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\$710M in Power Line Projects Win State Panel's Approval

NEW YORK—The New York State Public Service Commission on Thur., Feb. 11, approved two transmission line projects, one in the Capital District-Hudson Valley region and another in Western New York that will, combined, cost more than \$710 million to complete.

The PSC approved the New York Energy Solution Project—a 54.5-mile, 345-kilovolt transmission line valued at an estimated \$530 million—starting in Rensselaer County and extending to Dutchess County to speed the flow of clean, reliable energy to high-demand markets and consumers downstate.

The commission at its Feb. 11 session also granted NextEra Energy Transmission New York, Inc., the necessary approvals to exercise municipal agreements to construct the Empire State Line—a 20-mile, 345-kilovolt electric transmission line, located in Niagara and Erie counties and valued at an estimated \$180 million, that will help relieve congestion and maximize the flow of renewable resources in Western New York.

The approvals are the final set of major approvals required to commence construction on the 250 miles of the green energy transmission superhighway that Gov. Andrew Cuomo announced in his 2021 State-of-the-State address last month.

The New York Energy Solution Project transmission project, owned by New York Transco, will alleviate electricity bottlenecks that currently exist and allow for greater use of clean energy produced upstate, while also improving grid resiliency and storm hardening. It will upgrade and replace existing 80-year-old structures with about 230 fewer, more modern structures. The project will be in existing electric transmission corridors or on adjacent utility-owned land in the Town of Scho-dack in Rensselaer County; the towns of Stuyvesant, Stockport, Ghent, Claverack, Livingston, Gallatin and Clermont in Columbia County; and the Towns of Milan, Clinton and Pleasant Valley in Dutchess County.

New York Transco will work with Orange and Rockland Utilities, Inc., and Central Hudson Gas & Electric Corporation to develop additional, related infrastructure upgrades previously required by the commission. The project received the support of organized labor, including the International Brotherhood of Electrical Workers, because it will create many well-paying construction jobs for New Yorkers, state officials noted. The project will be operational by the end of 2023.

New York Transco President Victor Mullin said, “Gov. Cuomo’s vision and strong leadership have led us to this important milestone. New York Transco is grateful for the thorough review provided by the

Public Service Commission, Department of Public Service and other state agencies, as well as the engagement of the host communities, businesses and residents. We stand ready to begin construction and advance New York’s renewable energy future.”

The Empire State Line will help relieve congestion and maximize the flow of renewable resources in Western New York, including hydroelectric power from the New York Power Authority’s Niagara Power Project, and from electricity imports from Ontario. The transmission project will involve construction of the transmission line and associated switchyards in the Town of Royalton in Niagara County and the towns of Alden, Newstead, Lancaster and Elma in Erie County.

In addition to approving

the New York Energy Solution Project and the Empire State Line, the commission also took two other noteworthy transmission actions. These include approving the environmental management and construction plan filed by LS Power Grid New York, LLC, LS Power Grid New York Corporation I, and the New York Power Authority, to construct and operate Segment II of the 93-mile transmission project known as the Marcy to New Scotland Transmission Upgrade Project. The overall project was approved by the commission on Jan. 21, 2021.

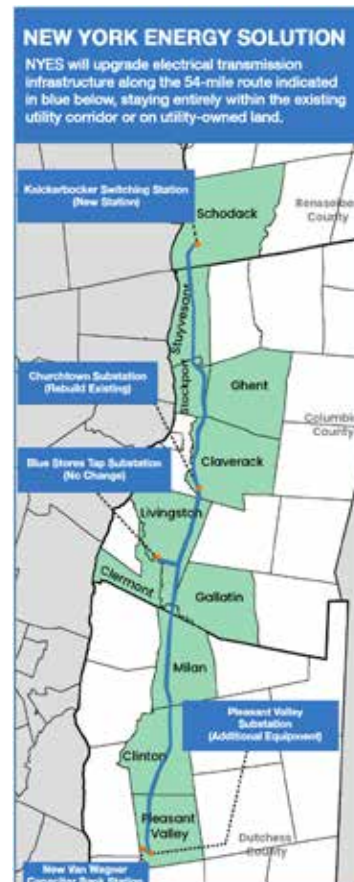
The three transmission project actions—for New York Energy Solution Project, Empire State Line and the Marcy to New Scotland Transmission Upgrade Project—build off the prior approval of the New York Power Authority’s

Moses-Adirondack Smart Path Reliability Project, considered a vital 86-mile stretch of New York’s North-South power transmission system, and the fourth project within the 250 miles of transmission projects in construction this year.

Enshrined into law through the Climate Leadership and Community Protection Act, New York is on a path to achieving its mandated goal of a zero-emissions electricity sector by 2040, including 70% renewable energy generation by 2030, and to reach economy-wide carbon neutrality.

This builds on New York’s ramp-up of clean energy including more than \$4 billion invested in 91 large-scale renewable projects across the state, the creation of more than 150,000 jobs in New York’s clean

Please turn to page 18



A map of the nearly 55-mile New York Energy Solution Project that will run from Rensselaer County to Dutchess County.

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COMMENTARY

Environmental Capital Projects Create Jobs And Combat Damage and Impacts of Climate Crisis

By JULIE TIGHE

NEW YORK—A clean environment and a healthy, robust economy go together like the two sections of an hourglass: you can’t have one without the other. Both chambers of the glass work together to create balance and harmony in our communities.

The COVID-19 pandemic is having a lasting impact on our daily lives, both today and tomorrow. It has changed practices and policies covering our public health, how we interact with our environment and what we do to protect and advance our economy. Like other states, New York is facing fiscal challenges, the likes of which we have not seen in a generation.

But while other states and localities make tough budget-



ary decisions, families across New York have no choice but to put their health first. COVID is a respiratory disease which causes more harmful health impacts on communities that bear a disproportionate burden of pollution—illustrates why we need to keep up our work to improve air quality

and decrease pollution. It also showed how vital our natural areas and open spaces are to New Yorkers. Access to nature is vital to protecting public health.

We cannot afford to treat the environment as a luxury. We need to invest in robust environmental programs that create jobs, protect clean water, address climate change, create new parks, improve our resiliency and invest in disadvantaged and vulnerable communities throughout New York.

That’s why New York League of Conservation Voters is a founding member of the New Yorkers for Clean Water and Jobs Coalition.

The coalition is fighting to protect our environmental programs. Initiatives like the Environmental Protection Fund, Department of Environmental Conservation Capital Programs, and Parks 2020 Initiative help create thousands of green jobs and support industries that add \$40 billion to our economy every year. They support multi-billion industries including agriculture, outdoor recreation, construction, tourism, commercial fishing and renewable energy generation.

We are also fighting to protect investments that are part of the Clean Water Infrastructure Act. Since 2015, the program has provided nearly \$4 billion in funding for our drinking water and wastewater infrastructure, as well as for addressing emerging contaminants. Every \$1 million in state investment results in

17 local jobs.

We need to go even further. A \$3-billion Environmental Bond Act, which was taken off last November’s ballot, would invest in programs that create jobs while building a sustainable future. A bond act would

We cannot afford to treat the environment as a luxury. We need to invest in robust environmental programs that create jobs, protect clean water, address climate change, create new parks, improve our resiliency and invest in disadvantaged and vulnerable communities throughout New York.

help build renewable energy, protect our air and waters, restore natural habitat and improve access to parks.

As the budget season in New York State heats up, calls from all sectors to help support environmental initiatives are increasing. The bond act is envisioned to help conserve open space, protect clean water, reduce the impacts of climate change and clean up pollution.

It is expected that the measure would serve as an economic engine, with every \$1 of state investment in land and water protection returning \$7 in economic benefits to the state.

New York’s drinking water and wastewater systems need tens of billions of dollars in upgrades to ensure our communities have safe drinking water

and our lakes, rivers, and bays are not polluted. To date \$5.4 billion has been committed to this program which funds “gray infrastructure” (ie. drinking water pipes, wastewater treatment systems); “green infrastructure” (ie. projects to protect the sources of our drinking water); stormwater pollution control, hazardous waste cleanup, lead service line replacements and more.

Federal investment in clean water and green jobs go hand-in-hand with state investments. We need Congress to secure funding for infrastructure that will make our communities more resilient and conserve our open spaces.

Ignoring the climate crisis would put New Yorkers at risk. Cutting programs that protect clean water, clean air, and other natural re-

sources puts us at greater risk from biodiversity loss. Continuing environmental investments provides us an opportunity for a sustainable recovery from the pandemic, puts us on a path towards a clean energy economy, and provides green jobs for families across the state.

We will continue to advocate for these essential programs as the budget season continues.

About the author: Julie Tighe is President of the New York League of Conservation Voters (NYLCV). NYLCV is the only non-partisan, statewide environmental organization in New York that takes a pragmatic approach to fighting for clean water, healthy air, renewable energy, and open space. Visit www.nylcv.org for more information.

NYLCV Priorities & Policy Agenda

Last year the NYLCV brought heightened awareness of the need to take action to help avert the worst effects of climate change and reduce pollution, especially in disadvantaged communities. The State laid out aggressive climate standards and local governments are key to achieving these standards. We also need more local policies that improve water infrastructure and keep our drinking water free of contaminants.

Sustainable Development: Municipalities can combat climate change by creating livable, sustainable communities. We will work to advance modernized zoning to encourage mixed land use, compact development, downtown revitalization, open space protection, historic pres-

ervation and energy efficient building codes.

Renewable energy: Renewable energy can reduce greenhouse gas emissions and air pollution across the region, but it is challenging to site large-scale renewable energy installations and can be needlessly difficult to install small-scale renewable technology. These challenges must be addressed before Indian Point shuts down in 2021, or else we risk replacing its power with fossil fuels. We will work with municipal and county governments to establish guidelines for siting utility-scale renewable energy in order to reduce red tape and create new incentives for small-scale renewable energy.

Clean Air: With the recent passage of legislation to phase out No. 4 and No. 6 home heat-

ing oil, we will work to speed up conversions and retrofits to cleaner, more efficient heating systems. We will continue working to reduce emissions from power plants and automobiles, including a push for targeted interventions to protect environmental justice communities.

Electric Vehicles: EVs reduce greenhouse gas emissions and produce zero emissions, improving air quality. We will continue our successful advocacy efforts to increase the number of EVs in municipal fleets, transit systems and school bus fleets, expand the EV charging station network throughout Westchester, and ensure that environmental justice communities have access to and benefit from EVs.



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COVID Panel Grapples With Jobsite Challenges Continued from page 1

Tripodianos and Dr. Altholz also offered perspectives on what the future holds for the trades. CIC Executive Director John Cooney, Jr., said any recent increases in jobsite cases were likely due to some risk-tolerance jobsite issues. He called on the participating employers to remain vigilant and not fall into “bad habits” by not screening workers at the start of each crew shift. He also pointed to the risk of “letting down our guard,” which he labeled “desensitization to COVID symptoms, and the cold weather.”

Mr. Tripodianos, who is a partner in the law firm Welby, Brady & Greenblatt, LLP of White Plains, NY, noted the law regarding COVID changes almost daily. “The law is actually pretty far behind the science that involves COVID,” he said. “The law is definitely playing catch-up. Since last March, the gap between the law and the science is getting bigger and bigger.” He urged the industry to remain attentive because in some cases the law does not make sense and that changes to the law are in reaction to advances in the science. He raised concerns that the law and science appear to be at odds with one another in the struggle to find a cure for COVID-19.

The legal presentation addressed New York Disability Leave and Federal Sick Leave, which the latter technically expired on Dec. 31, 2020. However, contractors are allowed to voluntarily continue the program, which is funded by



Jeffrey Altholz, M.D. tax incentives, through March 31, 2021, he noted.

He stressed that subcontractors on jobsites cannot hand off worker-screening requirements to general contractors. He also advised owners and managers to provide incentives for workers to get vaccinated as a means to facilitate a safer workplace environment.

