PUBLIC WORKS COMMITTEE

May 12, 2016 – 11:15 AM

Committee Members: Perrello (Chair), McCarthy (Vice Chair),
Rajsz, Owens, Samuelson, Alvarez, Sorensen

PRESENTATION:

DISCUSSIONS:

1. Airport Radio Tower

2. Solid Waste Rules

3. Jail Financing

4. Project Labor Agreement

RESOLUTIONS: None

REPORTS:

PUBLIC COMMENT:

APRIL 2016 MONTHLY REPORT

BUILDINGS & GROUNDS
- Continued addition of the Records Retention building
- Continued renovations in Surrogates Court
- Family Court contract carpet replacement
- Renovated space for boat rental at Lake Superior
- Removed trees and repair electric at the Landfill
- Distributed and collected voting machines
- Replaced flooring by contract in the Road Patrol building
- Prepared parks to open for the season
- Bridge #379 – replacement
- Bridge #361 – steel repairs
- Bridge #279 – parapet repairs

PARKS & RECREATION
- Completed seasonal employment hiring process and sent out document packets
- Participated in two meetings with Personnel and Payroll departments concerning seasonal employment orientations
- Distributed litter pluck bags countywide and responded to public inquiries concerning the program
- Hosted April Park & Recreation Commission meeting
- Continued selling Lake Superior Season Passes
- Continued accepting reservations for Fort Delaware Student Day Program
- Continued processing pavilion rental and park permit applications
- Continued planning seasonal events for Fort Delaware and D&H Canal
- Participated in Battleground Stewardship Workshop hosted by Lakes to Locks Passage and National Park Service
- Participated in D&H Canal Transportation Heritage Council Quarterly Meeting
- Participated in Sullivan Renaissance Spring Forum
- Participated in Town of Mamakating Canal Committee Monthly Meeting
- Met with adjacent property owner about drainage concerns at the D&H Canal
- Continued ordering items for Fort Delaware gift shop
- Prepared gift shop pre-order options for Student Day groups
- Communicated with NYS Covered Bridge Society representative concerning Path Through History event application in which they plan to include three Sullivan County covered bridges
- Conducted staff orientation at Fort Delaware

- Worked with DPW Operations to begin to prep parks for season openings
- Completed Parks capital plan documents
- Worked with Office of Management & Budget to monitor General Ledger lines in 2016 Budget
- Continued to assist with SCIA grant projects

SHOP STAFF
- Continued services & New York State Inspections
- Continued repairs on solid waste roll-off trucks and containers
- Made all necessary repairs to DPW and outside agency equipment
- Installed new body on Truck 156
- Removed sanders and installed bodies on Trucks 13, 198, 172, 104 and 106
- Prepared eight (8) leased vehicles to be put in service
- Removed plow frames from Trucks 226, 227 & 228
- Prepared mowers for the season
- Repaired and repainted body damage on vehicles
- Completed estimates on damaged vehicles
- Repaired rust on County vehicles
- Prepared new vehicles for Sheriff's Department

SIGN SHOP
- Fabricated signs for Division of Public Works and Towns
- Repaired signs on county roads and bridges
- Equipment maintenance on striper
- Sign Shop inventory data entry for 2014-2015
- Brush signs on County Roads
- Continued 2015-2016 sign inventory

AIRPORT
- Completed monthly Airport Rescue and Fire Fighting training (ARFF)
- Completed required monthly weather observations
- Continued Project Management Airport Drainage Improvements Project and the Terminal Access Roadway and Traffic Circle Rehabilitation Project

BRIDGES
- Addressed NYSDOT bridge flags for Bridges 228 and 436 (LIB), 243 (MAM), 361 NEV and 145 (ROC)
- Continued administration and management of construction and inspection contracts and quality control and assurance inspections for the Bridge 45 (FAL) Replacement Project
- Met with a property owner with bushes along CR 53 that need removal to provide

better sight distance for traffic safety and coordinated the removal of the bushes
- Continued preliminary engineering; monitoring program to check for additional settlement of the abutment impacted by the July 2014 flood and started the procurement of materials for the replacement of Bridge 22 (CAL)
- Continued administration and management work for engineering services; completed the preparation of an agreement for inspection services and a preconstruction meeting with the contractor and inspection firm to begin the construction work for the Bridge 369 (NEV) replacement project
- Completed the preparation and final review of construction plans for the Bridge 36 (MAM) replacement project and issued them to DPW Operations
- Continued preliminary engineering and planning work for the replacement of Bridge 259 (MAM) with a new routing of Depot Road which eliminates the need for the bridge
- Completed a meeting with NYSDOT for consideration of a proposed realignment of Benton Hollow Road on to NYSDOT right-of-way, to eliminate the need for Bridge 277 (LIB)
- Continued follow-up work with NYSDOT for the use of surplus State Route 209 property to extend Depot Road for the Bridge 259 (MAM) project
- Continued preliminary engineering and planning for the replacement of Bridge 98 (BET)
- Continued follow-up work for Radio Tower foundation inspections
- Continued periodic re-inspection of Bridge 279 (DEL) to ascertain any change in condition due to frost action on the areas that were damaged by a vehicular accident
- Completed updating of the multi-year Capital Bridge Program
- Continued coordination with the utility companies for the Bridge 22 (CAL) replacement project
- Requested authorization to implement stream disturbance work from NYSDEC for the cleaning out of a gravel bar at Bridge 235 (NEV)
- Submitted a request to NYSDEC to obtain an extension of the County's General Permit for stream disturbance work
- Issued construction plans to DPW Operations for the replacement of Bridge 379 (LIB) and started inspection work
- Completed inspections of Toaspern Dam and Silver Lake Dam and prepared the semi-annual inspection report
- Reviewed the annual concrete bid document and recommended changes

BUILDINGS
- New Sullivan County Jail project 280 page plan review for 2010 code compliance & 2015 code compliance, ten page Commercial Plan Checklist, Building Permit issuance and chart of inspections & certifications required for a Certificate of Occupancy

- Completed foster care home inspections and reports for the Department of Family Services (DFS) weekly
- Proceeded with Department of State (DOS) mandated 2016 Building Inspections and Reports with Annual/Triennial Building Inspection Summary Chart
- Sullivan County cooling tower inspection & testing coordination with Engineering firm
- Government Center New York Power Authority (NYPA) coordination with Pres Energy Technicians for the Energy Efficiency Project
- Emergency Services Training Facility (ESTF) Parking Lot Lighting Change Order #2016-1, Payment Application #1 and field pictures
- Carbon monoxide detector list showing quantities required in each Sullivan County building for DPW installation as mandated by the New York State Department of State
- Bushnell fire extinguisher research & code review
- Reviewed 2016 Code Update for 2016 Uniform Code Supplement & 2016 Supplement To The NYS Energy Conservation Construction Code
- Sullivan County Government Center Treasurer security & Veterans soundproofing plans
- Federal Communications Commission (FCC) continued coordination for new towers
- FCC Antenna Structure Registration(ASR) form 854 Part 2 online for Monticello Tower
- Continue with mandated Federal Communications Commission radio license renewal and modification forms for EMS, sheriff, fire service, highway maintenance, microwave and local government
- Annual Water Quality Report for 2015 (AWQR2015) for the Sullivan County Human Service Complex coordination as mandated by the NYSDOH
- Prepared and submitted the Human Service Complex & Airport mandated monthly water chlorination system Operation Report calculations and letters to NYSDOH
- Completed weekly water testing at the Human Service Complex water chlorination system with documentation
- Water lab invoice & voucher review & approval
- Provided technical support for County facility operations and maintenance

HIGHWAYS
- Provided ROW information to the public
- Continued to advance the County Road 173 (THO) reconstruction project (ongoing right-of-way acquisition process – consultant invoicing – status review)
- Continued to coordinate with the County's construction inspection consultant (MJI) on design changes and requests for information (RFI's) for the County Road 173 / Exit 106 (THO) roundabout project related to the proposed EPT Concord development (MJI participating in weekly construction meetings on County's

behalf and providing onsite inspection services – construction re-started for season – County providing additional oversight and guidance as needed)

- Continued with preparations for the 2016 contract paving, chip sealing and crack sealing programs – reviewed bids and recommended award for the contract paving and striping of 30.5 miles of county road – held pre-construction meetings with both the crack sealing and chip sealing contractors for another 44.5 miles of county road – marked out shim areas to be paved by contractor in advance of surface treatments
- Assisted operations with the preparation of custom details for new drainage structures on County Roads 31 and 41 (LUM) – provided survey control and layout for replacement drainage system
- Began preparation of permit application drawings and documents for an embankment stabilization project on County Road 127 (CAL)
- Reviewed and/or researched the following for safety issues, potential impacts to and conflicts with the County's right-of-way, drainage, infrastructure and maintenance: County Road 16 (LIB) – School Bus Stop ahead sign request; County Road 55 (MAM) – road condition complaint; County Road 62 (MAM) – access complaint; County Road 93 (FRE) – prevailing speed study related to permit application; County Road 105A (NEV) – sign complaint; County Road 113 – sight distance measurement related to new campground access; County Road 149 (ROC) – sight distance measurement related to Dollar General site plan; County Road 173 (THO) – right-of-way research in conjunction with NYSDOT related to a new salt dome proposal on DOT property by the Town of Thompson and; County Roads 11 and 12 (HIG), 58 (THO), 121 (DEL), 146 (LIB) and TH 58 (LIB) – provided comments to planning for G.M.L. 239 reviews
- Completed the upgrade of the official County Highway Map – added new signature block per recently approved resolution
- Provided the first quarter performance measure reporting for the highway unit
- Attended a one day training session at Cornell Co-op Extension on Traffic Signs and Pavement Markings for local roads

