: You and I disagree.

4 MR. ALLEN WILLIAMS: Yes.

5 MR. RICHARDS: That's the answer to that.

6 MR. ALLEN WILLIAMS: But the other -- the
7 other issue in terms of why I voted against the
8 extension of the PLA for Phase 2 has to do with
9 minority apprentices. Historically, skilled trades
10 unions have excluded blacks, women, and Latinos. So,
11 when we signed the PLA, we basically said, "This is a
12 union job." And if you aren't in the union, either as
13 an apprentice or a journeyman, you couldn't work. So,
14 as -- in order to get around that, written in the PLA
15 was this clause that the unions would use -- or the
16 contractors would use their best efforts, if you
17 would, okay -- best efforts, not a goal -- well, best
18 efforts, not a set-aside, to reach out, recruit, train
19 minority and women apprentices.

20 MS. ELLIOTT: So, is that the issue, the
21 training piece?

22 MR. ALLEN WILLIAMS: Well, no. That's
23 not -- the issue is not the training piece.

24 AUDIENCE PARTICIPANT: We can solve this
25 problem.

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2 (Audience participants and board members
3 overlap.)

4 MR. ALLEN WILLIAMS: So, what happened,
5 there were two programs that were put in place, okay?
6 And from those two programs, in terms of reaching out
7 to training and -- or recruiting and training women
8 and minorities for the apprenticeship positions, 90
9 individuals graduated from the program, okay? Over a
10 five-year period, 90 graduated.

11 MS. ELLIOTT: So, that's the sticking
12 point?

13 MR. ALLEN WILLIAMS: No, no. That's not
14 the sticking point. 90 graduated, but when our --
15 when our accountant did their analysis, only five --
16 five individuals -- one white female, two Latino
17 males, and two black males -- got jobs as apprentices
18 over a five-year period. And of that -- and of that,
19 of those five, the total wages paid to those five
20 individuals as apprentices came to \$155,000.

21 MS. ELLIOTT: Okay. So, if you're saying
22 that that's not the sticking point --

23 MR. ALLEN WILLIAMS: No, that's the
24 sticking point, is that we never -- we didn't -- we
25 did not achieve the goal of bringing in, training, and

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2 putting minority and women apprentices on this job.

3 MR. RICHARDS: Allen, it's simply not
4 true.

5 MR. ALLEN WILLIAMS: No, it is true.

6 MR. RICHARDS: On the average -- on the
7 average, we average about 500 people, and we're going
8 here --

9 MR. ALLEN WILLIAMS: Well --

10 MR. RICHARDS: -- and 153 of them average
11 minorities and females.

12 MR. ALLEN WILLIAMS: But, Tom, of those
13 153 --

14 MR. RICHARDS: There are other ways to get
15 into these programs.

16 MR. ALLEN WILLIAMS: No. Of those 153 who
17 had worked, how many of them are still on the job
18 today? How many of them have reached their
19 requirements -- I think of anywhere from 1,400 to
20 1,800 hours in their blue books -- in order to move up
21 the ladder from apprentice to journeyman? And I
22 submit that that number is probably zero.

23 MR. RICHARDS: Well, I don't think you
24 know that.

25 MR. ALLEN WILLIAMS: Or close to it. No,

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2 I don't. But I can tell you --

3 MR. RICHARDS: It takes years for them to
4 get there.

5 MR. ALLEN WILLIAMS: Well --

6 MR. RICHARDS: I don't care if they're
7 white or black, it takes years for them to get there.

8 MR. ALLEN WILLIAMS: Right. But -- but --

9 MR. BENINCASA: But you have to provide
10 the opportunity.

11 MR. RICHARDS: The opportunity has clearly
12 been provided, has clearly been provided. If those
13 people worked on this job as you say, it was a union
14 job, they were clearly given an opportunity. Some of
15 them are sitting in the room.

16 MR. ALLEN WILLIAMS: But five people --
17 five people --

18 (Audience participants and board members
19 overlap.)

