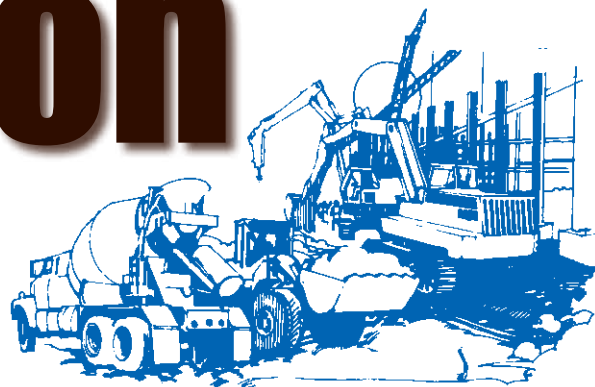




# Construction NEWS



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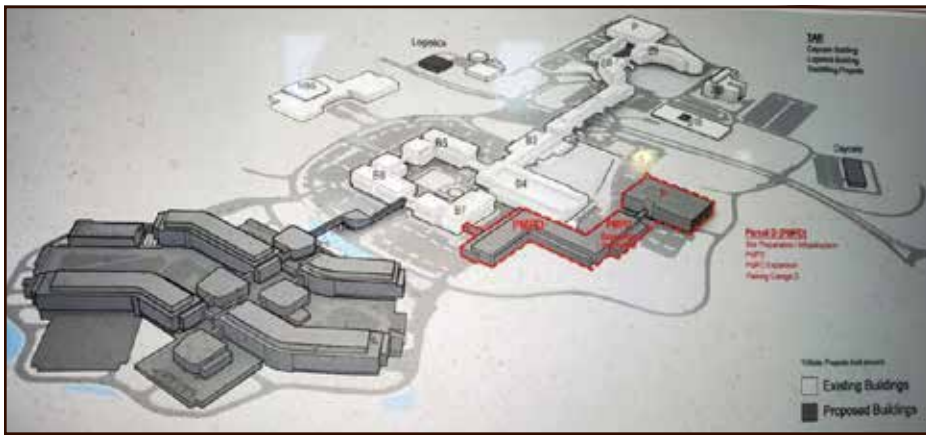
## Regeneron's Multi-Year Expansion Now Pegged at Nearly \$2 Billion

By JOHN JORDAN

TARRYTOWN—The planned expansion of Westchester County-based Regeneron Pharmaceuticals has exponentially increased and is now valued at \$1.8 billion.

The firm, which is seeking approvals from the Town of Greenburgh for an expansion plan valued at \$480 million, is now moving forward with a multi-year expansion that will approach nearly \$2 billion. The Tarrytown-headquartered firm's updated expansion plans were announced by New York Gov. Andrew Cuomo on July 15.

The company will expand its research, preclinical manufacturing and support facilities at the company's Westchester County campus in Tarrytown and create 1,000 new full-time, high-skill jobs in the Mid-Hudson region over the next five years. Gov. Cuomo said that in return, Empire State Development is offering the company up to \$100 million in Excelsior Jobs Program tax credits if



A map of the proposed Parcel D building property in Greenburgh supplied to the Westchester County Industrial Development Agency by Regeneron Pharmaceuticals, Inc.

its hiring goals are achieved. Regeneron considered several potential sites in the tri-state area before deciding to expand in the Mid-Hudson region, according to the governor's announcement.

Regeneron intends to substantially expand its research and development capabilities in Tarrytown, which will

include the addition of new preclinical manufacturing and process development suites, laboratories and office space. The project will encompass the design and construction and fit out of up to eight buildings, three parking garages and a central utility plant totaling approximately 900,000 square feet. Road

infrastructure improvements will be necessary to support additional buildings at their existing headquarters and R&D campus. The project is planned to take place in two phases over six years.

The direct and indirect fiscal benefit to state and local government is estimated to be more than \$283.3 million and the estimated economic benefit to New York is nearly \$2 billion. Construction planning will begin this summer and project construction will be completed in 2027.

"New York is proud to be at the forefront of the life sciences industry and the home of global biotech leaders like Regeneron," Gov. Cuomo said. "The continued growth of Regeneron here in New York is yet another indication that we are leading the way in the life sciences and attracting the jobs of tomorrow. Not only will this expansion further drive economic growth in the Mid-Hudson region, but fuel lifesaving innovation

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## Building Trades Criticize Decision To Sidestep IDA-Approved Labor Reg.

By JOHN JORDAN

WHITE PLAINS—Earlier this year, the Westchester County Industrial Development Agency approved new workplace regulations requiring each applicant seeking tax relief or other inducements to hire more local workers and enroll in apprentice programs. On June 24, in the first test of a project falling under these new requirements, the IDA Board in a 6-1 vote granted the developer some relief from those newly imposed rules.

Following the IDA Board's vote to preliminarily induce the

\$275-million Gateway II mixed-use project in Downtown White Plains, the head of the local labor council blasted the terms proposed by the developer as "totally unacceptable." Edward Doyle, president of the Building & Construction Trades Council of Westchester & Putnam Counties Inc., said its executive board planned to make a formal protest to the IDA over the developer's revised terms.

The IDA Board's vote approving the preliminary inducement of the project qualifies the developer, Greystar Real Estate Partners and the Alaska

Permanent Fund (GREP/APF), to receive \$5.36 million in sales tax exemptions and \$1.65 million in mortgage recording tax exemptions. The PILOT (Payment in Lieu of Taxes) agreement reached with the City of White Plains and the White Plains School District is valued at \$27,183,162, according to documents filed with the Westchester County IDA.

The Gateway II project is to be developed by GS White Plains Owner, LLC, which is led by the Greystar/Alaska alliance. The developer asked for modifications easing some of the newly imposed workforce regulations approved earlier this year based on negotiations between Westchester County and the county's building trades. The labor representative on the

IDA Board, Richard McSpedon voted against the incentives due in part to the workforce modifications.

Two representatives of the developer, Eon Nichols, Esq., an attorney with Cuddy & Feder LLP of White Plains, and Ryan Souls, vice president of GREP, told the IDA that if it were to comply with the recently enacted workforce rules, the project cost would increase by 20% or by \$37.9 million. The developer

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A rendering of the Gateway II project that will feature 500 apartments and 19,000 square feet of retail space in the heart of Downtown White Plains.

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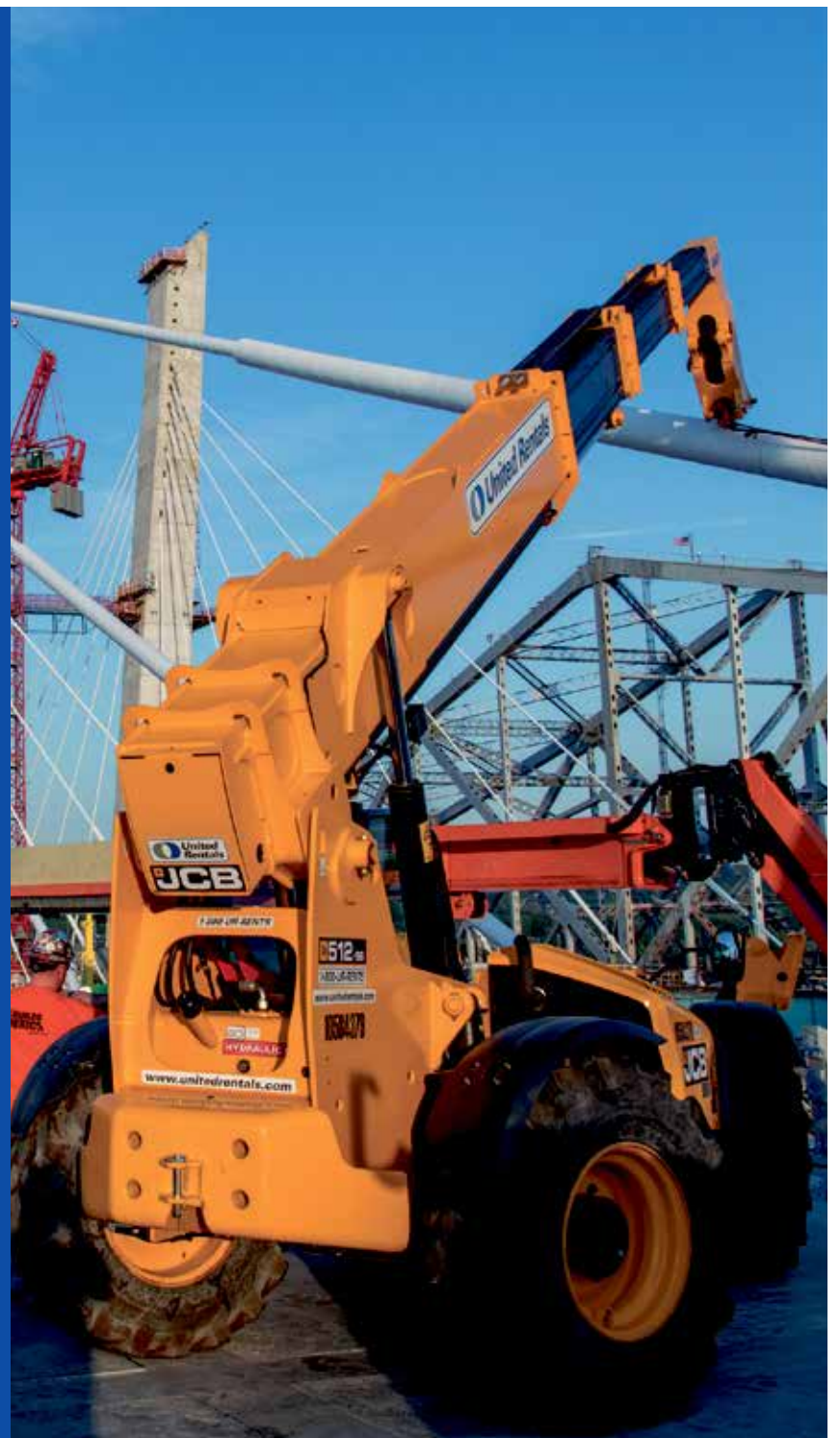
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# NEC Announces \$117B Rail Improvement Plan