SOLID WASTE & RECYCLING - MONTHLY REPORT

Month	2015 tonnage (T)	2015 tonnage (T)
January	2,368	2,846
February	2,212	3,045
March	3,075	3,884
April	3,908	
May	4,274	
June	5,757	
July	9,188	
August	8,486	
September	4,755	
October	4,045	
November	3,403	
December	4,436	
TOTAL	55,907	

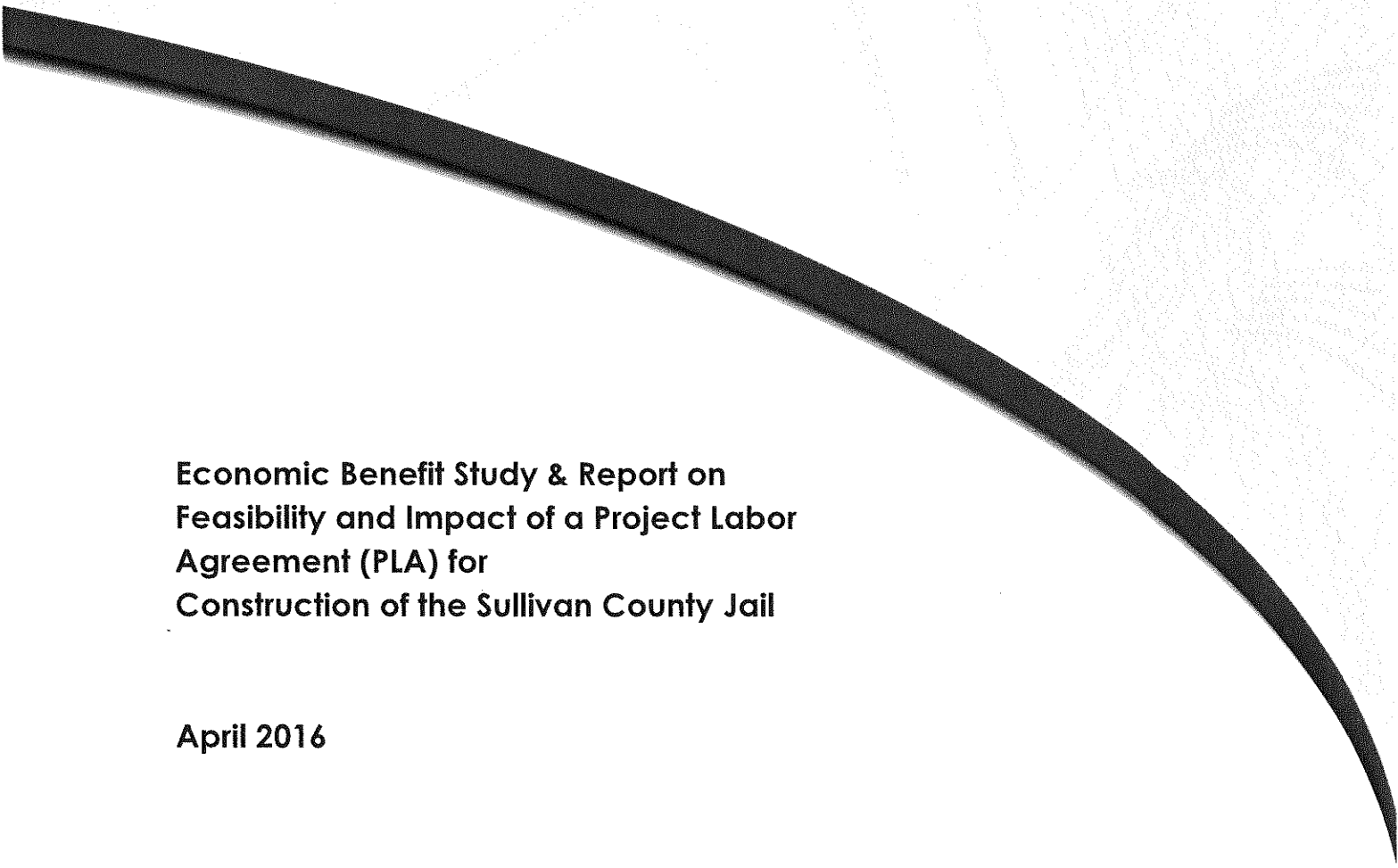(T) - Total Monticello Transfer Station

SOLID WASTE

- Continued tracking of the Monticello Transfer Station tonnage for invoice review and reporting
- Prepared and submitted monthly SPDES reports in accordance with NYSDEC permit conditions
- Continued preparation of annual reports for the Landfill
- Continued work with Cornerstone on SCSL permit renewal
- Submitted the E-Greenhouse Gas reporting as required by the EPA

RECYCLING

- 2015 NYSDEC Electronic Scrap Annual Reports for Ferndale, Highland, Mamakating, Monticello, Rockland and Western Sullivan facilities complete & submitted
- Continue development of 2016 Household Hazardous Waste Collection Event Plans for two collection events
- Coordinate 2016 Municipal Cleanup Program with municipalities
- Sullivan County Retired Teachers Association recycling presentation provided
- Hudson Valley Regional Council Materials Management Committee meeting
- Continue Electronic Scrap vendor coordination at recycling facilities; evaluate new bidders and changes to program
- Staff guidance for suspension of acceptance of E-Scrap at transfer stations developed
- Press release for possible suspension of acceptance of E-Scrap developed

- Forwarded County Home Page literature updates for recycling to Admin. for posting to web site
- Earth Day Food Waste & Organics Management Display provided in conjunction with NYSDEC for use at Sullivan County Community College
- Earth Day Materials Management Classes provided at the White Sulfur Springs School with Ashley Prouty
- 2016 Leadership Sullivan Materials Management Class instruction with facility tour and leadership educational materials provided
- NYSDEC notification of Recycling Coordinator Funding Requests for $128,591 and $137,086 received and placed on State MWRR wait list at positions #1304 and #1305 respectively
- Rx Task Force participation with Public Health Services
- Public Works Committee recycling update
- Reviewed recycling program vouchers
- Single Stream Recycling Program ongoing education/program promotion
- Continued marketing coordination with Treasurers Department and Office of General Services for marketing, sale and tracking of recyclables
- Water sampling & analysis at public works & solid waste facilities
- Continued water & leachate sampling invoices/Pace Analytical Labs

Economic Benefit Study & Report on
Feasibility and Impact of a Project Labor
Agreement (PLA) for
Construction of the Sullivan County Jail

April 2016

HILL
Hill International

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Labor/Cost Analysis and Report

I. Executive Summary

A. Introduction

Hill International Inc., (Hill) was retained by the Sullivan County Government to conduct a labor and cost analysis and study, and prepare this report addressing the feasibility, economic benefits and appropriateness of utilizing a Project Labor Agreement (PLA) in connection with construction of the Sullivan County Jail (the Project). Hill was selected for its extensive experience and participation in similar studies involving numerous major public projects.

A PLA is a type of collective bargaining agreement often utilized as a tool for the expeditious, cost effective construction of large, lengthy and/or complex projects employing multiple contractors and trades. It provides for standardized work practices; hours; holidays; grievance, arbitration and jurisdictional dispute procedures; and for overall labor/management harmony. A PLA precludes strikes, lockouts, work stoppages and any other work disruption for the duration of the work covered by the PLA. It typically is mandatory that all parties, both union and non-union, sign the PLA, which supersedes all pre-existing agreements. A PLA also provides that the bidding and selection process is open to union and non-union contractors equally. Its benefits and terms are applicable equally to all successful contractors on the same terms regardless of union or non-union status; and, no discrimination is permitted in hiring hall referrals or in employment of workers based upon union membership.

Following the U.S. Supreme Court decision in the Boston Harbor case and the New York Court of Appeals' Tappan Zee Bridge (TZB) decision, case law in New York and the overwhelming majority of cases nationally have upheld the validity of PLAs on major capital public construction projects. Outside New York, courts have found public project PLAs valid at the federal level and in every state where challenged. The importance and viability of PLAs in major capital public projects is reflected not only in the court decisions, but in the repeated and expanding utilization of PLAs nationwide over the past several years on projects including major buildings, sports stadiums and arenas, schools, airports, seaports, highways and bridges, extensive water resources projects in the western and southwestern United States and major capital construction of every kind.

B. The Project

1. Description

The Project is located in the town of Thompson, Sullivan County, New York, and will include construction of a new 134,000 square foot, 256 bed jail facility with the capacity to double cell up to 304 beds. Design will include a precast concrete exterior and housing cells. The Project will also include construction of a new access road to the jail and installation of off-site water and sewage infrastructure.