20 MR. RICHARDS: Five people on that one
21 program, not on the project itself. That's the
22 difference.

23 MR. BROWN: You're making -- the problem
24 need to be the project. There were minorities and
25 workers who became journeymen right through this

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2 program, so --

3 MR. ALLEN WILLIAMS: How many, Bob?

4 MR. BROWN: A whole bunch of the laborers,
5 I can tell you.

6 AUDIENCE PARTICIPANT: You've got one
7 right here.

8 MR. BROWN: Not just apprentices.
9 Apprentices -- you've got to remember, when you went
10 through that program, and you went through a normal
11 apprenticeship program, you had to take a test, and
12 the thing with apprenticeship with the State of New
13 York, it's not discriminatory. The State of New York
14 says you could have a test, and if you were a city
15 resident and went to a city school -- which we can't
16 say are the best -- you're going to say, "I'm going to
17 have 20 apprentices." And you have a statewide test,
18 and the city kid wind up 22, what do you do? So, now
19 you can't take them in the first place.

20 The only place that did anything about
21 that was this program where you could force the union,
22 say, "Listen" -- because the union businessman got to
23 get elected every three years. And if you believe a
24 businessman for the union is going to be happy to go
25 to his membership and say, "Hey, buddy, I had to take

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2 these minorities ahead of you," and expect to get
3 elected next time, you got another thought coming.

4 But this project allowed them to say --
5 what happens if the guy winds up saying, "This guy
6 went through this program, and because he went through
7 the program, and I signed that PLA, I got to take some
8 of these people." His union -- the electricians,
9 plumbers, tin knockers -- were almost all white.
10 They're not today because of this program. Never mind
11 what we say. Just go look at the facts.

12 They don't work on the school projects.
13 What happens is -- the sad part about -- most of the
14 work -- because the city does very little work. They
15 work on projects all around these nine counties.
16 Well, if you're a minority and can work, I guarantee
17 you, you're already employed because most times you
18 will look for and you will have a job.

19 So, to go back and say, "We're going to
20 train people," you've got to remember, this is a
21 public works project, not a minority goal project for
22 the public. It's a project where a white contractor
23 was in business to make money, and he -- and believe
24 me or not, when I was a businessman, when -- I didn't
25 want to have an apprentice. Know why? Because I bid

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2 a project to use -- I was a pipeline contractor. I
3 had to get so many feet a day. I didn't want nothing
4 but qualified people. I didn't want to hear any
5 business about an apprentice. I don't want
6 apprentice. I bid this project to have three
7 qualified workers, and the apprenticeship by the state
8 was met -- pushed on you because the apprenticeship --
9 if you think contractors are liking the
10 apprenticeship, you're kidding yourself.

11 MS. ELLIOTT: What's the -- what is the
12 potential for natural impact of rejecting the PLA?
13 And the other part -- the other part to that financial
14 question is if there's impact in which it's going to
15 increase the overall budget for this project, is it
16 going to increase such that the district has to pay a
17 local share?

18 MR. BENINCASA: I believe it's a null
19 effect with or without the PLA, because the PLA
20 savings, the lion's share, are all predicated on the
21 fact that you can have a worker run on the Wicks Law,
22 and that we're going to do all prime subcontractors
23 through all these projects. The fact of the matter
24 is, in Phase 1, we only did the primes on two
25 projects. Everything abided by the Wicks Law, no

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2 different than city school construction outside of
3 here. And we're going to continue down that way. We
4 will be abiding by the Wicks Law. We'll have more
5 competition. So, therefore, one would argue we're
6 going to have less costs than if we have everything
7 run by a prime, okay? And that's one of the studies
8 that I was citing here.

9 MS. ELLIOTT: Well, the fact that it would
10 be -- is there going to be a delay in -- in doing
11 these schools? And if it's a delay, wouldn't that
12 just automatically raise the cost, if there's a delay?

13 MR. ALLEN WILLIAMS: Well, delay -- you
14 can't -- delay is not related to whether or not we
15 have or -- whether we have or don't have a PLA, no.
16 If we have -- if we don't have a PLA, it doesn't
17 necessarily follow that the project will be delayed or
18 the schedule will be delayed.

19 MR. RICHARDS: Something we can agree on
20 here, the MCA is not impacted by this debate.

21 MS. ELLIOTT: Okay.

22 MR. BENINCASA: Right.

23 MR. RICHARDS: The total cost of the
24 project, other things might be impacted, but the MCA
25 is not. And we would agree on that, so we don't have

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2 to keep arguing that point.

