



LABORERS DISTRICT COUNCIL MINNESOTA AND NORTH DAKOTA

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Warning: Evident pattern of poor performance by Ebert Construction on school and other public works projects

Ebert Construction of Loretto, Minnesota, is one of the handful of contractors that is evidently building a record of poor performance on public works construction projects. Not only has Ebert apparently performed substandard work and caused headaches for owners, but mistakes made by the company have the potential to disrupt the work of other contractors on the job. We urge school districts to exercise their legal right to reject Ebert bids on the basis of poor past performance on similar projects.

A review of public records pertaining to several Ebert projects suggests a pattern of delays, substandard work, and apparent use of hardball tactics against owners that try to enforce contract terms. Our staff also recently observed and documented evidently unsafe construction practices on an Ebert municipal project.

Last fall, Ebert was awarded two school construction contracts in southern Minnesota: a \$1.6 million general contract for a gymnasium and classroom addition at a Kasson-Mantorville elementary school; and a \$400,000 contract for concrete work on an addition to Cedar Mountain High School in Morgan, MN. Our investigation of Ebert's work on the projects, which involved both field observation and public record requests, uncovered an apparent pattern of poor performance, including but not limited to reported defects, delays, and property damage.

The following are some of the specific problems that occurred on one or both of the aforementioned projects, according to records provided to the union at the direction of the school officials:

- Failure to use proper grid line resulting in misplacement of footings
- Extensively honeycombed concrete and "burned" (exposed) rebar
- Missing or misplaced anchor bolts and footing dowels
- Damage to trees, fence and bleachers
- Delays caused by mistakes and malfunctioning equipment

Unfortunately, Ebert evidently has a history of performing poorly on public contracts. The Minnesota Department of Transportation took the highly unusual step of terminating for cause Ebert's contract to build a truck station in Chaska, MN in 2011. [KSTP-TV reported](#) that the \$7.6 million project was far behind schedule and over budget, and also that Ebert potentially owed a half million dollars to subcontractors and vendors.

The most disturbing thing about the MnDOT case is that, rather than take responsibility for the failures, Ebert evidently responded to the loss of the contract by unsuccessfully suing the state. This is not only instance where Ebert appeared to employ hardball tactics against owners that demand the company meet its commitments.

On December 2, 2014, R.A. Morton's project superintendent on the Cedar Mountain elementary school project became aware that Ebert had set rebar for footings 8" off the grid line established by the engineer, according to the daily construction report. Two days later, the report indicates that Ebert pulled offsite because the architect "failed to provide an e-mail stating that we were intending on using the existing [misplaced] grid lines".

Despite the project superintendent's efforts to resolve the issue, his report for the following day indicates that Ebert personnel remained offsite and failed to respond to email. It was not until the following week that Ebert went back to work at Cedar Mountain. Worst, according to the

report, the company had the temerity to request an extra charge “for placing the footing in the wrong place.”

While Ebert ultimately finished the job, the reports indicate that it took more than two months to complete. The delays were likely costly for Ebert, but they also appear to have created problems for the project as a whole, such as when the daily report indicated that another contractor could not work on the elevator shaft when Ebert was in pouring their last two foundation walls.

Given Ebert’s poor track record, we recommend that public owners exercise the discretion provided by state law to reject Ebert’s bid. We also urge public owners to thoroughly investigate the company’s past performance on the public projects described in this letter before awarding a contract. Where work has already been awarded to Ebert, we encourage public owners to carefully monitor the company’s work and not allow Ebert to cut corners at public expense.

A year-long investigation by the Laborers Union into public construction practices has identified Ebert as one of a handful of contractors that are evidently taking advantage of Minnesota taxpayers. Too often, problem contractors submit lowball bids and then cut corners to make ends meet. These contractors can cause untold headaches for public administrators, facility staff, and reputable contractors that must work alongside them and help clean up their messes.

Our investigation has uncovered evidence of problems ranging from poor quality work to overcharging to inappropriate conduct on property to underpayment of workers to unsafe use of child labor. We believe that the costs of using problem contractors greatly exceeds the apparent savings. Unfortunately, most agencies only become aware of the problems after the work has been awarded, so our organization is working to get timely information to public officials to help them make informed decisions.

We hope that you will carefully consider this summary along with the attached documents which help to substantiate our concerns (see list below). Please feel free to contact Kevin Pranis at 612.224.6464 or kpranis@liunagroc.com if you have any questions.

Attached:

[Appendix A – News coverage, correspondence, and legal filing from Ebert Chaska Truck Station Project](#)

[Appendix B – Highlighted daily construction reports from Ebert Cedar Mountain School Project](#)

[Appendix C – Highlighted construction documents from Ebert Kasson-Mantorville School Project](#)

[Appendix D – Photos of evidently unsafe construction at Ebert Rockford Park Shelter Project](#)