## Westchester-CT, NYC Slated For \$64 Billion in Investment

By JOHN JORDAN

WASHINGTON—With the backdrop of Congress and the Biden administration continuing negotiations to hammer out a long-term infrastructure investment program, The Northeast Corridor Commission (NEC) released on July 14 the \$117-billion CONNECT NEC 2035 (C35) rail improvement plan that it said represents the most ambitious reinvestment program in the NEC's history.

The state governments of the Northeast, the federal government, eight commuter rail agencies, and Amtrak worked together through the NEC Commission to develop a detailed and efficient sequencing of infrastructure investments covering 150 projects and capital renewal efforts along the corridor. In the Westchester-Connecticut region, the program would involve approximately \$9 billion in investment and involve the creation of 62,000 jobs. In the New York City Metro region, the program would result in \$55 billion in investment and the creation of 1.7 million jobs over 15 years.

The NEC stated that the implementation of the 15-year, C35 program will result in a modern and resilient railroad with safe, reliable, and more frequent service; connections to new markets; and reduced travel times between communities.

The 15-year program cost that is estimated to be \$117 billion in 2020 dollars currently has a funding gap of approximately \$100 billion that would be shared between the federal government and states.

"Improving the NEC rail system is a vital multi-state effort," said Amit Bose, deputy administrator of the Federal Railroad Administration and NEC Commission co-chair. "C35 is a sequenced plan and a mobilizing force that not only puts people back at work renewing the NEC, but also supports new travel patterns as our economy returns to full strength."

"The corridor supports more than 800,000 daily passenger trips between the greater Washington, D.C. and Boston regions," said Kevin Corbett, president & CEO of NJ TRANSIT and NEC Commission co-chair. "It is imperative that together we seize this once-in-a-generation opportunity to replace aging assets, add rail capacity, improve performance, and enhance the customer experience along the entire corridor through the advancement of the vital and ambitious C35 plan."

C35 is the first phase of the long-term vision for the corridor established in the Federal Railroad Administration's 2017 NEC FUTURE plan, making significant improvements to NEC rail service for both existing and new riders, on both commuter rail systems and Amtrak.

The program benefits for the Northeast include:

### Improve Mobility And Connections

- Travel time savings valued at nearly \$140 million annually for intercity and commuter rail passengers corridor-wide.

- 26-minute faster trips for Acela riders traveling from DC to NYC & 28-minute faster trips from NYC to Boston.

- 25-minute faster trips for express commuters traveling from New Haven to NYC.

- Daily Amtrak NEC service increases of 33% and doubled service for several commuter railroads.

- New one-seat ride services in NJ, NY, and CT into Penn Station New York.

### Create Economic Opportunity

- Nearly 1.7 million new jobs



The Northeast Corridor Commission's CONNECT NEC 35 program currently has a funding gap of approximately \$100 billion.

and \$90 billion in earnings over 15-years throughout the U.S.

- New and enhanced connections between affordable housing and high-wage job centers.

- New off-peak and reverse-peak services for underserved markets.

### Combat Climate Change

- Long-term viability of services that already reduce greenhouse gas emissions by the equivalent of 2.9 million car trips annually between New York and Los Angeles.

- 60 million new rail trips annually using a lower carbon emitting mode than air/bus/auto.

- Investments in hardened infrastructure to build a more resilient railroad.

### Support Desirable Cities And Communities

- Supports innovation districts and is a catalyst for ongoing development initiatives in places such as Newark, DE, Philadelphia, PA, Providence, RI, and Boston, MA.

- Provides reliable, frequent access to support and sustain transit-oriented development.

"C35 represents a big step towards the high-quality rail network our nation and this vital region deserve. The investments in infrastructure laid out in this plan will lead to more modern, reliable, and faster trains, expanded service, and a better customer experience - that will benefit customers, economies and local communities."

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**"Now more than ever, we must invest in our roads, bridges, energy, and water projects."**

**The road to recovery begins with infrastructure."**

**Greg Lalevee**  
Chair, ELEC825  
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# Route 17 Expansion is Key To H.V. Future: C.E. Neuhaus

By JOHN JORDAN

GOSHEN, NY—Orange County Executive Steve Neuhaus believes that if Congress passes a large federal infrastructure bill, one of the first projects in New York State that should be funded is the expansion of Route 17, which could come with a price tag of more than \$1 billion.

In an interview with *CONSTRUCTION NEWS* this month, Mr. Neuhaus said the Route 17 project “should be the first one done in New York State. They could do what they want in New York City, they have a lot of infrastructure issues too, but this is a region that is growing. You see massive commercial and residential development. Residential development in Southern Orange County is off the charts. You are going to need to match that with a



Orange County Executive  
Steven Neuhaus

transportation system that actually works.”

He cited the recent opening of LEGOLAND New York in Goshen, the planned Dinosaur Park in the Town of Wallkill, as well as the upcoming major expansion at the Woodbury

Common Premium Outlets in Central Valley as just some of the projects that would benefit from the expansion of Route 17.

He said that U.S. Senate Majority Leader Charles Schumer along with other New York State elected officials should all be advocating for the Route 17 expansion.

When asked what the fall-out might be if the Route 17 expansion project is not undertaken, the County Executive responded: “You are going to have Planning Boards that are going to say, ‘We love the project, but it is just not doable with the current infrastructure.’”

The New York State Department of Transportation recently held a webinar on its ongoing study of the possible expansion of Route 17. The DOT PEL study, which is expected to be released at the end of October, estimated the cost of the expansion at anywhere from \$245 million to as much as \$1 billion, depending upon the scope of the project.

If the study recommends the construction of a third lane, the least expensive option would add a third lane in the existing roadway footprint for a stretch of 20 miles from the I-87 connector in Harriman to the Route 211 exit (Exit 120) that would cost an estimated \$245 million to \$315 million. To broaden the scope of the project to run a stretch

of 45 miles extending the third lane to Route 17B (Exit 104) in Monticello would raise the cost of that option to between \$550 million to \$710 million.

A second option would involve widening the existing roadway to accommodate the third lane expansions in both directions. The estimated cost of this option for a third lane covering 20 miles from Southern Orange County to Middletown would run between \$350 million to \$450 million. The project cost for the 45-mile stretch from Southern Orange County to Monticello would run between \$790 million to \$1 billion.

John Cooney, Jr., a member of the 17-Forward-86 Coalition, said, “Our federal and state leaders have made Route 17 improvements a priority. Governor Cuomo has spearheaded upgrades at Harriman and at LEGOLAND, and Senator Schumer has spoken directly to US Department of Transportation (DOT) Sec. Buttigieg, on the need to upgrade the Route 17 corridor to increase safety and promote economic development.”

Mr. Cooney, who is executive director of the Construction Industry Council of Westchester & Hudson Valley, Inc., in Tarrytown, added, “With a significant increase in infrastructure funding being considered at the

federal level and the support of Congressman Maloney and our federal, state, and local representatives, there is increased optimism that the much-needed and well-documented safety and capacity improvements along Route 17 will finally come to fruition.”

Marc Baez, co-chair of the 17-Forward-86 Coalition, said, “It is encouraging that efforts to widen the Route 17 corridor are moving forward,” adding that the PEL study is a critical step in this process. “The message from Washington is that infrastructure investment is a priority, with a focus on transformative projects that have significant local support. The Route 17 improvements are consistent with those objectives. This is an opportunity for us all to focus on safety and sustainability, as we strive to continue to ensure economic prosperity for our region.”

17-Forward-86 was established in August 2018 by a dedicated group of advocates who support the widening of Route 17. The coalition comprises more than 200 members of economic development groups, construction trades, tourism groups and energy companies who share a common vision for expanding the capacity of Route 17 to strengthen the economic well-being of the Hudson Valley and Sullivan Catskills.