Because jobsite COVID protocols are changing so quickly, he noted, “The best practical advice I can give you, if not legal advice, is to be thoughtful, be informed and if you act within those parameters you are showing (to regulators), ‘I was doing the best I could under the circumstances.’ That is going to go a long way whether you have the Department of Health, the Department of Labor or OSHA breathing down your back or issuing a violation...”

Dr. Altholz, who is CEO and Medical Director of Clarity Testing Services, Inc., of Tarry-

town, NY, buttressed the Zoom presentation with sobering data and facts. Among them, he noted an alarming data points revealing revealed that at least 40% of the pandemic is being spread by asymptomatic individuals. “Essentially nearly half of the pandemic is being driven by people who look and feel perfectly well.”

At press time (Feb. 10), he noted that approximately 10% of New York State residents have had at least one shot of an approved vaccine and 3% were fully vaccinated. In terms of nationwide and statewide vaccination efforts, he related, “If is clear that we have a lot of work yet to do. This is just the beginning of the journey.”

Along with Mr. Cooney of CIC, BCA Executive Director Matt Pepe served as co-host of the hour-long webinar, which covered many industry- and medical-related issues.

Mr. Tripodianos, a partner at Welby, Brady & Greenblatt, LLP is involved in all aspects of construction, labor and real estate law, including suretyship and guarantee, breach of contract, payment claims, mechanic’s liens, delay claims, extra work claims, construction defect claims, management and labor disputes, and residential and commercial transactions. In his practice, he represents buyers, sellers, lenders, developers, general contractors, construction managers, owners, architects, engineers, subcontractors, suppliers, sureties, developers, homeowners and other entities



Thomas Tripodianos, Esq. connected with the construction and real estate industry in transactional matters as well as the prosecution and defense of claims in litigation, arbitration, mediation and administrative law hearings.

Dr. Altholz, a graduate of Albert Einstein College of Medicine in New York City, is a certified medical review officer (AAMRO), certified medical examiner compliant with FMCSA regulations (CME) and a certified occupational hearing conservationist (CAOHC). He is a leading authority in onsite occupational testing in the Northeast and a consultant to business, industry, labor and government in the field of drug testing and occupational medicine. He established Clarity Testing Services in 1995 with the mission of providing high-quality onsite testing services to comply with Federal DOT drug and alcohol testing regula-

tions. As employers and labor demanded more and more safety and testing services onsite, Clarity responded by developing mobile models for high-quality DOT physicals, respirator medical clearance and certification exams, respirator fit testing, blood lead testing and lead surveillance, firefighter physicals, corporate health screenings, vaccine administration and hearing conservation programs.

Dr. Altholz highlighted the best jobsite protocols to help prevent the spread of COVID-19. Those include:

Recommend COVID-19 Mitigation Measures

- Masks—N95, KN95 or “double masking”
- Maintaining Social Distance
- Temperature Checks
- Daily Symptom Screening
- Surveillance Testing of Asymptomatic Employees
- Isolation/Quarantine
- Contact Tracing
- Vaccination

In view of these OSHA guidelines, Dr. Altholz recommended that contractors should consider enhancing their prevention programs. Actions could include assigning or hiring of a workplace coordinator, assessing risk assessment, consideration of high-risk workers, stress communication, education and training, ensure proper isolation and separation of sick employees, enhanced cleaning efforts and not distinguish between those who have been vaccinated and those who have not.

We Believe In You.



To all the dedicated men and women who are on the front line helping to see us through this time of need we say...

Thank You.

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OBITUARY

Richard F. 'Dick' Merritt Business Manager of L.U. 1000

HIGHLAND, NY—Richard F. "Dick" Merritt, the longtime Business Manager of Laborers Union Local Union 1000 formerly headquartered in Poughkeepsie, NY, died on Feb. 5, 2021 at Vassar Bros. Medical Center after a long battle with Parkinson's Disease.

He was 85 years old and was a resident of Highland, NY.

A lifelong member of organized labor, Mr. Merritt joined L.U. 1000 in 1963. (The local was merged into Building Laborers Local 235 in Elmsford, NY in February 2014.) Rising through the ranks of Local 1000, Mr. Merritt was elected Business Manager in 1977, and he served in that post until his retirement in 1993.

Mr. Merritt was born in Poughkeepsie on July 12, 1935, the son of Stanley E. and Ellen Kelly Merritt, Sr. He was married on Aug. 10, 1963 to Antoinette Damico, who predeceased him on Jan. 6, 1994.

He was remembered by his family as a loving husband, father, grandfather and great-grandfather. He is survived by his sons, Ralph J. (Maria) of Highland and Anthony (Julia) of Arizona; four daughters, Lori Miskinis and Michele (Glen) Vickerson both of Hagsman, NY, Linda Brown of Poughkeepsie and Nancy Koeper of Florida. He is also survived by a brother, Howard (Joan), Sr., of Poughkeepsie and a sister, Audrey DeHart, of Springdale, AK.

Mr. Merritt had seven grandchildren and six great grandchildren.

He was predeceased by another brother, Stanley, and three sisters, Patricia O'Connor, Janet Heller and Barbara Burger.

Mr. Merritt was an avid N.Y. Giants Football fan and was a former member of the Italian Center in Poughkeepsie.

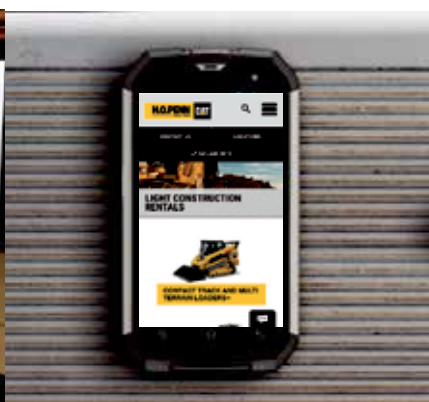
Services were private with burial at St. Peter's Cemetery. Memorial donations may be made to the St. Jude Children's Research Hospital, 262 Danny Thomas Place, Memphis, TN 38105. Arrangements were under the direction of the William G. Miller & Son Funeral Home, Inc., in Poughkeepsie.



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Attorney's Column

Court Declines to Enforce Ambiguous 'Final' Waiver of Lien

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

One of the most utilized forms in connection with a construction project is the waiver of lien, which operates to both waive a contractor's right to assert a mechanic's lien, and to release the contractor's claim for money. These forms come in two "flavors," the partial waiver of lien, and the final waiver of lien. The partial waiver is exactly what the description says it is, a document waiving a part of the contractor's claim (in exchange for a partial payment in the same amount), usually in conjunction with a contractor's monthly requisition.



The final waiver, like the partial waiver, is exactly what it is described as, a waiver of the remainder of the contractor's claim, in exchange for full payment on the project, upon completion. However, in the recent case of *C & A Seneca Construction, LLC v G Builders LLC*, a court recently reminded us what exactly is necessary

to make a final waiver of lien operative for its intended purpose.

Background

In October 2016, C & A Seneca Construction entered into a contract with G Builders for a construction project on Pier 94 in Manhattan for an agreed upon cost of \$240,100. In December 2016, C & A executed a partial waiver of lien in exchange for a specifically referenced payment of \$75,000, which was payment for all work performed by C & A through Dec. 23, 2016. C & A continued to work on the project, and on March 10, 2017, it executed another partial waiver of lien, this one reciting a payment of \$50,000 for all work

Because waivers of lien and releases are such important documents in the construction process—often the gatekeeper to payment—it is crucial that the documents be as specific and "tight" as possible. If they are not, they may be found to either waive more than is intended or not be operative at all.

performed through that date.

A dispute arose between C & A and G Builders as to the quality of C & A's work, and G Builders claimed that the parties agreed to resolve the dispute by C & A's accepting a final payment of only \$3,184.71 (out of the \$115,000 remaining

under the contract). Toward that end, a lien waiver denominated as a "final" waiver was executed, reciting payment for "100%" of the contract price. C & A claims it never received anything other than the first \$75,000 payment, and it sued to collect the \$165,000 balance. G Builders moved to dismiss, citing the final waiver of lien and arguing that the release contained in that document barred C & A's claims.

Decision

The court denied the motion, and permitted C & A's lawsuit to proceed. In doing so, the court cited well settled case law that in order for a final waiver of lien and release to be operative, it must evidence a clear and unequivocal intent to serve as a release of claims, and it must: (1) contain language clearly indicating finality; and (2) recite the amounts of the payments which were made. Because there was no language as to the specific amount of the release, or that the outstanding balance of \$115,000 was being compromised by 97% to account for claimed defective work, it was found that the final waiver of lien document did not evidence an unequivocal intent to serve as a release of the remainder of the claim. Accordingly, a jury will have to sort out the intended function of that document.

Comment

Here, the court focused on the lack of unequivocal intent to evidence the release of the remaining \$115,000 of C & A's claim. However, C & A sued for \$165,000. While the second release (the one which specified a second payment, in the amount of \$50,000) would meet the court's specified criteria and ostensibly defeat \$50,000 of C & A's \$165,000 claim (leaving only the \$115,000 mentioned by the court), the fact that C & A alleged that it was not paid that amount was sufficient to permit it to press the claim. This is because a release must be supported by valid consideration (payment), and if that payment is not made, then the release fails.

As a practical matter, sometimes such documents are titled "Lien Waiver & Release," and operate as both. However, at other times they may simply

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AGE
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EMPLOYMENT AND POSITION
QBE North America, Senior Underwriter

ACHIEVEMENT
CAI/BCA Scholarship 2011, 2012

EDUCATION
BA in Economics, Villanova University, 2014, Villanova, PA
Favorite Course: Urban Economics

REASON FOR THIS PROFESSION
Insurance never crossed my mind in college but after hearing about Swiss Re from my family friend, I applied to Swiss Re and was offered an internship in its Catastrophe Claims Department. After my internship, I decided I wanted to become an underwriter.

BIGGEST SURPRISES ENCOUNTERED
Working on different risk everyday—be it a trade contractor, a real estate schedule of locations, a schedule of restaurants, etc. I am constantly learning something new every day.

GREATEST INSPIRATION
My Dad. He is a hardworking man who knows how to run a lucrative construction business. I remember having my first insurance interview and my Dad prepped me by giving me his insurance policy to read. I had no idea what I was reading at the time.

MOST MEMORABLE QUOTE
“Never let the fear of striking out keep you from playing the game.” —Babe Ruth.

WORDS OF WISDOM
I highly encourage those who are in college to enter the insurance industry. Learn as much as you can from those with decades of experience. It is important to find a mentor.

GREATEST ACCOMPLISHMENT SO FAR
My “brand”(reputation). Those in the insurance industry know me to be reliable, responsive and that I think outside the box.

THE FUTURE
In five years, I would like to be a Property Regional Underwriter Officer.

INTERESTS & HOBBIES
I am very family oriented. Just recently, I became a first-time aunt to a beautiful baby niece. When I am not with my family, I enjoy traveling.

RELATIONSHIP TO CAI/BCA
Father is Angelo Ferri, owner of Rok-Built Construction of Yorktown Heights, NY, a BCA-member company.

Researcher and Writer—Alan Kennedy

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NEW YORK CITY UPDATE

Port Authority Closed 2020 on a Sour Note

NEW YORK—The Port Authority of New York and New Jersey reported on Jan. 27 it suffered precipitous volume declines across its transportation facilities for December 2020 due to the COVID-19 pandemic.

In December, volumes at the airports dipped to 25% of 2019 volumes. On PATH, the system saw just 21% of passengers compared to December 2019. Both of those figures represent modest increases since aviation and rail volumes hit respective nadirs in the spring of 2020 but have remained relatively flat for the past several months.

At the agency's six crossings in December, overall vehicular traffic was down 18.9% compared to December 2019, however truck traffic was up 1.9%.

The seaport continued to demonstrate the same resilience it has shown throughout the pandemic, with December cargo volumes up 21.3% from December 2019, the Port Authority stated.

