



# Construction NEWS



Vol. 36 No. 5

MAY 2020

\$1.50

## Reopening to New Workplace Protocols, Stronger Calls for Infrastructure Investment

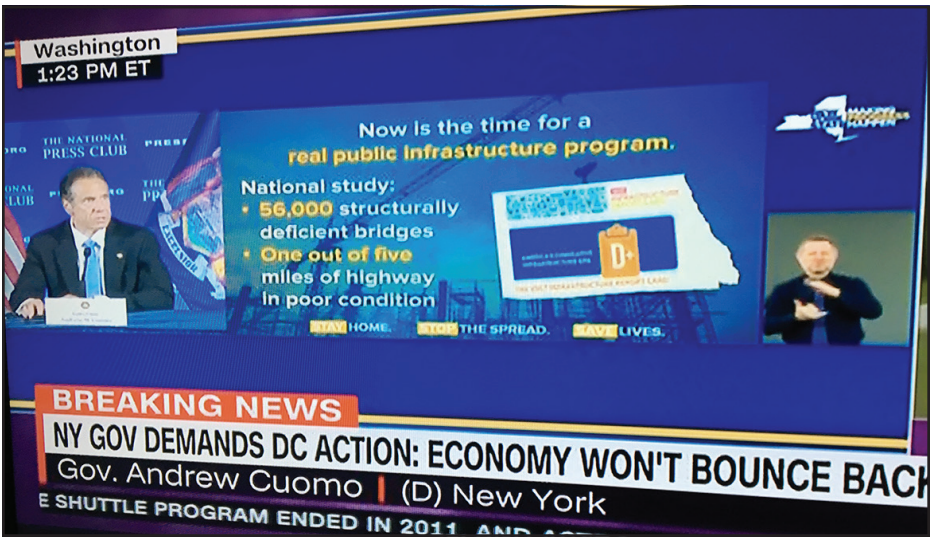
By JOHN JORDAN

ALBANY—Following 86 days of “New York on Pause,” broad swaths of construction and building activities in the Mid-Hudson region resumed on May 26. The good news arrived along with a lengthy list of new jobsite and office practices and protocols to protect workers and the public from the coronavirus.

The Mid-Hudson became the eighth region in New York to reopen and will possibly reach Phase Two on June 9. Long Island reopened on Wed., May 27 and at press time New York City is expected to reach all seven metrics by June 8 for Phase One reopening.

The broader economy of the Mid-Hudson region had been all but shuttered since March 22, with the exception of essential businesses since the first of a number of executive orders from the state.

“For the past two months, the civil



During one of his daily news briefing, Gov. Andrew Cuomo on May 27 called for an aggressive national infrastructure campaign to restart the economy and create jobs. “Let’s do something creative. Let’s do it fast. Let’s put Americans back to work and let’s make America better,” he said, speaking at the National Press Club in Washington, D.C. (See story, page 4.)

side of construction was lucky to operate through the shutdown, despite the many supply disruptions and evolving workplace requirements,” said John Cooney, Jr., executive director of the Construction Industry Council of Westchester

& Hudson Valley, Inc. “We weren’t just flying the plane while we were building it. We were being asked to design it on the fly as well. This was completely unique in my 40 years of experience in construction.”

Going forward, he said there will be many revisions and changes likely. “This is going to be our way of life and how we earn our way to build our projects,” he explained on a Zoom meeting call to the membership of the trade association. “The first two jobs will always be to mitigate the spread of the disease and to keep our jobs going, in that order. As these regulations change, we will change too.” The program featured CIC Legal Counsel Thomas H. Welby, Esq., PE, and partner Thomas Tripodianos, Esq., of Welby, Brady & Greenblatt, LLP, answering questions posed live and online by CIC members.

Gov. Cuomo said that reopenings have been different in regions all across the state, but virtually all regions with the exception of New York City have met the same criteria to reopen.

Specific to the construction industry, phase one reopens the following segments of the construction trades:

- Building Equipment Contractors
- Building Finishing Contractors
- Foundation, Structure, and Build-Please turn to page 10

## County Airport Main Runway Repaved

WHITE PLAINS—Repaving of Westchester County Airport’s main runway has been completed in just over three weeks and was reopened to air traffic on Thursday morning, May 21.

County Executive George Latimer said that the \$21-million project to repave Runway 16/34, which was to have been finished in the early fall, was pushed up because much of the commercial aviation at the airport had ground to a halt during the coronavirus crisis.

Described by one of his top assistants as the only silver lining to come out of the pandemic,

Mr. Latimer said the lull in air travel helped the schedule to complete the project. “We knew that we were going to have a major drop in air travel as this coronavirus outbreak continued,” he said. “The ability to move the capital project up and get it completed in a directed period of time, because the airport was closed, has saved us some money.” He continued, “It saved us having to work into the evenings and things that would have stretched this project out.” The shutdown of activity enabled the contractor on the project, Tully Construction of Queens, NY, to “get it done in

the three-week period and get it done more precisely.”

“It was brilliant way to do it,” commented Peter Tully of Tully Construction Co., Inc. “There

were only 19 flights going out, with a total average of 11 passengers per flight. It made all the sense in the world.”

To lay down the 50,000 tons of

asphalt specified for the project, two 10-hour work shifts were scheduled over the three-week period. “Our first goal was to deliver the short runway in one week, which we did. The second goal was to give the main runway back to the county by 6:00 am on May 21.”

Some 70 workers and subs were able to lay down up to 6,000 tons per shift, the company reported. The material was supplied from two asphalt plants of Peckham Industries in the Bronx and Bedford, NY.

Please turn to page 9



### Runway Paving In Record Time

An aerial view of Runway 16/34 at Westchester County Airport, which was repaved in just three weeks this spring—far ahead of the three months of the originally scheduled completion date.

### Inside

Photo Gallery .....	9
Next Gen Leaders .....	12
Obituaries .....	13
Financial Management ...	14
Economic Outlook .....	11
Safety Watch .....	17
New York City Update .....	20
Albany Update .....	20
Low Bids .....	22

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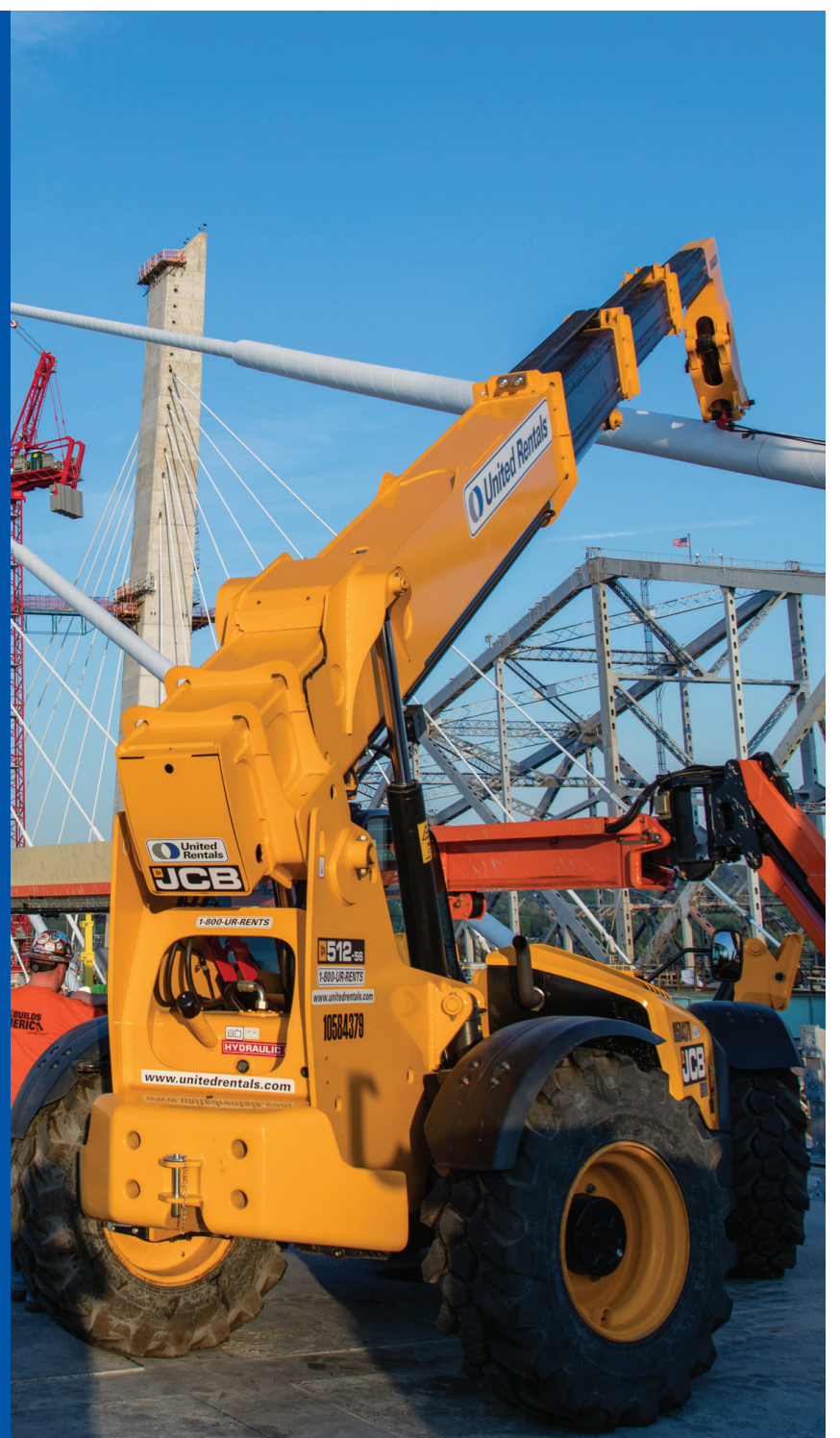
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# New Workplace Protocols For Construction Operations

ALBANY—The guidelines below apply to all construction businesses in regions of New York State that have been permitted to reopen as well as to construction enterprises statewide that were previously permitted to operate as an “essential business.”

During the COVID-19 public health emergency, all construction businesses should stay current with all changes to state and federal requirements related to construction activities and incorporate those changes into their operations. This guidance is not intended to replace any existing applicable local, state, and federal laws, regulations and standards.

## Mandatory Physical Distancing

- Ensure 6-ft. distance between personnel, unless safety or core function of the work activity requires a shorter distance.

- Any time personnel are less than 6 feet apart from one another, personnel must wear acceptable face coverings.

- For any work occurring indoors, limit workforce presence to no more than 1 worker per 250 sq. ft. on site, excluding supervisors in this calculation, unless additional personal protective measures are implemented (e.g. face coverings at all times).

- Tightly confined spaces (e.g. elevators, hoists) should be occupied by only one individual at a time, unless all occupants are wearing face coverings. If occupied by more than one person, keep occupancy under 50% of maximum capacity.

- Post social distancing markers using tape or signs that denote 6 ft. of spacing in commonly used and other applicable areas on the site (e.g. clock in/out stations, health screening stations).

- Limit in-person gatherings as much as possible and use tele- or video-conferencing whenever possible. Essential in-person gatherings (e.g. meetings) should be held in open, well-ventilated spaces with appropriate social distancing among participants.

- Establish designated areas for pick-ups and deliveries, limiting contact to the extent possible.

## Protective Equipment

- Employers must provide employees with an acceptable face covering at no-cost to the employee and have an adequate supply of coverings in case of replacement.

- Acceptable face coverings include but are not limited to cloth (e.g. homemade sewn, quick cut, bandana) and surgical masks, unless the nature of the work requires stricter PPE (e.g. N95 respirator, face shield).

- Face coverings must be cleaned or replaced after use or when damaged or soiled, may not be shared, and should be

properly stored or discarded.