## WASHINGTON UPDATE

### Sen. Schumer Pushes Revival Of EPA Superfund Program

ULSTER, NY—Standing at the asbestos-contaminated former TechCity site in the Town of Ulster, where the U.S. Environmental Protection Agency (EPA) has recently taken enforcement actions under its Superfund removal program, U.S. Senate Majority Leader Charles E. Schumer on July 2 announced he will launch a two-part plan to revive the U.S. Environmental Protection Agency’s Superfund program in the upcoming infrastructure bills.

Specifically, Sen. Schumer said that in the upcoming bills he will first push to invest billions in EPA-supported clean-ups nationwide and, second, he will fight to revive the long-expired Superfund tax to ensure that polluters are responsible for cleaning up abandoned or uncontrolled hazardous waste sites.

“Ulster County residents can neither afford, nor deserve, a large scale asbestos contamination like the one at TechCity,” said Sen. Schumer. “It is incumbent on the polluters to clean up and fully remediate the toxins to ensure health, safety, and peace of mind for Ulster County communities. However, with a contamination this large we must have an all hands-on deck approach and the federal government must step up to the plate and help with clean-up, which is why I’m



From left, Ulster County Executive Pat Ryan and U.S. Sen. Charles Schumer.

calling for a multi-billion infusion for the vital Superfund program, which has already spent \$600,000 right here in Ulster, in addition to securing more federal support for EPA-supported cleanups. Cleaning up contaminated sites like TechCity for the return to productive use can be an engine for economic development across the country and is a critical part of rebuilding the Hudson Valley’s infrastructure, improving public health, and creating jobs.”

Sen. Schumer explained that, as outlined in President Biden’s American Jobs Plan, he will first push for an additional \$5 billion investment

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#### PUBLISHER

Ross J. Pepe

#### ASSOCIATE PUBLISHER

John T. Cooney, Jr.

#### EXECUTIVE EDITOR

George Drapeau III

#### MANAGING EDITOR

John Jordan

#### ASSOCIATE EDITOR

Sheila Smith Drapeau

#### ADVERTISING MANAGER

Peter Fiore

#### BUSINESS/OFFICE MANAGER

Karen Zedda

#### ADVERTISING SALES OFFICE

629 Old White Plains Road

Tarrytown, NY 10591

(914) 631-6070

#### TYPOGRAPHY/DESIGN/PRINTING

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#### Construction Industry Council of Westchester & Hudson Valley, Inc.

Chairman: George Pacchiana

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# Westchester to Award \$31M in Capital Projects, Tackling Backlog, Advancing New Public Works

By JOHN JORDAN

WHITE PLAINS—The Westchester County Board of Legislators approved six bond act proposals in late June valued at a total of approximately \$30.6 million, most of which will be put out to bid in the next few months.

The contracts involve infrastructure-related construction improvement work at county-owned and operated sewer and wastewater facilities and at other county properties in White Plains and at the Merestead property in Mount Kisco.

Following the June 28 BOL meeting, Westchester County Director of Operations Joan McDonald told CONSTRUCTION NEWS that those contracts are part of an ongoing plan to reduce a backlog of county project work the administration of County Executive George Latimer inherited when it took office in 2018. In the past three years, the Latimer administration has enacted reforms



**Westchester County  
Director of Operations  
Joan McDonald**

and new processes to expedite work and get projects out to bid more efficiently, according to a county official.

Despite challenging fiscal times, Westchester County has hired since Jan. 1, 2018 a total of 14 engineers and design staff to the County Department of Public Works and Transporta-

tion. Among those hires have included: Hugh J. Greechan, Jr., P.E., serving as commissioner; Gayle M. Katzman, P.E., serving as 1<sup>st</sup> deputy commissioner; Hernane N. De Almeida, serving as deputy commissioner; and Robert Abbamont, serving as director of operations (Capital Planning Program) of the Westchester County Department of Public Works and Transportation.

To address a shortage of design staff at the department, the county also has retained a number of on-call consultants to assist the county in the design, planning and surveying of capital project work. Those firms include: Henningson, Durham & Richardson Architecture and Engineering, P.C.; LiRo Program and Construction Management, PE, P.C.; Savin Engineers, P.C (MWBE); Paul J. Petretti, Civil Engineering & Land Surveyor (Service Disabled Veteran Owned Business—Surveying), and Ward

Carpenter Engineers, Inc. (Surveying).

Ms. McDonald, who formerly served as commissioner for the New York State Department of Transportation, and prior to that was with the Connecticut Department of Transportation, said upon taking on her current post more than three years ago, she was surprised by the processes and procedures of county government at the time as well as a significant backlog of capital project work, which some had estimated was more than \$1 billion.

One reform that has helped expedite work was securing approval from the New York State Legislature last year to lift the cap on the requirement that any bonding over \$10 million required a voter referendum. (The last bond measure to be approved by the voters was a bonding proposal for renovations at the Westchester County Jail in the 1990s, Ms. McDonald noted.)

Noting that many county capital projects are valued at more than \$10 million, she said that county planning, DPW and budget departments split up projects to stay under the bond cap, causing inefficiencies and needless expense in the design and procurement processes.

While not utilized in the cases of the latest five capital project bond measures, Ms. McDonald noted that the county has in the past bundled together a number of capital projects into one bond issue in order to expedite the approval process and get those projects out to bid. Previously, all projects were funded by their own bond issue.

Ms. McDonald noted that when at NYSDOT, multiple bridge and highway construction work was bundled together in one bid package to expedite work and create efficiencies for the construction contractor. In April 2019, after consultation with Budget Committee Chairman Catherine Borgia, the Latimer administration put out its first bundled group of road and bridge contracts. She said the county intends to continue this practice going forward when feasible.

She also noted that the DPW has been successful in putting bonding measures out to the County Legislature for approval early in the calendar year so that they can be approved, thus facilitating those projects going out to bid in the construction season.

In terms of the six approved bond measures, Ms. McDonald explained that the Department of Public Works will now complete the bid documents and put them in the queue to go out to bid.

“One of the other things we are evaluating is that (currently) every project before it goes to bid has to go before the Acquisition & Contract (A&C) Committee,” she said. “We are

looking to see if we can either bundle that or eliminate that.” She noted that there is an argument that the respective project fundings have already secured approval when the County Board of Legislators approve that year’s capital budget.

The following are brief descriptions along with the approved bonding amounts for the six capital projects recently approved by the County Board of Legislators:

## **Bond Act B014D-White Plains Building Complex Exterior Infrastructure Repairs—\$900,000**

Rehabilitation of 112 East Post Road and 143 Grand St. The work to be performed at 112 East Post Road will include rehabilitation of the parapet, facade, exterior metals, and penthouse structures; installation of rooftop access stairs; and all associated work. The work to be performed at 143 Grand St. will include window replacement, facade rehabilitation, reconstruction of the Quarropas Street building entrance and handicapped ramp, and all associated work. Upon bonding authorization, anticipate design by staff to start September 2021 (nine months). Estimate project to be bid in the third quarter of 2022. Construction estimated at 12 months.

## **Bond Act-RMS03-Merestead Out Buildings—\$400,000**

The historic Merestead farmhouse dates back to the early to the mid-19<sup>th</sup> century and is part of the Farmstead at Merestead (National Register of Historic Places). The work includes complete interior and exterior restoration, including hazardous materials abatement, foundation masonry work, carpentry, roofing, appliances and equipment. Utility work includes new plumbing, fire protection, HVAC, electric service, above-ground oil tank, and repairs to water service to the building and the septic system. Schedule is still pending. Due to the historic nature of the building, the design might go out as an RFP. If it does, the design will begin in 2022 and construction will begin in 2023.

## **Bond Act (Amended) SBB07-Blind Brook WWTP Process Equip. Improvements—\$7.5 Million**

This project aims to rehabilitate, upgrade, and replace various items of equipment and systems at the Blind Brook Water Resource Recovery Facility. The existing equipment and systems are at the end of their useful life and require extensive maintenance, which involves downtime. Equipment or systems to be replaced or rehabilitated will include, but not be limited to: HVAC equipment not included in the performance maintenance project (Capital Project SBB06); primary sludge and sludge transfer pumps

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## Sen. Schumer Pushes Revival Of EPA Superfund Program

Continued from page 4

to remediate and redevelop Brownfield and Superfund sites, as well as related economic and workforce development programs, in the upcoming infrastructure bills. Importantly, the current bipartisan infrastructure proposal also includes an additional investment to the EPA Superfund program. This year, EPA’s annual budget for the Superfund Response and Removal program was roughly \$190 million nationwide. EPA Region 2, which covers New York, received roughly \$18 million of that pot this year, with \$12 million allocated for field work and removal activities.

Currently, according to EPA, the agency is involved with 43 different sites in New York State, including PRP lead and federally funded work. Although EPA can straddle large multi-million-dollar projects, like TechCity, across multiple fiscal years to fund this work, this increased investment will provide additional funding resources for EPA’s high priority sites and streamline pathways to productive reuse.