With the release of its December 2020 data, the agency also released annual total volumes for 2020, which reflect data from the first two months of the year when the trend of record-breaking volumes continued across facilities prior to seeing the severe impact of the pandemic.

For the full 2020 calendar year, the Port Authority reported a 71% drop in annual passenger volume at its airports between 2019 and 2020, a 68% drop in average weekday ridership at PATH between 2019 and 2020, and a 20% drop in volumes for 2020 at its tunnels and bridges compared to 2019 totals.

The seaport, which saw robust demand for goods during the pandemic after experiencing a dip during the spring, held steady overall with an estimated 1.5% increase from 2019 in cargo volume.

Due to the adverse financial impacts of the pandemic, the agency estimates a revenue loss of approximately \$3 billion for the 24-month period beginning in March 2020 compared to budgeted amounts. This precipitous loss in revenue is reflected in the Port Authority's estimated revenue loss for 2020 of \$1.7 billion as reported in the 2021 Budget, which was approved by its Board of Commissioners in December 2020. The Port Authority continues to work closely with the New York and New Jersey congressional delegations to advocate for federal assistance.

Airports

In December 2020, passenger volumes across the Port Authority's airports decreased an estimated 75% compared to December 2019. This was up since the nadir of passenger activity in April 2020, where activity was down 98% compared to April 2019. Passenger volumes in December were down an estimated 78% at John F. Kennedy International Airport, 68% at Newark Liberty International Airport, and 79% at LaGuardia Airport compared to the same month last year.

Total passenger volumes in 2020 were down an estimated 71% across the Port Authority's airports compared to 2019. Annual passenger volumes decreased an estimated 73% at John F. Kennedy International Airport, 66% at Newark Liberty International Airport, and 73% at LaGuardia Airport compared to 2019. In 2019, the airports had served a record high of 140 million passengers.

PATH

In December 2020, PATH reported an average weekday ridership of 55,355 riders, down 78.5% from December 2019. This reflects the increase in ridership since the low water mark of activity in April 2020, when ridership had decreased by 95% compared to April 2019.

PATH reported 2020 annual average weekday ridership of 90,287 riders, down 68% from 2019. This includes pre-COVID-19 ridership numbers for January through mid-March 2020.

TB&T

In December 2020, the four bridges and two tunnels handled a total of 8.4 million vehicles, down 18.9% compared to December 2019. Automobile traffic was down 19.7%, and truck traffic was up 1.9%.

The Port Authority's four bridges and two tunnels handled a total of 97.8 million vehicles in 2020, a decrease of 20% compared to 2019. Automobile traffic was down 20.4%, and truck traffic declined 6.6%.

Port

In December 2020, the seaport moved 709,075 TEUs (20-foot equivalent units), an increase of 21.3% from December 2019.

The seaport saw record-breaking cargo volumes in August and September 2020 as production factories, retailers and shoppers restocked supplies and prepared for potential regional shutdowns. Cargo activity is expected to remain strong into 2021 as the single outlier among the Port Authority's facilities.

The Port of New York and New Jersey moved 7,585,819 TEUs in 2020, an increase of 1.5% from 2019.

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Economic Outlook

Real Estate Markets Struggle To Adjust to COVID-19

By MICHAEL PATON

According to the most recent forecast from CBRE economics, real estate conditions will start 2021 in a state of flux. Certain sectors will grow strongly, but a full recovery of occupier and investor demand will be held back by the continued influence of COVID-19.

The spring and summer months should see rebirth and renewal of real estate, as a vaccine is widely deployed and further government stimulus drives the economy forward. Industrial and logistical sectors, along with certain alternative sectors like life sciences, cold storage and data centers, have thrived in the COVID era, while others like office, retail and hotels have suffered. With ex-



pectations that the COVID crisis may end sometime in 2021, the question will be which of these sectors will be permanently changed and which will return to pre-COVID conditions.

Looking back, according to a Cushman & Wakefield

analysis, the first half of 2020 was marked by highly volatile labor markets. Overall employment abruptly fell at the onset of the COVID-19 pandemic, with Westchester County losing almost 75,000 jobs in the first four months of the year. Similarly, the unemployment rate in Westchester County surged to 15.7% by April, recording its highest level on record. Improvements in workforce demand took place in the second half of 2020, with overall employment stabilizing and then increasing bringing the unemployment rate to 7.1%.

In Westchester, Cushman and Wakefield noted that new

leasing activity in 2020 plummeted 38.4% from the previous year to an all-time low of 707,913

Record low mortgage rates have continued to amplify the significant supply shortage and fuel price growth in the residential market. As a result, the pace of the market was the fastest moving since 1994.

square feet—42.4% below the five-year annual average of 1.2 million square feet. Sublease transactions increased a

notable 143.1% over the last 12 months in the year ending December 2020, with the average transaction size falling 4.7% to 4,185 square feet. The White Plains Central Business District accounted for 33.9% of countywide demand in 2020, which was 14 percentage points higher than the previous year's proportional share. The overall vacancy rate increased a noteworthy 244 basis points to 25.1% as a result of sublease space additions. The East I-287 submarket posted the largest over-

all annual increase in available space, recording a 26.6% year-over-year rise, followed by the White Plains CBD submarket, which posted a 15.9% annual uptick in its overall available supply. With the influx of available space, overall net absorption ended the year in the red, posting about 571,600 square feet of occupancy loss.

Overall average asking rents in the county increased \$0.42 per square foot since one year ago, ending 2020 at \$29.28. The West I-287 submarkets overall average rose the most drastically over the last 12 months, increasing \$1.00-per-square-foot to \$27.73-per-square-foot. The rise in the West I-287 submarkets overall average was mainly attributed by space additions in Valhalla and the Tarrytown markets. Conversely, the Southern submarket's average asking price for space fell \$0.23-per-square-foot to \$28.42-per-square-foot.

On the residential side, Douglas Elliman noted that overheated residential conditions continued during 2020 even after the COVID lockdown ended in late spring. Listing inventory in the final quarter of 2020 fell to its lowest level in 19 years, down 9.2% to 2,551 from the prior-year quarter. The incoming supply of property was unable to keep up with sales' torrid pace, which rose 12.8% to 2,651, the highest fourth-quarter sales on record. As a result, all price trend indicators saw double-digit gains. The median sales price countywide rose year over year by 15% to \$575,000, the second highest on record.

Record low mortgage rates have continued to amplify the significant supply shortage and fuel price growth in the residential market. As a result, the pace of the market was the fastest since 1994. Months of supply—the number of months to sell all listing inventory at the current sales rate—accelerated annually. These metrics are consistent with the volatility of the residential market. The

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Financial Management

MWBE Article 15-A Goals Present Challenges, Opportunities

By PHILLIP ROSS, CPA, CGMA, PARTNER
and BRIAN SANVIDGE, CIG, CFE, PRINCIPAL

On July 15, 2019, New York Gov. Andrew Cuomo re-authorized the Executive Law Article 15-A to extend it until Dec. 31, 2024. Originally signed into law in July of 1988, this law seeks to level the playing field for minority and women-owned business enterprises (MWBEs) by establishing goals for MWBE involvement in construction projects. The newest participation goal is 30% of the budget for each year of your grant and is established based on the results of a 2016 disparity study.

According to Article 15-A, MWBEs must be at least 51% owned by minority members and/or women, and independently owned, operated and



Phillip Ross

authorized to do business in New York State.

The MWBE goals set forth in Article 15-A apply to construction projects that involve an

application for a grant of more than \$25,000.

'Good Faith Efforts' to Comply

The most important change made by this legislation is that contractors must now demonstrate a "good faith" effort to comply with the MWBE requirements of the law. Good faith efforts can include the identification of participation areas for MWBEs and full utilization of lists of certified MWBEs. These efforts must be documented using the MWBE Contractor

Good Faith Efforts Certification Form 105.

If, despite good faith efforts,

a contractor is not able to retain an MWBE for a project, the company must submit a Request for Waiver along with documenta-

If you are found in violation of Article 15-A, you may face the imposition of fines, sanctions or penalties. Penalties may also include a determination that the contractor will be ineligible to submit a bid to any contracting agency or be awarded a contract for up to one year.

tion of good faith efforts and the reason they were unable to obtain an MWBE.

Good faith efforts could include:

- Copies of solicitations (advertisements in MWBE-centered publications, those made to vendors in MWBE directories, those made to MWBE-oriented trade and labor organizations, etc.)
- If these solicitations are answered, the contractor must also record specific reasons why the MWBE enterprise was not selected.
- Dates of attendance at meetings.
- Information describing the steps taken to ensure MWBE participation in a project.

• Descriptions of any other actions undertaken by the bidder to document good faith efforts to retain MWBE enterprises.

There are three ways to comply with the MWBE policy set forth in Article 15-A. Although full participation compliance is the preferred method, partial or no participation is acceptable so long as the contracting agency conforms to the requirements to fulfill and receive the waiver.

1. Full participation is achieved when the applicant meets or exceeds the 30% participation goal set forth in the legislation.

2. Partial participation is acceptable only if good faith efforts to comply are made and properly documented, but the goal was not met. The reasons for not meeting the goal must also be documented and submitted along with the Request for Waiver.

3. No participation is like partial participation, and only acceptable if good faith efforts have been made but no MWBEs were able to be obtained for this project. Efforts to obtain an MWBE must also be documented and submitted along with the Request for Waiver.

Many contracting agencies opt to engage monitoring firms to ensure that good faith efforts are met and properly documented and to avoid penalties.

If you as a general contractor are found in violation of Article 15-A, you may face the imposition of fines, sanctions or penalties. Penalties may also include a determination that the contractor will be ineligible to submit a bid to any contracting agency or be awarded a contract for up to one year.

Additionally, as of the 2019 extension, contracting agencies were required to establish four-year growth plans regarding the utilization of MWBEs. These added levels of transparency are intended to necessitate additional outreach and the need for documentation of all activities.

Also, this legislation ex-

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Construction **NEWS**

PHOTO GALLERY



Party Rental tent at Benjamin's Steakhouse in White Plains.



COVID-19 vaccine and testing sites at Glen Island in New Rochelle, NY

Call to Duty

CIC-Member Party Line Rentals Responds to Demand for Tents During Pandemic

ELMSFORD, NY—If you had to pick a company name in the time of a raging pandemic, it probably wouldn't be Party Line Rentals.

But a name is only a label, printed on the letterhead and business cards. If the bottled essence of your company's operations is service and responsiveness, you could just as well call yourself Tent City, which is exactly what Party Line Rentals, Inc., has become.

Today's business conditions are not what anyone would have imagined a year ago. The suddenness and power of the coronavirus put on pause entire swaths of commercial and institutional

enterprises. But this was the hand Ken Puff was dealt in March 2020 when New York State imposed its stay-at-home directives for all but essential business.

Stocked with a warehouse full of tents on Vreeland Avenue here, the family-owned business pivoted from its Party Line Rentals nomenclature to anything but—supplying temporary COVID-19 testing and vaccination sites and social distance environments for schools, gyms, restaurants and other commercial establishments.

The company experienced a 95% loss in its mainstay short-term tent rental cat-

egories of weddings, anniversaries and graduations, he reported. The company shifted into long-term rentals for tents of all sizes, resulting in a 20% gain in revenues in 2020 over the previous year. "It's been a combination of added testing and vaccination centers, outdoor tented dining and social distancing for traditional commercial indoor operations like gyms and other retailers," said Mr. Puff, president of the parent company, Westchester Tool Rentals, which he founded and launched with his late father, Buddy Puff, in 1983.

"In addition to the COVID-related medical operations,

we experienced a 100% gain in restaurants and gyms, and in 2021 we're seeing slight gains now in TV/film production."

Some 42 of the company's tents can be found at the vaccine and testing location at Jones Beach State Park on Long Island, another at

Yankee Stadium in the Bronx and nearly a dozen at the vaccine and testing center at Glen Island in New Rochelle, NY. All told, the company is maintaining tents at more than 25 sites, he said.