3 MR. BENINCASA: That's correct.

4 AUDIENCE PARTICIPANT: Could I ask a
5 question?

6 MR. HOURIHAN: Wait. We're in the board
7 deliberation part here.

8 AUDIENCE PARTICIPANT: Well, you've let
9 other people ask questions. Cynthia is not on the
10 board, with all due respect.

11 MR. HOURIHAN: Well, she's a pretty --
12 pretty big stakeholder here.

13 AUDIENCE PARTICIPANT: Well, I think we
14 all are pretty big stakeholders here.

15 MR. HOURIHAN: Okay. Well, let's --
16 let's --

17 AUDIENCE PARTICIPANT: I just want to know
18 why the board hasn't calculated the number of
19 apprentices who actually worked on the project. I
20 believe you have the data to do that. And I would be
21 very curious, if it's such a big issue for Allen and
22 others, why we don't know that. It's certainly part
23 of the certified payroll data, so...

24 MR. HOURIHAN: I'm just reading what the
25 judge has asked the parties to do, and --

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2 AUDIENCE PARTICIPANT: I don't think the
3 judge said to have a two-minute speaking period,
4 either, but --

5 MR. ALLEN WILLIAMS: The issue, Aaron, is
6 not -- is not the number of apprentices. That's not
7 the issue. The issue is how many women and minority
8 apprentices worked on the project. That's what the
9 big fight here is.

10 AUDIENCE PARTICIPANT: Let's calculate it,
11 Al. I agree. Let's calculate it.

12 MR. RICHARDS: Let's figure it out.

13 AUDIENCE PARTICIPANT: Yeah, it can be
14 figured out very easily.

15 (Audience participants and board members
16 overlap.)

17 MR. ALLEN WILLIAMS: Wayne, go ahead.

18 MR. WAYNE WILLIAMS: A grave concern for
19 me, in reference to the PLA, was the documentation
20 that justifies, based on the PLA alone, that goals
21 would, in fact, have been met by the project. I do
22 know that the contract documents require all the
23 contractors achieve the goals. I do recall seeing
24 considerable effort being put forward and
25 deliberations going back and forth on the contracts

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2 that we eventually approved; those contracts being
3 approved because they were going to, in fact, meet the
4 goals. And then the documentation that we were being
5 presented from the independent compliance officer
6 confirmed that those goals were, in fact, being met;
7 and in some cases, exceeded.

8 But nowhere have I seen specific
9 documentation that says it was solely because of the
10 PLA that that would be achieved. And moving forward,
11 given that we intend to have the same -- and do in the
12 case of the Monroe project, have the same -- actually,
13 increased goals identified, I have no reason to
14 believe that we would not meet those goals moving
15 forward. And that was one of the main items that led
16 me to move forward without the PLA.

17 MR. RICHARDS: Allen, one fact we do have,
18 is we know that the minority and female payroll on
19 this job -- for workers now -- was over \$13 million.
20 So, that's one fact we have that's relatively easy to
21 get to. We know there are about 3,800 people who have
22 worked on this job. Of those, about 2,200 made wages
23 at the level of an apprentice or below. And in that
24 number is -- is this \$13 million. We could actually
25 go back and figure out exactly who's who, because we

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2 have that information here. It has never been raised
3 as an issue until this debate here. But we do have
4 some facts on the table that support the fact that the
5 program produced significant amounts of benefits for
6 minorities and females.

7 MR. ALLEN WILLIAMS: Right. And that's
8 not in -- well, for me, it's not in dispute. My issue
9 is I believe that those benefits would have accrued
10 even without the PLA. And we're moving towards that
11 now in Phase 2. But on that, that's where we differ.

12 MR. RICHARDS: Yes.

13 MS. CRUZ: First and foremost, thank you,
14 guys, for coming. Thanks for taking the time coming
15 after working hard all day.

16 I'm a union worker. I've been a union
17 worker 15 years. I did say no to the project, okay?
18 I was actually disgusted by the results of the
19 apprenticeship project and a couple other things that
20 were going on. I personally have sent people over to
21 a couple of the projects, and -- I mean to the
22 programs, and many of those people were told no; you
23 know, rejected. Rejected. The lack of diversity with
24 Latinos was another issue with me.

25 I am interested in knowing how many of you

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2 who are here today have been in the union more than --
3 less than five years. Two. How many?