Sen. Schumer said that, while this one-time investment in federal cleanups is key to improving public health and creating job opportunities as New York builds back from the pandemic, the second part of his plan—reviving long-expired industry Superfund taxes—would provide additional long-term funding certainty to cleanup sites. Through the Hazardous Substance Superfund Trust Fund, chemical manufacturers once paid taxes to help fund the cleanup of sites where potentially responsible parties couldn’t be found or couldn’t pay. However, the federal government’s authority to collect industry taxes for this Fund expired more than 25 years ago in 1995. Sen. Schumer said that reinstating this tax would go a long way in reviving toxic waste sites by providing greater funding certainty. Recently, the White House also supported the proposed “polluter pay” tax as outlined in the bipartisan infrastructure framework.

Sen. Schumer said that his two-part plan is key to cleaning up contaminated sites, like TechCity, and putting them to productive use to help to fuel the regional economy while improving public health. Sen. Schumer explained that Ulster County has already taken ownership of two parcels at the former TechCity site and plans to invest \$1.5 million of its \$34.49 million in the American Rescue Plan to create hundreds of jobs at that site. Currently, the county has

received more than 20 proposals for the potential redevelopment of that property alone.

“Today, we are taking another major step in revitalizing this site, returning it to its rightful place as the beating heart of our reenergized and revamped Ulster County economy,” Ulster County Executive Pat Ryan said. “Sen. Schumer has been a longtime partner and a champion for the residents of Ulster County. Through his fierce advocacy for the cleanup of this site and his successful efforts to secure over \$34 million in American Rescue Plan funds for the county, we now have the funds and the support to bring this site back to life and create quality jobs and opportunity for our community.”

Cleaning up the remaining hazardous waste and asbestos debris piles at TechCity, Sen. Schumer said, could yield even more opportunities for new jobs and industries to come to the Hudson Valley. For over 30 years, the 258-acre property, bordered by Enterprise Drive, Boices Lane, the CSX railroad tracks and U.S. Route 209, was Ulster County’s economic engine as the home of IBM and its 7,000-person workforce. However, in 1998, the computer giant sold the property and its new owner endeavored to build a commercial park by selling subdivided parcels within the property to varied business interests with only limited success. Today, TechCity faces decaying buildings, piles of rubble, asbestos contamination, and millions in unpaid taxes. The site is near a residential area and sits close to athletic fields used by a children’s soccer league. According to Ulster County, the estimated cost to clean up the former IBM campus will be up to \$12 million dollars and currently the owner of the toxic site owes an estimated \$22 million in back taxes.

TechCity is being addressed under EPA’s shorter-term cleanup program, the Superfund Removal program. According to the EPA, in March of 2020, the agency mobilized to the site to undertake a portion of the removal work. EPA’s actions included:

- Demolition of an asbestos-contaminated, partially-demolished structure identified as Building 2 and disposal of approximately 200 tons of asbestos-contaminated material;
- Decontaminating 150 tons of steel, which was shipped off-site for recycling; and,
- Securing the exterior of Building 1 by repairing barriers, installing temporary fencing, and posting asbestos warning signs.



## Attorney's Column

# Failure to Include Monetary Demand Dooms Contractor's Claim for Delay Damages

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

Several months ago, this column told of the harsh consequences faced by a contractor who did not strictly follow the notice provisions of his contract, and how such failure ultimately doomed an otherwise valid claim of more than \$2 million.

This month, we highlight the case of *BG National Plumbing & Heating v New York City School Construction Authority*, where an appellate court similarly doomed a contractor's monetary claim. However, this case, unlike that previous case, involved a statutory, rather than a contractual, notice of claim.

### Background

In May 2012, BG National Plumbing and Heating was awarded a contract to perform electrical upgrades for the New York City School Construction Authority. The work was scheduled to take 730 days, and BG received its Notice to Proceed from the SCA on June 18, 2012. Eighteen months into its work, BG filed a Notice of Claim against the SCA, claiming that it was entitled to an extension of the contractual completion date by 243 days because of certain SCA-caused delays. Crucially, this Notice of Claim did not include any monetary demand.

In September 2014, BG sued the SCA, filing a summons with notice (an abbreviated document that does not require one to set forth its damages in detail). The parties attempted to work out their dispute (which included completing the project, which occurred on Dec. 9, 2015), and they agreed that BG could file its complaint (the document in which a party is required to set forth the details



of their claim) once it received an expert's report detailing what those damages were. BG received that report on March 13, 2017, and it filed its complaint on Oct. 3, 2017, seeking \$2,455,740 in delay damages. The SCA then moved to dismiss BG's lawsuit, arguing that as the Notice of Claim failed to apprise the SCA of the monetary claim, BG was prohibited from pursuing it in court. In response to the motion, on July 17, 2018, BG cross-moved to amend its Notice of Claim to include the monetary claim.

### Decision

The motion court granted the SCA's motion, denied BG's cross-motion, and dismissed BG's complaint, finding that the Notice of Claim filed by BG was defective in that it failed to set forth BG's claimed damages in detail. In doing so, the motion court noted that damages are generally ascertainable upon the substantial completion of a construction project, which occurred here in December 2015. However, even giving BG the benefit of the doubt, the motion court noted that BG received the expert report setting forth its delay damages in March 2017, and even assuming that its claim was not ascertainable until that date, saw that BG failed to take any action until it was faced with a motion to dismiss its lawsuit 16 months later.

BG appealed, and the appellate court affirmed the lower

court. In doing so, the appellate court held that while a Notice of Claim can be amended to correct good faith and non-prejudicial mistakes, it cannot substantively change the theory of liability—which the proposed amended Notice of Claim would do by, for the first time, including a monetary component.

The appellate court also noted the "inordinate delay" between the time when BG first became aware of the nature and extent of its damages, and when it acted to amend its Notice of Claim.

### Comment

When seeking to make a claim against the public purse, there are—in addition to contractual provisions requiring notice—often statutory or other regulatory provisions requiring contractors to make notice of their claim. These provisions can be found scattered in various statutes (in this case, Section 1744 of the Public Authorities Law, which requires a Notice of Claim to be filed before suing the New York City School Construction Authority) or, in the case of some cities

*When seeking to make a claim against the public purse...failure to strictly comply with statutory provisions can be just as fatal as failing to comply with contractual notice provisions.*

and counties, buried deep in their city/county charters. As we saw in *BG National*, failure to strictly comply with these statutory provisions can be just as fatal as failing to comply with contractual notice provisions. Accordingly, contractors who believe that they have claims against a public owner would be well advised to consult with experienced construction counsel to be sure that their claims are asserted in a way that complies with both the contractual and statutory/regulatory notice of claim provisions.

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

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## ALBANY UPDATE



Work continues on the Highway Workers Memorial, which will be unveiled during the 2021 Great New York State Fair.

## Highway Workers Memorial to Debut At the 2021 New York State Fair

ALBANY—On July 16, Gov. Andrew M. Cuomo announced that a new memorial honoring fallen highway workers across New York is under construction and will be unveiled at the 2021 Great New York State Fair in Syracuse, NY.

The memorial, which will be located near the midway entrance and west of the Horticulture Building on the fairgrounds, is meant to honor all transportation workers killed while performing their job duties on or near New York's thousands of miles of highways, including State Department of Transportation and Thruway Authority employees, municipal highway workers, contractors, consultants and towing service employees.

The Great New York State Fair will be held from Aug. 20 to Sept. 6 at the New York State Fairgrounds in Syracuse.

"These hardworking and dedicated New Yorkers routinely put their personal safety on the line to build our bridges, pave our roads and maintain a safe, reliable infrastructure, so that

all New Yorkers can reach their destinations as safely as possible," Gov. Cuomo said. "We are grateful for the work that these women and men perform year-round and this new memorial, which will be ready in time for the 2021 Great New York State Fair, will serve as a lasting tribute to all the workers who lost their lives while performing their duties."

According to the federal Bureau of Labor Statistics, from 2003-2017, 1,844 workers lost their lives at road construction sites across the United States, averaging 123 per year. The State Department of Transportation alone has lost 56 workers during its existence.

The new memorial will include a centerpiece featuring a bronze sculpture of shovels, hard hats and boots on a platform surrounded by four bronze traffic cones and a dedication plaque. It will include paved walkways and seating for respectful reflection. Shrubs and trees will be planted around the centerpiece and along the outside of the memorial.

## ELQ Industries' DOT Project on I-684 Begins

ALBANY—Work is getting underway on a \$26.9-million project to resurface a 13-mile section of Interstate 684 in Westchester County from the Hutchinson River Parkway in the Village of Harrison to State Route 172 in the Town of Bedford, New York State Department of Transportation Commissioner Marie Therese Dominguez announced on July 16.

The project will enhance safety and ease travel along an important connector that links the Cross Westchester Expressway (Interstate 287) with Interstate 84 and provides access to the Westchester County Airport and many other popular destinations in the region. The resurfacing complements the work of a previous project, completed last year, that resurfaced a two-mile section of I-684 from Harris Road to Exit 6, in the Town of Bedford, NY.