It's the company's call to duty. —George Drapeau III



Some of the 22 tents for vaccine distribution and COVID-19 testing at Jones Beach State Park on Long Island.



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\$710M in Power Line Projects Win State Panel's Approval

Continued from page 3
energy sector, a commitment to develop 9,000 megawatts of off-shore wind by 2035, and 1,800% growth in the distributed solar sector since 2011. Under Gov. Cuomo's leadership, New York will build on this progress and reduce greenhouse gas emissions by 85% from 1990 levels

by 2050, while meeting a goal to deliver 40% of the benefits of clean energy investments to disadvantaged communities and advancing progress toward the state's 2025 energy efficiency target of reducing on-site energy consumption by 185 trillion BTUs in end-use savings.

Attorney's Column

Continued from page 10
be titled "Lien Waiver," but still contain binding release language. Because waivers of lien and releases are such important documents in the construction process—often the gatekeeper to payment—it is crucial that the documents be as specific and "tight" as possible. If they are not, they may be found to either waive more than is intended, or not be operative at all. Further, many waivers of lien—both partial and final—require contractors to waive other aspects of their claim (for disputed change orders, for retainage, etc.) that are not specifically reserved. Contractors should not be so anxious to receive their monthly payment that they ignore the actual language and unintentionally waive outstanding claims, disputed

change orders, etc. Accordingly, owners, contractors and subcontractors (basically, anyone who is a party to a waiver of lien) would be well advised to consult with their construction counsel to determine the true nature and effect of the document they are asking someone, or being asked, to sign.

About the author: Thomas H. Welby, an attorney and licensed professional engineer, is General Counsel to the Construction Industry Council of Westchester & Hudson Valley, Inc., and is the founder and senior counsel to the law firm of Welby, Brady & Greenblatt, LLP, which has offices throughout the tri-state metropolitan region. Gregory J. Spaun, an attorney and a partner with the firm, co-authors this series with Mr. Welby.

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ALBANY UPDATE

Report: New York State Environmental Bond Act Would Support 65,000 Jobs, \$6.7B in Spending

ALBANY—AECOM, the New York City-based infrastructure consulting firm, and Rebuild by Design, a leading advocate for resilient infrastructure, recently released a new report, “Economic Impacts of the New York State Environmental Bond Act,” which analyzed the long-term economic benefits of investing \$3 billion in projects that would help protect clean water, reduce pollution, conserve family farms, and reduce local climate risks.

Introduced by Governor Andrew Cuomo in 2020, the Environmental Bond Act shows dedication to the restoration and conservation of New York’s communities and natural resources.

AECOM analyzed the benefits of the Environmental Bond Act by assessing the economic impact of the anticipated investments and researching comparable projects and programs. Review of benefit-cost analyses found that benefits often outweigh costs for similar types of investments. The analysis estimates that the New York State Environmental Bond Act has the potential to:

- Support 65,000 jobs in New York
- Result in an estimated \$6.7 billion in project spend-

ing, broken into the following categories: an estimated \$3.25 billion to protect and restore natural areas to reduce flooding, supporting 30,600 jobs in New York; an estimated \$1.6 billion for clean water projects, supporting 18,000 jobs in New York; an estimated \$1 billion for projects that would mitigate climate change, supporting 11,500 jobs in New York and an estimated \$775 million for projects that protect and restore open space, supporting 4,600 jobs in New York.

“AECOM analyzed the economic impacts of the New York State Environmental Bond Act and the benefits that the associated spending would provide both in the near and long-term. Our findings are clear—the Environmental Bond Act would be a useful stimulus, with the potential to support thousands of jobs in numerous sectors while also spurring long-term economic growth and protecting New York’s environment for future generations,” said Garrett Harper, managing principal, Economics + Advisory with AECOM. “By approving the Environmental Bond Act, the governor and legislature became leaders in acknowledging that investments in the environment also benefit the economy.”

“Communities in New York

State are already suffering from climate change. Past disasters, such as Hurricane Sandy, and our recent experience with COVID-19, have laid bare the reality that these events disproportionately hurt the most vulnerable populations,” said Amy Chester, managing director of Rebuild by Design. “We need to pass the Bond Act and give communities the resources they need to build infrastructure that will address climate change and put New York on a path to recovery.”

Ross J. Pepe, president of the Construction Industry Council of Westchester & Hudson Valley, Inc., added, “We have witnessed

Gov. Andrew Cuomo’s historic clean water grants program pay huge dividends in communities across the state, both in terms of environmental protections and quality-of-life improvements. These public monies spent for the public good is the fuel that drives the economic engine to stimulate employment with living-wage jobs and long-lasting improvements to our public facilities and infrastructure. The Bond Act is a powerful resource to help state and local governments meet their obligations to their citizens to protect the environment, create jobs and advance our quality of life. Now

is the time to double our efforts to continue this momentum. Let’s work together by reinstating the Bond Act and passing it this November.”

The jobs report followed Rebuild by Design’s report ‘We Cannot Wait Any Longer,’ which showed that over the last 10 years, every county in New York State has been impacted by severe storms and flooding, tropical storms, or hurricanes. More than half were affected by five or more disaster events. The major federal disaster declarations for these counties totaled \$37.3 billion in federal aid for recovery efforts.

NYSDOT Announces Completion Of Columbia County Bridge Project

ALBANY—The New York State Department of Transportation Commissioner announced earlier this month that construction was completed on a project to build a new bridge carrying the Taconic State Parkway over County Route 27 in the Town of Taghkanic, Columbia County.

The project, which began in the spring of 2019, enhances safety and improves rideability along this important corridor, which carries travelers from

New York City to the Capital Region. The bridge is also in proximity to Lake Taghkanic State Park and other attractions in Columbia County. The contractor on the project was Wm. J. Keller & Sons Construction of Castleton, NY.

As part of this \$6.8-million project, a new modern, single-span structure has now replaced a triple-span bridge, carrying the parkway over County Route 27 much more efficiently. Additionally, the

design of the new bridge eliminates the need for future joint repairs due to the elimination of deck joints, increasing the lifespan of the pavement and bridge structure.

A stormwater management system, called a dry swale, was included as part of the bridge’s drainage system to filter sediment and slow stormwater runoff. This system will ultimately improve water quality flowing into the adjacent stream and wetlands.

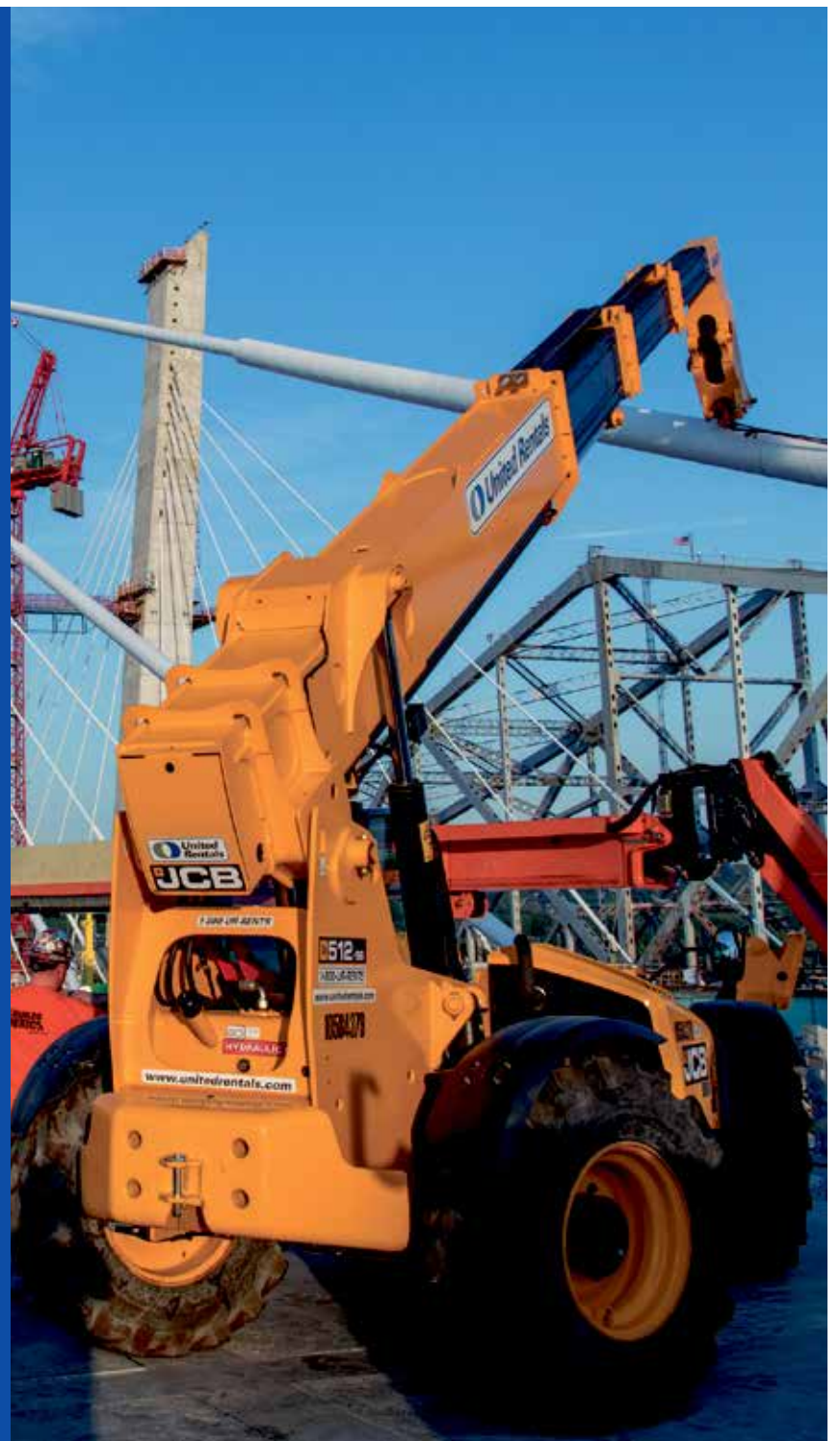
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The illustration above is an artist's depiction of the Indian Point property after the completion of major decommissioning work.

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Safety Watch

When Contesting an OSHA Citation, it's OK to Make The Secretary Prove Every Element of His Case

By GEOFFREYS. POPE, ESQ.

When a construction industry employer receives a citation from OSHA, it can be a difficult call in deciding whether or not to contest the citation (or parts of it).

The maximum penalties for OSHA violations have been increased over the past several years, and a "Repeat" or "Willful" violation in 2021 can set you back as much as \$136,532. (The maximum for "Serious" or "Other Than Serious" items is now \$13,653.)

If you wish to contest any part of a citation, you must deliver a written Notice of Contest to the OSHA office that issued the citation within 15 working days (Saturdays, Sundays and federal holidays excluded). This deadline is of the hard-and-fast variety, and the running of the 15 days is not tolled if you agree to an informal conference with the issuing office to discuss, and possibly resolve, the citation.

Because of this inflexible deadline, it's usually a good idea to draft and forward a Notice of Contest within a couple of days of receiving the citation. Be sure to include the Inspection Number; identify clearly which item(s) you wish to contest, and whether you are disputing each violation item itself, the classification, the penalty amount(s) or the necessity or any time specified for abatement. Delivery by pretty much any means is permissible, but we generally prefer Federal Express or some other means that generates written proof of receipt.

A Notice of Penalty, or parts of it, can be withdrawn, and in nearly all cases, it's advisable to make a firm decision if you want to pursue matters through litigation and a trial only after having all citation items reviewed by an attorney experienced in OSHA matters.

If there are no "Willful" or "Repeat" citation items, be aware that your chances of prevailing in a contest proceeding often will be sufficiently poor. Consider that your best course of action may be to attempt to negotiate with OSHA some reduction in the penalties (or number of items), pay a penalty, undertake some supplemental training for your workers, accept a limited blemish on your safety record, and then move on.