4 MR. GAWLOWICZ: Hands high so we can see.

5 MS. CRUZ: How many? One, two, three,
6 four. And the program has been around maybe five
7 years. So, that -- and in this program, you know --

8 AUDIENCE PARTICIPANT: Some of those
9 people have already graduated and turned into
10 journeymen. We had nine alone that came from the work
11 program that worked on that job. So, I don't know why
12 you keep on saying this number five.

13 AUDIENCE PARTICIPANT: And the bricklayers
14 had five.

15 (Audience participants and board members
16 overlap.)

17 MS. CRUZ: I'm going based on what's here.
18 I'm asking questions about the guys that are here.
19 I'm asking my questions of the people who are here;
20 how many of the people were employed under five years.
21 That's what I was asking.

22 MS. ELLIOTT: What's your point?

23 MS. CRUZ: Because that's how long the
24 program has been here. Okay? That's what I'm asking.

25 MR. RICHARDS: But, I mean, the fact that

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2 they're not here --

3 (Audience participants and board members
4 overlap.)

5 MS. CRUZ: That's what -- I'm just asking
6 for a reason, you know, and I'm asking because the
7 lack of diversity that has been going on. And I
8 understand he brought many people in, okay? And he
9 brought them in to show that he has diversity -- he
10 brought them in to show that they have diversity.
11 So --

12 MS. ELLIOTT: I'm just real concerned --
13 I'm asking all these questions myself, also, because
14 I'm really anxious that this thing doesn't get delayed
15 and that this process doesn't delay us going out into
16 those streets and building the buildings, because we
17 got to get our kids in those schools. We've already
18 sold, you know, last year, a number of buildings back
19 to the city, and charter schools have those buildings
20 now. The district has no space, and so we've got to
21 get this thing online so that we can make sure we
22 build these buildings and get those kids back in those
23 buildings. It's very important. We have a space
24 issue at the district. And, so, my concern is that
25 this does not delay the work that needs to be done.

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2 MS. CRUZ: And that's my concern as well.

3 MR. ALLEN WILLIAMS: And it won't,
4 because, you know, the start-up in Phase 2 -- well,
5 right now, Monroe, for example, was in danger of being
6 delayed. However, the Monroe project will move ahead
7 without the PLA. And which is one of the reasons why
8 we're having this discussion tonight, is the judge
9 basically said Monroe will move ahead without the PLA,
10 but the board has to come back and reconsider and
11 revote again on whether or not the rest of the project
12 will move forward with or without the PLA.

13 MS. ELLIOTT: Thank you.

14 MR. SCHMIDT: Three thoughts. First, as a
15 chief operating officer with the school district, I'm,
16 by nature, risk adverse. The PLA reduces, I believe,
17 a number of variables involved in the project
18 significantly. I have great respect for my colleagues
19 on the board and their positions. And Charlie's
20 point, I think we'll find out, at the end of the day,
21 whether or not these provide some savings or not.
22 It's not incumbent upon me, as a board member, to
23 provide evidence of savings. It is incumbent upon me,
24 as a board member, to represent the district -- the
25 interest of the school district and interest of the

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2 students in all these conversations.

3 The second piece, I have also iterated my
4 concern in regards to this very small training
5 program; asked for a number of times as well about the
6 data. But to Vice President Elliott's point, all of
7 that information, I did not feel like it was enough to
8 remove the -- remove ourselves from the project labor
9 agreement.

10 And then, finally, I think we -- we
11 entrusted Mr. Richards to negotiate the contract on
12 behalf of the board in terms of the PLA. That was
13 done among all of us as a board in order to do that.
14 If we were not going to have a PLA in place or
15 consider not having a PLA in place, we should not have
16 started those negotiations until we had that
17 conversation publicly as a group. And I think we've
18 put this whole piece -- this whole item, really, in
19 terms of a lot of confusion, by not getting this out
20 in front at the beginning that there were concerns as
21 to whether or not we were going to have it.

22 We also had significant conversations with
23 the State Education Department with regards to our MCA
24 waiver piece, and I feel like we really had -- we were
25 obligated -- or at least compelled to provide them the

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2 information that we may not have a PLA in place. Not
3 because it's required by the legislation, but because
4 it was an understanding that we had in Phase 1, and we
5 had built much of the conversation internally and
6 externally on that PLA for Phase 2. The reason why
7 that's important to me is because I engaged in those
8 conversations with State Ed. and negotiated the MCA
9 agreement, along with many others, on behalf of the
10 school district and the board, and this wasn't a part
11 of the conversation. We really should have been
12 transparent in regards to that.