2. Estimated Construction Cost and Schedule

The project construction is scheduled to begin in Summer 2016 and be completed in December, 2018 at a total cost of approximately $73 million and a labor component of approximately $30 million.

C. Analysis and Study

Information and data were obtained online, from the New York State Department of Labor (NYSDOL), LaBella Associates, contractors in the region, labor leaders, the Mid-Hudson Construction Contractors Association, Sullivan County Partnership and various media sources. The current unemployment rate in the county is 5.5% - down from 8.3% in December 2013 and 6.4% in December 2014 and is the lowest it has been in 15 years. The rate in the construction industry is expected to be 95% to full employment before summer. There is an estimated $6 billion in ongoing and projected construction ($2.2 billion in Sullivan County alone) in the area including Orange County and there is some concern that the demand for construction workers will outpace the supply, creating shortages in some trades.

The President of the local Building Trades Council and the Executive Director of the Mid-Hudson Construction Contractors Association provided a list of projected public and private projects for the next three years, including schools, hospitals, hotels, federal buildings at West Point, and numerous varied projects with an aggregate value of more than $6 billion (Appendix B).

When these projects begin on or close to schedule, any construction industry unemployment problem in the Hudson Valley will disappear and shortages in certain skilled labor trades are likely. In the event such a shortage should occur, the most established and reliable method of ensuring an adequate supply of trained, qualified, skilled workers on a project is through the local trade unions and their affiliates located elsewhere (if necessary). Non-union employers typically do not have training facilities and they often cannot draw upon outside sources to obtain trained, skilled craft workers because such sources typically do not exist.

The current collective bargaining agreements of each of the local unions that would likely be involved in work covered by the PLA were reviewed and analyzed as part of this study. Pertinent provisions were reviewed to determine expiration dates and areas where standardization of provisions of the PLA could affect cost savings. It was determined that twelve (12) of the local agreements will expire and be renegotiated at least once during project construction, leaving the project vulnerable to lawful strikes and/ or work disruption absent a comprehensive "no strike" agreement. Each of these expirations presents a risk to both union and non-union contractors that utilize union building trades: any new negotiations between the unions and the local contractor associations can break down. Workers covered by those agreements could then lawfully strike over any number of issues, including many that would have nothing to do with the Project construction.

It was also determined that there is little diversity among the trades' work rules with regard to hours of work, shifts, flextime, overtime, premium time, holidays, grievance and arbitration procedures, and Equal Opportunity objectives. Since the collective bargaining agreements of most of the trades have been standardized over the past several years through individual collective bargaining, most formerly disparate provisions, which in the past would have yielded cost savings under a PLA, no longer differ in terms.

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D. Conclusions and Recommendations

A PLA is considered appropriate for this Project since, based upon workforce composition, bidding and award history on similar size projects, all or a portion of the work in all probability will be performed by union labor as either prime or subcontractors. A PLA will assure **Sullivan** County of:

- The best work at the lowest price through experienced, trained and highly skilled workers
- Preventing favoritism, fraud and corruption – a PLA is open to all bidders equally and provides for non-discrimination in referrals and hiring
- Preventing any impact of delay through a "no strike" provision and guaranteed supply of skilled labor for duration of work;
- Estimated cost savings of approximately $3.5 million of total labor cost as well as significant non-quantifiable cost savings through standardization of work rules, increased efficiency and productivity;
- An additional $1,186,000 could be saved should Workers' Compensation ADR be utilized;

- Prevention of possible labor unrest through the "no-strike"/no disruption provisions";
- A positive impact on the ability to achieve diversity goals through the best efforts of the unions to maximize participation by women and minorities in Project work through apprentice programs and entry into the workforce.

It is recommended that:

- A PLA be drafted and executed between Sullivan County and the Hudson Valley Building and Construction Trades Council (HVBCTC) and its member local unions.
- A PLA be included in the bid specifications for the Project.

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II. Introduction and Background

Hill International, Inc. was retained by the Sullivan County Government to conduct a due diligence study and analysis of the labor market, work history, potential economic benefits and other relevant factors pertaining to the feasibility of utilizing a PLA in connection with construction of the Sullivan County Jail. Hill was selected because of its familiarity, experience and participation in similar studies on more than sixty (60) major capital public projects for public entities including NYSDOT, NYSTA, NYCSCA, NYSOGS, various county and local governments and numerous school districts. Hill has participated in every aspect of the PLA process, including the feasibility study, drafting, negotiation, administration and legal defense; and has recommended both for and against the use of PLAs, based upon the best interests and needs of the specific owner and project.

A. What is a Project Labor Agreement?

A PLA, sometimes referred to as a "Pre-Hire Agreement," is a type of collective bargaining agreement commonly used for decades as a management tool for expeditious, cost-effective construction on private construction projects and, for the past several years with increasing frequency, on large, time-sensitive or other special needs public construction projects. On public projects employing a PLA (i.e., those involving multiple contractors and trades), it is typically mandatory that both union and non-union contractors (employers) accept the PLA as a condition of being awarded the contract.

A PLA typically applies to a single project or series of specified projects as part of a construction program and has no bearing or relevance to any other work a contractor or union may be involved in during the same period of time. A PLA is an umbrella labor agreement for the construction of a specific project or program of work, including its component parts or packages during a specific period of time. All parties involved in the construction are required to be signatories to the PLA, which supersedes any prior-existing collective bargaining agreements which might otherwise apply to the work. A PLA typically provides for standardized work practices, work hours, holidays, grievance, dispute and arbitration procedures and overall labor/management harmony for the duration of the project. PLAs often contain economic concessions and, most importantly, a PLA precludes strikes, lockouts, work stoppages and/or any other disruption of work for any reason during the term of the PLA.

B. The Boston Harbor Precedent

Although there is a history of use of PLAs on large public projects, such as the Grand Coulee, Shasta and Hoover Dams in the 1930s and 1940s, the first legal challenge occurred in the early 1990s, at which time a PLA was required by the public entity owner for the massive, multi-billion dollar, multi-year project involving the clean-up of Boston Harbor. The project involved scores of contractors and unions, each of which was required to become signatories to a PLA. The challenge was made on a federal preemption theory, arguing that the government entity-owner requirement that all successful bidders become parties to that PLA constituted an impermissible state intrusion into the labor relations of project contractors, and was pre-empted by the National Labor Relations Act (NLRA).

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In its March 1993 landmark decision, Associated Builders and Contractors of Massachusetts/Rhode Island, Inc. v. Massachusetts Water Resources Authority (commonly known as Boston Harbor), 507 U.S. 218 (1993), the U.S. Supreme Court held that, although the government could not impose a PLA in its regulatory capacity, it was not prohibited from benefiting from a PLA wherein the government entity was acting in its proprietary capacity as an owner or a purchaser of construction services in the construction industry marketplace. This decision has provided the impetus for public-sector PLAs across the nation. It also has forced opponents of PLAs to base their challenges primarily upon a theory that a PLA violates a state's competitive bidding statutes because it allegedly favors union over non-union bidders.

Soon after the Boston Harbor decision, then-Governor Cuomo's office issued a memorandum to all state agencies and authorities, referencing the "Boston Harbor Agreement" and directing that said construction agencies and authorities:

> *"...evaluate the benefits, for appropriate projects, of negotiating a pre-hire agreement,... Such benefits may include the promotion of labor stability, timeliness of completion and efficiency."*

C. New York and the Tappan Zee Bridge PLA

The New York State Thruway Authority (NYSTA) was at that time preparing to undertake a major rehabilitation and construction project on the Tappan Zee Bridge involving multiple contractors, nineteen unions, a minimum of a four-year construction schedule, and an estimated cost of $130 million. Hill was then under contract to the NYSTA, and was directed to pursue with the New York State Building and Construction Trades Council (NYSBCTC), local union representatives and other appropriate parties a determination as to whether a PLA could be negotiated that would conform to the guidelines in the Governor's memorandum, as well as:

- Provide economic savings in the construction process through changes in work rules and practices, and improve productivity, safety, efficiency and timeliness of construction.
- Provide for the enhancement of employment opportunities for minority, women and disadvantaged persons.
- Allow all successful bidders, including open-shop contractors, to utilize a portion of their regular workforce on the project.

After an in-depth analysis of the existing labor market; a thorough review, analysis and comparison of the nineteen individual collective bargaining agreements; a review of the recent work history and labor unrest; numerous meetings and interviews with contractors and their associations' representatives; and more than four months of intensive labor negotiations, a draft PLA, acceptable to all parties, was submitted to the NYSTA Board of Directors for consideration, together with the Hill report recommending approval. The report identified cost savings, as well as other benefits to be derived from the proposed PLA, which was modeled after the Boston Harbor PLA.

The PLA was approved, executed by the necessary parties and included as part of the specifications in the first bid package issued by the NYSTA for the Tappan Zee Bridge Project. The PLA was immediately challenged in the New York State Supreme Court by open shop contractors and their associations. After

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a brief Temporary Restraining Order, the lower court refused to grant an injunction. Construction on the project proceeded, utilizing the PLA while the litigation continued through the New York Court of Appeals, where the validity of the PLA ultimately was upheld. New York State Chapter ABC, Inc. v. New York State Thruway Authority, 88 N.Y. 2d 56, 643 N.Y.S. 2d 480, 666 N.E.2d 185 (1996).