Employers are at some disadvantage in contest proceedings, mainly because the Department of Labor employs a cadre of specialist attorneys paid by taxpayers. Few private attorneys have as much experience in OSHA contests—and I have never come across one whose practice consisted in large part to defending employers in such matters. Acts, omissions, admissions made to the OSHA inspector and knowledge on the



part of anyone with authority to tell anyone else what to do (even if such "supervisor" is a mere "lead man") may bind your company. Also, although the Administrative Law Judges are remarkably knowledgeable and even-handed in deciding

legal questions, I have perceived some tendency to treat as worthy of belief even doubtful testimony by the Compliance Officers. There are additional ways in which the procedures tend to favor the government.

Accordingly, we often discourage clients from contesting citations, especially if the matter is likely to come down to "he said, she said" fact disputes pitting the Compliance Officer's word against that of a business owner (or an employee who might be looking to please the employer, or cover his own wrongdoing or poor judgment). Nonetheless, if there exists a defense—especially one based on the law,

and not dependent on casting doubt on the truthfulness of government witnesses—give

existence of a violative condition, while indispensable, is just one element, and not the whole, of the Secretary's prima facie case.

The case of *Secretary v. Shelley & Sands, Inc.* is a good example of how, with persistence and good legal reasoning, even a "Repeat" violation sometimes may be overcome.

In that case, the respondent had a public contract to remove and replace the roadway deck of a bridge over an interstate highway. The first phase of the project was to install plywood, called "false work,"

beneath the bridge structure's traffic lanes, to prevent debris from falling onto the highway.

Please turn to page 24

The case of Secretary v. Shelley & Sands, Inc. is a good example of how, with persistence and good legal reasoning, even a "Repeat" violation sometimes may be overcome.

some thought to contesting the citation. That someone may have been injured (even fatally) is legally irrelevant, and the

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Safety Watch

Continued from page 23

After the false work had been installed, the contractor removed the bridge's concrete deck. The following day, an OSHA inspector espied two crew members preparing the bridge for pouring concrete, by installing metal brackets onto the I-beams, and then placing wooden beams into the brackets. The crew members were not tied off while working from the false work, even though the edges were unprotected, and there were lifelines available to tie off to.

A "Repeat" citation for a fall-protection violation was issued, contested, and affirmed following trial. The case went up for review by the OSH Review Commission. The applicability and violation of the standard having been conceded, the sole issue on review was whether the Secretary had proved that the respondent had notice of the unsafe condition.

The trial judge found that the Secretary had established "constructive knowledge," based on the employer's failure to adequately communicate to the employees that (contrary to the employees' evident understanding) there was no exception to the fall protection mandate while standing on "false work." The judge also relied on an earlier violation in 2015 involving false work, the same fall protection standard and the same foreman.

Upon review, however, the commission found that the Secretary, and the ALJ, had placed too much reliance on the foreman's statement to the Compliance Officer that the reason the employees had not been tied off was that "they were on false work." The CO and trial judge had interpreted that statement as an admission that the workers had been given to understand that the fall-protection rules somehow

didn't apply while standing on false work, but the commission articulated three alternative interpretations it deemed plausible. Because the Secretary had the burden to establish inadequate communication of the rule, and the commission found the CO's testimony concerning the foreman's belief too vague to carry that burden, the foreman's statement was overruled as a "smoking gun" admission.

The commission also declined to base an "inferential leap" to a like conclusion, based on the respondent's earlier violation, as following the 2015 violation the foreman had been suspended without pay for seven weeks, required to meet with the company's owner and safety director, and warned that he would be closely monitored going forward.

The commission also found that the respondent had an energetic safety program, and that while its employees had failed to follow its fall-protection rule, the same had been adequately communicated and effectively enforced.

The commission reversed the trial judge's decision, and vacated the lone citation item, demonstrating that the commission is not unwilling to hold the Secretary to his burden to prove all of the elements of an OSHA citation.

About the author: Geoffrey S. Pope, Esq., is of counsel to the construction law firm of Welby, Brady & Greenblatt, LLP, with its main office in White Plains. The articles in this series do not constitute legal advice, and are intended for general guidance only. Please contact legal counsel promptly if you receive an OSHA citation or have questions concerning matters relating to construction safety or OSHA compliance.

Economic Outlook

Continued from page 14

market has continued to disproportionately benefit from New York City's outbound migration and reliance on remote work capabilities. It is unclear if this trend will continue if the pandemic wanes.

About the author: Michael J. Paton is a portfolio manager at Tocqueville Asset Management L.P. He joined Tocqueville in 2004. He manages balanced portfolios and is a member of the fixed-income team. He can be reached at (212) 698-0800 or by email at MPaton@tocqueville.com.

Financial Management

Continued from page 16

panded the role of the Statewide Advocate, whose authority and responsibilities now range from assisting MWBEs in obtaining business assistance and investigating complaints concerning certifications delays, to auditing agencies and investigating complaints from MWBEs regarding violations of 15-A.

Article 15-A Will Also Affect MWBEs.

Meanwhile, for MWBEs, the legislation has increased the personal net worth cap for owners to \$15 million from \$3 million, which will have a significant impact on the program capacity. In order to remedy the current certification backlog, the legislation has extended the certification from three to five

years. Lastly, MWBE bidding credits of 10% up to \$1.4 million have been established for low-bid construction projects.

Ensuring complete compliance with Article 15-A can be difficult. If you have any questions about Article 15-A, contact your attorney or CPA.

About the authors: Phillip Ross, CPA, CGMA is an Accounting and Audit Partner and Chair of the Construction Industry Group at Anchin, Block & Anchin, LLP. Brian Sanvidge, CIG, CFE, is the Principal and Leader of Regulatory Compliance and Investigations of Anchin's Litigation, Forensic and Valuation Services Group. For more construction industry thought leadership and content, log on to www.anchin.com.

Regional Bid Alert

NYS DOT Region 8

Bid Letting Date: March 11, 2021

New York State Department of Transportation
Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264428
PIN# 881519

Project Description: Columbia, Dutchess, Orange, Putnam, Rockland, Ulster, Westchester Cos., Culvert Job Order Contract: NYSDOT Region 8, Region wide.

Bid Deposit: 5% of Bid (~ \$75,000.00)

Goals: MBE: 5.00%, WBE: 10.00%, SDVOB: 6.00%

NYS DOT Region 8

Bid Letting Date: March 11, 2021

New York State Department of Transportation
Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264458
PIN# 881422
FA Proj.# Z24E-8814-223

Project Description: Columbia, Dutchess, Orange, Putnam, Rockland, Ulster, Westchester Cos., Stormwater Management MBC, Columbia, Dutchess, Orange, Putnam, Rockland, Ulster and Westchester Counties.

Bid Deposit: 5% of Bid (~ \$75,000.00)

Goals: DBE: 7.00%

NYS DOT Region 8

Bid Letting Date: March 11, 2021

New York State Department of Transportation
Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264461
PIN# 812747
FA Proj.# Z0E1-8127-473

Project Description: Dutchess Co., Pavement Resurfacing Project: Taconic State Parkway, Towns of East Fishkill and Lagrange, Dutchess County.

Bid Deposit: 5% of Bid (~ \$375,000.00)

Goals: DBE: 6.00%

NYS DOT Region 9

Bid Letting Date: March 11, 2021

New York State Department of Transportation
Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264355
PIN# 9FAS20

Project Description: Broome Co., Signal Replacement & Intersection Reconstruction at Vestal Parkway East & Clayton Ave in the Town of Vestal, Broome County.

Bid Deposit: 5% of Bid (~ \$125,000.00)

Goals: DBE: 6.00%

Bid Letting Date: March 11, 2021

New York State Department of Transportation
Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264391
PIN# 9PM021
FA Proj.# Z24E-9PM0-213

Project Description: Broome, Chenango, Delaware, Otsego, Schoharie, Sullivan, Tioga Cos., Pavement Marking Contract (Principal), All of NYSDOT Region 9, Broome, Chenango, Delaware, Otsego, Schoharie, Sullivan and Tioga Counties.

Bid Deposit: 5% of Bid (~ \$125,000.00)

Goals: DBE: 0.00%

Bid Letting Date: March 11, 2021

New York State Department of Transportation
Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264436
PIN# 980742
FA Proj.# ZS3E-9807-423

Project Description: Broome Co., Route 11 & 434 Up-grade Pedestrian Accommodations at 3 Traffic Signals, Broome County, Towns of Chenango and Vestal, NY.

Bid Deposit: 5% of Bid (~ \$20,000.00)

Goals: DBE: 6.00%

NYS DOT Region 10

Bid Letting Date: March 11, 2021

New York State Department of Transportation
Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264450
PIN# 081027
FA Proj.# Z23E-0810-273

Project Description: Suffolk Co., Surface Treatments at Various Locations in the Towns of Brookhaven, East Hampton, Islip & Smithtown. Suffolk County, NY.

Bid Deposit: 5% of Bid (~ \$750,000.00)

Goals: DBE: 10.00%

Bid Letting Date: March 11, 2021

New York State Department of Transportation
Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264451
PIN# 081028
FA Proj.# Z0E1-0810-283

Project Description: Nassau, Suffolk Cos., Clean, Repair, Replace or Install Drainage System Elements at Various Locations in Nassau and Suffolk Counties., Priority Award Requirements.

Bid Deposit: 5% of Bid (~ \$375,000.00)

Goals: DBE: 10.00%

NYS DOT Region 11

Bid Letting Date: March 11, 2021

New York State Department of Transportation
Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264374
PIN# XM1542

Project Description: Bronx, Kings, New York, Queens, Richmond Cos., Replace or Repair Deficient Sign Structures at Various Locations in New York City, Night Time Work.

Bid Deposit: 5% of Bid (~ \$750,000.00)

Goals: DBE: 10.00%

Bid Letting Date: March 11, 2021

New York State Department of Transportation
Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264379
PIN# XM2051

Project Description: Bronx, Kings, New York, Queens, Richmond Cos., Bridge Maintenance Repairs at Various Locations, All Counties of New York City.

Bid Deposit: 5% of Bid (~ \$750,000.00)

Goals: MBE: 5.00%, WBE: 10.00%, SDVOB: 6.00%

Bid Letting Date: March 17, 2021

New York State Department of Transportation
Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264369
PIN# X73158
FA Proj.# Z230-X731-583

Project Description: Queens Co., New Park Construction including of a skate park, basketball court and adult fitness equipment., Prebid Meeting, Best Value Procurement.

Bid Deposit: 5% of Bid (~ \$750,000.00)

Goals: DBE: 10.00%

New York State Dormitory Authority

Bid Due Date: March 9, 2021

Title: City University of New York, Queens College, Dining Hall Roof Replacement and Associated Asbestos Abatement

Contract: CR10 General Construction

Project# 3400909999

Sealed bids for the above Work located at Queens College, 64-36 Kissena Boulevard, Flushing, New York, 11367 will be received by DASNY at its office located at 515 Broadway, Albany, NY 12207. Each bid must be identified, on the outside of the envelope, with the name and address of the bidder and designated a bid for the Project titled above. When a sealed bid is placed inside another delivery jacket, the bid delivery

jacket must be clearly marked on the outside "BID ENCLOSED" and "ATTENTION: CONSTRUCTION CONTRACTS – DOMINICK DONADIO." DASNY will not be responsible for receipt of bids which do not comply with these instructions.

The Dormitory Authority of the State of New York ("DASNY") has determined that its interest in obtaining the best work at the lowest possible price, preventing favoritism, fraud and corruption, and other considerations such as the impact of delay, the possibility of cost savings advantages and any local history of labor unrest are best met by use of a Project Labor Agreement ("PLA") on this Project. The successful low bidder, as a condition of being awarded this Contract, will be required to execute the PLA described in the Information for Bidders and included in the Contract Documents. See Section 18.0 of the Information for Bidders of the Contract Documents for additional information. All subcontractors of every tier will be required to agree to be bound by the PLA.