13 And the third piece -- or the final
14 element is as a son of a union electrician for 38
15 years, IBEW, I know the value of what all the people
16 in the room do firsthand and am very much loyal to
17 that effect. So, I think that part of it, with the
18 root results in Phase 1, and the lack of concrete
19 evidence that we're going to have all the increased
20 savings and competition in Phase 2 without a PLA, it
21 was incumbent upon me to vote yes for the PLA, and if
22 asked to do it again, I certainly will.

23 MS. ELLIOTT: Can I ask another question?
24 So -- so, is there -- so, will there be another
25 training program?

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2 MR. ALLEN WILLIAMS: Yes. Any -- any
3 contract over a million dollars by state law requires
4 the contractor to have a state-approved apprentice
5 program. So, the answer is yes.

6 MS. ELLIOTT: Okay.

7 MR. ALLEN WILLIAMS: One other thing,
8 before we go to a vote, I would like to enter into the
9 record, this is a letter from the -- well, a letter
10 from the National Black Chamber of Commerce, and it
11 was addressed to Governor Andrew Cuomo back in 2014,
12 expressing his opposition to a PLA, because it
13 basically discriminated against or kept both minority
14 contractors and minority workers out of the workforce.

15 MR. RICHARDS: That's why our PLA is
16 unique. Our PLA is unique. Those PLAs you're
17 referring to there did not have the requirements that
18 the unions commit to these hiring goals, and that's
19 what's unique about ours.

20 I'd like to move, then, resolution for
21 1617, number 59.

22 MR. ALLEN WILLIAMS: Move. Can I get a
23 second?

24 MR. BROWN: Second.

25 MR. ALLEN WILLIAMS: Okay. And the

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2 resolution is -- again is --

3 MR. RICHARDS: To adopt the PLA.

4 MR. ALLEN WILLIAMS: To adopt the PLA.

5 MR. RICHARDS: The resolution that we
6 voted on last time. That's what was handed to me
7 here, right?

8 MR. ALLEN WILLIAMS: All in favor?

9 MR. SCHMIDT: Roll call vote.

10 MR. ALLEN WILLIAMS: Roll call vote.

11 Okay. Roll call vote. Alex, could you --

12 MR. RICHARDS: Could we just go down the
13 table here?

14 MR. ALLEN WILLIAMS: Okay.

15 MR. RICHARDS: I vote in favor of it.

16 MR. BROWN: I vote in favor of it.

17 MR. BENINCASA: I vote against.

18 MR. WAYNE WILLIAMS: I vote against.

19 MS. CRUZ: I vote against.

20 MR. SCHMIDT: I vote in favor of it.

21 MR. ALLEN WILLIAMS: I vote against.

22 So, the motion is defeated. We will not
23 implement a PLA for Phase 2.

24 (TIME: 5:40 p.m.)

25 * * *

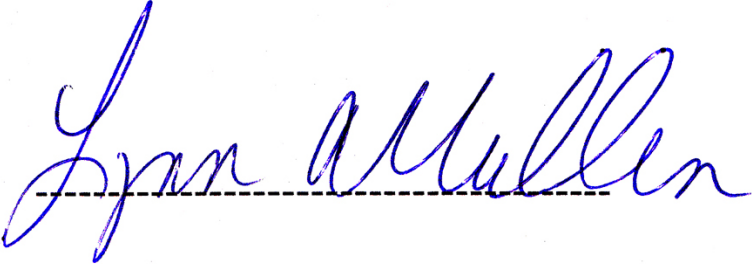
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C E R T I F I C A T I O N
STATE OF NEW YORK:
COUNTY OF MONROE:

I, LYNN A. MULLEN, RPR, do hereby certify that I reported in machine shorthand the above-styled cause; and that the foregoing pages were produced by computer-aided transcription (CAT) under my personal supervision and constitute a true and accurate record of the testimony in this proceeding;

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action;

WITNESS my hand in the City of Rochester, County of Monroe, State of New York.



LYNN A. MULLEN, RPR
Freelance Court Reporter and
Notary Public No. 01MU6216634
in and for Monroe County, New York