- Limit the sharing of objects (e.g. tools, machinery, materials, vehicles) and discourage touching of shared surfaces; or, when in contact with shared objects or frequently touched areas, wear gloves (trade-appropriate or medical); or, sanitize or wash hands before and after contact.

## Cleaning and Hygiene

- Adhere to hygiene and sanitation requirements from the Centers for Disease Control and Prevention (CDC) and Department of Health (DOH) and maintain cleaning logs on site that document date, time, and scope of cleaning.

- Provide and maintain hand hygiene stations for personnel, including handwashing with soap, water, and paper towels, as well as an alcohol-based hand sanitizer containing 60%

or more alcohol for areas where handwashing is not feasible.

- Provide and encourage employees to use cleaning/disinfecting supplies before and after use of shared and frequently touched surfaces, followed by hand hygiene.

- Conduct regular cleaning and disinfection at least every day, and more frequent cleaning and disinfection of shared objects (e.g. tools) and surfaces, as well as high transit areas, such as restrooms and common areas.

- Cleaning and disinfecting of the site, shared surfaces, and other areas, as well as

equipment and tools, should be performed using Department of Environmental Conservation (DEC) products identified by the Environmental Protection Agency (EPA) as effective against COVID-19.

- If cleaning or disinfection products or the act of cleaning and disinfecting causes safety hazards or degrades the material or machinery, personnel should have access to a hand hygiene station between use and/or be supplied with disposable gloves.
- Prohibit shared food and beverages (e.g. buffet-style meals).

## Communication

- Affirm you have reviewed and understand the state-issued industry guidelines, and that you will implement them.

- Post signage throughout the site to remind personnel to adhere to proper hygiene, social distancing rules, appropriate use of PPE, and cleaning and disinfecting protocols.

- Train all personnel on new protocols and frequently communicate safety guidelines.

- Establish a communication plan for employees, visitors, and clients with a consistent means to provide updated information.

- Maintain a continuous log of every person, including workers and visitors, who may have close contact with other individuals at the work site or

Please turn to page 15

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## COMMENTARY

# Working Together to Rebuild Our Workforce, Our Region

By ROSS J. PEPE

“New York, like states all across the country, confronts the immediate effects of a paralyzing national pandemic, the longer term challenge of improving our competitive position in the global economy, and the specter of a dangerous ugly divisiveness among our people.”

Those words, but with the single substitution of the word pandemic for recession, are as true today as they were in 1992 when spoken by then Gov. Mario M. Cuomo as he called for a national coming together with action to cure our collective woes.

During today's period of hardship and crisis caused by



the spread of the coronavirus, the people of New York State have benefitted from the leadership of his son, Gov. Andrew M. Cuomo, our state legislators and local officials. We as New Yorkers are showing a remarkable

collective willingness to “crush the curve” and heartfelt outpouring of support through our actions of what it means to hang together and be “New York Tough.”

Following the protracted “New York on Pause” shutdown—and historic levels of unemployment witnessed across the country—contractors and the building trades are finally back to work in the Hudson Valley. The big questions are will there be ample work to both sustain the construction industry, and will it be enough to kick-start the general economy? Throughout New York State, there are big infrastructure projects ready to go, all of these capital improvements are sorely needed. Many require federal approval.

We should take a page out of the history books and study the past six recessions along with the Great Depression. The

pathway to economic recovery was mainly paved through investment. In the words of the

*We should take a page out of the history books and study the past six recessions along with the Great Depression.*

*The pathway to economic recovery was mainly paved through investment. In the words of former Gov. Mario M. Cuomo, “We need to rebuild the physical foundation upon which all economic activity depends.”*

senior Gov. Cuomo, “We need to rebuild the physical foundation upon which all economic activity depends.” And that begins with investment in our infrastructure, which is an exceptionally efficient long-term

job creator. For nearly a century of American life and economic growth, it has been proven that

each \$1 billion invested in infrastructure yields thousands of direct jobs and a multiplier of that in indirect jobs. We need only look to the signature construction project, the new \$4-billion Gov. Mario M. Cuomo Bridge; which generated more than 6,600 living-wage jobs and tens of thousands of indirect jobs throughout the region's economy.

If we dare to look past the current COVID-19 crisis and see a future of hope, our coalition—17-For-

ward-86, which is comprised of business, labor, environmental and community leaders—is first of all grateful to our brave and tireless first responders and health care workers, who con-

**Please turn to page 6**

## Construction NEWS

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## Infrastructure Improvements Key To Stimulating Economy: Cuomo

By JOHN JORDAN

NEW YORK—Harkening back to America's past, Gov. Andrew Cuomo said that with the nation's economy crippled from the coronavirus, now is the time to make major infrastructure investments to create jobs and stimulate the economy.

“We know that government can stimulate the economy. This country has done it in the past where we have engaged in major public works that made the nation better and when we did it, we stimulated the economy,” the governor said at a press conference at the New York Stock Exchange on Wall Street on May 26. “You look at all the great things that this nation did, building the Hoover Dam and the Lincoln Tunnel, all these magnificent public improvements, that made this nation, one nation—and created thousands of jobs at the same time.”

In terms of state investment in infrastructure, the governor reported that his administration will accelerate the development of a number of high-profile projects—the Empire Penn Station project and the redevelopment of LaGuardia Airport. “Let's do things that we've been talking about for a long time but we've never actually pulled the trigger on,” he noted.

Another project he said the state should move forward on is building cross-state transmission lines to develop that renewable market upstate and satisfy the need downstate.

“We know they have low-cost hydropower in Canada. Let's run the cable, the transmission lines from Canada to New York City to get that power down here and let's stop talking and let's start doing,” he said; “Let's invigorate this whole renewable market.”

Gov. Cuomo said that agreeing on funding a major infrastructure investment program on the federal level has been a topic of discussion by the Bush, Clinton, Obama and now Trump administrations who have all recognized that the nation has major infrastructure needs that must be addressed in order to remain competitive globally.

“Well, then, do something about it,” Gov. Cuomosaid. “Don't just talk about it. Everybody's identified the same problem, both Democrats and Republicans. But nobody has done anything. If there's ever a time to actually take on this overdue need, of major infrastructure construction, now is the time. There is no better time to build than right now. You need to restart the economy. You need to create jobs. And you need to renew and repair this country's economy. And its infrastructure. Now is the time to do it.”

Gov. Cuomo noted federal backing is needed for the AirTrain to LaGuardia Airport to move forward. New York City is one of the only major cities that has no train from the airport into the central city, he said.

He also stressed that the federal government should help finance the Gateway tunnel project. “We've been talking about the cross-Hudson tunnels where the Amtrak trains come through that are old and that are crumbling and that if they become a problem, you literally stop Amtrak travel to the entire Northeast. Let's stop the politics on it and let's get it done and let's build those new tunnels,” he said.

Another project on the governor's wish list is the next extension for the Second Avenue Subway, which would run from 96<sup>th</sup> Street to 125<sup>th</sup> Street and would open up that whole 125<sup>th</sup> Street area. “It would bring a whole new chapter of revitalization to New York City. Let's do that in partnership with the federal government,” he added.

The governor met on the matter with President Donald Trump at the White House on Wed., May 27, and reported another meeting with the president on infrastructure investment is planned for early June.

While not using the word “fastrack,” he did say, “You want to restart the economy, you want to reopen the economy, let's do something creative. Let's do it fast. Let's put Americans back to work and let's make America better.”

He concluded, “You have an infrastructure that's crumbling, you need to jump start the economy, you need to create jobs, do it now.”



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## Tutor Perini to Terminate Acquisition Discussions

LOS ANGELES—Tutor Perini Corp., a leading civil, building and specialty construction company, which back in March acknowledged it was holding discussions about a possible sale of the company, recently announced it was terminating those sale discussions.

The firm noted that in light of continuing volatile market conditions, discussions regarding a potential transaction for the acquisition of Tutor Perini have been terminated. Media reports in March stated that New York City-based private equity firm Apollo Global Management had approached Tutor Perini about a possible sale.

On March 6, Tutor Perini reported revenue of \$1.3 billion for the first three months of 2020, an increase of 30% compared to \$1.0 billion for the same period last year. The increase was driven by strong year-over-year growth across all segments, particularly 46% and 47% growth for the Civil and Specialty Contractors segments, respectively, as a result of large infrastructure projects that are accelerating, including Newark Airport Terminal One, the Purple Line Extension projects in Los Angeles, California High-Speed Rail and Minneapolis Southwest Light Rail.

Income from construction operations for the first quarter of 2020 was \$47.2 million, more than double the \$22.9 million reported for the same period in 2019. The increase was primarily due to contributions associated with the strong revenue growth across all segments, as well as improved performance on various projects in New York in the Specialty Contractors segment. Net income attributable to the company for the first quarter of 2020 was \$17.4 million, or \$0.34 per diluted share, compared to a net loss attributable to the company of \$0.4 million, or a \$0.01 loss per diluted share, for the same period last year.

“We are off to a solid start in 2020, delivering the strong revenue and earnings growth we have anticipated as the large projects awarded to us over the past couple of years accelerate and contribute more significantly,” remarked Ronald Tutor, Chairman and Chief Executive Officer. Tutor continued, “We expect continued revenue and earnings growth this year, driven by our large backlog and improved operating performance in the Specialty Contractors group. As mentioned last quarter, we are pursuing various new high-margin project opportunities and expect to make significant progress this year and next year in resolving and collecting our unbilled receivables.”

## Working Together to Rebuild Our Workforce, Our Region

Continued from page 4

tinue putting themselves at risk to keep us safe. We thank them and those behind the scenes—our colleagues in the building and construction trades, public service, education, pharmacies, food and other services—who all worked to maintain a sense of normalcy for the rest of us.

Looking to the immediate future, more bold action is required at the state and federal levels if we hope to realize a timely recovery from this debilitating national crisis. Ensuring the health and safety of our residents is paramount. This means hardening and expanding our health care sector

It also means that once we reopen the economy and rebuild our workforces, we should invest in our state for the long-term. Infrastructure is not only a bridge to the future, it helps create a future with employment for people to start and raise their families, to build stronger communities and help businesses flourish.

Here in New York there are a half-dozen major transportation projects that are poised to move forward. In addition to the expansion and transformation of Route 17 into Interstate 86, there are projects on Long Island and Upstate New York that will have the same effect of advancing mobility efficiency and improving our daily lives. For example, the Oakdale Merge on Long Island and the I-81 Viaduct Project in Syracuse and the

MTA has proposed a five-year, \$54-billion plan to upgrade mass transit.

Addressing our immediate regional needs, 17-Forward-86 was established in 2018 with the goal of improving mobility in the region. We now comprise more than 200 members of economic development groups, construction trades, tourism groups and energy companies representing thousands of individuals who share a common vision for expanding the capacity of Route 17 to ensure the economic well-being of the Hudson Valley and Sullivan Catskills.

This is the time to move forward. Today's highly competitive construction marketplace offers significant savings for public agencies and departments, which will benefit from low-interest bond rates.

One road leads to another and Route 17 is a critical artery in the Hudson Valley, New York State and the region. We must look to infrastructure investment as a key driver of our economic prosperity. No one could have foreseen this—but, together, we will get through this and rebuild our region's future.

*About the author: Ross J. Pepe is a founding member of the 17-Forward-86 Coalition and President of the Construction Industry Council of Westchester & Hudson Valley, Inc. To learn more about the coalition, visit [www.17Forward86.org](http://www.17Forward86.org).*

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# Regional Bid Alert

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## New York State DOT - Region 8

### Bid Letting Date: June 4, 2020

Brian DeWald, PE  
Assistant Director of Construction  
New York State Department of Transportation  
50 Wolf Road, Albany, NY 12232  
(518) 457-9688

Contract# D264269  
PIN# 881526

Project Description: Columbia, Dutchess, Orange, Ulster Cos., highway job order contract.