The Court of Appeals noted that, while a PLA is a restriction on the bidding process, its use is justified if the contracting authority can demonstrate, on a case-by-case basis, that its use will meet the objectives of the state competitive bidding laws. The Court of Appeals held that the purposes of the state competitive bidding statutes were (1) guarding against fraud, favoritism and extravagance, and (2) ensuring honest competition to obtain the best work at the lowest possible price. The Court found that the first purpose was served by the PLA in that case because equal access to the bidding process, and the PLA's benefits, were available to both union and non-union contractors on the same terms, and that ultimate contract award was to be made without regard to union status. The PLA also prohibited discrimination by unions and contractors against employees regardless of union/non-union status in either work referrals from the hiring halls or on the job, thus further ensuring equal treatment.

The second purpose was found to be served by the PLA requirement in that it created cost savings for the NYSTA in several ways, thus protecting the "public fisc." The court noted specific areas of cost savings from concessions such as four 10-hour days at straight time, standardization of working hours, holidays, etc. The Court also specifically noted the potential substantial savings from the PLA's comprehensive "no-strike" clause, which precluded labor disruptions for the duration of the project. The stated purposes of the statute therefore having been met, the requirement of the PLA was upheld by the Court.

D. Executive Order No. 49 and New York Labor Law, Section 222, Project Labor Agreements

On February 12, 1997, then- Governor Pataki promulgated Executive Order No. 49 Project Labor Agreements (Appendix A) which, citing the Tappan Zee Bridge decision as authority, sets forth that PLAs are one of many tools that may be used by management and labor and which may, under certain circumstances, assist in achieving the goals of timeliness, cost-effectiveness, fairness, equity and conformity to the law. It was continued by Governors Spitzer, Patterson and Cuomo by Executive orders No. 5 (2007), No. 9 (2008) and No. 2 (2011) respectively. It sets forth the policies and procedures to be followed by state agencies in determining whether a PLA should be utilized and, if so, the interaction between Article 8 of the Labor Law and the PLA. Executive Order No. 49 has been often cited with approval by the New York Courts.

In 2008 the New York State Legislature codified the guidelines set forth in E.O. 49 and by the Court of Appeals by enactment of New York Labor Law, Section 222, Project Labor Agreements. Section 222 defines a PLA and provides that any state agency or department may require a contractor awarded a contract for a project to enter into a PLA during or for work involved when the agency or department determines that its interest in obtaining the best work at the lowest possible price; preventing favoritism, fraud or corruption; and other considerations such as the impact of delay, the possibility of cost savings advantages, and any local history of labor unrest, are best met by requiring a project labor agreement.

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E. PLAs Nationwide

PLAs have been and are currently utilized in all 50 states and in the District of Columbia. They have been upheld by appellate courts in every state in which they have been challenged and at the federal level.

In February 2001, President Bush signed an Executive Order banning the use of PLAs on all federally funded projects, effectively precluding PLAs on major highway and bridge projects nationwide for eight years. In February 2009, President Obama signed Executive Order No. 13502 rescinding the Bush Executive Order and promoting the use of PLAs on major capital projects ($25 million+) where a PLA will enhance economy and efficiency. To date, some 10-12 federal building projects from Hawaii to New Jersey are in various stages of completions utilizing PLAs pursuant to Executive Order No. 13502.

The Building and Construction Trades Department in Washington, DC announced recently that since 2008, notwithstanding the economic downturn, more than 600 PLAs, with an aggregate value in excess of $200 billion, have been negotiated and put in place in both the public and private sectors across the country.

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III. The Project

A. Project Description

The Project is located in the town of Thompson, Sullivan County, New York, and will include construction of a new 134,000 square foot, 256 bed jail facility with the capacity to double cell up to 304 beds. Design will include a precast concrete exterior and housing cells. The Project will also include construction of a new access road to the jail and installation of off-site water and sewage infrastructure.

B. Project Estimated Cost and Schedule

Construction/demolition will begin in Summer 2016 and be completed in December 2018 at an estimated cost of approximately $73 million, with a labor component of approximately $30 million.

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IV. Construction and Labor Analysis

A. Workforce

Information and data were obtained online, from the New York State Department of Labor (NYSDOL), LaBella Associates, contractors in the region, labor leaders, the Mid-Hudson Construction Contractors Association, Sullivan County Partnership and various media sources. The current unemployment rate in the county is 5.5% - down from 8.3% in December 2013 and 6.4% in December 2014 and is the lowest it has been in 15 years. The rate in the construction industry is expected to be 95% to full employment before summer. There is an estimated $6 billion in ongoing and projected construction ($2.2 billion in Sullivan County alone) in the area including Orange County and there is some concern that the demand for construction workers will outpace the supply, creating shortages in some trades. The HVBCTC trades cover Sullivan, Orange, Ulster, and Dutchess Counties.

The overall composition of the area workforce is estimated to be approximately 75% union and 25% non-union, while the market share of public work over the past several years has been 80-85% union. Current unemployment among the trades is 5-10% and expected to be at full employment by summer.

Union membership levels, in most of the building trades, are projected to increase somewhat with acceptance of higher numbers of apprentices in most trades. All trades are actively training new members and retraining current workers to improve their skills on newer, state-of-the-art and more productive methods, tools, equipment and materials.

Training facilities and apprentice programs are being expanded in an effort to adequately man the expected new construction as well as to accommodate the rapidly changing skills required in the areas of mechanical, building, automation and electrical trades for existing and new workers as well as applicants. Union leadership in all of the trades stress the importance of maintaining a continuous supply of well-trained, skilled workers necessary for the needs of present and future construction projects.

B. Projected Construction

Given the size, number and complexity of the area's current and planned construction projects (Appendix B), owners and trades have been extremely fortunate that as one large project has been completed, a new one began allowing for a relatively seamless transfer of workers from one job to another without either increased unemployment or a critical shortage of skilled workers. There have been shortages in Carpenters and Masons, which were filled with "travelers" from Binghampton and Albany Building Trades Councils. For the next two (2) to three (3) years, many of the new projects will be in construction concurrently with this Project. A few of those mega projects, e.g. the casino and adjacent hotel and the Delaware Aqueduct, will be drawing from the same labor pool. When the many multi-million dollar projects, together with the ongoing routine state and county road, bridge and other infrastructure maintenance projects are added to the mix, the work force, both union and non-union will be at maximum capacity.

Shortages in certain skilled labor trades are likely, particularly in the heavy highway trades since they are also utilized in the building projects. In the event such a shortage should occur, the most established and reliable method of ensuring an adequate supply of trained, qualified, skilled workers on a project is through the local trade unions and their affiliates located elsewhere (if necessary). Non-union employers typically do not have training facilities and they often cannot draw upon outside sources to obtain trained, skilled craft workers because such sources typically do not exist.

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V. Current Collective Bargaining Agreements

In the absence of a PLA, all or a portion of the covered work would likely be performed by union contractors and/or subcontractors, and thus performed under union contracts. Specifically, local labor agreements with the HVBCTC trades would be involved. The collective bargaining agreement (CBA) of each of these local unions was reviewed and analyzed as part of this study and is summarized in pertinent part in Appendix C.

The significant and pertinent provisions of these local agreements were analyzed for possible variances in their terms and conditions. The first area of concern is that twelve (12) of the agreements will expire during Project construction. Each of these expirations presents a risk to both union and non-union contractors that utilize union building trades: any new negotiations between the unions and the local contractor associations can break down. Workers covered by those agreements could then lawfully strike over any number of issues, including many that would have nothing to do with the Project construction.

Strikes not only directly drive up construction costs, they disrupt construction progress and result in completion delays. Any delay in construction completion also means delay in occupancy of the jail facility. The PLA's comprehensive no strike clause virtually eliminates the risk of potential strike activity or work disruption as a cause of Project delay. Should a strike occur upon the expiration of a local CBA, work on the Project covered by the PLA will go forward.

During the past five years, there have been more than sixty incidents of labor unrest by individual member unions of the BCTC. These included work stoppages or slowdowns, picketing, and distribution of leaflets. Two of these incidents involved heavy and highway projects; however, it does not appear that there was resultant delay and/or cost increases related to labor unrest. The risks to this Project lie not only in the potential shortage of skilled labor, but in the potential of a strike during renegotiation of a collective bargaining agreement over an issue having nothing to do with the Project. Neither the Owner nor the General Contractor would be party to the re-negotiations and would have no control over their outcome. Such a strike, absent a PLA, would result in a picket line which would not be crossed by other trades workers and could effectively shut down the Project, at least temporarily.

Following are a few examples of some of the main areas among the provisions of the respective CBAs that were reviewed and analyzed:

Hours of Work

All but two (2) of the agreements provide for a 40-hour work week at straight time. Though starting and quitting times vary, all agreements provide for options giving the contractor some flexibility without a premium pay penalty.