All individuals who plan to attend pre-bid meetings or bid openings in person will be required to complete and present a DASNY Visitor Covid-19 Screening Questionnaire, present government-issued picture identification to building security officials and obtain a visitors pass prior to attending the bid opening. The questionnaire and all instructions are located after Section 19.0 of the Information for Bidders.

All individuals who plan to attend pre-bid meeting must provide to the DASNY Representative via email at EFlores@dasny.org at least 72 hours in advance of pre-bid meeting the full name, company, and email address of any individual attending the pre-bid meeting. All attendees are required to download CUNY's Health Screening App (Everbridge) and pre-register prior to the meeting. In addition, attendees are also required to use Queens College's email-link based screening protocol (Proxyclick). Campus access can only be granted upon completion of both Everbridge and Proxyclick screening protocols.

Individuals and entities submitting bids in person or by private delivery services should allow sufficient time for processing through building security to assure that bids are received prior to the deadline for submitting bids.

All bid openings will be made available for viewing live via Zoom at www.zoom.us. To enter the meeting, select "Join a Meeting" then enter Meeting Id 353 471 6521, Password 351895. Individuals are strongly encouraged to utilize this public viewing option as an alternative to in person attendance at bid openings.

Only those bids in the hands of DASNY, available to be read at 2:00 PM local time on March 9, 2021 will be considered. Bids shall be publicly opened and read aloud. Bid results can be viewed at DASNY's website; <http://www.dasny.org>.

In accordance with State Finance Law § 139-j and § 139-k, this solicitation includes and imposes certain restrictions on communications between DASNY personnel and a prospective bidder during the procurement process. Designated staff for this solicitation is: Esteban Flores, Sr. Field Representative, 65-30 Kissena Boulevard, Flushing, New York 11367, 718-997-4954, eflores@dasny.org (the Owner's Representative) and DASNY at ccontracts@dasny.org. Contacts made to other DASNY personnel regarding this procurement may disqualify the prospective bidder and affect future procurements with governmental entities in the State of New York. For more information pursuant to this law, refer to DASNY's website; <http://www.dasny.org> or the OGS website; <http://www.ogs.state.ny.us>.

A Pre-Bid Meeting was scheduled on Thursday, February 18, 2021 at 11:00 AM at DASNY Field Office at Queens College, 65-30 Kissena Boulevard, Flushing, New York 11367. Contact Esteban Flores at 518-461-4153. All prospective bidders are strongly encouraged to attend.

Prospective bidders are advised that the Contract Documents for this Project contain new "GENERAL CONDITIONS for CONSTRUCTION" dated July 28, 2020 that contain significant revisions from those documents previously contained in DASNY's Contract Documents. Prospective bidders are further advised to review applicable sections of these General Conditions for any potential impact on their bid price prior to submittal of the bid.

A complete set of Contract Documents may be viewed and/or purchased online from Camelot Print and Copy Centers. Only those Contract Documents obtained in this manner will enable a prospective bidder to be identified as an official plan holder of record. DASNY takes no responsibility for the completeness of Contract Documents obtained from other sources. Contract Documents obtained from other sources may not be accurate or may not contain addenda that may have been issued. In addition, prospective bidders are advised that the Contract Documents for this Project contain new "GENERAL CONDITIONS for CONSTRUCTION" dated July 28, 2020 that contain significant revisions from those documents previously contained in DASNY's Contract Documents. Prospective bidders are further advised to review applicable sections of these General Conditions for any potential impact on their bid price prior to submittal of the bid. The plan holders list and a list of interested subcontractors and material suppliers may be viewed at DASNY's website: <http://www.dasny.org>. For Bid Opportunities and other DASNY related news, follow us on Twitter @NYS_DASNY and Facebook <https://www.facebook.com/pages/DASNY-Dormitor-Authority-of-the-State-of-New-York/307274192739368>.

Bid Due Date: March 18, 2021

Title: City University of New York, Lehman College, Department of Social Work Expansion and Asbestos Abatement

Contract: CR4 General Construction

Project# 3252109999

Sealed bids for the above Work located at Lehman College Davis Hall, 2850 Goulden Avenue Bronx, New York 10468 will be received by DASNY at its office located at 515 Broadway, Albany, NY 12207. Each bid must be identified, on the outside of the envelope, with the name and address of the bidder and designated a bid for the Project titled above. When a sealed bid is placed inside another delivery jacket, the bid delivery jacket must be clearly marked on the outside "BID ENCLOSED" and "ATTENTION: CONSTRUCTION CONTRACTS – DOMINICK DONADIO." DASNY will not be responsible for receipt of bids which do not comply with these instructions.

The Dormitory Authority of the State of New York ("DASNY") has determined that its interest in obtaining the best work at the lowest possible price, preventing favoritism, fraud and corruption, and other considerations such as the impact of delay, the possibility of cost savings advantages and any local history of labor unrest are best met by use of a Project Labor Agreement ("PLA") on this Project. The successful low bidder, as a condition of being awarded this Contract, will be required to execute the PLA described in the Information for Bidders and included in the Contract Documents. See Section 18.0 of the Information for Bidders of the Contract Documents for additional information. All subcontractors of every tier will be required to agree to be bound by the PLA.

All individuals who plan to attend pre-bid meetings or bid openings in person will be required to complete and present a DASNY Visitor Covid-19 Screening Questionnaire, present government-issued picture identification to building security officials and obtain a visitors pass prior to attending the bid opening. The questionnaire and all instructions are located after Section 19.0 of the Information for Bidders.

Individuals and entities submitting bids in person or by private delivery services should allow sufficient time for processing through building security to assure that bids are received prior to the deadline for submitting bids.

All bid openings will be made available for viewing live via Zoom at www.zoom.us. To enter the meeting, select "Join a Meeting" then enter Meeting Id 353 471 6521, Password 351895. Individuals are strongly encouraged to utilize this public viewing option as an alternative to in person attendance at bid openings.

Only those bids in the hands of DASNY, available to be read at 2:00 PM local time on March 18, 2021 will be considered. Bids shall be publicly opened and read aloud. Bid results can be viewed at DASNY's website; <http://www.dasny.org>.

In accordance with State Finance Law § 139-j and § 139-k, this solicitation includes and imposes certain restrictions on communications between DASNY personnel and a prospective bidder during the procurement process. Designated staff for this solicitation is: Christopher Wuest, Project Manager, 250 Bedford Park Boulevard West, T-3 Building Room 124, Bronx, New York 10468, 647-590-9041, cwuest@dasny.org (the Owner's Representative) and DASNY at ccontracts@dasny.org. Contacts made to other DASNY personnel regarding this procurement may disqualify the prospective bidder and affect future procurements with governmental entities in the State of New York. For more information pursuant to this law, refer to DASNY's website; <http://www.dasny.org> or the OGS website; <http://www.ogs.state.ny.us>.

A Pre-Bid Meeting will be held on Wednesday, February 10, 2021 at 10:00 AM at DASNY meeting trailer on Paul Ave Loop, Lehman College Gate B. Contact Chris Wuest at 347-590-9041. All prospective bidders are strongly encouraged to attend.

Prospective bidders are advised that the Contract Documents for this Project contain new "GENERAL CONDITIONS for CONSTRUCTION" dated July 28, 2020 that contain significant revisions from those documents previously contained in DASNY's Contract Documents. Prospective bidders are further advised to review applicable sections of these General Conditions for any potential impact on their bid price prior to submittal of the bid.

A complete set of Contract Documents may be viewed and/or purchased online from Camelot Print and Copy Centers. Only those Contract Documents obtained in this manner will enable a prospective bidder to be identified as an official plan holder of record. DASNY takes no responsibility for the completeness of Contract Documents obtained from other sources. Contract Documents obtained from other sources may not be accurate or may not contain addenda that may have been issued. In addition, prospective bidders are advised that the Contract Documents for this Project contain new "GENERAL CONDITIONS for CONSTRUCTION" dated July 28, 2020 that contain significant revisions from those documents previously contained in DASNY's Contract Documents. Prospective bidders are further advised to review applicable sections of these General Conditions for any potential impact on their bid price prior to submittal of the bid. The plan holders list and a list of interested subcontractors and material suppliers may be viewed at DASNY's website: <http://www.dasny.org>. For Bid Opportunities and other DASNY related news, follow us on Twitter @NYS_DASNY and Facebook <https://www.facebook.com/pages/DASNY-Dormitor-Authority-of-the-State-of-New-York/307274192739368>.

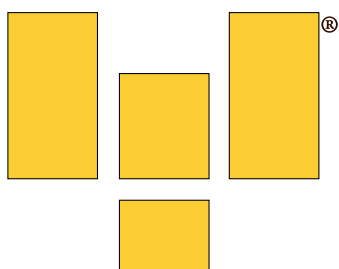
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WHO'S NEWS & WHAT'S NEW

Holt Construction Names Zugibe CEO

PEARL RIVER, NY—It has long been argued that if you want to see how diverse your company is at its most senior level, just look under the boardroom table, at the shoes your executives wear. For the first time in its 100-year history at Holt Construction Corp., the shoes of the CEO are now filled by a woman, Patricia Zugibe, who was named to that position in mid-February.

Ms. Zugibe joined Jack Holt, chairman, and Christopher Asaro, president, on the executive management team at HCC, a full-service construction management and general contracting firm headquartered in Rockland County.



Patricia Zugibe

“With Patricia’s ability, knowledge, experience and drive, she will be guiding the Holt organization to the next level,” said Mr. Holt. “We look forward to her striking an essential balance in this male-dominated construction industry.”

Over the past three decades, Ms. Zugibe has held numerous leadership positions in both public and private service. She was a principal owner of development and construction companies, acting Rockland County Executive and an attorney for both the county and the Town of Stoney Point, NY. As CEO of HCC, she will provide executive guidance for all corporate concerns as well as establishing and monitoring overall strategic goals. She joined the company in 2014 as in-house counsel, overseeing all legal matters, including litigation, ethics and compliance, corporate governance and risk management.

“When the world was turned upside down by COVID-19, Patricia Zugibe was instrumental in developing a game plan that safeguarded the care and wellbeing of our employees and their families, while continuing to perform business on behalf of clients safely and efficiently,” added HCC President Mr. Asaro.

In addition to her public service, prior to joining HCC Ms. Zugibe was a partner in PVZ Development, a residential rental property company, and owner of North Rockland Developers Inc. and Zugibe Construction, Inc. She also served the Southern CA Associated Builders and Contractors (ABC) Board of Directors; and as president of the NYS County Attorney’s Association.

Headquartered in Pearl River, NY, HCC also maintains offices in New York City, Goshen and Rosedale, NY, Newark, NJ, Boston, Philadelphia, Houston and Dallas.

Gutman Named New NYC DOT Commissioner

NEW YORK—Henry “Hank” Gutman was named to become New York City’s next Commissioner of the Department of Transportation, it was announced on Feb. 3 by New York City Mayor Bill de Blasio.



Henry “Hank” Gutman

Mr. Gutman, who serves as chair of the Brooklyn Navy Yard and serves on the Board of Brooklyn Bridge Park, was a member of Mayor de Blasio’s BQE Expert Panel in 2019 and 2020. Mr. Gutman announced New York City will build 10,000 new bike parking racks by the end of 2022—more than triple the city’s current Green Wave commitment.

“Hank Gutman is a visionary leader whose decades of civic life in this city have made New York City fairer, better, and more accessible,” said Mayor de Blasio. “We made permanent and progressive changes to city streets last year, and we have more to do this year. I can’t wait to work with him to expand transportation options to every New Yorker and build a recovery for all of us.”

Acting Commissioner Margaret Forgiione, who has led the department on an interim basis since December, will remain in the department and serve as Commissioner Gutman’s First Deputy Commissioner. Jee Mee Kim, currently a principal at HR&A Advisors and a 20-year veteran of national transportation and urban development projects, will join DOT as Chief Strategy Officer.