Bid Deposit: 5% of Bid (~ \$40,000)

Goals: MBE: 5.00%, WBE: 10.00%

## New York State DOT - Region 10

### Bid Letting Date: June 18, 2020

Contract: D264254/PIN 0903.57 – Rotating Beacon Replacement Project at Republic Airport F.A. Project

Project Description: The New York State Department of Transportation (NYSDOT) is administering a federal grant from the Federal Aviation Administration (FAA) for replacing a Rotating Beacon at Republic Airport. The proposed project is located at the Republic Airport, located in the Hamlet of East Farmingdale, Town of Babylon, Suffolk County. NYSDOT is the owner of Republic Airport.

This Rotating Beacon Replacement Project includes the installation of a new rotating beacon, a new foundation, and approximately 4,500 feet of new conduit, cables and controlling wiring. The new beacon will be installed along Taxiway Charlie, while the existing beacon located on Hangar 4 will be decommissioned. This project will increase operational safety and meets current FAA design criteria.

#### Schedule:

The current project schedule is as follows:

- PSE – March 19, 2020
  - Publish Ad (6 week) – May 6, 2020
  - Pre-Bid Meeting – Monday, May 18, 2020 at 10:00 a.m. – Republic Airport (FRG), 7150 Republic Airport Road, East Farmingdale, NY 11735 (Main Terminal, Suite 201)
  - Letting – June 18, 2020
  - Completion Date – December 31, 2020 (anticipated)
- Bid Conditions:
- Funding/Goals – This project is Federally funded, from a Federal Aviation Administration (FAA) grant. 5.1% DBE Goals will apply.
  - The project is located within the airfield side of the airport. Specific accessibility information and procedures will be provided in the contract bid documents. The Contractor will have to coordinate with the Airport's Operations Manager for site access.
  - This project requires close coordination with Republic Airport. The contractor must coordinate and schedule their construction activities with the Airport's Manager and Engineer-in-Charge.
  - The Contractor shall adhere to the Construction Safety and Phasing Plans (CS&PP), as provided with the contract bid documents.
  - Liquidated Damages are proposed for runway and taxiway closures.
  - Limited night work when work occurs within the runway safety area of Runway 14-32. Night-time runway closures only permitted between the hours of 11 pm and 6 am.
  - Construction work requires some direction drilling under Runway 14-32, Taxiway A, and Taxiway C.
  - Project Bid Deposit = \$75,000.

## New York State DOT - Region 11

### Bid Letting Date: June 18, 2020

Brian DeWald, PE  
Assistant Director of Construction  
New York State Department of Transportation  
50 Wolf Road, Albany, NY 12232  
(518) 457-9688

Contract# D264262

PIN# XM1931

Project Description: Bronx, Kings, New York, Queens, Richmond Cos., highway maintenance cleaning at various locations.

Bid Deposit: 5% of Bid (~ \$200,000)

Goals: MBE: 8.00%, WBE: 13.00%, SDVOB: 6.00%

### Bid Letting Date: June 18, 2020

Brian DeWald, PE  
Assistant Director of Construction  
New York State Department of Transportation  
50 Wolf Road, Albany, NY 12232  
(518) 457-9688

Contract# D264272  
PIN# XM2046

Project Description: Queens Co., highway pavement preservation on the Long Island Expressway in New York City.

Bid Deposit: 5% of Bid (~ \$375,000)

Goals: MBE: 8.00%, WBE: 13.00%, SDVOB: 6.00%

## Westchester County DPW

### Bid Due Date: June 3, 2020

Contract: 18-529 (\$100)

Title: Playground Site Work Rehabilitation, Willson's Woods Park, Mount Vernon, NY

Description: The work under this contract consists of providing all necessary labor, material and equipment required to rehabilitate the Willson's Woods Park playground. This work includes demolition of the existing playground equipment and safety surface, resetting of existing benches, installation of new playground equipment, pavement, rubber safety surface, landscaping and associated grading.

Bid Estimate Range: \$480,000 To \$530,000

Pre-Bid Inspection: None Scheduled.

Contact: Suzette Lopane, 914-995-2443

### Bid Due Date: June 3, 2020

Contract: 20-203

Title: Boiler Maintenance and Inspection, Central Heating Plant, Valhalla Campus, Valhalla, NY.

Description: The work under this contract consists of providing all necessary labor, material and equipment required for inspection, annual preventive maintenance and repairs on the boilers at the Central Heating Plant at the Valhalla Campus. This contract is for a term of three (3) years with one two (2) year renewal at the discretion of the county.

Pre-Bid Inspection: None Scheduled.

Contact: Richard Goldsmith, 914-231-1288

### Bid Due Date: June 3, 2020

Contract: EF-2004

Title: Service, Repair and Replacement of Small Air Conditioning Systems (Less than 80 tons), Various County Locations, Westchester County, NY.

Description: The work under this contract consists of providing all necessary labor, materials, parts and equipment required to service, repair and replace air conditioning equipment at various DEF facilities located throughout Westchester County. The Contract duration is for two (2) years. The Contract may be extended by mutual consent of the parties for an additional two (2) year term with all prices, terms and conditions remaining the same as the original contract.

Pre-Bid Inspection: None Scheduled.

Contact: Lona Davis, 914-813-5409

### Bid Due Date: July 1, 2020 (Third Date Change)

Contract: 12-517-Rev. (\$100)

Title: Cellular Bulkhead Rehabilitation – Phase III & IV, Yonkers Joint Wastewater Treatment Plant, Yonkers, NY

Description: The work under this contract consists of providing all necessary labor, material and equipment required for the rehabilitation of the Phase III and Phase IV portions of the cellular bulkhead which includes rehabilitation of structural support systems, painting, concrete encasement work and installation of cellular bulkhead protective coatings. Work also includes all site restoration including pavement, curbs, walkways, fences, guiderails, underground piping, utilities, and stone riprap as required.

Bid Estimate Range: \$7.2 million to \$8.2 million.

2nd Pre-Bid Inspection: Held on March 12, 2020. The March 12, 2020 Pre-Bid Site Inspection was MANDATORY for any new Contractors. Contractors who attended the March 10, 2020 Pre-Bid Site Inspection were not required to attend this second site inspection. Bids will be rejected from Contractors not in attendance at either the March 10, 2020 or March 12, 2020 meeting, or those who failed to sign the attendance sheet.

Contact: John Coelho, 914-995-5144

## New York State Dormitory Authority

### Proposal Due Date: June 3, 2020

Title: City University of New York at York College Performing Arts Center Facade and Roof Restoration

Solicitation #:3393609999/CR33

Classification: Construction Contracts

Subcontracting Provisioning Goals (%): Minority Owned:18, Women Owned:12, Service Disabled Veteran Owned:6

#### Pre-Bid Meeting

A Pre-Bid Meeting was scheduled on Tuesday, May 12th, 2020 at 10:00 a.m. at York College, Performing Arts Center Lobby, 94-45 Guy R. Brewer Boulevard, Jamaica, NY11433.

Contact George Tavoulareas at 718-352-0025

All prospective bidders are strongly encouraged to attend. Only one individual per contracting firm will be allowed at the Pre-Bid Meeting.

Contract Terms: July 5, 2021

Location Where Goods to be Delivered or Service Performed York College, 94-45 Guy R. Brewer Boulevard, Jamaica, NY, 11433

### Proposal Due Date: June 23, 2020

Title: Office for People with Developmental Disabilities at Staten Island DDSO Repair and Replacement of Exterior Platforms, Stairs, and Ramps and Asbestos Abatement

Solicitation #:3527309999/CR5

Classification: Construction Contracts

Subcontracting Provisioning Goals (%): Minority Owned:18, Women Owned:12, Service Disabled Veteran Owned: 6

#### Pre-Bid Meeting

A Pre-Bid Meeting will be held on Tuesday, June 2, 2020 at 10:30 a.m. at 930 Willowbrook Road, DASNY Field Office, Building 13-K, Staten Island, NY 10314.

Contact Layla Bahbahani at 718-982-5132

All prospective bidders are strongly encouraged to attend.

Contract Terms: June 25, 2021

Location Where Goods to be Delivered or Service Performed Staten Island DDSO, 930 Willowbrook Road, Staten Island, NY 10314

*Agency contact information may change without notice. Please check with the appropriate contracting agency for the most up-to-date contact information.*



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## Attorney's Column

# Returning to Work In the COVID-19 Era

By THOMAS H. WELBY, P.E., ESQ. and GREGORY J. SPAUN, ESQ.

One month ago, when this column last appeared, not much was known about the progress of the COVID-19 virus. The “curve” was peaking (although we did not know it at the time), and it was not known how long New York’s “Pause” would last. Since then, although schools have been closed for the remainder of the academic year, we are at a point where the pause will be lifting, and construction will be in the vanguard.

However, with most job sites idled for the last several weeks, we now have to think about how to proceed again once those



sites open, and how to begin to recover from the effects of the shutdown. Two concerns now are the resumption of work and the continuation of work on “essential” job sites that never shut down.

### Temperature Testing Of Employees

While much is still unknown about the COVID-19 illness,

“social distancing” has demonstrated effectiveness in slowing the transmission of the disease. Accordingly, when job sites reopen, social distancing protocols must be maintained. (As stated, the purpose of this social distancing is to reduce the chance of catching the virus from

potentially infected individuals.) Another way to reduce the spread is to prevent potentially infected people from entering the job site. As one of the early symptoms of COVID-19 is a fever, one way to weed out potentially infected people is to conduct temperature tests as a condition of admission. However, is this permissible

*The first thing that a contractor must keep in mind in assessing one’s impacts is that the law imposes a duty to mitigate one’s damages. While certain impacts related to COVID-19 are unavoidable, particularly where your job was shut down, where a contractor can minimize the impacts they must do so or they will not be permitted recovery.*

for an employer? Clearly, in attempting to prevent one problem, one does not need to create another.

The U.S. Equal Employment

Opportunity Commission, the agency charged with the principal enforcement of the Americans with Disabilities Act, has recently provided guidance on the issue of whether employers may administer temperature tests to their employees. As a medical test, temperature testing may be administered to employees if it is “job related and consistent with business necessity.”

Because employees ill with COVID-19 pose a direct threat to non-infected employees, the EEOC guidance provides that employers may test their employees for fever as a condition of returning to work. However, the tests must be administered in a uniform manner (which, for purposes of avoiding any allegations of discriminatory testing, should be interpreted as testing of all employees). Further, the tests must be carried out in a way that insures accuracy and reliability. This can be done through backup testing of any feverish employees with a second thermometer, and a “positive” test be deemed to have taken place only when both tests indicate fever.

Finally, because of the Health Insurance Portability and Accountability Act (“HIPAA”), which provides for confidentiality of health information, employers should be careful not to share the results of any of this testing with anyone other than the affected employee. Of course, employers must keep in mind that fever is only one indicia of the COVID-19 virus, and that a non-feverish employee may nevertheless be infected with COVID-19.

### Documenting Your COVID-19-Related Impacts

Even though New York is officially reopening its economy, starting with the construction industry, the economy will not simply resume as if nothing has happened. While some projects, which were deemed essential continued, and while others will resume as soon as they can, others, due to lack of funding or other reasons, will either be put into mothballs

Please turn to page 16

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# Construction NEWS

## PHOTO GALLERY



Some 70 workers and subs were able to lay down up to 6,000 tons per shift.



Ken Tully of Tully Construction Co., Inc. of Queens, NY, led two 10-hour shifts over a three-week period.

## County Airport Main Runway Repaved

Continued from page 1

To meet FAA standards, repaving is performed every 20 years. Mr. Latimer said this was not a matter of strengthening or elongating the runway, which would have signaled a planned increase in air traffic and larger aircraft landing at the airport. Airport Manager Peter Scherrer added that this project ensures the main runway is in optimum condition.