The contractor on the project is ELQ Industries Inc. of New Rochelle, NY.

"Under Governor Cuomo's leadership, New York State continues to make smart investments in our infrastructure that will improve resiliency and facilitate the growth of our economy," Commissioner Dominguez said. "This project will create a more durable road surface and give motorists a smoother ride as they travel through one of the most important transportation corridors in Westchester County."

The project will replace the existing pavement with a fiber-reinforced asphalt overlay that's longer-lasting, more durable and will minimize cracking. Grooved inlaid striping with reflective epoxy paint will also be added to increase the visibility of pavement markings during storms.

## Yonkers Contracting Starts I-95 Improvements

ALBANY—The start of a \$19.9-million infrastructure improvement project on the New England Thruway (I-95) in Westchester County which will increase the vertical clearance of three bridges and resurface a portion of I-95, the New York State Thruway Authority reported on July 6.

"This is an important infrastructure investment project on I-95 to bring lower clearance bridges to modern standards and continue to provide a safe and reliable roadway to motorists," Thruway Authority Executive Director Matthew J. Driscoll said. "We've provided extensive outreach with community leaders and municipalities to prepare for this construction, and we thank them for their support as we move forward with this project."

Yonkers Contracting Co., Inc is the contractor for the project. Work is expected to be completed on the entire project in Fall 2022.

Beginning on July 6, the Old White Plains Road bridge (milepost 9.5) and the Boston Post Road bridge (milepost 13.7) will be closed to all vehicle and pedestrian traffic for the duration of the work. The West Street bridge (milepost 10.5) closure will be scheduled at a later time. The bridges are being raised to a 14'6" vertical clearance that meets current standards. The current height is 14'3." Detours will be in place at each location and will be posted on signage. The bridges are scheduled to reopen this fall.

Additional work includes pavement resurfacing and other safety improvements on I-95 at milepost 8.8 (just before exit 18A) to milepost 10.8 northbound (just after exit 18B) and on I-95 from milepost 13.0 (just after exit 19) to milepost 14.1 (just before exit 22) northbound and southbound.

## Work to Begin on July 29 on \$450 Million Thruway Service Area Improvement Job

ALBANY—Construction will begin shortly on the \$450-million project to redevelop the 27 service areas located on the New York State Thruway, the New York State Thruway Authority announced on July 7.

The service areas were originally built in the 1950s, with the last significant redevelopment taking place in the 1990s. On July 29, 10 service areas will close for work to begin on the first phase of the project. Fuel services will remain available at all locations during construction.

Following a competitive bidding process, Empire State Thruway Partners was awarded the contract and will rebuild 23 of the 27 service area restaurant buildings and provide significant renovations and upgrades to the remaining four. The contract with Empire State Thruway Partners includes a 33-year term, with two phases of construction. The project is funded through a public-private partnership, and no toll dollars or state tax dollars are being used.

Empire State Thruway Partners is operated by Applegreen Limited, an operator of motorway service areas in the US, UK and Ireland. Applegreen is owned by its founders and Blackstone Infrastructure Partners.

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Please turn to page 10

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# Yonkers Mayor Mike Spano Vetoes Measure to Boost Affordable Housing

YONKERS—After the Yonkers City Council approved an amended Affordable Housing Ordinance late last month—one that would increase the affordable housing requirement for new development projects from 10% to 20%—Mayor Mike Spano vetoed the measure on July 7, stating it is infeasible without significant public subsidy.

In his veto message, Mayor Spano cited an independent report conducted by HR&A Advisors, Inc., which stated that the proposed amended AHO will result in a halt to new market rate housing construction absent a city tax subsidy that would be double that of which is currently granted to market rate developers. HR&A issued and presented the comprehensive analysis, which included



**Yonkers Mayor Mike Spano** feedback from community stakeholders and developers, to the Yonkers City Council before its vote in June.

“While I support enhancing our affordable housing stock, the ordinance passed by

the council fails to address the fiscal concerns raised by the report, such as what means are available to increase public subsidies necessitated by the AHO,” Mayor Spano stated in his veto message. “The council also presented no alternative analysis or narrative that disagreed with HR&A’s findings, nor did they prepare an analysis regarding the potential effects on the city if it was to significantly increase the tax subsidy to developers.”

The mayor added, “Ultimately, my decision to veto this amendment is because the council’s proposal will either shut down our market rate residential construction entirely, or else cost the local property taxpayers millions annually in additional subsidies.”

The veto message also cited the Yonkers Planning Board’s opposition to the amended AHO. The Planning Board stated that the council neglected to address the detailed comments issued by the board and failed to send the amended version back to the board for review.

The city also received several amendment opposition letters and statements from The Business Council of Westchester, the Westchester County Association and affordable housing developer Westhab.

Mayor Spano said, “Yonkers represents 20% of Westchester County’s population, yet we already house over 40% of its subsidized housing stock. I agree we need to revisit our AHO, but we need to be smart about our next steps.”

He said that he would be submitting a revised plan to

the council that would propose “the best affordable housing ordinance in Westchester and addresses the needs of our community, while still allowing for investors to continue building in Yonkers.”

In 2013, Mayor Spano and the Yonkers City Council passed the city’s first-ever Affordable Housing Ordinance, ordering 10% of housing units in newly constructed large developments (100 units or more) to be made available to families earning between 40%-100% of Westchester County’s Area Median Income (AMI). In medium-sized developments (between 75 and 99 units), two units are set aside and in small developments (between 21 and 74 units), one unit is set aside. The law does not apply to developments with 20 units or less.

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## Thruway Service Area Improvement

Continued from page 8

this long-anticipated project to redevelop the Thruway’s 27 service area gets underway this month,” Thruway Authority Executive Director Matthew J. Driscoll said. “This expansive project will modernize the buildings and amenities, provide diverse and healthy food options with new restaurants and Taste NY products, and enhance the amenities for the commercial trucking industry. This is an exciting era for the Thruway Authority and we can’t wait for our customers to experience these new modern facilities.”

“We are delighted to be selected by the New York State Thruway Authority as their partner for this prestigious project,” Bob Etchingham of Empire State Thruway Partners said. “We look forward to providing enhanced facilities and services to New York State Thruway customers over the life of this project.”

Most buildings at the new service areas will be configured to provide entrances from both the parking lot and fuel station facilities. New amenities and services at select service areas will also include:

Exterior seating with access to Taste NY farm markets, picnic areas, play areas, and pet walking areas with comfort stations, EV charging stations and commercial driver services including increased truck parking, showers, laundry facilities and fitness centers.

The Thruway Authority announced the new food concepts which will be available to customers as part of the redevelopment project. Customers will have diverse food options at all 27 service areas, offering a range of healthy products and meals from nationally recognized restaurants.



## NEC Announces \$117B Rail Improvement Plan

**Continued from page 3** ties along the entire Northeast Corridor and beyond,” said Stephen Gardner, president of Amtrak. “Amtrak stands ready to join forces with our partners and help deliver the C35 plan.”

Janno Lieber, president of MTA Construction & Development, added, “This plan lays out how projects can be sequenced and coordinated to get the most work out of track outages, minimize customer impacts, and save money. To achieve these efficiencies, we need funding for all aspects of C35—commuter and intercity rail projects.”

The major projects that would be undertaken in the Westchester-Connecticut region under the C35 plan include:

**Moveable Bridge Replacement**—Aging moveable bridges pose a risk of long-term major disruptions. Replace Walk, Devon, Saugatuck, and Cos Cob moveable bridges which require constant maintenance, are functionally outdated, and well beyond their useful life.

**Devon to Woodmont 4<sup>th</sup> Track Project** (Near Milford Station)—Restore the full four-track configuration of the New Haven Line for its entire NEC limits, upgrading a 5-mile section that has only three mainline tracks. The additional track eliminates a chokepoint and provides greater operational flexibility.

**Signal System Replacement**—Upgrade signal system between New Rochelle, NY and New Haven, CT to allow for more frequent trains and improve scheduling of local and express trains to reduce trip times.

**New Rochelle Turnback Track & Yard**—Add track to allow turning trains from NYC to change direction off the mainline, reducing congestion and increasing reliability. This additional capacity will improve Metro-North and Amtrak on-time performance and Metro-North scheduling flexibility.

Major projects under the C35

plan in the New York City Metro region are:

**Pelham Bay Bridge Replacement**—Replace Pelham Bay Bridge with either a new, movable or fixed bridge with clearance for marine traffic.

**Penn Station Access**—Provide new Metro-North New Haven Line service to PSNY, construct four new stations in the Bronx, and bring Amtrak’s Hell Gate Line to a state of good repair.

**Penn Reconstruction & Gateway Penn Station Expansion**—Reconstruct PSNY to relieve overcrowding; improve passenger experience; and unify existing PSNY with Moynihan Train Hall and Penn Expansion. Expand PSNY to provide additional track and platforms to support service growth possible with new Gateway Hudson Tunnels.