Holidays

The number of holidays varies from six (6) to eleven (11) among the trades. A PLA will standardize the Holiday provision at six for all trades, thereby assuring that all trades will be on the job on the same days.

Jurisdictional Disputes

Procedures for dealing with jurisdictional work assignments and consequential disputes are not uniform or consistent. Agreements vary with regard to costs, binding effect of award, and work disruption pending decisions. A PLA provides for a uniform jurisdictional dispute resolution mechanism.

Most important, there is no existing method, means, or procedure to ensure that there will be no strike, lockout, work stoppage or other work disruption pending resolution of such a dispute. A PLA provides for protection against work disruption during jurisdictional disputes.

Grievances/Arbitration

Though local labor-management grievance procedures exist, they vary among specific crafts and contractor associations. No standardized binding forum exists with authority over all respective parties. A PLA provides for a uniform dispute resolution procedure.

Management Rights

Many of the existing agreements do not contain a "Management Rights" clause. Those that exist are often ambiguous or inadequate to provide the contractor with the authority and/or flexibility required for necessary control and management of the project work. A PLA will contain a broad management rights clause giving the contractor control of the schedule and manning as well as "means and methods."

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VI. Analysis of Economic Benefits of a PLA

For this study, various PLA provisions were analyzed for their potential cost benefits. The provisions can be categorized as either quantifiable or non-quantifiable. Quantifiable provisions are economic provisions whose specific savings can be calculated, based upon the specifics of the project. Non-quantifiable provisions are those from which economic value cannot be precisely calculated; however, still provide benefit and value through increased efficiency and productivity.

A. Quantifiable Savings

1. Holidays

Holidays listed in the CBAs of the trades involved in the Project work range from six (6) to eleven (11). The PLA would provide for a standard six holidays. Utilizing weighted wage rates by trade, this results in a cost savings of $168,847 or 0.54% of total labor costs (Appendix E).

2. Apprentices

Recognizing the need to maintain continuing supportive programs designed to develop adequate numbers of competent workers in the construction industry and to provide craft entry opportunities for minorities, women and economically disadvantaged non-minority males, contractors can employ apprentices in their respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured. Contractors may utilize apprentices and such other appropriate classifications in the maximum ratio permitted by the New York State Department of Labor or the maximum allowed per trade. During the economic downturn and high unemployment in the trades, Journeymen are typically given preference over Apprentices for work assignments. As the economy improves, Apprentices have more opportunity for employment and training. Apprentice ratios vary among the trades. Utilizing the maximum percentage of Apprentices (25%) provided in a PLA, an estimated savings of $160,978 or 0.54% of labor costs would be realized (Appendix E.)

3. 35 Hour Work Week

CBAs of two (2) trades provide for a 35 hour work week. Working 40 hours at straight time under a PLA would result in a cost savings of $65,967 or 0.22% of total labor costs.

4. Wicks Law Exemption

New York State Law, Section 222(1) (a) defines a PLA, Section 222(2) (a) discusses use of a PLA, and Section 222(2) (b) sets forth the exemption of PLAs from the Wicks Law requirement as follows:

> (b) Any contract, subcontract, lease, grant, bond, covenant or other agreement for projects undertaken pursuant to this section shall not be subject to the requirements of separate specifications (referred to as the Wicks Law) when the agency, board, department, commission or officer of the State of New York, or political subdivision thereof, municipal corporation, public benefit corporation or local or state authority having jurisdiction over the public work has chosen to require a project labor agreement, pursuant to paragraph (a) of this subdivision.

The savings resulting from the Wicks Law PLA Exemption is $3,170,111 or 10.54% of the total labor cost for that project (Appendix E and F).

Summary of Quantifiable Cost Savings (Appendix E)

Provision	Amount	% of Labor Cost
Holidays	$168,847	0.56%
Apprentice	$160,978	0.54%
35-Hour Work Week	$65,967	0.22%
Wicks Law Exemption	$3,170,111	10.54%
Total	**$ 3,565,903**	**11.86%**

5. OPTION: Workers' Compensation – Alternative Dispute Resolution (ADR)

New York State enacted legislation in 1995 authorizing collectively bargained ADR procedures for workers compensation for the unionized sector of the construction industry (Chapter 491, Laws of 1995). The legislature directed the School of Industrial and Labor Relations at Cornell University (ILR School) to conduct a study evaluating the use, costs and merits of ADR. The report, submitted to the NYS Workers Compensation Board in 2001 found that:

*   Injuries occurring under ADR were less likely to lead to a dispute
*   ADR system concludes cases more quickly
*   ADR is associated with lower medical costs, but not lower benefits

At that time, Hill was conducting a due diligence, PLA Feasibility Study for the NYSDOT for the I-287/ CWE Project and was asked to evaluate the inclusion of an ADR provision in the PLA. Hill worked with Jack Frazier, Vice President, Allied Insurance, one of the NYS approved ADR carriers, the Construction Industry Council and the BCTC of Westchester and Putnam Counties and an ADR agreement was executed and included in the PLA. The estimated cost savings were substantial (1% - 5%) of total labor costs. Mr. Frazier has continued to work with the HVBCTC and the Construction Contractors Association (CCA) and has administered the ADR program for more than 10 years.

A study by Fred Kotler, J.D., Research Associate at the Cornell ILR School, Alternative Dispute Resolution (ADR) for Workers In Collective Bargaining Agreements: An Overview (April 2012) was completed for the HVBCTC in April 2012. Based upon an evaluation of the Hudson Valley ADR Program, Mr. Kotler, with input from Mr. Frazier, conservatively estimated savings of 10% - 40% of traditional "Expected Loss Factors." Hill discussed this at length with Mr. Frazier, now a Senior Vice President of American Global, LLC, and determined that for bidding purposes, the savings could conservatively amount to a Workers' Compensation savings of approximately $386,000 and an additional savings of $800,000 from exclusion of third party participation and expected loss factors for an ADR savings of approximately $1,186,000.

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B. Non-Quantifiable Savings

1. Standardization of Terms and Flexibility of Scheduling

Lower construction costs will clearly result from the planning and coordination benefits of having a single, harmonized labor agreement, particularly among different trades that have to work together in a coordinated function (e.g. if certain deliveries arrive at 7:00 am, the contractor can schedule applicable trades who might work with the delivery, to start at 7:00 am even if their local agreement calls for an 8:00 am start with premium pay for anything earlier). In addition, improvements to the construction process will also be achieved through flexible starting times at the work site coordinated and/or staggered lunch periods and break time provisions. A PLA would provide for a three (3) hour window at the beginning of the workday (6:00 am – 9:00 am) set by the contractor.

2. No Strike or Work Stoppage Provision

The General and Administrative (G&A) costs for the Project were estimated at six percent. Though it is not possible to predict the occurrence or the length of a potential strike or work stoppage, these G & A costs alone could amount to an estimated $5,407 per day, based upon a 27-month construction schedule.

3. No Strike or Work Stoppage due to Jurisdictional Disputes

Jurisdictional disputes are disruptive and often impede the flow of work pending resolution. The specific duration and associated costs are not quantifiable since they cannot be planned nor predicted.

4. Management Rights

A strong Management Rights Provision allows contractors to retain full and exclusive authority for the management of their operations including, but not limited to, the right to direct the workforce, determine the number of employees to be hired and their qualifications, and determine promotions, transfers, layoffs, access to the site, discipline and discharge for cause. It also allows the contractor to choose materials, techniques, methods and equipment to be used. This is non-quantifiable, but a substantial economic benefit.

5. Overtime at Time-and-a-Half

The overtime clause allows a contractor to establish overtime rates within the prevailing wage parameters with a cap of time and a half Monday – Saturday. It also prohibits stacking or pyramiding of overtime pay and allows the contractor to designate employees who will work, and to schedule work so as to minimize overtime. This is a non-quantifiable benefit, since the amount of overtime, planned, for the Project cannot be determined prior to construction.

6. Coordinated/Staggered Lunch Period

A contractor may, for efficiency of operation, establish a schedule that coordinates the meal periods of two or more crafts or which provides for staggered lunch periods within a craft or trade.

7. Reporting Pay

This provision allows the contractor to standardize reporting pay, early termination pay, discharge pay, and no pay for no work. It also allows for no premiums, bonuses, hazardous duty, high time or other special premium payments.

8. Standby Time for Temporary Utilities

On most construction projects there exists a requirement to maintain temporary utilities such as temporary power, temporary heating, exhaust fans etc. on a 24-hour-per-day, 7-day-a-week schedule. A PLA would have provisions that allow only the appropriate Contractors' existing employees to operate and maintain the equipment during the working hours in which a shift is scheduled. At all other times, when there are no construction activities ongoing, the Owner or the Construction Manager will determine the need for temporary coverage requirements.

9. Saturday Make-up Day

When severe weather, power failure, fire or natural disaster or other similar circumstances beyond the control of the Contractor prevent work from being performed on a regularly scheduled weekday, the Contractor may schedule a Saturday make-up day, and such time shall be scheduled and paid as if performed on a weekday. Some of the current CBAs have a Saturday make-up provision, but most do not. This provision is considered a non-quantifiable benefit, however, could be significant before the building is under roof.