About 20% of the air traffic at Westchester Airport is commercial with the remaining portion from fixed-based operators and private aviation. Most jet traffic was relocated to Stewart Airport in Newburgh while the smaller jets and planes were able to use the shorter runway at Westchester Airport.

According to the county, the majority of the funding for the capital project—about \$19 million—came from the federal government. Hugh J. Greechan, Jr., P.E., commissioner of Public Works & Transportation in Westchester County, added that another \$1 million came from the state Department of Transportation and the final \$1 million from the county's capital bonding. Additional funding was also raised through airport user fees.

—George Drapeau III, with bureau reports



The three-month, \$21-million project to repave Runway 16/34 was pushed up because much of the commercial aviation at the airport had ground to a halt during the coronavirus crisis.

Photo Credits/Margaret Fox Photography



The project called for 50,000 tons of asphalt. Materials came from two plants of Peckham Industries in the Bronx and Bedford, NY.



The airport was reopened to air traffic on Thursday morning, May 21.  
Photo Credit/Ken Tully, Tully Construction Co., Inc.



Reopening to New Workplace Protocols, Stronger Calls for Infrastructure Investment Continued from page 1

- ing Exterior Contractors
- Highway, Street and Bridge Construction
  - Land Subdivision
  - Nonresidential Building Construction
  - Residential Building Construction
  - Utility System Construction

While the civil side of construction continued through the “On Pause” period, non-essential commercial and residential was told to stand down.

“If there was a silver lining during this stay-at-home period, it might be that public work projects were permitted to proceed at accelerated schedules because of the lack of traffic and human activity in or around jobsites,” said CIC President Ross Pepe. “These temporary closures enabled transportation and utility crews to jump on work and chew up

some backlog.”

In Orange County, much of the commercial construction activities on a centerpiece project, the LEGOLAND New York Resort in Goshen, NY, were suspended, with only the infrastructure portion of the project on Route 17 permitted to continue during the “On Pause” period.

On the first day back to work, Stephanie Johnson, general manager of enterprise, remarked, “We are excited LEGOLAND New York Resort has resumed construction for its 2021 opening following New York Gov. Andrew Cuomo’s approval for the Mid-Hudson Region to begin Phase 1 of reopening. Safety remains our highest priority and enhanced safety procedures to our operations have been introduced, in full compliance with the New York

State requirements and best practice guidelines.”

The governor’s Executive Order in March shut down the construction of the theme park, but did not halt infrastructure-related work, particularly on the construction of a new exit on Route 17 leading to the \$350-million resort property.

Among the recreation and leisure-time sectors, campgrounds and RV parks were opened statewide for the Memorial Day weekend statewide.

During his daily COVID-19 briefing on May 22, Gov. Cuomo said that in anticipation of the reopening, he would allow construction staging to commence in both regions.

The governor’s announcement of the reopening on May 26 for the Mid-Hudson was welcome news to business leaders, government officials and unemployed workers in the Mid-Hudson that have been anxiously awaiting the beginning of the phased reopening of the region.

In recent days, county executives and other politicians, including U.S. Rep. Sean Patrick Maloney, have said the Mid-Hudson region was poised and ready to begin the first phase of the reopening.

“All of the cranes that you’ve seen that had to stop because they were not considered essential construction projects can now get restarted,” Westchester County Executive George Latimer said. “The men and women that work on those projects, the carpenters, the plumbers, the electricians, they go back to work.”

Rockland County Executive Ed Day said that, post COVID-19, residents and some businesses now based in New York City may look at counties in the Mid-Hudson as an attractive lifestyle

alternative.

“I think that folks in New York City are going to find places such as Westchester, Rockland and Orange and other counties in the Mid-Hudson region very attractive to them when they find they don’t have to go to New York City to work,” Mr. Day said. “They can come up to Westchester and Rockland and other places nearby and earn a living.”

It is believed that in two weeks the Mid-Hudson could qualify for phase two of the reopening, which would involve the professional services, retail, administrative support and real estate/rental and leasing sectors. However, the governor’s office has stated that the governor has the discretion to move a region into another phase. At the May 26 press conference Mr. Latimer said he believes it will take at least two weeks for any region to qualify for an advancement to a higher phase.

Phase three involves restaurants/food services businesses and the final phase reopens segments of the arts/entertainment/recreation and education sectors.

**New \$100M Small Business Loan Fund Launched**

On May 22, the governor announced the launch of the \$100-million New York Forward Loan Fund to provide flexible and affordable loans to help small businesses, focusing on minority and women owned small businesses, that did not receive federal COVID-19 assistance.

Officials noted that the state will take a smart, targeted approach for distributing these loans, focusing on businesses with 20 or fewer employees and less than \$3 million in gross revenues.

Businesses interested in receiving a loan should visit [esd.ny.gov/nyforwardloans](http://esd.ny.gov/nyforwardloans).

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# Long in Planning, Two Major Commercial Projects In Orange Are Poised for Groundbreakings in June

By JOHN JORDAN

MONTGOMERY, NY—Site work on two massive warehouse-distribution facilities, among the largest ever to be built in Orange County, is set to begin. The two build-to-suit developments in Montgomery for Amazon and Medline, involve nearly 2.3 million sq. ft. of new construction, totaling nearly \$200 million in investment.

Developer Bluewater Partners has commenced construction on the 1,015,740-square-foot distribution center for Amazon. The project secured final approvals from the Town of Montgomery and trees have been cleared and site work has been underway at the development that will involve the creation of approximately 1,000 jobs. The project is being built on a site that totals approximately 187 acres of land at 635 International Drive, at the intersection of Route 17K and Route 747.

The Montgomery Industrial Development Agency granted the project a 15-year PILOT agreement valued at \$20.5 million. The warehouse is expected to create 300 construction jobs and more than 800 jobs within two years of completion.

Meanwhile, Medline Industries Inc. of Northfield, IL, has received its Final Environmental Impact Statement approval, and has secured water and sewer permits and is only awaiting site plan approval from the Town of Montgomery. Site work has commenced on the \$120-million, 1.2-million-square-foot facility being developed on 118 acres on the Aden Brook Farm site.

The firm will be relocating from its current facility in Wawaynada to the larger complex. Medline will relocate its current workforce of 340 and plans to add 150 to 200 new positions in coming years. Medline has sold its Wawaynada property to Morgan Stanley.

While the two projects met some local opposition, the tremendous financial benefits both ventures will provide the Town of Montgomery, its school district and Orange County, won the day.

Maureen Halahan, president and CEO of the Orange County Partnership, said, "The fact that we have two of the largest buildings ever constructed in the history of Orange County underway during the worst economic crisis since the Great Recession gives a monumental infusion into our economy and the promise of good jobs moving forward."

Orange County Executive Steven M. Neuhaus said that despite COVID restrictions, the two projects can begin construction. "I am in favor of construction starting at these two sites and many others in Orange County. I believe that construction workers can socially distance while doing their jobs.

He added, "Every day that goes by that people are not working is another day that is damaging our economic development and our communities," he noted. "Tens of thousands of people in my community and throughout the state are unemployed and their families are suffering and if there is a way for us to bring them back to work in a safe manner and get them back on the payroll that should be our ultimate goal."

Most of the construction work to be performed at the two projects will be performed by local labor. L. Todd Diorio, president of the Hudson Valley Building & Construction Trades Council, said that a host of union trades are working on the approximately \$40 million worth of site work being performed at the Amazon distribution center site. He estimated that approximately 90% of the



A rendering of the Medline Industries more than 1-million-square-foot distribution center in Montgomery, NY.

overall project work will be performed by union labor.

In terms of the Medline project, Mr. Diorio, who is also Business Manager for Laborers Local No. 17 in Newburgh, noted that site work is expected to commence at the property shortly. The contractor for the site work at both the Amazon and Medline projects is Petillo Inc., which has offices in New Jersey and Middletown, NY.

The site work and concrete work have been bid and will be performed by union tradesmen, Mr. Diorio added. He said he is hopeful that the majority of the remainder of the project will also go union.

Mr. Diorio said that each project will employ several hundred union workers.

Jesse Greenberg, public affairs director for Medline, said, "After a lot of hard work and

collaboration with the town, we received our (Final) Environmental Impact Statement approval on March 30, which was a major milestone that we needed to clear and we were very happy that we did."

He said that while the firm is currently awaiting site plan approval from the town, the firm has commenced pre-construction activities at the property, including site preparation. Allston Construction has been retained as the general contractor for the project. The project is expected to take 12 months to complete.

During the approval process, Medline pulled an application for incentives with the Montgomery Industrial Development Agency. The firm does plan to utilize the 485B program with the State of New York. The value of those incentives has been estimated at approximately \$15 million over a 10 year-term.

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# Next Gen Leaders



*Profiles of the Industry's New Generation*



## Joao Anjo

### EMPLOYER & CURRENT POSITION

Police Officer,  
City of Rye, NY  
Police Department

### AGE

23

### ACHIEVEMENT

Construction Advancement Institute  
Scholarship Grant 2014, 2015

### EDUCATION

City College of NY, NYC,  
Major Mechanical Engineering  
Westchester County Police Academy,  
Valhalla, NY, graduated 2019

### ON THE CHOICE OF PROFESSION

"I started out in mechanical engineering, but being a volunteer fire fighter right after high school—and having a brother who was a police officer—I was also interested in public service. I took the police test in 2016, attended the Westchester County Police Academy in Valhalla and graduated in May 2019."

### WORDS OF WISDOM

"You can plan all you want, but when your ship changes course, don't be afraid to change with it."

### GOAL

Continued Public Service.

### OUTSIDE INTERESTS

Home improvement projects,  
automotive repair and restorations.

*Researcher and Writer—Alan Kennedy*

### ABOUT THE BCA/CAI SCHOLARSHIP

Since its inception the Building Contractors Association/Construction Advancement Institute College Scholarship Program has awarded more than \$225,000 to 38 students who have enrolled at 30 colleges and universities throughout the U.S. region.

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## OBITUARIES

**Victor Paterno****Longtime Contractor, Founding  
CIC Association Board Member**

YONKERS, NY—Victor Paterno, president of the heavy highway construction enterprise Paterno Contracting Corp., once headquartered on Edison Avenue in Mount Vernon, NY, died May 14 at White Plains Hospital from COVID-19. He was 90 years old.

Two weeks earlier on April 30, his wife of 64 years, Lucille, also died at White Plains Hospital from COVID-19. She was 91 and had health issues for several years.

During his long career, Mr. Paterno was a valued industry advisor and volunteer to numerous trade associations, and he served as a member of several trade boards. These included his role as chairman of the Associated Contractors of Westchester, Inc. The ACW would eventually merge with other contracting and supplier organizations to become the Construction Industry Council of Westchester & Hudson Valley, Inc. Mr. Paterno remained an active CIC board member from 1988 thru 1994.

“Vic always had a great story to tell,” said CIC President Ross J. Pepe. “His memory of events, projects and people dating back to his childhood adventures working construction at a very young age for his father’s business was incredible. He, his wife Lucille and brother, Peter, were the nicest people you could be with.”

Mr. Pepe added, “Vic also was extraordinarily proud of his sons Victor and Gregory who followed in his footsteps, building their successful careers in the metropolitan area’s robust and highly competitive construction industry. His sons are a fitting tribute to his legacy of hard work and dedication to an industry he enjoyed so much being a part of.”

Victor Paterno was born Oct. 8, 1929, the youngest of four children of Frank and Grace (*nee* Di Piro) Paterno of Mount Vernon, NY. Following graduation from Mount Vernon High School, he served in the New York Air National Guard at Westchester County Airport where the 137<sup>th</sup> Fighter Squadron was based. (In 1952, the unit was redesignated the 137<sup>th</sup> Fighter Interceptor Squadron and received the F-51 “Mustang” aircraft as well as a new air defense mission.)