**Gateway Hudson Tunnel**—Construct a new two-track tunnel beneath the Hudson River, and rehabilitate and modernize the existing two-track North River Tunnel. Gateway Sawtooth Bridges. Replace the Sawtooth Bridges with new structures to achieve a four-track segment with improved speeds, increasing efficiency and reliability.

**Hunter Flyover**—Construct an elevated viaduct for NJ TRANSIT’s Newark-bound Raritan Valley Line trains, eliminating at-grade crossings, reducing conflict between trains, and increasing capacity.

**Mid-Line Loop**—Construct a new above-grade connection to eliminate conflicts and provide the increased capacity necessary to enable 160-mph speeds on Acela, and support enhanced NJ TRANSIT service.

**Gateway Secaucus Station & Loop Tracks**—Expand the Secaucus Station platform system and add loop tracks at Secaucus Junction, allowing for a new one-seat ride NJ TRANSIT and Metro-North service to/from Penn Station.



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# DeCicco & Sons Project in Sleepy Hollow To Begin Construction Later This Year

SLEEPY HOLLOW, NY— A new 30,000-square-foot DeCicco & Sons market is set to begin construction at the Edge-on-Hudson in Sleepy Hollow later this year.

The Village of Sleepy Hollow Planning Board recently approved plans for the market, which will include a second story glass-enclosed beer and wine café, oriented towards the Hudson River.

An adjacent 10,000 square foot retail space also secured municipal approvals, of which 5,000 square feet are earmarked for a pharmacy. With residential sales moving quickly, and apartment rentals also set to come online in the coming months, the development team at Edge-on-Hudson has set its sights on identifying new retail partners, the developer stated.

The DeCicco & Sons market and the adjacent building are the first retail structures approved. The developers at Edge-on-Hudson report they have begun initial talks with potential hoteliers and additional retailers.

The design of the new DeCicco & Sons market at Edge-on-Hudson features a brick exterior, a standing seam metal roof, glass and steel cupolas, steel lintels and clearstory windows. The multi-level mar-



A rendering of the 30,000-square-foot DeCicco & Sons market to be built at the Edge-on-Hudson development in Sleepy Hollow.

ket includes a mezzanine level beer and wine café and a top-level food court, both reached by a steel and glass enclosed elevator, or from an exterior staircase.

The master developers of Edge-on-Hudson, Biddle Real Estate Ventures and PCD Development, worked with leasing agent David Scotto at RM Friedland to secure the DeCicco & Son's signing and to evaluate upcoming retail opportunities. In addition to townhomes, loft condominiums and apartments, the approved special permit for Edge-on-Hudson delineates as much as 135,000 square feet of

retail space, 35,000 square feet of office space and a 140-room hotel on the waterfront. The hotel will be a first for Sleepy Hollow, and one of the only hotels along the Eastern shore of the Hudson River in proximity to New York City.

BREV Founder Peter Chavkin said, "We couldn't have found a better partner than DeCicco & Sons to bring the first retail amenity to Edge-on-Hudson. In addition to running superb market operations, they have proved to be hands-on, caring corporate citizens within the communities they serve."

John DeCicco Jr., CEO of

DeCicco & Sons, added, "We're grateful to have received approval for construction of what we feel will be one of our finest markets to date in Westchester County. Sleepy Hollow and the new Edge-on-Hudson mixed-use community along the waterfront make for a compelling location and we're excited to be a part of all that's happening in the village."

The DeCicco & Sons market will utilize a range of cutting-edge "green" initiatives in its construction and operation. Set to be built to LEED certification standards, construction will include reclaimed brick and timber to promote sustain-

ability and recycling, while utilizing green roof technology. Market operations will include a CO2-based natural refrigeration system, a non-ozone depleting technology that DeCicco & Sons was the first to bring to Westchester County. Heat expelled from the refrigeration system will be recycled for use as radiant heat for the market in cold weather months—also a first in Westchester. Heat will be recycled, as well, from the demand-based cooking systems.

DeCicco & Sons is targeting a 2022 opening at Edge-on-Hudson, with the market set to become DeCicco's 11<sup>th</sup> in Westchester. The family-owned business currently operates premium markets in Ardsley, Armonk, Harrison, Larchmont, Millwood, Pelham, Somers and Brewster.

Edge-on-Hudson is a mixed-use, transit-oriented community set on nearly 70 acres along the Hudson River waterfront in Sleepy Hollow, NY at the former General Motors minivan assembly plant. Edge-on-Hudson is set to include 1,177 units of housing; a hotel; retail space and office space, in addition to more than 16 acres of parkland, restoring access to the waterfront in Sleepy Hollow.

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# Construction NEWS

## PHOTO GALLERY



New York State Assembly members Tom Abinanti and Amy Paulin.

Photo Credits/TIM GRAJEK



Two Foursomes, One Great Day of Golf: Some 350 contractors, industry suppliers, service professionals and organized labor attended the CIC Golf Classic awards dinner at Sleepy Hollow Country Club.

## CIC Golf Classic Returns to Sleepy Hollow

*Monday, July 12 – Scarborough, NY*

SCARBOROUGH, NY—When the scorecards were finally turned in, a total of 203 players would leave their marks on the legendary Sleepy Hollow Country Club, the longtime home of CIC's Annual Golf Classic in mid-July here in Westchester.

Following the hiatus in 2020 caused by the pandemic, the popular outing resumed to mark its 42th anniversary. Presented in morning and afternoon shotgun formats, the golf classic is always a highlight of the construction industry's summer season. This year's event was filled with drama, due to the persistent uncertainty of the weather, and buoyed by the broad representation of leaders from the contracting community, suppliers, organized labor along with government and public works officials. In the end, more than 350 members and guests of the trade association gathered for evening cocktails, dinner, awards and prizes, and the occasional rain had no effect on the conviviality of the day. Spirits were high as golfers were able to test their mettle in the play-your-own-ball format.

Low Gross winners of the traditional individual play were: Men's morning shotgun 1<sup>st</sup> Place Low Gross Wayne Wittman with a score gross of 72. Derrick Saunders shot a

74 to best the Men's afternoon shotgun field.

Low Net winner was Tyler Crill in the Men's morning shotgun with a 70, besting in the tiebreaker Joe Dullea who also fired a 70.

Tony Chiodi carded the Low Net round of 69 in the afternoon, ahead of Damian Murphy who shot 70 for the Second Place Net.

The Morning Longest Drive winners was Tony Rodrigues,

Jr., while Matt Viskovich claimed the afternoon round's Longest Drive. Danielle Montesano, competing in the afternoon, won the Women's Longest Drive.

Closest-to-the-Pin contests did not turn out to be as close as it was in 2019 when CIC guest Tony Lanza and Chris Cerone both shot holes in one. This year, Closest to the Pin winners in the morning round were Matthew Pucila (#3), Tony Lanza (#10) and Ron Burgess (#16). Closest to the Pin winners in the afternoon round were Mark Giordano (#3), Chris Pannessi (#10) and Julian Ehrlich (#16).

The final competition of the day, the Louis G. Nappi Bocce Competition, the team of John Amato and Rocco Circosta rolled to victory.

For information about upcoming CIC events, contact Karen Zedda at (914) 631-6070, or Karen@cicnys.org.

### 203 Golfers Vie For Prizes In Two Shotgun Rounds



From left, guests of Northbrook Contracting: Dennis Mulvey, Dominick Fanelli, Matt Viskovich and Northbrook Executive Vice President Vic Serricchio.



From left, CIC board member William Mascetta of Transit Contracting Corp., CIC board member Dominick Montesano of Montesano Brothers, Daryl LaForge of NFP Surety and Dominick Aramini of Transit Construction Corp.



From left, CIC board member Jerry Keahon of U.S. Concrete with co-workers Danielle Biancorosso, Constantine Quadrozzi and Sean Conlin.



From left, BCA's Matt Pepe, Rockland Highway Superintendent Charles "Skip" Vezzetti, and CIC President Ross Pepe.



From left, Paul Olson and Keith Chouinard of Skanska, Giulio Monaco of Verde Electric, and CIC board member Richard Lombardi ECCO III Enterprises, Inc.



## Safety Watch

# HAVS: A Key Construction Peril Lacking its Own OSHA Standard

By GEOFFREYS. POPE, ESQ.

You may be surprised to learn that a hazard described by one expert as “probably the No. 1 neuromuscular disorder in the world in manufacturing and construction environments—the most costly and underappreciated” is not the subject of its own OSHA construction standard.

I am referring to “Hand Arm Vibration syndrome,” also known as HAVS (and formerly known as “vibration white finger,” as a prime symptom of its circulatory and neural effects includes the blanching—pale and ashen appearance—of the fingers).

This malady, although identified by industrial physicians more than 100 years ago, is severely under-reported by workers and health professionals. Perhaps two million workers in the U.S. are at risk, of which as many as half will develop HAVS.