10. Flexible Starting Times

Flexible start times allow the Contractor to schedule normal weekday work, shift work, including Saturday and Sunday work as required, to meet project work schedules and existing project work conditions. Some CBAs allow flexible start times with advance notice from the Contractor to the Union, unless different times are necessitated by the owner's phasing plans on specific projects.

11. Multiple Shifts and Shift Differentials

The CBAs have various provisions for shift work with premiums that vary from the wage rate and number of hours worked. A PLA will standardize the premium costs to second- and third-shift work. No other premium or other payments for such work shall be required.

VII. Conclusions and Recommendations

A PLA is considered appropriate for this Project since, based upon bidding and award history on similar projects, all or a portion of the work in all probability will be performed by union labor as either prime or subcontractors. A PLA would assure the Owner of:

- The best work at the lowest price through experienced, trained and highly skilled workers

- Preventing favoritism, fraud and corruption – a PLA is open to all bidders equally and provides for non-discrimination in referrals and hiring

- Preventing any impact of delay through a "no strike" provision and guaranteed supply of skilled labor for duration of work

- Estimated cost savings of more than $ 3.5 million or a 11.86% of total labor cost* as well as significant non-quantifiable cost savings through standardization of work rules, increased efficiency and productivity

***An additional $1,186,000 could be saved should Workers' Compensation ADR be utilized.**

- Prevention of possible labor unrest through the "no-strike"/no disruption provisions"

- The ability to achieve diversity goals through the best efforts of the unions and contractors to maximize participation by women and minorities in Project work through apprentice programs and entry into the workforce.

It is recommended that:

- A PLA be drafted and executed between Sullivan County and the Hudson Valley Building and Construction Trades Council and its member local unions.

- A PLA be included in the bid specifications for the Project.

Appendices

   A.   Executive Order No. 49

   B.   Partial List of Concurrent Construction

   C.   Analysis of Current Collective Bargaining Agreements

   D.   Composite Crew Make-up Labor Cost Summary

   E.   PLA Cost Benefit Analysis

   F.   **Wicks Analysis 2009**

No. 49   E X E C U T I V E   O R D E R

PROJECT LABOR AGREEMENTS

WHEREAS, it is in the best interests of the People of the State of New York to promote the timely completion of public construction projects undertaken by State agencies while at the same time limiting the costs of such projects to the greatest extent possible consistent with the law and principles of fairness and equity;

WHEREAS, the New York State Court of Appeals issued a decision in the *Matter of New York State Chapter, Inc., Associated General Contractors of America, et. al. v. New York State Thruway Authority*, 88 N.Y.2d 56, 666 N.E.2d 185, 643 N.Y.S.2d 480 (1996), which found that project labor agreements are "neither absolutely prohibited nor absolutely permitted in public construction contracts"; and

WHEREAS, it is now clear that project labor agreements are one of many tools which may be used by management and labor and which may, under certain circumstances, assist in achieving the goals described above;

NOW, THEREFORE, I, GEORGE E. PATAKI, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, do hereby order as follows:

Each State agency shall establish procedures to consider, in its proprietary capacity, the utilization of one or more project labor agreements with respect to individual public construction projects. The utilization of a project labor agreement shall be considered only where the standards established by the Court of Appeals can reasonably be expected to be met.

In reaching a determination on the use of a project labor agreement with respect to a specific project the agency shall consider whether the utilization of such an agreement is justified because it meets the interests underlying the State's competitive bidding laws of:

(1)   obtaining the best work possible at the lowest possible price; and

(2)   preventing favoritism, improvidence, fraud and corruption in the awarding of public contracts.

In considering whether to proceed with a project labor agreement, agencies should be mindful that, in the past, the courts of the State of New York have struck down any such agreement wherein a contracting entity was unable to show a proper business purpose for entering into such agreement.

No project labor agreement shall be approved by an agency unless the decision to enter into the project labor agreement has, both as its purpose and likely effect, the advancement of the interests of the State's competitive bidding statutes.

In the event that an agency enters into a project labor agreement and lets one or more contracts for work to be performed pursuant to such agreement, it shall then be forwarded to the Commissioner of Labor. Upon receipt of the project labor agreement, the Commissioner of Labor shall determine the interaction, if any, between article 8 of the Labor Law and the agreement.

G I V E N under my hand and the Privy Seal of the State in the City of New York this twelfth day of February in the year one thousand nine hundred ninety-seven.

L.S.

BY THE GOVERNOR

/s/ George E. Pataki

/s/ Bradford J. Race, Jr.
Secretary to the Governor

PARTIAL LIST OF CONCURRENT & PROJECTED CONSTRUCTION

PROJECT	AMOUNT
Montreign Resort Casino	$1,400,000,000
Cricket Valley Energy	$1,000,000,000
CPV	$900,000,000
NYC DEP Rondout Water Bypass Phase I	$707,000,000
New Construction at Vassar Medical Center	$400,000,000
Woodbury Commons	$180,000,000
Kingston Hospital	$165,000,000
New Cadet Barracks	$159,000,000
NYC DEP Rondout Water Bypass Phase II	$109,000,000
Dutchess County Jail	$100,000,000
Veria Lifestyles Wellness	$80,000,000
ORMC	$65,000,000
MacArthur Long Barracks	$62,000,000
Orange County Government Center	$60,000,000
Tuxedo Reserve	$50,000,000
*Kingston High School Phase III	$50,000,000
*Westchester/Orange County Bundled Bridges	$47,500,000
*Matrix	$47,000,000
West Point Science Building	$46,000,000
*New Paltz Schools	$45,000,000
SUNY New Paltz Science Building	$36,000,000
*Fishkill Correctional	$30,000,000
Route 84 Bridge	$27,000,000
*Columbia/Dutchess Bundled Bridges	$27,000,000
Crystal Run Medical Center	$25,000,000
Keller Army Hospital	$25,000,000
Region 8 Bundled Bridges Ulster County	$23,000,000
DEP Shaft #4	$22,000,000
Region 8 Bundled Bridges Orange County	$21,400,000
*FedEx	$21,000,000
Pratt & Whittney	$20,000,000
*Medical Facilty	$15,000,000
Kingston High School Phase II	$14,000,000
Route 9W Bridge	$13,000,000
Kingston High School Phase I	$10,000,000
NYS Thruway Project	$10,000,000
*CHG&E	$10,000,000
*Orange & Rockland	$10,000,000