When his NYANG duty ended, Mr. Paterno became active in construction. He was joined by his brother, Peter, and the two further developed Paterno Contracting Corp. by 1959. The company soon expanded its portfolio of construction activities, venturing into the public bid sector to compete for projects at the municipal, county and state level.

Among the company’s first significant heavy and highway contracts were roadway and utility construction along Route 6 in Peekskill and work for the New York State Department of Transportation on the Taconic State Parkway. The company also won significant project work for Con Edison and New York Telephone.

In time, Paterno Contracting Corp. expanded into Connecticut, performing both private and public-sector work. Among the showcase projects in the Nutmeg State were its roadwork on Route 7 and corporate office plazas along Route 7, north of Norwalk.

His father was a valued member of the region’s construction industry during its earliest days of the 20<sup>th</sup> century, when steam shovels were fueled by wood and coal, and earth scrapers could capture a few cubic yards of material that could be counted on one hand. The dirt, stone and debris would be carted away via horse-drawn buggy.

“It left an indelible imprint on my dad,” explained his son, Victor, Jr., age 63, who is employed at Skanska USA Civil Northeast. “My father and my Uncle Peter realized that to be successful they needed to be more resourceful, more inventive.”

He continued, “My grandfather owned and operated a dump truck that was in high demand at the time—landing the company many important projects in the region. During those early days, the company was hired for site development work at the Westchester County Airport. “My father would help out as a youngster during summers, taking sandwich orders and being helpful any way he could,” he said.

Hard work and experience paid off for Mr. Paterno. The company’s legacy of work also includes a dredging of 1 million CY of sand from the Canarsie Landfill for the New York City Parks Department, and large-scale site development work for the Urban Development Corporation.

Please turn to page 19

**Michael A. Morano, Sr.****Construction Executive**

CORTLANDT, NY—Michael A. Morano, Sr., died on April 16 in New York-Presbyterian Hudson Valley Hospital here from complications of COVID-19. He was 68.

Mr. Morano operated the construction contracting firm, Morano Brothers Corp. of Croton-on-Hudson for decades. He built the business from scratch beginning in his early 30s, and made it into a competitive and successful construction company, performing in a variety of sectors. The company is now run by his grandson Michael III. His company has been in business for more than 30 years, and the family will continue to run the business in honor of their founder’s legacy, the family said.

He was born on May 29, 1951 in Mt. Vernon,



NY to the late Angelo and Natalina (*nee* Magnotta) Morano, and was a resident of Crompond, N.Y. and formerly of Ardsley, NY. He is survived by his wife, AnnMarie Morano, his four children Michael Jr. (Kristina), Angelo, Anthony and Laura Kojamianian, and his sister Angela Cavallo. He is also survived by seven grandchildren. In addition to his parents, Mr. Morano was predeceased by his former wife Victoria Morano, and a daughter, Natalie Morano.

Due to the coronavirus crisis, the current state guidelines a private service will be held for immediate family and friends. When the time is right, the family wishes to host a memorial service to celebrate Mr. Morano.

**Ronald Olori, Sr.****Longtime Crane, Equipment Supplier**

NEW CITY, NY—Ronald Olori, Sr., a longtime construction industry executive and community benefactor in Rockland, died on March 30 at Good Samaritan Hospital in Suffern, NY. He was 78 years old and lived in New City, NY.

He died from complications of COVID-19, for which he tested positive two weeks prior to his passing.

Mr. Olori was a lifelong friend to so many in the construction and building industries. In an interview with this newspaper in the 1990s, he said his motto, which he was fond to attribute to his father, Lou Olori, Sr., who founded the family business in 1950, was, “We measure success not in dollars, but in longstanding business relationships we’ve built over the last 70 years.”

Mr. Olori was predeceased by his wife Anna Marie Olori, 75, of New City, who passed away on Dec. 21, 2016. He is survived by a son, Ron Jr., (wife Trish) of Stony Point, a daughter Lisa Bruno (husband Anthony) of New City, and seven grandchildren.

Mr. Olori was born July 2 1941 to Louis Sr. and Catherine (Specia) Olori at Nyack Hospital. He



was the second of six children. He is now survived by four siblings, Bob, John, Ken and Mary Ann. His brother, Lou, Jr., predeceased him.

Mr. Olori was president of Olori Crane Service in Nanuet, a company he owned and operated along with his son and daughter, and, most recently, with his grandson. He was known by many as a faithful and generous man who loved his family and his community. He was a lifelong parishioner of St. Peter’s Church and 70-year member of the Boy Scouts of America.

He graduated from St. Peter’s School and Don Bosco High School and completed two years of college before joining the family business fulltime. Along with his brothers, he helped their father, Lou Sr., build the family business, which been a respected member of the construction community of the Hudson Valley since 1950.

There will be a celebration of Mr. Olori’s life at later date. Donations in his memory can be made to St. Peter’s/St Mary’s Church, 115 Broadway, Haverstraw NY 10927, or Troop 19 BSA, 11 Seeger Drive, Nanuet, NY 10954.

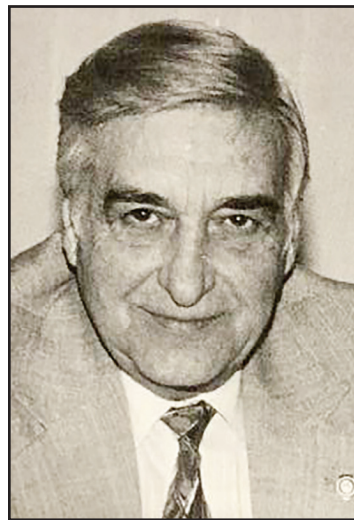
**Louis Varricchio****Longtime L.U. 137 Labor Official**

BRIARCLIFF MANOR, NY—Louis Varricchio’s life was defined by devotion to his family, service to his country and to his fellow travelers at the Operating Engineers Local 137.

The retired labor official and past president of Local 137 Operating Engineers died Thurs., May 7, at his home in Coconut Grove, FL. He was 94, and was a former resident of Garrison, NY.

Mr. Varricchio was born March 30, 1926, the youngest of Italian immigrants Sue and Joseph Varricchio. As a native of Peekskill, he was raised in a diverse, mostly Italian neighborhood called ‘Fink Town’ where he would say he acquired both survival skills and life-long friends.

At age 17, he enlisted in the U.S. Navy; completed training at Great Lakes University and was a diesel mechanic until 1945 on the USS Chatham in the Pacific theatre; he became a Naval Reservist until his honorable discharge



in 1949.

Following WWII, he worked on the assembly line at the General Motors’ “Fisher Body” plant in Tarrytown. In 1953 he joined Operating Engineers Local 137 in Westchester, and served as shop steward for Cooney Brothers in Peekskill.

By 1963, his first master mechanic position was on the Newburgh-Beacon Bridge. In 1966, he was appointed to two positions that at the time was permissible, an IUOE 137 union delegate and a master mechanic.

He served as master mechanic at Indian Point Nuclear Power Plant Reactor 2 and 3, which at the time was under construction. There he was responsible for up to 300 Operating Engineers who worked two shifts at the plant.

His career within the IUOE 137 included financial secretary officer on IUOE’s executive board, and he became a director of the Local’s

Please turn to page 20



Financial Management

Tax Benefit for Construction Firms: Business Interest Limitation Changes

By PHILLIP ROSS, CPA, CGMA, PARTNER

The Tax Cuts and Jobs Act (TCJA) of 2017 was generally a taxpayer-friendly legislation for the business community. However, there were several provisions in that Act that were implemented as revenue raisers to partially offset the cost of those tax breaks. One of those provisions was the business interest expense limitation. This limitation can potentially impact construction companies of all entity types.

Under TCJA, the deduction for business interest could not exceed the sum of the taxpayer's total business interest income and 30% of adjusted taxable income, as defined below. The recently passed Coronavirus Aid, Relief and Economic Security (CARES) Act modified and increased the 30% business interest limitation to 50% for the years beginning with 2019 and 2020. For partnerships, this will not apply to years beginning with 2019, but only for 2020, and the taxpayer can elect to use their 2019 Adjusted Taxable Income (ATI) to compute the limitation for 2020. Assuming the taxpayer's ATI for 2020 would be lower than that of 2019, electing to use 2019 would result in



a higher interest deduction. Partners of a partnership can deduct 50% of the 2019 excess business interest expense in 2020.

Adjusted taxable income is defined as taxable income adjusted for the following items:

- Business interest expense and business interest income;
- Net operating loss;
- Depreciation and amortization (only for years beginning before January 1, 2022).

The excess interest for any year is carried forward indefinitely and can potentially be deducted in a subsequent year if the construction company has sufficient taxable income.

There are several exemptions from the business interest

limitation. The Small Business Taxpayer Exception exempts construction companies with average gross receipts of less than \$26 million for the three preceding tax years. You may have to "aggregate" the revenue of related businesses when measuring against the \$26 million limit.

A second exemption available to qualifying real property trades or businesses is to elect out of these limitations. The statute clearly includes construction companies in this category, but most are not aware that they are eligible for this. The election is irrevocable and requires the electing taxpayer to depreciate all real property using the less favorable Alternative Depreciation System (ADS). Since most construction companies do not have much real property or the property is in a separate company, this exemption can be very valuable. The requirement to use ADS depreciation applies to residential, non-residential and qualified improvement property. The ADS life for non-residential property is 40 years

compared to 39 years under MACRS whereas the ADS life for residential property is 30 years compared to 27.5 years under MACRS. The business would be

qualified real property which includes roofs, HVAC, security and fire alarms systems as well as qualified improvement property (defined as any improvement to a building's interior which is not an enlargement of the building, an elevator or escalator, or the internal structural framework of the building).

Construction companies affected by the business interest limitations must weigh the benefit of making the election and getting the immediate interest deduction against the cost of the longer depreciation lives of ADS. The decision should not be

Construction companies affected by the business interest limitations must weigh the benefit of making the election and getting the immediate interest deduction against the cost of the longer depreciation lives of ADS.

required to apply the ADS rules to both newly-acquired and previously-existing property. The election does not preclude a construction company from claiming bonus depreciation on tangible personal property such as computers, equipment and vehicles. The election also does not prevent a business from claiming Section 179 expense on all classes of assets. Therefore, electing construction companies can continue to claim Section 179 expense on

made based on the one-year tax effect. Instead, affected companies should make a decision based on an analysis of the long-term tax ramifications. The effect of other provisions of TCJA such as the 199A deduction should also be considered. Of course, the decision process should always involve consultation with a professional tax adviser.

• The Small Business Taxpayer Exception was indexed  
Please turn to page 19

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# Thruway Authority Awards \$450M Contract To Modernize 27 Thruway Service Areas

ALBANY—The New York State Thruway Authority Board of Directors approved on May 12 the selection of a consortium to redevelop the 27 service areas located on the Thruway.

Empire State Thruway Partners was selected from bids received in response to a Request for Proposals. Empire State Thruway Partners submitted a \$450-million investment plan to rebuild 23 of the 27 service area restaurant buildings and provide significant renovations and upgrades to the remaining four.

The service areas were originally built in the 1950s, with the last significant redevelopment taking place in the 1990s.

“The Thruway is a vital connector for interstate commerce and its service areas provide motorists with essential travel amenities that allow them to reach their destinations safely,” Thruway Authority Executive Director Matthew J. Driscoll said. “The upgrades planned with this redevelopment project include innovative, modern initiatives to improve the customer experience for the tens of thousands of travelers who use the service areas every day.”

The contract with Empire State Thruway Partners includes a 33-year term, with two phases of construction. Phase one includes 16 service areas with

staged reconstruction expected to begin in 2021. Phase two includes 11 service areas with renovations expected to begin in January 2023. To ensure continuity of services to Thruway customers during construction, no two consecutive service areas in the same direction of travel will be closed for renovations at the same time.