The syndrome is defined as a type of industrial disease that produces symptoms in the arms and hands, and damage to blood vessels, nerves, and other musculoskeletal structures, usually from the prolonged use of vibrating power tools



in the workplace. Working in a cold climate, and smoking (which impairs circulation to the extremities) are additional risk factors.

Devices linked to HAVS include grinders, riveters, drills, jackhammers, chipping hammers, jigsaws, sanders, vibrating pokers and compactors, scabblers and chainsaws. Of course, any kind of hand-held vibrating tool can contribute to HAVS, and regardless of whether the tool is powered by electricity, gasoline or air. However, while the frequent use of vibrating hand tools having a frequency range between 8 Hz and 1500 Hz is problematic, the most hazardous frequency range is 100 Hz-150 Hz. In addition

to construction and maintenance, workers in the mining and forestry industries are also very much at risk.

Initially, nerves are irritated by the vibration, resulting in tingling and numbness in the hand and fingers. At first, symptoms are most likely to be noticed while working in cold conditions. Blood vessels may become irritated and spastic, causing the fingers (and especially the fingertips) to feel cold and painful. Over time (the syndrome typically takes between six months and six years of frequent exposure to develop) the attacks of pain, blanching and numbness usually become more frequent, although often they subside during warmer weather.

Symptoms of HAVS may also include the loss of feeling in the hand and fingers, a progressive decrease in hand strength, reduced dexterity and arm muscles that tire easily.

In the most severe cases, individuals may experience atrophy of the muscles in the hand, and even gangrene.

Treatment usually consists primarily of reducing work exposure to vibration. Perhaps half of the affected individuals

***This malady, although identified by industrial physicians more than 100 years ago, is severely under-reported by workers and health professionals. Perhaps two million workers in the U.S. are at risk, of which as many as half will develop HAVS.***

experience a return to near baseline within five years after the elimination or sharp reduction of exposure. As the syndrome advances, however, often from the time that blanching of the fingers appear, the nerve damage may become irreversible.

Thus, prompt detection, and reducing or eliminating the exposure is critical.

While, surprisingly, HAVS is not addressed by a specific OSHA standard, it may be addressed under OSHA's General Duty Clause, which requires each employer to provide a safe and healthful workplace.

Compliance with acceleration levels and exposure duration guidelines established by the American Conference of Government and Industrial Hygienists is suggested, both as a means to limit your employee's exposure as well as a means of demonstrating compliance with the General Duty Clause should you be cited based on one or more employee's exposure to vibration.

You need to know the vibration rating of all equipment used by your employees, and to calculate the safe time exposure for each item. Make sure that you know for how long employees can use particular tools, and if you don't know, you need to inquire of the manufacturer or get the various tools assessed.

Naturally, you should be discriminating in selecting equipment. Look for low-vibration items, or tools incorporating built-in features that absorb a significant amount of the tool's vibration. Make sure employees use the correct tool for the job, and consider possible alterna-

tive means to accomplish tasks that will reduce employee exposure. It may be possible, also, to alter the job to reduce the grip or pressure necessary.

Frequent breaks should be scheduled to avoid long periods of vibrating tool use, and you should try to minimize the use of vibrating tools in cold weather conditions.

Other practices users of vibrating equipment should be trained to observe include the following:

- Abstain from smoking;
- Keep one's hands dry and warm;
- Grip tools as lightly as possible (while keeping control of the tool);
- Keep tools in good working order;
- Keep one's hands away from cold exhaust air from pneumatic tools;
- Rest for at least 10 minutes each hour;
- Alternate, whenever practicable, between vibrating and non-vibrating tools;
- Wear gloves that cover the fingers, and are certified by ISO 10819;
- Seek medical attention, if HAVS symptoms appear.

As PPE is usually the least-preferred control measure, anti-vibration gloves are at best moderately effective. They protect the palm more than the fingers, and are of little use at frequencies lower than 25 Hz. Gloves may actually amplify vibration from low-frequency tools. Damping techniques (e.g., wrapping tool handles in viscoelastic material tape), or using vibration isolators on equipment provide more effective protection. While some prefer the greater tactile “feedback” into the fingertips that fingerless gloves provide (and may cut the fingers of the gloves off, leaving only the palm area covered) that should be forbidden, if the user works with vibrating tools.

HVAS is a debilitating, life-changing affliction. By the time symptoms become pronounced they will likely be irreversible. Workers must be trained about vibration hazards, early signs and symptoms of HVAS and best practices to limit exposure. Indeed, they should be cautioned that it is better to change jobs rather than permitting HVAS to progress beyond its earliest stages.

*About the author: Geoffrey S. Pope 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.*

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# Three Former IDA Executives Plead Guilty to Felony Corruption Charges

By JOHN JORDAN

GOSHEN—Three former officials with the Orange County Industrial Development Agency pleaded guilty on June 21 before Orange County Judge Robert J. Prisco to felony corruption and conflict of interest charges, Orange County District Attorney David M. Hoovler announced. The IDA officials included its former managing director Vincent Cozzolino, CEO Laurie Villasuso and former Board Director Edward Diana, a former Orange County Executive and Town of Wallkill Supervisor.

The guilty pleas were the culmination of a four-month investigation launched by the Orange County District Attorney, the New York State Comptroller's Office and the Town of New Windsor Police Department.

"We do not have an embezzlement, we don't have a theft of funds, we don't have missing money," Orange County District Attorney Hoovler said. "What we have in this case is a pattern of non-disclosed conflicts of interest where these individuals were self-dealing. They were making decisions which benefitted themselves..." He added that their actions "cheated the taxpayers" of Orange County.

Former IDA Managing Director Cozzolino, 62, of Gardiner, pled guilty to Corrupting the Government in the third degree, a Class D felony. Ms. Villasuso, 41, of Newburgh, the former CEO of the Orange County IDA, pled guilty to Corrupting the Government in the Fourth Degree, a Class E felony. Mr. Diana, 72, of Wallkill, a former member of the Orange County IDA Board, pled guilty to Offering a False Instrument for Filing in the first Degree, a Class E Felony, and Committing a Prohibited Conflict of Interest.

Mr. Cozzolino and Ms. Villasuso each admitted that they acted in concert in a scheme to defraud the IDA through payments the IDA made to Galileo Technology Group, Inc., a company Cozzolino had a 50% ownership interest in. Ms. Villasuso and Mr. Diana each were employed by Galileo while also either working directly for the IDA or in Diana's case serving on its IDA Board as a volunteer.

District Attorney Hoovler and State Comptroller Thomas DiNapoli and others at a press conference held at the Legislative Chambers at the Orange County Government Center in Goshen, also took aim at the lack of oversight by the former Orange County IDA Board of Directors, which was removed by the Orange County Legislature in March 2021 after legislators became aware of possible conflicts of interest at the IDA.

In their sentencing disposition agreements with the Orange County District Attorney, Mr. Cozzolino has agreed to

reimburse the IDA \$1 million. Ms. Villasuso has agreed to reimburse the IDA \$175,000, while Mr. Diana has agreed to pay the IDA \$90,000, which were the funds Diana took home from his employment with Galileo Technology Group, Inc. Mr. Cozzolino, Ms. Villasuso and Mr. Diana have agreed to make restitution by the time they are sentenced on Sept. 10, 2021. The District Attorney is recommending Mr. Cozzolino be given probation, Ms. Villasuso a conditional discharge and Mr. Diana also be granted conditional discharge. Mr. Diana has also agreed to cooperate with the District Attorney and State Comptroller's Office in the preparation of a report on the flaws of the IDA operations, which should be issued in a few weeks. If Mr. Diana complies with the terms of the agree-



From left, New York State Comptroller Thomas DiNapoli and Orange County District Attorney David M. Hoovler

ment, his felony plea would be reduced to a misdemeanor.

The investigation of the IDA centered on conflicts of interest, particularly surrounding the IDA's Accelerator program, which was managed by Mr. Cozzolino and Galileo Technology Group.

New York State Comptrol-

ler DiNapoli said of the three individuals who pled guilty in the case: "Although their scheme was complex, their motives were simple: greed. We must have zero-tolerance for public corruption. Thanks to our partnership with Orange County District Attorney David M. Hoovler and the New Wind-

sor Police, we were able to bring their crimes to light and recover their ill-gotten gains."

Stephen R. Coffey, Esq. and Scott W. Iseman, Esq., attorney for Mr. Cozzolino released a prepared statement, which in part read: "Vincent deeply regrets his conduct, has accepted responsibility for what he did wrong and has made the Orange County IDA whole."

They characterized the Orange County IDA's embattled Accelerator program as a "true economic development engine" that attracted diverse industries to Orange County including minority-owned and women-owned businesses.

The statement concluded: "Vincent's mistakes should not overshadow the many great achievements that young companies and entrepreneurs made

Please turn to page 19

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**Guest Viewpoint**

# Connect NY's Two Power Grids To Drive Statewide Economy

By MICHAEL OATES

The New York State Energy Research & Development Authority (NYSERDA) faces a major decision that could greatly impact all of New York's economic recovery from COVID. Several energy and transmission developers are competing for a NYSERDA energy program with varying amounts of in-state investment. The choice is clear: Go big and choose New York jobs.