* Projected

SULLIVAN COUNTY JAIL
ANALYSIS OF CURRENT COLLECTIVE BARGAINING AGREEMENTS

Expiration Date	Trade	Local #	Regular Work Week Hours (M-F Inclusive)	Regular Work Day Hours	Regular Work Day Details	2nd Shift (Swing)	3rd Shift	Overtime Work Wage Multiplier M-F	Saturday Work Wage Multiplier	Sunday Work Wage Multiplier	Holiday Work Wage Multiplier	CBA Recognized Holidays	Holiday List
12/31/2016	BOILERMAKERS	5	40	8	work 8hrs, paid 8 hrs. between 8:00 AM and 4:30 PM	work 7 1/2 hrs, paid for 8 hrs.	work 7 hrs. paid for 8 hrs. at straight rate +$0.50	2.0	2.0	2.0	2	10	NYD, PD, MD, ID, CD, ED, VD, TD, XD
5/31/2016	BRICKLAYERS	5	40	8	work 8hrs, paid 8 hrs. between 8:00 AM and 4:30 PM	Receive 15% differential	Receive 25% differential	1.5	1.5	2.0	2	6	NYD, MD, ID, LD, TD, XD
5/31/2016	CARPENTERS	279	40	8	work 8hrs, paid 8 hrs. Starting time between 6:00 AM and 9 AM.	Regular hourly rate + paid 15% per hour	Regular hourly rate + paid 15% per hour	1.5	1.5	2.0	2	8	NYD, PD, MD, ID, LD, TD, BF, XD
3/31/2018	ELECTRICIANS	363	40	8	work 8hrs, paid 8 hrs. Work hrs. 8:00 AM to 4:30 P.M	8 hrs. at the regular hourly rate +10% for work 7.5 hrs.	8 hrs. at the regular hourly rate +15% for work 7 hrs.	1.5	1.5	2.0	2	10	NYD, PD, MD, ID, LD, ED, VD, TD, BF, XD
3/17/2019	ELEVATOR CONSTRUCTORS	1	35	7	work 7hrs, paid 8 hrs. 7:00 AM to 2:30PM	8 hrs. work get 8 hrs. paid +15%	8 hrs. work get 8 hrs. paid +25%	2	2	2.0	2	11	
4/30/2017	GLAZIERS	1087	35	7	work 7hrs, paid 7 hrs. between 7:00 AM and 2:30 PM	Paid 8 hrs. for work 7 hrs.	Paid 8 hrs. for work 7 hrs.	2	2	2.0	2	8	NYD, PD, MD, ID, LD, TD, BF, XD
12/31/2020	INSULATORS	12	40	8	work 8hrs, paid 8 hrs. 8:00 AM to 4:30 PM w/option 7:00 AM and 3:30 PM or 7:30 AM and 4:00 PM	7 hrs. @ 1.0x +14%W&B	7 hrs. @ 1.0x +14%W&B	1.5	1.5	1.5	2	8	
6/30/2018	IRON WORKERS	417	40	8	work 8hrs, paid 8 hrs. Work hrs. Starting at 7:00 AM	work 7.5 hrs. for 8 hrs.	work 7 hrs. for 8 hrs.	1.5	1.5	2.0	2	6	NYD, MD, ID, LD, TD, BF, XD
5/31/2017	LABORERS	17	40	8	work 8hrs, paid 8 hrs. between 6:00 AM and 4:30 PM	Receive 25% differential	Receive 25% differential	1.5	1.5	2.0	2	6	NYD, MD, ID, LD, TD, XD
7/31/2017	MASONS	282	40	8	work 8hrs, paid 8 hrs. Starting time between 7:00 AM and 3:30 PM	work 7 hrs. for 8 hrs.	No information	1.5	1.5	2.0	2	7	NYD, PD, MD, ID, LD, TD, XD
6/30/2018	OPERATING ENGINEERS	825	40	8	work 8hrs, paid 8 hrs. Starting at 8:00 AM	work 7.5 hrs. for 8 hrs. + 10%	work 7 hrs. for 8 hrs. + 15%	1.5	1.5	2.0	2	8	NYD, WD, MD, ID, LD, TD, XD
5/31/2019	PAINTERS	8A, 28A	40	8	work 8hrs, paid 8 hrs. Starting at 8:00 AM	No information provided	No information provided	1.5	1.5	2.0	2	11	NYD, MLK, PD, MD, ID, LD, CD, VD, TD, BF, XD
4/29/2016	PLUMBERS	373	40	8	work 8hrs, paid 8 hrs. 7:00 AM to 3:30 PM	paid 8 hrs. for work + 15%	paid 8 hrs. for work + 15%	1.5	1.5	2.0	2	8	NYD, MD, ID, LD, VD, TD, BF, XD
6/30/2016	ROOFERS	8	40	8	work 8hrs, paid 8 hrs.	8 hrs. @ 1.0x +10%	8 hrs. @ 1.0x +15%	1.5	1.5	1.5	1.5	6	NYD, MD, ID, LD, TD, XD
4/30/2019	SHEETMETAL WORKERS	38	40	8	work 8hrs, paid 8 hrs. Work hrs. 6:00 AM to 5:00 P.M	work 8hrs. paid 8 hrs. +10%	work 8hrs. paid 8 hrs. +10%	1.5	1.5	2.0	2	10	NYD, MD, GF, ID, LD, VD, TD, BF, XE, XD
4/30/2017	TEAMSTERS	445	40	8	work 8hrs, paid 8 hrs. Report to work by 8:00 AM	8hrs regular pay + 10%	8hrs regular pay + 15%	1.5	1.5	2.0	2	8	NYD, PD, MD, ID, LD, VD, TD, XD

SULLIVAN COUNTY JAIL
COMPOSITE CREW MAKEUP LABOR COST SUMMARY

(Top table — Construction Contingency version)

WORK DESCRIPTION	CONSTRUCTION COST	LABOR PERCENTAGE	LABOR COST	LABOR TOTAL
DIVISION 0 - OFFSITE CELL MANUFACTURING	$ 2,560,000	0%	$ -	0.0%
DIVISION 0 - ALLOWANCE	$ 180,000	0%	$ -	0.0%
DIVISION 1 - GENERAL CONDITIONS	$ 1,170,115	0%	$ -	0.0%
DIVISION 3 - CONCRETE	$ 9,086,704	40%	$ 3,634,682	100.0%
DIVISION 4 - MASONRY	$ 4,813,482	40%	$ 1,925,393	100.0%
DIVISION 5 - METALS	$ 4,195,103	37%	$ 1,552,188	100.0%
DIVISION 6 - WOOD & PLASTICS	$ 483,862	40%	$ 193,545	100.0%
DIVISION 7 - THERMAL & MOISTURE PROTECTION	$ 3,107,370	38%	$ 1,180,801	100.0%
DIVISION 8 - DOORS & WINDOWS	$ 5,663,525	37%	$ 2,091,804	100.0%
DIVISION 9 - FINISHES	$ 4,392,861	40%	$ 1,757,144	100.0%
DIVISION 10 - SPECIALTIES	$ 526,003	30%	$ 157,801	100.0%
DIVISION 11 - EQUIPMENT	$ 1,709,033	35%	$ 598,162	100.0%
DIVISION 12 - FURNISHINGS	$ 146,856	35%	$ 51,400	100.0%
DIVISION 14 - ELEVATORS	$ 20,000	30%	$ 6,000	100.0%
DIVISION 21 - FIRE PROTECTION	$ 1,166,908	30%	$ 350,072	100.0%
DIVISION 22 - PLUMBING	$ 3,361,629	36%	$ 1,210,186	100.0%
DIVISION 23 - HVAC	$ 8,596,324	38%	$ 3,262,803	100.0%
DIVISION 26 - ELECTRICAL	$ 11,692,559	34%	$ 3,975,470	100.0%
DIVISION 31 - EARTHWORK	$ 3,647,160	60%	$ 2,188,296	100.0%
DIVISION 32 - EXTERIOR IMPROVEMENTS	$ 1,145,952	55%	$ 630,274	100.0%
DIVISION 33 - SITE UTILITIES	$ 2,024,794	45%	$ 911,157	100.0%
DIVISION 34 - MUNICIPAL SYSTEMS	$ 3,039,737	35%	$ 1,063,558	100.0%
TOTALS:	$ 72,708,979	36.78%	$ 26,740,736	
INFLATION 5.5%	$ 4,307,738	36.78%	$ 1,584,290	
SUBTOTAL	$ 77,016,717	36.78%	$ 28,325,026	
CONSTRUCTION CONTINGENCY 6.2%	$ 4,761,409	36.78%	$ 1,751,140	
SUBTOTAL	$ 81,778,126	36.78%	$ 30,076,166	
CONSTRUCTION TOTAL	$ 81,778,126	36.78%	$ 30,076,166	

(Bottom table — Premium version)

WORK DESCRIPTION	CONSTRUCTION COST	LABOR PERCENTAGE	LABOR COST	LABOR TOTAL
DIVISION 0 - OFFSITE CELL MANUFACTURING	$ 2,560,000	0.0%	$ -	$ -
DIVISION 0 - ALLOWANCE	$ 180,000	0.0%	$ -	$ -
DIVISION 1 - GENERAL CONDITIONS	$ 1,170,115	0.0%	$ -	$ -
DIVISION 3 - CONCRETE	$ 9,086,704	40.0%	$ 3,634,682	$ 3,634,682
DIVISION 4 - MASONRY	$ 4,813,482	40.0%	$ 1,925,393	$ 1,925,393
DIVISION 5 - METALS	$ 4,195,103	37.0%	$ 1,552,188	$ 1,552,188
DIVISION 6 - WOOD & PLASTICS	$ 483,862	40.0%	$ 193,545	$ 193,546
DIVISION 7 - THERMAL & MOISTURE PROTECTION	$ 3,107,370	38.0%	$ 1,180,801	$ 1,180,801
DIVISION 8 - DOORS & WINDOWS	$ 5,663,525	37.0%	$ 2,091,804	$ 2,091,804
DIVISION 9 - FINISHES	$ 4,392,861	40.0%	$ 1,757,144	$ 1,757,144
DIVISION 10 - SPECIALTIES	$ 526,003	30.0%	$ 157,801	$ 157,801
DIVISION 11 - EQUIPMENT	$ 1,709,033	35.0%	$ 598,162	$ 598,162
DIVISION 12 - FURNISHINGS	$ 146,856	35.0%	$ 51,400	$ 51,400
DIVISION 14 - ELEVATORS	$ 20,000	30.0%	$ 6,000	$ 6,000
DIVISION 21 - FIRE PROTECTION	$ 1,166,908	30.0%	$ 350,072	$ 350,072
DIVISION 22 - PLUMBING	$ 3,361,629	36.0%	$ 1,210,186	$ 1,210,186
DIVISION 23 - HVAC	$ 8,596,324	38.0%	$ 3,262,803	$ 3,262,803
DIVISION 26 - ELECTRICAL	$ 11,692,559	34.0%	$ 3,975,470	$ 3,975,470
DIVISION 31 - EARTHWORK	$ 3,647,160	60.0%	$ 2,188,296	$ 2,188,296
DIVISION 32 - EXTERIOR IMPROVEMENTS	$ 1,145,952	55.0%	$ 630,274	$ 630,274
DIVISION 33 - SITE UTILITIES	$ 2,024,794	45.0%	$ 911,157	$ 911,157
DIVISION 34 - MUNICIPAL SYSTEMS	$ 3,039,737	35.0%	$ 1,063,558	$ 1,063,558
TOTALS:	$ 72,708,979	36.78%	$ 26,740,736	$ 26,740,736
INFLATION 5.5%	$ 4,307,738	36.78%	$ 1,584,290	$ 1,584,290
SUBTOTAL	$ 77,016,717	36.78%	$ 28,325,026	$ 28,325,026
PREMIUM 6.2%	$ 4,761,409	36.78%	$ 1,751,140	$ 1,751,140
SUBTOTAL	$ 81,778,126	36.78%	$ 30,076,166	$ 30,076,166
CONSTRUCTION TOTAL	$ 81,778,126	36.78%	$ 30,076,166	$ 30,076,166

Trade columns (by local union) included in the full worksheet: BOILERMAKERS Local #5, BRICKLAYERS Local #6, CARPENTERS Local #279, ELECTRICIANS Local #363, ELEVATOR CONSTRUCTORS Local #1, GLAZIERS Local #1087, INSULATORS Local #12, IRON WORKERS Local #417, LABORERS Local #17, MASONS Local #262, OPERATING ENGINEERS Local #825, PAINTERS Local #, PLUMBERS Local #9A, ROOFERS Local #8, SHEETMETAL WORKERS Local #38, TEAMSTERS Local #445.