Amenities and services were established in the RFP using feedback from a Thruway administered customer survey in 2018, which gathered information from customers to gain fresh insight into consumer preferences, best practices and appropriate business models.

## Service Area Proposal New Building and Levels of Service

Empire State Thruway Partners proposed various levels of service and building sizes to accommodate travelers’ needs and desires. Most buildings will be configured to provide entrances from both the parking lot and fuel station facilities.

Additional amenities include: exterior seating with access to Taste NY farm markets, picnic areas, play areas, and pet walking areas with comfort stations; business centers available at designated service areas; technology-forward building maintenance systems to monitor



A rendering of a modernized interior of a Thruway Service Area facility.

facilities, alert maintenance to issues and schedule predictive maintenance and enhanced services such as call ahead ordering, kiosks and drive-thru service at most location.

## Taste NY and I Love NY Commitment

Empire State Thruway Partners detailed a commitment to promoting the I Love NY program and local tourism and showcasing Taste NY products in their proposal through self-branded convenience stores and gift shops. The proposal includes a tenant plan featuring a variety of options for travelers, expanded hours of operation and multiple food concepts, and various seating options for travelers.

Additional services proposed at select locations include: proposed virtual welcome and tourism centers, virtual Thruway assistant and travel counselors, food trucks and other seasonal offerings, enclosed climate controlled pet areas, private area for nursing mothers and environmental initiatives that

include: LEED Silver rating principles at all locations, solar arrays integrated into roofing systems and parking areas, rainwater harvesting, retention ponds, irrigation free landscaping and use of non-invasive landscaping that is drought resistant and requires low maintenance and reduced light pollution and glare through building materials, design and light fixture selection and placement.

Additionally, under direct guidance and consultation with the New York Power Authority, Empire plans to implement a passenger vehicle electric charging program at all Service Areas.

## Commercial Trucking Industry

New amenities are also proposed by Empire State Thruway Partners for commercial drivers. The proposal calls for increased truck parking at service areas system-wide by 150 parking spaces and amenities such as shower and laundry facilities, fitness center and healthy snacks.

The Thruway is scheduled to convert to an entirely cashless tolling system by the end of 2020.



The contract calls for the rebuilding of 23 existing Service Areas and significant renovations to four others.

## New Workplace Protocols for Construction Operations Continued from page 3

area; excluding deliveries that are performed with appropriate PPE or through contactless means.

- If a worker tests positive for COVID-19, the employer must immediately notify state and local health departments and cooperate with contact tracing efforts, including notification of potential contacts, such as workers or visitors who had close contact with the individual, while maintaining confidentiality required by state and federal law and regulations.

- Conspicuously post completed safety plans on site.

### Screening

- Employees who are sick should stay home or return home, if they become ill at work.
- Implement mandatory health screening assessment (e.g. questionnaire, temperature check) before employees begin work each day and for essential visitors, asking about (1) COVID-19 symptoms in past 14 days, (2) positive COVID-19 test in past 14 days, and/or (3) close contact with confirmed or suspected COVID-19 case in past 14 days. Assessment responses must be reviewed every day and such review must

be documented.

- Employees who present with COVID-19 symptoms should be sent home to contact their health care provider for medical assessment and COVID-19 testing. If tested positive, employee may only return completing a 14-day quarantine.

- Employees who present with no symptoms but have tested positive in past 14 days may only return to work after completing a 14-day quarantine.

- Employees who have had close contact with a confirmed or suspected person with COVID-19 but are not experiencing any symptoms should inform their employer and may be able to work with additional precautions, including regular monitoring for symptoms and temperature, required face covering all times, and appropriate social distancing from others.

- On-site screeners should be trained by employer-identified individuals familiar with CDC, DOH, and OSHA protocols and wear appropriate PPE, including at a minimum, a face covering.

- Have a plan for cleaning, disinfection, and contact tracing in the event of a positive case.

### Recommended Best Practices

- Create additional space for employees by limiting in-person presence to only personnel necessary for the current task(s), adjusting workplace hours, staggering arrival/departure times, creating A/B teams, and/or scheduling only one team in an area at a time.

- Modify alignment of workstations to maintain 6 ft. distance and avoid multiple crews and/or teams working in one area. If not feasible, provide and require face cover-

ings or enact physical barriers (e.g. plastic shielding walls), in accordance with OSHA guidelines, in areas where they would not impair air flow, heating, cooling or ventilation.

- Reduce bi-directional foot traffic by posting signs with arrows in narrow aisles, hallways, or spaces.

- Have employees work from home whenever possible.

- Prohibit non-essential visitors on the site.

- Wherever possible, increase ventilation of outdoor air (e.g. opening windows and doors) while maintaining

safety precautions.

- Encourage employees to bring lunch from home and reserve adequate space for employees to observe social distancing while eating meals.

- Perform screening remotely (e.g. by telephone or electronic survey), before reporting to the site to the extent possible.

*Editor's Note: These and other safety guidelines are available on the "Reopening New York" section of the Governor's office website for reopening construction businesses.*

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## Attorney's Column

Continued from page 8

for the time being, or simply canceling altogether. However, even for those that have been working on those essential projects, there is not a contractor out there that has not suffered some sort of impact as a result of COVID-19. Accordingly, it is important that contractors be prepared to recognize, and document, their COVID-19-related impacts—and be able to differentiate these impacts from other, non-COVID-19-related impacts.

The first thing that a contractor must keep in mind in assessing one's impacts is that the law imposes a duty to mitigate one's damages. While certain impacts related to COVID-19 are unavoidable, particularly where your job was shut down, where a contractor can minimize the impacts they must do so or they will not be permitted recovery. Aside from the obvious one of having the "non-essential" job site shut down, these impacts may include:

- delays of deliveries of materials, supplies and goods necessary for the job;
- additional time required to unload those items;
- the lack of workers due to illness or being home with dependents;
- delays in obtaining permits and in scheduling municipal inspections;
- the inability to hold proper meetings;
- the challenges imposed by social distancing requirements (particularly on vertical conveyances such as lifts and hoists);
- site workflow constraints and work area limitations;
- more regular cleaning requirements;
- the need for additional tools to minimize sharing;
- longer and additional workdays to accommodate staggered shiftwork and minimize labor on the site;
- the need for additional supervision for that increased time.

In assessing the damages suffered, the contractor must, of course, look to the terms of the contract to see what damages can be recovered (if any, for the contract may only provide for an extension of time for certain types of delays, including those for force majeure type of events such as epidemics/pandemics).

Additionally, as we mentioned in last month's column, contractors must provide notice of the delay and the impacts they are suffering in accordance with the contract. Provided that has been done, the contractor should, first and foremost, determine the project's actual progress and costs at the time of the disruption. Once that baseline is established, useful strategies would include considering the disruptions to suppliers and subcontractors to determine possible escalation costs, dedicating resources to document and manage the impacts, and

creating separate COVID-19-related cost codes so that they can be easily distinguished from general job costs.

Contractors can base their analyses on project specific comparison studies, which can be performed based on comparable work by the contractor or, where that is not possible, comparing work between different contractors, comparable or work between different projects. Contractors can also rely on the total/modified cost method, where the loss is determined by simply subtracting the bid cost from the actual cost. However, contractors should be cautious in using this method because it assumes a cause-and-effect relationship between the damages and the claimed impacts, as well as that the work was reasonably estimated, that the actual costs are similarly reasonable, and that the contractor is not responsible for the additional costs.

Clearly, the job of classifying and documenting the impacts that contractors face as a result of COVID-19 is not an easy one. Once the contractor determines its direct costs (such as increased labor, materials, equipment, and subcontractor costs) and its indirect costs (such as increased project management staff, field office, site maintenance, cleaning and home office overhead costs), the retention of appropriate legal counsel and scheduling experts would be helpful in assisting it in best presenting its claim for the maximum chance of recovery.

### Comment

Undoubtedly, the coronavirus pandemic will add time and cost to virtually every construction project. Who bears the burden of that additional time and cost, as between owners, general contractors, suppliers and others, may be debated and litigated for some time to come. It is important to reiterate from last month's column that a contractor who is faced with an impact resulting from COVID-19 would be well advised to, first and foremost, give notice of the delay and the condition which led to the delay, as well as any other information required by the particular contract—particularly now that New York's economy will be opening up shortly and those additional impacts will be incurred. The requirements for how New York will open up its economy seems to be changing on a daily basis, and contractors would be well advised to be prepared by doing your paperwork now.

*About the author: Thomas H. Welby, an attorney and licensed professional engineer, is General Counsel to the Construction Industry Council of Westchester and the Hudson Valley, and is the founder of the law firm of Welby, Brady & Greenblatt, LLP, with offices located throughout the Tri-State/Greater Metropolitan Region. Gregory J. Spaun, an attorney and a partner with the firm, co-authors this series with Mr. Welby.*

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## Safety Watch

# OSHA's General Duty Clause Requires Detailed Training To Avoid Struck-By Injuries From Vehicles, Equipment

By GEOFFREYS. POPE, ESQ.

The ALJ decision in *Secretary v. Master Construction Co., Inc.* underscores the necessity of detailed, site-specific plans, training, and coordination among the general contractor and subcontractors, to protect workers on foot from struck-by mishaps involving vehicles and equipment.

In Master Construction, the respondent was the general contractor on a roadway expansion and resurfacing project in North Dakota. A concrete worker, working on foot for the respondent, had both legs broken when he was struck by a cement truck driven by an employee of a subcontractor. Following inspection, OSHA cited the respondent for a "Serious" violation of the OSH Act's General Duty Clause.

The citations and proposed penalties were contested, and the matter was tried before an Administrative Law Judge. The General Duty Clause citation item was upheld, based on the respondent's failure to sufficiently protect its employees from the hazard of being struck by heavy equipment while in the construction zone.

The work in the construction zone was synchronized and fast-paced. First, a placer collected the concrete delivered by the trucks into a hopper. Next, a conveyor moved the concrete from the hopper to a movable chute, that spread the concrete over the roadbed. A paver traveled behind the placer, and smoothed and formed the concrete. Bringing up the rear was the cure cart, which applied a compound to ensure that the concrete would dry with the specified strength and durability.

From a safety standpoint, the main problem was that although, with the exception of the chute man, most of the concrete workers worked behind the placer and paver (which were a barrier between them and oncoming vehicular traffic) the project was staged so that the concrete workers, without the benefit of marked-off pedestrian lanes, had to cross areas where equipment was being operated in order to reach their cars and to access tools, lunches and supplies.

Also, while respondent did annual seminars and toolbox talks on how to avoid being struck by a moving vehicle on the jobsite, its warnings and directives were general. It had neither a site-specific safety plan, nor specific, documented rules governing pedestrian and truck traffic within the construction zone. One driver testified he did not recall receiving any notice respondent's employees would be walking in the area of truck traffic, and stated it was "not likely at all" for workers



or contractor employees to be traveling in that area on any worksite.

On the day in question, A.A., a concrete worker, had been directed to retrieve a supply of curing compound, which required him to traverse the

traffic zone. A concrete truck, driven by Mr. Nelson, having just dropped its load of concrete into the hopper, pulled forward to the right side of the roadbed to avoid a second truck, driven by Mr. Savageau, which was backing up to the hopper. After pulling forward an undetermined distance, Mr. Nelson stopped to pin up his chute, whereupon he discovered that he had struck A.A., one of the respondent's employees.

OSHA's compliance officer found a violation of the General Duty Clause, namely that respondent had

failed to properly address the hazard presented by employees traveling on foot through

***While respondent did annual seminars and toolbox talks on how to avoid being struck by a moving vehicle on the jobsite, its warnings and directives were general. It had neither a site-specific safety plan, nor specific, documented rules governing pedestrian and truck traffic within the construction zone.***

an area where concrete trucks were in motion. Section 654(a)(1) of the OSH Act imposes a

general duty on employers to furnish employees a workplace "free from recognized hazards that are causing or are likely to cause death or serious physical harm." In order to prove such a violation, the Secretary must show that a condition or activity in the workplace presented a hazard; that the employer or its industry recognized the hazard; that the hazard was likely to cause death or serious physical harm; and that a feasible and effective

means existed to eliminate or materially reduce the hazard.