Mr. Gutman, a 45-year Brooklyn resident, is a retired partner of Simpson Thacher & Bartlett, LLP, where he headed the Intellectual Property Practice Group from 1996 until his recent retirement.

LICA’s Herbst to Lead NYRIC, To Succeed CIC’s Ross Pepe

ALBANY—Earlier this month, Marc Herbst, executive director of the Long Island Contractors’ Association, was named president of the New York Roadway & Infrastructure Coalition, a statewide organization dedicated to sustained funding for New York State’s infrastructure.

Mr. Herbst was elected president at NYRIC’s reorganizational meeting, replacing outgoing NYRIC President Ross J. Pepe, who nominated Mr. Herbst for the role. Mr. Pepe, president



Marc Herbst

of the Construction Industry Council of Westchester & Hudson Valley, Inc., was a founding member of NYRIC and served as president since January 2018.

Felice Farber of the General Contractors Association of New York, Inc., was re-elected as NYRIC’s Treasurer. NYRIC has long been a champion of increasing productivity for safer, more efficient modes of transportation as well as enhancing improvements to roads, bridges and mass transit systems throughout the state.

Mr. Herbst noted, “Ross Pepe has been a warrior in this industry for decades. I am incredibly honored to have been nominated by him, and certainly, he is leaving large shoes to fill. He has been a mentor to me for over 30 years and I welcome his continued guidance and advice. It will be my honor to lead NYRIC in our critical mission to increase funding for our transportation infrastructure.”

Looking forward, Mr. Herbst added, “As we seek to recover



Ross J. Pepe

economically from COVID-19, it is more important than ever that we adequately fund, maintain and enhance our highway, bridge and transit systems to ensure their continued safety, efficiency and accessibility for all.”

Mr. Herbst continues at his full-time position with LICA while simultaneously serving with an expanded voice as NYRIC’s new president in the capacity of industry advocate in Albany and Washington.

Lopez to Head County MWBE Program

WHITE PLAINS—Martha Lopez has been promoted to serve as director of Minority and Women-owned Business Development, it was announced by Westchester County Executive George Latimer on Jan. 29.

From 2001 to 2009, Ms. Lopez served as the director for Hispanic Affairs for Westchester County and currently serves as director of Program and Policy for MWBE and Immigrant Affairs. She began her new role on Feb. 1, 2021.

“Martha is a consistent advocate for improving the lives of Westchester residents—both while on the county team and in her personal life,” County Executive Latimer said. “This new role will allow her to expand her opportunities to serve our community and make real, tangible, positive change in the lives of the people who call Westchester home.”

A resident of New Rochelle, NY, Ms. Lopez is a longtime fixture in Westchester’s Hispanic



Martha Lopez

community. She was a founding member of the Board of Directors of KEEPS, an after-school program for children in Mamaroneck, NY, is a former Member of the Westchester Hispanic Advisory Board. In 1999 Ms. Lopez co-founded the Hispanic Resource Center of Larchmont/Mamaroneck (now known as the Community Resource Center) and for two years served as its president.

In her new role, she will

be tasked with expanding opportunities for Minority and Women Owned businesses to work with county departments, local governments and larger companies seeking to diversify their subcontractor rosters and assist MWBEs with state or county certification. She will also manage the county’s Technical Assistance Advisory Committee.

Ms. Lopez said: “My goal each day is to find solutions to the challenges Westchester residents face. Working with County Executive Latimer, I look forward to further advancing this goal from a new position.”

Westchester County’s Director of Economic Development Bridget Gibbons added, “The role that MWBEs play in Westchester’s economic future is one that must be elevated going forward. Martha will be bringing her experience and can-do attitude to this effort and the people of Westchester will stand to benefit from it.”

Industry Veteran Joins LeChase As VP for Design-Build Projects

ARMONK, NY—LeChase Construction Services, LLC, reported that Jim McKenna has joined the company, which is based here, as vice president, leading the company’s pursuit and management of design-build projects.

With more than 25 years of experience in both real estate and construction, he will also be involved in the real estate development sector and select projects throughout LeChase operations. Mr. McKenna will work at the company’s office in

Rochester, NY.

Starting as project engineer, Mr. McKenna advanced through various construction management roles over the course of his career. For the past 10 years, he served as vice president of construction at a leading commercial real estate development and management company. There, he supported new development opportunities and oversaw design and construction of projects from the earliest concepts through closeout and occupancy.



Jim McKenna

Resorts World Switches Gaming Project From Harriman to the Newburgh Mall

By JOHN JORDAN

NEWBURGH, NY—At press time, Resorts World Catskills Casino was poised to present plans for a Video Gaming Machine (VGM) facility at the Newburgh Mall.

The Genting Group, parent company of Resorts World Catskills Casino in Monticello, NY, confirmed that it will soon present plans to the Town of Newburgh to develop the VGM facility in an attempt to capture downstate gaming market share.

Resorts World had floated a plan to develop a VGM facility at the former Nepera Chemical plant property in Harriman, but has since abandoned the project in favor of the Newburgh Mall due to higher than anticipated property cleanup costs at the Nepera site, according to a Facebook posting by New York State Sen. James Skoufis (D-39).

“After a comprehensive environmental review, the Nepera site proved to be far more contaminated than previous evaluations suggested.



Resorts World plans to incorporate a Video Gaming Machine facility at the Newburgh Mall, thus abandoning its earlier project to build a new VGM facility at the former Nepera Chemical property in Harriman, NY.

Due to the extensive remediation that’s necessary, the property will not be buildable for the better part of a decade,” Sen. Skoufis stated. “As such, it was in everyone’s best interest—including Woodbury’s and Harriman’s—that a new location be found for the project.”

He revealed that a court settlement reached between Woodbury and the Nepera owner in December 2020 resolved an ongoing tax dispute and, as part of the agreement,

will prompt the owner to begin cleaning up the site with strict DEC oversight.

Sen. Skoufis said the Resorts World Catskills’ VGM facility in the Town of Newburgh “will revitalize a dying mall and employ hundreds of permanent, good-paying jobs with an emphasis on hiring from the City of Newburgh. Furthermore, annual local benefits will be provided to the Town of Newburgh and surrounding communities—in addition to legally required

casino taxes and increased property tax payments from the mall.”

A spokesman for Genting confirmed the project had been moved to the Newburgh Mall, stating, “Developing a VGM facility in Orange County has, for many years, been part of Resorts World’s long-term vision for Hudson Valley and the Catskills. It will create hundreds of good-paying union jobs, generate significant revenue for New York’s public schools, and is an important step in ensuring the long-term sustainability of Resorts World Catskills.” The spokesman added that development of the VGM facility will ensure the long-term viability of the Resorts World Catskills operations.

Published reports indicate plans may be presented to the Town of Newburgh later this month. The Genting spokesman stated that it is finalizing the number of Video Lottery Terminals that will be housed at the Newburgh Mall facility.

Approximately 200 con-

struction jobs are expected to be created by the project and the facility, once operational, will employ between 200 to 225 employees, according to the Genting spokesperson. Construction on the project is anticipated to take between six to 12 months to complete. No development cost for the project was released.

The plan for the new VGM facility comes as New York State contemplates moving up the timeline on the development of up to three downstate casinos in the New York metro region, that could include the award of full gaming licenses at Resorts World New York (at Aqueduct Racetrack) in Queens and Empire City Casino in Yonkers. **(Editor’s Note: see story below).**

Resorts World Catskills had operated a VGM facility at the Monticello Raceway property, but closed operations there a little over a year after it first opened the doors to the full gaming facility at Resorts World Catskills on Feb. 8, 2018.

Gov. Weighs Earlier Timeline on Downstate Casinos; Will New Gambling Revenues Help Boost State Cooffers?

By JOHN JORDAN

ALBANY—With a state budget deficit pegged between \$8 billion and \$15 billion, everything seems to be on the table to help raise revenues, including three new casino gaming licenses in downstate New York.

Gov. Andrew Cuomo in his State of the State address reported that he intends to issue a Request for Information for interested parties in securing up to three of the remaining casino gaming licenses in downstate New York (New York City metro region) to be granted by New York State earlier than originally planned.

The New York State Gaming Commission noted that the proposal, if part of the state budget, would have to be approved by the State Legislature by the end of the fiscal year (March 31, 2021). The Gaming Commission released a study on Mon., Jan. 27, undertaken by Spectrum Gaming Group on the impact of downstate casino gaming and mobile sports betting on the state’s economy and the potential windfall in revenues the new facilities could generate. The governor has also proposed the legalization of mobile sports betting as a revenue source to help offset the impact of the coronavirus in the FY2021-22 state budget. Legalization of recreational marijuana is also now on the table.

The addition of up to three casino gaming facilities in the New York City metro region might include the Empire City



MGM Resorts acquired Empire City Casino in Yonkers, NY, from the Rooney family in early 2019 in a deal valued at approximately \$850 million.

Casino in Yonkers, NY, Resorts World New York at Aqueduct Raceway in Queens—both operating as Video Lottery Terminal (VLT) facilities—and perhaps at the new Belmont complex in Nassau County or at a site to be developed in Manhattan. All would definitely impact customer traffic at Resorts World Catskills in Sullivan County and gaming at other existing upstate casinos. If the downstate initiative does move forward, the state would be beginning the process early, since the state’s gaming law bans the award of downstate casino licenses until 2023. The measure was intended to allow the upstate casinos to establish a client base before they faced competition from downstate facilities.

If downstate casinos move forward ahead of plan, the economic impact on the New York City and surrounding markets would be significant. For Westchester County, if MGM Resorts’ Empire City Casino is granted one of the available full gaming licenses, the City

of Yonkers and Westchester County would definitely benefit from the expansion at the storied complex along the New York State Thruway that would include new construction and permanent jobs and significant investment in the expansion that could include new hotel and conference center space.

Gaming interests have been lobbying state lawmakers for some time to move the clock forward on downstate gaming. The Business Council of Westchester has been advocating for a full casino license to be issued to Empire City Casino. John Ravitz, the Council’s executive vice president and chief operating officer, said the full casino license at Empire City, along with approval for Empire City to manage mobile sports betting, will be among the top items on the organization’s legislative agenda for this session of the State Legislature.

“Empire City Casino was the largest private employer in Yonkers before the pandemic,

and like many businesses, we’ve been hit hard during COVID-19,” commented an Empire City Casino spokesman in a prepared statement regarding the potential downstate casino. “A full-scale casino license, with mobile sports betting and live dealers, would significantly speed up recovery, help us hire back employees and put more local residents back to work. It would also generate significant and immediate new revenue for the state through license fees and put revenue back into the local economies, especially Yonkers, Bronx, and Mount Vernon, where most of our employees live.”

The impact of new downstate licensed gaming awards on existing upstate gaming facilities could prove troublesome to operations already under stress due to COVID-19.

A spokesman for Resorts World Catskills said in connection with the governor’s announcement and Gaming Commission study of downstate casinos, “Since reopening

in September, we have begun implementing the marketing and growth strategies to fulfill the untapped potential of Resorts World Catskills. On a parallel track, we will continue to work with our local and state partners on a variety of issues including protecting the good-paying union jobs that are critical during this period of severe unemployment.”

In June 2019, Resorts World Catskills agreed to build a \$100-million VGM facility (similar to existing facilities at Empire City Casino in Yonkers and at Resorts World New York in Queens) in Orange County to lure more downstate customers to their operations. However, earlier this month, Resorts World Catskills confirmed reports that it will present plans soon on a VGM facility at the Newburgh Mall.

(Editor’s Note: See story above). No development cost for the project was announced.