SULLIVAN COUNTY JAIL
ANALYSIS OF CURRENT COLLECTIVE BARGAINING AGREEMENTS

Trade	Local #	JW Wages	JW Benefits	JW Rate	Apprentice Rate	PLA Crew Size	PLA Jw Per Crew	PLA Apr Per Crew	PLA Team Average Rate	CBA Crew Size	CBA Apr Per Crew	CBA Jw Per Crew	CBA Team Average Rate	Labor Cost	Labor Hours	Man Days	Max Months	Men Per Year	CBA Holidays Per Project Duration	Standard Holidays Per Year	Holiday Differential	Project Duration (Months)	Holiday Cost Savings	Apprentice Cost Savings	40 Hour Work Week Savings	Works Savings (4.35% of New Construction)	Total Savings
BOILERMAKERS	5	$59.05	$42.84	$101.89	$61.13	4	1	3	$91.70	4	1	3	$91.70	$1,100,934	12006	1501	71	3	13	16	3	24	$6,728	$0			
BRICKLAYERS	5	$33.65	$37.19	$70.84	$42.50	4	1	3	$63.76	4	1	3	$63.76	$324,833	5095	637	30	1	13	16	3	24	$1,985	$0			
CARPENTERS	279	$36.35	$29.25	$65.63	$39.38	4	1	3	$59.07	4	1	3	$59.07	$3,273,961	55427	6928	330	14	13	16	3	24	$20,007	$0			
ELECTRICIANS	363	$42.00	$27.34	$69.34	$41.60	4	1	3	$62.41	4	1	3	$62.41	$4,129,074	66165	8271	394	16	13	16	3	24	$25,233	$0			
ELEVATOR CONSTRUCTORS	1	$60.96	$30.00	$90.96	$54.58	4	1	3	$81.86	5	1	4	$83.68	$6,748	81	10	0	0	17	16	-1	24	-$12	$147	$422		
GLAZIERS	1087	$44.60	$35.74	$80.34	$48.20	4	1	3	$72.31	5	1	4	$73.91	$1,048,721	14189	1774	54	4	13	16	3	24	$6,409	$22,798	$65,545		
INSULATORS	12	$57.61	$34.23	$91.84	$56.10	4	1	3	$82.66	5	1	4	$84.49	$1,510,148	17873	2234	106	4	13	16	3	24	$9,229	$32,829			
IRON WORKERS	417	$41.22	$43.36	$84.58	$50.75	4	1	3	$76.12	5	1	4	$77.81	$2,986,249	38377	4797	228	10	13	16	3	24	$18,249	$64,918			
LABORERS	17	$29.15	$22.95	$52.10	$31.26	4	1	3	$46.89	4	1	3	$46.89	$7,170,441	152920	19115	810	38	13	16	3	24	$43,819	$0			
MASONS	262	$41.53	$28.40	$69.93	$41.96	4	1	3	$62.94	4	1	3	$62.94	$974,498	15484	1935	92	4	13	16	3	24	$5,895	$0			
OPERATING ENGINEERS	825	$49.09	$29.33	$78.42	$47.05	4	1	3	$70.58	6	1	5	$73.19	$3,004,023	41043	5130	244	10	13	16	3	24	$18,358	$107,287			
PAINTERS	8A, 28A	$33.85	$13.98	$47.83	$28.70	4	1	3	$43.05	4	1	3	$43.05	$592,895	13773	1722	82	3	13	16	3	24	$3,823	$0			
PLUMBERS	373	$37.20	$34.89	$72.09	$43.25	4	1	3	$64.88	3	1	2	$62.45	$1,542,627	24894	3087	147	6	15	16	1	24	$3,306	-$59,339			
ROOFERS	8	$40.00	$28.67	$68.67	$41.20	4	1	3	$61.80	3	1	2	$59.51	$199,213	3347	418	20	1	13	16	3	24	$1,217	-$7,662			
SHEETMETAL WORKERS	38	$43.30	$41.44	$84.74	$50.84	4	1	3	$76.27	4	1	3	$76.27	$1,100,934	14435	1804	86	4	15	16	1	24	$2,359	$0			
TEAMSTERS	445	$32.22	$38.18	$68.40	$41.04	4	1	3	$61.56	4	1	3	$61.56	$1,110,676	18042	2255	107	4	15	16	1	24	$2,380	$0			
TOTAL														$30,076,166	$492,950	$61,619	$2,934						$188,847	$160,978	$65,967	$3,170,111	$3,585,903
Percentage of Savings:																							0.66%	0.54%	0.22%	10.54%	11.86%

NOTES: 1) Construction Cost: $61,778,126 2) Project Schedule: xxxxxxxx - xx-xx-xxxx 3) PLA Standard Holiday: 8 days/year

MEMO

NEW YORK CITY DEPARTMENT OF DESIGN + CONSTRUCTION

DATE: November 16, 2009

TO: File

FROM: David Resnick, Deputy Commissioner, Structures

SUBJECT: Potential PLA for City Projects- Projected Wicks Law Savings

In connection with the ongoing discussions between the City and the Building Construction Trades Council (BCTC) regarding potential savings for specific projects and classes of projects associated with a potential Project Labor Agreement, this memo sets out the City's basis for assessing the cost of Wicks compliance and, in turn, the potential savings from not having to comply with Wicks on PLA covered work.

Various estimates of the costs of Wicks compliance have been made over the years, with estimates ranging from 20 to 30% of total construction costs. In 1994, SCA commissioned a detailed study of the added costs of Wicks law compliance (commonly referred to as the Ashenfelter report), and then updated that report in 1999. The 1994 report considered the cost impacts of the Wicks Law using a universe of 412 projects including both new construction and renovation projects. The 1999 update added 110 projects to that for a total of 522 projects, of which 282 were Wicks Law projects and 240 were non-Wicks. The SCA reports analyzed the increase in project costs attributable to Wicks by comparing the initial bid cost, the total cost growth due to change orders, and the internal Agency costs for the projects in the sampling.

In the 1994 SCA report, an increase in costs attributable to Wicks is shown and then a regression analysis of the data is performed, yielding a baseline estimation of savings and then a statistically adjusted analysis. The difference in results from the 1994 study and the 1999 update are not statistically significant.

The baseline analysis of savings shows a cost savings for non-Wicks projects of $10.25 per sf, which when applied to the average project cost for New Construction and Renovation projects translated to a savings of 4.36% of total construction cost for New Construction projects ($10.25 savings on $142 per sf construction cost = 4.36%), and 10.35% of total construction cost for Renovation projects ($10.25 savings on $99 per sf construction cost = 10.35%). The blended average for all projects was 7.22% of total construction cost.

The regression analysis yielded approximately the same savings projections for New Construction, at 4.1%, and significantly larger savings for Renovation projects, at 14.1%, with a blended average of 10.3%.

As noted above, the significant contributing factors leading to a cost savings for non-Wicks projects are the decreases in change orders and internal Agency costs, with initial bid prices being a less significant contributing factor (in fact there is a modest cost savings associated with Wicks over non Wicks as regards initial bid prices, but this is cancelled out by the increases in the other noted areas). This is consistent with DDC's own experience in awarding and managing Wicks projects.

Based upon my review of those studies (including the breadth and scope of projects reviewed), I do not find any reason to think those conclusions are not applicable to City projects where such projects are subject to the Wicks Law. In fact, the projects in the sampling used for the 1994 and 1999 SCA studies experienced approximately 12% in change orders, which was a significant basis for the increased costs of Wicks projects. The City's historical change order data show that DDC's change order percentages are substantially higher than 12%, which suggests that likely cost savings for these projects will be higher than those projected by the SCA studies.

In conclusion, in light of the findings in the SCA reports, and in consideration of the City's own historical change order data, it is reasonable, and in fact conservative, to project that savings for New Construction and Renovation projects will at minimum, be consistent with the baseline savings demonstrated by the SCA reports. Accordingly, in the event a PLA is adopted which includes a provision allowing the bidding of single prime contracts for construction in lieu of the multi-prime bids required under Wicks, the projected savings associated with that Wicks exemption which may be used by CM's performing cost studies to assess such PLA's overall viability, is as follows:

New Construction Projects: 4.36% of Total Construction Cost*
Renovation Projects: 10.35% of Total Construction Cost*

*defined as the total labor and materials cost for the project