**Please turn to page 18**

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# Guidance for Construction Operations Resources

ALBANY—The Governor’s office has published detailed interim guidance for construction as part of Phase One of the “NY Forward” reopening plan.

You can view the guidelines and related documents (<https://forward.ny.gov/industries-reopening-phase#phase-one--construction-guidelines>), including the summary guidelines (<https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/ConstructionShortGuidelines.pdf>) and detailed guidelines (<https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/ConstructionMasterGuidance.pdf>).

Businesses will be required to affirm with the state their adherence to the guidelines and requirements through completion of an online form (<https://forms.ny.gov/s3/ny-forward-affirmation>).

The state has also provided a safety plan template ([https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/NYS\\_BusinessReopeningSafetyPlanTemplate.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/NYS_BusinessReopeningSafetyPlanTemplate.pdf)). This plan does not need to be submitted for approval but must be retained on the premises of the business and made available to the New York State Department of Health (DOH) or local health and safety authorities in the event of an inspection.

The Construction Industry Council and the Building Contractors Association will be reviewing these guidelines and seeking additional guidance from experts as to the best way to manage compliance within this new guidance.

These files are also available on the association’s website, [www.cicnys.org](http://www.cicnys.org)

## Safety Watch

As always, the employer’s actual or constructive knowledge of the hazard is a further requirement.

Most of the elements of the violation were either conceded and/or too painfully evident for serious dispute. Struck-by hazards are part of every roadway job, and the disproportion between a concrete truck, and a man on foot, leaves no doubt that the latter, if struck squarely by the former, will probably be seriously injured.

That the hazard was recognized in the industry was shown, among other things, by expert testimony, and the existence of ANSI standards. That the respondent recognized the hazard was apparent in that it had rules, and performed training on the subject.

In discussing the element of the existence of a feasible and effective means of abatement, the ALJ allowed that the respondent should not be held to some standard fashioned, ad hoc, by the Secretary. The standard proposed must be premised on hazards either respondent or its industry squarely recognizes, and abatement measures must have been recognized by industry experts as effective in eliminating or reducing those hazards.

Respondent’s supervisor admitted that he had directed A.A. to travel through the area where trucks were being driven, and that he knew employees sometimes walked through the area to gather additional tools and collect food and water from their personal vehicles. Respondent’s actual knowledge of the hazard, by reason of the knowledge of its supervisory employee, was thus established.

Continued from page 17

In determining whether an employer has adequately protected its employees from a hazard, the commission considers “whether [the employer] has established work rules designed to prevent exposure, has properly communicated those rules to its employees, has taken steps to discover noncompliance with the rules, and has effectively enforced its rules in the event of noncompliance.”

In Master Construction the ALJ, after extensive examination of the analysis of the evidence, found that the respondent needed to have a detailed, site-specific plan for combined vehicular and foot traffic inside of the construction zone.

I share with you the following measures for the multi-employer website, which were recommended by the complainant’s expert, and approved by the ALJ: a task hazard analysis; communicating the identified hazards to both employees and contractors; developing work plans separating people on foot from vehicle and heavy equipment traffic; and performing inspections to ensure compliance. In the specific arena of highway construction, the following additional methods to abate the ever-present struck-by hazard are indicated: (1) close supervision of high-risk work, (2) a written internal traffic control plan, and (3) truck-specific safety rules.

*About the author: Geoffrey S. Pope, Esq. is counsel to the construction law firm of Welby, Brady & Greenblatt, LLP. The articles in this series do not constitute legal advice, and are intended for general guidance only.*



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# Rebuild NY’s Economy by Getting Public Works Going

By JOHN JORDAN

TARRYTOWN, NY—Two leading management groups in New York’s contracting community sent letters to Gov. Andrew Cuomo and chief executives in eight Hudson Valley counties stressing the need to make infrastructure investment to kick start the economy that has been stalled by the stay-at-home directive to help stop the spread of the coronavirus.

The New York Roadway & Infrastructure Coalition thanked Gov. Andrew Cuomo for his leadership and past investment in the state’s infrastructure and urged him to advance “essential projects during the pandemic and look to the future.” In a letter sent May 13, the group urged the governor to support the New York State Department of Transportation Capital Program in the enacted 2020-2021 Budget, fully funded at \$6.112 billion. NYRIC President Ross Pepe stated, “This level of infrastructure investment will be key to ensuring that we build New York back stronger and better than ever. Moving forward with a fully funded capital program will not only provide funding for vital improvements to our aging infrastructure, but will be a spark to reignite job expansion and economic growth.”

Among the members of NYRIC include the Associated General Contractors of New York State, the General Contractors Association of New York, the Long Island Contractors Association, the American Council of Engineering Companies of NY, the NYS Conference of Operating Engineers, LECET-NY Laborers and the Construction Industry Council of Westchester & Hudson Valley, Inc.

Mr. Pepe is president of the CIC. John

T. Cooney, Jr., is a member of the NYRIC executive committee and the executive director of CIC.

NYRIC stated that it remains steadfast in ensuring the safety and well-being of its workforce as well as the safe transport of the “heroic workers serving on the front line.”

The trade group noted that each \$1 billion invested in infrastructure, adds \$3.4 billion to the Gross Domestic Product, \$1.1 billion to personal earnings and creates and sustains 28,500 jobs.

“Investment in our infrastructure today has allowed essential products and people to flow during this crisis. With your continued support and investment in our infrastructure, we will undoubtedly be a stronger New York State and best prepared for a robust economic recovery,” Mr. Pepe stated in the NYRIC letter to the governor. “These investments will immediately put New Yorkers back to work, significantly reducing unemployment. Your commitment to fully funding the (NYSDOT) Capital Program will guarantee that municipalities will be reimbursed and allow them to proceed with projects all over the state.”

The Hudson Valley Construction Industry Partnership, comprised of four regional construction industry trade associations, sent a letter to eight county chief executives that included critical recommendations and safety guidelines and protocols as the counties begin to move forward on a phased re-start of their economies and the eventual safe resumption of full construction activity in the region. The members of the HVCIP are the Construction Industry Council of Westchester & Hudson Valley, Inc., the Construction Contractors Association of the Hudson Valley (CCAHV), The Build-

ing Contractors Association of Westchester & the Mid-Hudson Region and the Construction Advancement Institute.

The letters were authored by CIC President Pepe, CIC Executive Director John Cooney, Jr., CCAHV Executive Director Alan Seidman and Building Contractors Association Executive Director Matthew Pepe and were sent to: Rockland County Executive Edwin J. Day; Putnam County Executive Mary-Ellen Odell; Orange County Executive Steven Neuhaus; Dutchess County Executive Marcus J. Molinaro; Matt B. Murell, Columbia County Chairman of the Board of Supervisors; Joshua Potosek, Sullivan County Manager; Westchester County Executive George Latimer and Ulster County Executive Patrick K. Ryan.

The consortium stressed that the construction industry is employing safety-oriented practices, including safe

social distancing and utilizing personal protective equipment (PPE) to mitigate exposure to pathogens and other health risks.

The consortium also noted that the construction industry and the building trades have always played a vital role in the design, construction, maintenance and operation of the region’s transportation and mass transit systems.

“We must take a page out of the history books and study the past six recessions along with the Great Depression, the HVCIP stated in the letter to the county executives. “The pathway to economic recovery was mainly paved through investment. In the words of our great former Gov. Mario Cuomo, ‘We need to rebuild the physical foundation upon which all economic activity depends.’ It is the fuel that powers the rest of our economic drivers to restart and again become prosperous.”

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for information.*

## Victor Paterno Continued from page 13

The contracting portion of the enterprise ceased operations in August 1997. The enterprise produced asphalt on the site of its company’s headquarters, located at 7 Edison Avenue in Mount Vernon, under the banner of Paterno Asphalt Corp. It was purchased by investors and eventually was reincorporated in the name of the current enterprise, RCA Asphalt LLC in 1997.

Mr. Paterno met his future bride Lucille (*nee* Tronto) of the Bronx at a family wedding in 1947, and they were married on Jan. 29, 1956. For the early years of their marriage the Paterno family lived in the Bronx. They would eventually relocate to Westchester, settling in Yonkers to raise their family.

The Paternos are survived by their son, Victor, Jr.. On May 22, their younger son, Gregory, 61, of Bedford, NY, died at Northern Westchester Hospital from COVID-19. He was employed by Tully Construction Co., Inc.

Mr. Paterno is also survived by his three grandchildren and a sister, Louise Sabia, of Hopewell, NY. As the youngest of four children, he was predeceased by his brother and business partner, Peter, in 2015, and a sister Vicky (Pisano) formerly of Greenwich, CT.

The family said that individuals and organizations can make gifts in the memory of Victor and Lucille Paterno to the Guiding Eyes for the Blind, 611 Granite Springs Road, Yorktown Heights, NY 10598. The charity’s phone number is 1-800-942-0149. [www.guidingeyes.org](http://www.guidingeyes.org)

## Financial Management

**Continued from page 14**  
for inflation. For 2019, the gross receipts threshold is \$26 million.

*Disclaimer: Please note this is based on the information that is currently available and is subject to change. This article contains information which is general in nature and based on sources which are believed to be authoritative. Specific applications would require consideration of all facts and circumstances by qualified professionals familiar with a*

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## NEW YORK CITY UPDATE

### Port Authority Seeks \$3B in Federal Funds

NEW YORK—Officials with the Port Authority of New York and New Jersey were joined on May 13 by civic and business leaders from across the region requesting \$3 billion in direct federal assistance to offset the agency's estimated revenue losses over the next 24 months as a result of the Coronavirus crisis.

As Congress drafts legislation to provide aid to state and local governments, the Port Authority and prominent stakeholders wrote to Congressional leaders, noting that funds must be made available to ensure that the Port Authority can advance its capital plan, which would create more than 100,000 good local jobs while driving more than \$20 billion in both private and public spending in the next five years—beginning this summer—fueling the region's economic recovery.

Without direct federal financial assistance, the Port Authority will be forced to urgently reconsider its capital plan, including drastic cuts to a variety of critical infrastructure projects across the region from major airport redevelopment to bus terminal replacement and improvements at PATH stations, the Port Authority stated. For a region that represents 15% of the national GDP, cutting projects and eliminating tens of thousands of jobs will have a profound impact on the national recovery.

"Our region cannot afford, now, to walk away from these jobs or these billions of dollars of construction spending our capital plan would inject into the region and the country," said Kevin O'Toole, Port Authority Chairman. "We thank the New York and New Jersey Congressional delegations for their strong support and look forward to working with them to obtain the financial assistance needed to offset our deep revenue losses, preserve our capital plan, and create over 100,000 good, local jobs."

"Given the massive decline in traveler volumes, Congress must provide the Port Authority with direct financial assistance to offset its massive revenue losses to ensure critically important

infrastructure projects can move forward," said Rick Cotton, Port Authority Executive Director. "The capital plan creates 100,000 good local jobs and leverages more than \$10 billion in private money. It would drive the economic recovery, and pulling back now is the exact opposite of what the regional and national economy need."

Throughout the coronavirus crisis, the Port Authority has kept all of its facilities open and operating to get necessary food, fuel, and medical supplies into the region and to get essential workers safely to their jobs and back home. However, the change inside those facilities is staggering. Airport traffic is down 97%; PATH commuter rail ridership is down 95%; bridge and tunnel traffic is down 50%. This collapse in traveler volume continues to produce enormous revenue declines.