Among some of the highlights of the Spectrum Gaming Group’s report on downstate gaming and mobile sports betting include:

- Downstate counties show the greatest potential for growth in Gross Gaming Revenue, ranging from \$970 million to \$4.49 billion for New York City, and \$606 million to \$1.13 billion for Long Island. The potential of the New York City market could be captured by the addition of new gaming facilities. The potential of the Metro-North region may

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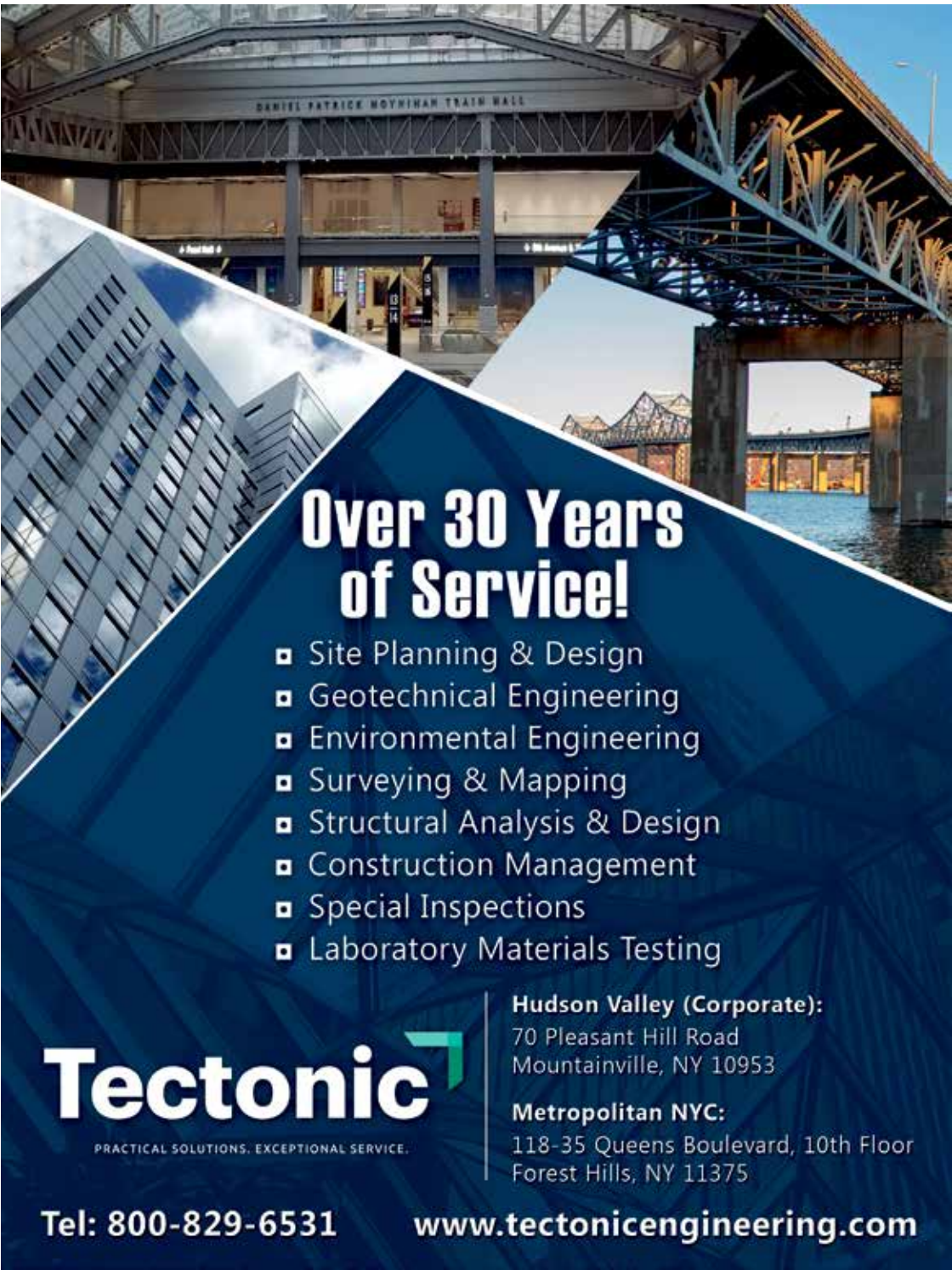
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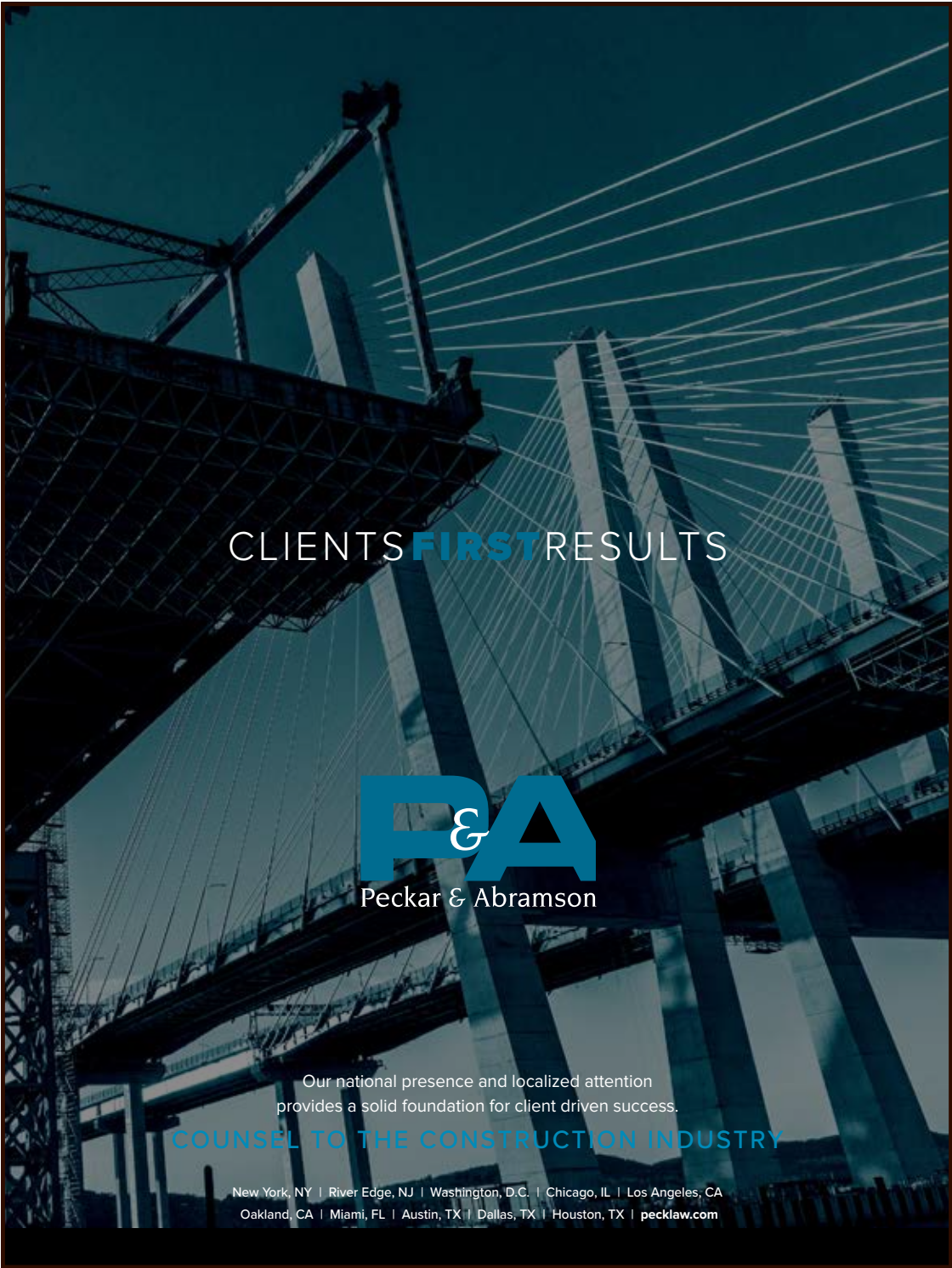
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LOW BIDS

Restani, Mohegan, Aquifer, Fleetwash, JRCRUZ, Kubricky, Callanan Win Bids

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

Restani Construction Corp. of Astoria, NY was the lowest of 17 bidders at \$26,544,140.50 for rehab work on four bridges in Westchester: in the City of Yonkers, Village of Elmsford, and the towns of Greenburgh and Mount Pleasant.

Mohegan Associates Inc. of Carmel, NY was the lowest of five bidders at \$6,988,158.15 for replacement of rustic guide rail with galvanized guide rail on Route 987F (Sprain Brook Parkway) at various locations in Westchester.

Aquifer Drilling & Testing Inc. of Mineola, NY was the sole bidder at \$600,467.50 for Geotech subsurface exploration throughout Region 8 in various municipalities in the counties of Columbia, Dutchess, Orange and Westchester.

Fleetwash Inc. of Fairfield, NJ was the lowest of four bidders at \$953,888 for bridge washing/deck sealing throughout NYSDOT Region 8 in the counties of Columbia, Dutchess, Orange, Putnam, Rockland, Ulster and Westchester.

JRCUZ Corp. of Aberdeen, NJ was the lowest of 14 bidders at \$995,575 for catch basin repairs associated with the Saw Mill River Parkway in Westchester.

Kubricky Construction Corp. of Wilton, NY was the lowest of six bidders at \$6,608,959.10 for asphalt mill and fill resurfacing on the Taconic State Parkway at Pudding Street to Hortontown Hill Road in Putnam.

Restani Construction Corp. of Astoria, NY was the lowest of nine bidders at \$15,726,570 for 11.5 miles of asphalt concrete milling and paving on various routes in Westchester County, including routes 9, 22, 120, 120A and 443 in the towns of Greenburgh, Harrison, Mount Pleasant and North Castle and villages of Harrison, Sleepy Hollow and Tarrytown.

Callanan Industries Inc. of Albany, NY was the lowest of three bidders at \$1,732,069.50 for cold-in-place recycling on NY Route 42 in the towns of Thompson and Fallsburg in Sullivan County.

Awe Inc. Selected for Project For Renovation at Lasdon Park

WHITE PLAINS—The Westchester County Department of Public Works recently announced the selection of apparent low bidder **Awe Inc.** of Brooklyn, NY, which was the lowest of three bidders at \$3,220,000 for renovation to the Main House at Lasdon Park, its Arboretum and Veterans Memorial in Somers, NY.

Timeline on Downstate Casinos

Continued from page 28
be realized by the addition of an already-approved Orange County video lottery gaming facility, as well as through expansion of gaming further Downstate. Spectrum indicates that such expansion might have negative impacts on existing gaming facilities.

• In light of the economic fallout from COVID-19, the State of New York could opt to delay, for an undetermined period, the decision to authorize the three commercial casinos downstate, the report stated.

• Spectrum recommended that a competitive bid process be utilized to arrive at the most optimal result for the state based upon a review of the economic, fiscal and social implications of the awarding of up to three additional commercial casino licenses.

• Job growth in the gaming sector from 2015-2020 has been significant, as total employment at casinos and video-lottery gaming facilities grew from 12,000 jobs in 2015 to 15,700 jobs in 2020, of which roughly 3,400 are at the four commercial casinos that make up the upstate expansion properties. Spectrum estimated that there are 32,000 people employed in the entire sector. While upstate expansion

accounted for 17% of total employment, it accounted for 75% of growth from 2015-2000.

• Spectrum's analysis concluded the state's gaming industry will slowly recover from the pandemic, returning to pre-COVID-19 levels in 2023.

• With respect to mobile sports betting, Spectrum indicated that stabilization of revenue will occur three to five years after commencement. The firm's analysis concluded that at a 10% tax rate, retail and mobile sports wagering would generate between \$72 million to \$104 million in tax revenue to the state. The proposal advanced by the FY 2022 Executive Budget uses the same gross revenue estimate to generate upwards of \$500 million for education. The estimate assumes that the tribal sports wagering operators will not be able to generate meaningful market share.

Commenting on the release of the gaming report, New York State Gaming Commission Spokesman Brad Maione stated, "This report provides a valuable tool for the commission and policy makers to use as discussions continue on the future of the gaming industry in New York. This report should assist with making sound fiscal decisions."



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