The letter from the Port Authority and leaders in New York and New Jersey outlined the need to add a "multi-state agencies" category to the list of state and local entities eligible for direct federal financial assistance. The Port Authority does not rely on funding from New York or New Jersey. The Port Authority has no power to tax. It is subject to the discipline of the private market. The Port Authority earns money from the contractually-required payments from its business partners, and from the customer user fees that have so dramatically dried up. Federal aid to the Port Authority should be separate from assistance that New York and New Jersey receive as states and from funding set aside for cities or municipalities.

Among those industry leaders signing on to the letter to Congress included: Carlo Scissura, president & CEO of the New York Building Congress; Gary LaBarbera, president, Building and Construction Trades Council of Greater New York; Robert Wessels, executive director, General Contractors Association of NY, Inc.; Richard Kennedy, president & CEO, Skanska USA and Felicia Park-Rogers, director of Regional Infrastructure Projects, Tri-State Transportation Campaign.

## ALBANY UPDATE

### DEC Denies Key Clean Water Permit For Major NESE Pipeline

ALBANY—In a decision hailed by environmental groups and panned by state business and construction trade groups, the New York State Department of Environmental Conservation announced on May 15 its denial of the required Clean Water Act Section 401 Water Quality Certification for the proposed nearly \$1-billion Northeast Supply Enhancement (NESE) pipeline project by Williams Companies of Tulsa, OK.

NYS DEC stated it had determined construction of the NESE pipeline project would not meet New York State's rigorous water-quality standards. Construction of the proposed project would result in significant water quality impacts resulting from the re-suspension of sediments and other contaminants, including mercury and copper, and would disturb sensitive habitats, including shellfish beds and other bottom-dwelling marine life, clearly demonstrating that a default mixing zone is not appropriate for this project.

NESE proposed to provide 400,000 dekatherms per day of incremental natural gas capacity to National Grid, which issued a Natural Gas Long-Term Capacity Supplemental Report for Brooklyn, Queens, Staten Island, and Long Island (PDF) on May 8. The report identified options that would meet the projected gap between demand and supply of natural gas without the installation of NESE project, the DEC stated.

DEC conducted a comprehensive review of the NESE application and supporting materials, as well as the more than 16,000 public comments received on the application, before reaching this decision. DEC subjects all applications for environmental permits to an extensive and transparent review process that encourages public input at every step.

The Northeast Supply Enhancement project will expand existing Transco pipeline infrastructure in Pennsylvania, New Jersey and New York primarily by "looping"—placing new pipe alongside of existing pipe parallel to the existing right of way. The project facilities consist of approximately 10 miles of 42-inch pipeline looping facilities, three miles of onshore 26-inch looping facilities, 23 miles of offshore 26-inch looping facilities, the addition of 21,902 horsepower at an existing compressor station, a new 32,000 horsepower compressor station and related appurtenant facilities.

The proposal is an enhancement of existing natural gas pipeline infrastructure. Williams will add about 37 miles of pipeline and new compression to its existing Transco pipeline system. This includes 23 miles of 26-inch pipe in the New York Bay, 3.5 miles of 26-inch pipe in Middlesex County, N.J., 10 miles of 42-inch pipe in Lancaster County, Pa., a new compressor station in Somerset County, N.J., and other existing compressor facility modifications.

"The Department of Environmental Conservation raised a discrete technical issue with our application for water quality certification. Our team will be evaluating the issue and resubmitting the application quickly, Williams Companies said in a statement. "We are confident that we can be responsive to this technical concern, meet our customer's in-service date and avoid a moratorium that would have a devastating impact on the regional economy and environment."

While some environmental groups hailed the DEC decision, the New Yorkers for Affordable Energy Coalition, stated, "We are disappointed by the Department of Environmental Conservation's decision to deny the construction of the Northeast Supply Enhancement (NESE) pipeline. This pipeline would have increased the natural gas supply to New York City and Long Island and ensured access to a safe, clean, affordable, and reliable energy source for millions of New Yorkers."

The group, which consists of labor, business, and community organizations throughout the state, related that coming on the heels of the shut-down of one of Indian Point's nuclear reactors, the decision "will further put a strain on New York energy supply and leave New York at an economic and environmental disadvantage. Natural gas infrastructure in New York is at its limit. Without new sources of natural gas, moratoriums on new hookups can't be far off."

The group added, "While we support New York State's efforts to implement clean energy goals and increase the use of renewable energy sources, we must be realistic about the technological limitations of renewable energy and honest about the high costs of renewables and the benefits of natural gas."

### Louis Varricchio

Continued from page 13

apprenticeship training center in Montrose, NY.

In 1991, Lou became president and the appointed assistant business manager until his retirement in 1996 at age 70.

He was predeceased by his wife Gloria (Marchi) in 2017, an older brother, Jerry, and two

sisters, Lee and Sylvia. Mr. Varricchio is survived by his three children, Jerry, Jill, and Louis. He had 8 grandchildren and 16 great-grandchildren.

The family said an event celebrating Lou's life is being planned and will be announced at a time when gatherings are permitted and appropriate.

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# DiNapoli: April Sales Tax Collections Decline More Than 24% After COVID-19 Shutdown

ALBANY—Local sales tax collections dropped 24.4% in April compared to April 2019, leaving many of New York’s local governments grappling with shortfalls, according to a report released recently by New York State Comptroller Thomas P. DiNapoli.

Sales tax collections totaled \$1.02 billion in April. Plummeting sales tax collections were widespread, leaving counties, cities and some other local governments short by approximately \$327 million compared to last year. Although the first quarter of 2020 was relatively strong, March sales tax collections had already begun to show the impact of the COVID-19 shutdown—a decrease of 3.7% statewide with the largest declines downstate. The April figures show shrinking revenues for local governments throughout the state.

“The coronavirus has hurt household finances, and the April sales tax figures show how deep it is cutting into municipal finances,” Mr. DiNapoli said. He later added, “The federal government needs to provide assistance to those hit hard by this virus or the budget cuts could be severe in some communities.”

Social distancing protocols were established with the “New York State on Pause” initiative, which has shuttered non-essential businesses and offices since March 22. A halt to travel,

the decline in retail activity and the large and growing numbers of New Yorkers who have lost their jobs have restricted business activity.

Every county in every region of the state saw a large drop in April collections. New York City experienced a 23.1% decline, amounting to \$141.8 million in lost revenues for a single month. Unknown at this time is how collections are impacted by consumers’ growing reliance on e-commerce shopping for products that are now subject to state and local sales taxes.

The least severe, though still substantial decline in sales tax collections occurred in the Mid-Hudson Region (-21.5%). The Capital District had the most severe decline (-28.8%). Outside of New York City, the state’s 57 counties had a decrease in collections of \$159.5 million compared to April 2019.

In addition, 17 cities (not including New York City) impose their own general sales tax. April collections were down \$5.7 million in April in aggregate compared to April 2019. Nearly every city saw large losses ranging from a decline of 20.1% in White Plains to a decrease of more than 37% in Gloversville. A few cities tax only specific goods or services. Most cities, towns and villages and some school districts also rely on sales tax revenues to support their

Percent Change in Sales Tax		
County	March	April
Dutchess	-17.3	-27.0
Orange	+6.6	-25.2
Putnam	+2.7	-23.6
Rockland	+4.3	-30.6
Sullivan	+53.0	-32.1
Westchester	+25.1	-8.9
Cities		
Mount Vernon	-10.4	-32.0
New Rochelle	+6.2	-27.4
White Plains	-19.9	-20.1
Yonkers	+6.2	-30.1

Source: New York State Comptroller’s office

operations, through sharing agreements with their counties.

The New York State Association of Counties (NYSAC) announced on May 8 that this week, counties received their first installment of sales tax directly related to the first month where the statewide lockdown on economic activity was in effect. In aggregate, the county sales tax collections compared to the same period last year were down about 26%. This ranges from about 16% to nearly 37% by county (not including tax rate changes).

The new sales tax data bolster the estimates made under the “severe recession” scenario outlined in NY SAC’s recently updated Coronavirus Economic Impact on Counties report, which projected decreases of 22% over the next year.

NYSAC noted that this is a rapidly developing economic situation and revenue conditions could change in either direction quickly.

“These new numbers lend extra weight to what we were already predicting, that the bottom has fallen out from under local governments just as they’re beginning to gain ground against the coronavirus and making plans for reopening,” said NY SAC President John F. Marren. “Counties will continue to work with our state and federal partners to secure the funding necessary to maintain essential services and build the foundation for a resilient recovery.”

These numbers come on the heels of an updated report released recently on the economic impact of the novel coronavirus on New York’s counties that

projects potentially catastrophic drops in revenue between \$1.5 billion to \$3.6 billion over the next year.

The report details how counties face a quadruple threat of:

- Declining local revenues, especially sales tax, but also hotel occupancy taxes, mortgage recording taxes, gaming revenues, among other revenues;
- Higher spending necessary to respond to the health emergency and meet the state’s requirements for reopening;
- The loss of state reimbursement; and
- The potential of significant losses for small businesses on our main streets that could threaten jobs and the property tax base over the short to mid-term.

“This is having an immediate and dramatic impact on local government operations as county officials assess cash flow needs and update their revenue projections for the coming year,” NY SAC Executive Director Stephen J. Acquario said. “Counties are reviewing all options, including hiring freezes, workforce furloughs and temporary layoffs, delaying infrastructure projects, halting new procurement and other essential and non-essential services and community improvements, among other cost savings measures—all while addressing the public health and safety emergency before us.”

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# To tee or not to tee?

# NOT!

Given the unprecedented risks in this era of COVID-19, the annual CIC Golf & Tennis Classic scheduled for July 13 at the Sleepy Hollow Country Club in Scarborough, NY, has been postponed.

We are deeply thankful to so many individuals and companies for helping to create the industry's premier sports social event with its illustrious 40-year tradition.

We look forward to rescheduling the Golf Classic when the time is right. Until that time arrives, please stay safe, be mindful and wear a mask.

LOW BIDS

Yonkers, ELQ, Morano, Mohegan, Restani, American Field Secure NYSDOT Jobs

ALBANY—The New York State Department of Transportation recently announced the selection of six apparent low bidders for work in the Hudson Valley and New York City regions.

**Yonkers Contracting Co. Inc.** of Yonkers, NY was the lowest of four bidders at \$2,811,654.00 for asphalt concrete milling and resurfacing on Route 22 in the Towns of Southeast and Patterson in Putnam.

**ELQ Industries** of New Rochelle, NY was the lowest of four bidders at \$2,227,471.30 for pedestrian safety improvements to signals in the City of New Rochelle and the villages of Mount Kisco and Port Chester in Westchester.

**Morano Brothers Corp.** of Croton-on-Hudson, NY was the lowest of seven bidders at \$5,029,000.00 for resurfacing, ADA curb ramps, traffic signals: towns of Greenburgh, Mount Pleasant, New Castle and North Castle in Westchester.

**Mohegan Associates Inc.** of Carmel, NY was the lowest of three bidders at \$2,848,442.00 for guiderail replacement 2020 region wide in Columbia, Dutchess, Orange, Putnam, Rockland, Ulster and Westchester counties.

**American Field Services Inc.** of Nanuet, NY was the lower of two bidders at \$400,000 for mowing and litter removal along the Palisades Interstate Parkway and Route 6, various towns in Rockland.

**Restani Construction Corp.** of Astoria, NY was the lowest of six bidders at \$6,608,139.10 for 2.1 miles of asphalt concrete rehabilitation on Interstate 278 in New York City.

ELQ Industries Lands Terminal Project Job

WHITE PLAINS—The Westchester County Department of Public Works recently announced that **ELQ Industries** of New Rochelle, NY was the lowest of four bidders at \$12,648,390.95 for aircraft deicing fluid collection system improvements and apron reconstruction at Terminal – Contract 5, Westchester County Airport, towns of Harrison and North Castle and Village of Rye Brook, NY.

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