In his 2020 State of the State, Gov. Andrew Cuomo laid out an ambitious vision: expanding New York's renewable energy to reduce the state's carbon emissions to zero by 2040. This nation-leading goal would fundamentally trans-



form the state's energy system and its underlying economy.

But the governor's vision faces an old problem: the tale of two energy grids. The Hudson Valley and upstate New York have abundant sources

of renewable energy and the real estate needed to build new clean energy facilities. Yet it lacks the demand to meet its supply. Simultaneously, downstate has a vast energy demand, but neither the room nor transmission to deliver enough renewable energy to meet needs. Thus, it relies almost entirely on fossil-based power generators.

The result: Hudson Valley and upstate economic development and job creation have been stifled, and environmental justice in New York City has been ignored. Families across New York City

continue to live next to dirty, outdated power plants, and face higher rates of asthma

*The Hudson Valley and upstate New York have abundant sources of renewable energy and the real estate needed to build new clean energy facilities. Yet it lacks the demand to meet its supply.*

than surrounding areas.

That's why Gov. Cuomo initiated the process of delivering renewable energy into

New York City. If done right, the program could harness clean energy from across New York State for delivery in New York City. In so doing, the state can boost the entire state's economy while advancing environmental justice.

The state program calls for 3,000 megawatts (MW) of new, clean, renewable energy transmission. New York City Mayor Bill de Blasio also has stated that the city is prepared to purchase its entire municipal load from this program—an additional 600 MW. And real estate leaders face requirements to significantly reduce building emissions by 2030.

That's why state decision makers should use this moment to go big and invest in the entire 3,000 MW of renewable transmission. What's more, they should prioritize home-grown, New York renewables.

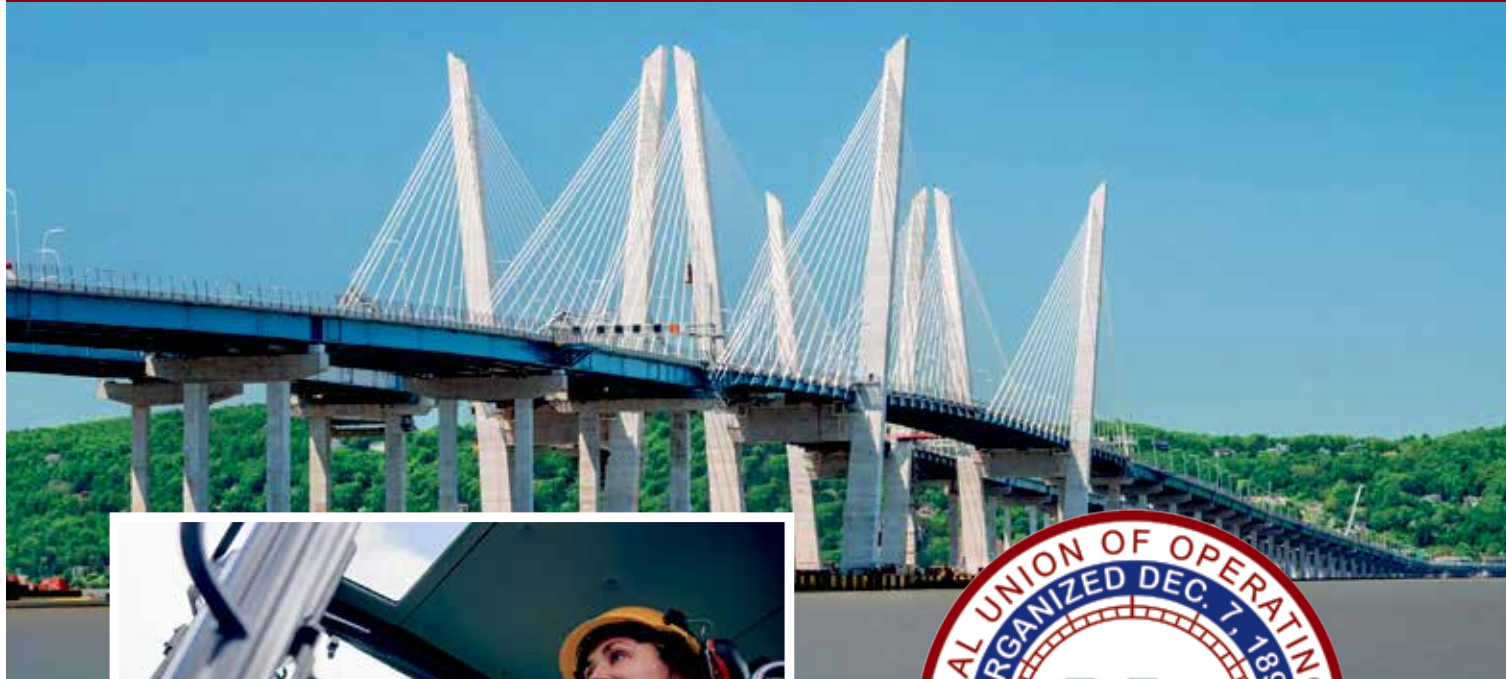
From groundbreaking to operation, communities across the Hudson Valley and upstate New York could gain thousands of private-sector clean-energy jobs thanks to this program. These include high-tech construction and operation jobs at new transmission, wind and solar facilities. New York could see billions of dollars in local economic investment and tax revenue, especially in regions that have long experienced significant economic need.

Unlike most issues that dominate Albany, connecting the two grids isn't a zero-sum game. In fact, upstate will only win when downstate wins.

As New York works to build back better from the fallout of COVID, NYSERDA must use this program to revitalize local communities. Republicans and Democrats alike can support it, while upstate and downstate communities will benefit from it.

*About the author: Michael Oates is President and CEO of the Hudson Valley Economic Development Corp. of Poughkeepsie.*

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Contract# D264551  
PIN# 881426  
FA Proj.# Z24E-8814-263

Project Description: Dutchess Co., catch basin repairs & replacements along Rte. 9 in the Town of Poughkeepsie.

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

Goals: DBE: 6.00%

Bid Letting Date: August 19, 2021

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

Contract# D264564  
PIN# 839325  
FA Proj.# Z40E-8393-253

Project Description: Dutchess Co., intersection improvements Route 376 at All Angels Hill Road, New Hackensack Road, Town of Wappinger.

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

Goals: DBE: 6.00%

New York State DOT  
Region 9

Bid Letting Date: August 19, 2021

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

Contract# D264552  
PIN# 9TSR22  
FA Proj.# Z0E1-9TSR-223

Project Description: Broome, Otsego, Schoharie, Sullivan, Tioga Cos., install or replace missing or non-compliant, ground-mounted and bridge mounted signs.

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

Goals: DBE: 2.00%

New York State DOT  
Region 10

Bid Letting Date: August 5, 2021

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

Contract# D264555  
PIN# SWZD21

Project Description: Bronx, Kings, Nassau, New York, Queens, Richmond, Suffolk Cos., work zone traffic control for project development activities, Regions 10 & 11.

Bid Deposit: 5% of Bid (~ \$40,000.00)

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

New York State  
Thruway Authority

Bid Letting Date: July 28, 2021

Contract: TA 21-15B /D214791

Project Description: scour repairs of the Ramapo River Bridge at Milepost 30.23 and the Rondout Creek Bridge at Milepost 84.14 in Rockland and Ulster counties in accordance with the Plans and Specifications.

Bid Deposit: \$125,000.00

Goals: MBE- 15% WBE- 15% SDVOB- 6%

Westchester County  
DPW

Bid Due Date: July 28, 2021

Contract: 15-553 (\$100.)

Title: New Bathhouse Facility, Croton Point Park, Croton-on-Hudson, NY

Description: The work under this contract consists of providing all necessary labor, material and equipment required to perform the demolition of the existing bathhouse structure above grade, modify existing foundations and slabs and construct new bathhouse building. Work also includes all miscellaneous site and mechanical work. NOTE: The Contractor is directed to the Special Notice regarding Project Labor Agreement (PLA).

Bid Estimate Range: \$3.6 million to \$4.0 million. MANDATORY

PRE-BID INSPECTION: Scheduled at 10:00A on July 8, 2021; meeting at Croton Point Park Office (next to the Park Entrance Booth, just before the Project site), Croton-on-Hudson, NY. MANDATORY attendance is required. Bids will be rejected from Contractors not in attendance at this meeting, or those who fail to sign the attendance sheet.

CONTACT: Adam Kaplinski, 914-995-3991.

Bid Due Date: July 28, 2021  
(Third Date Change)

Contract: 17-519 (\$100.)

Title: Site Work Improvements, Blue Mountain Reservation, Town of Cortlandt and City of Peekskill, NY

Description: The work under this contract consists of providing all necessary labor, material and equipment required shall require the approval of the County upon a showing of for the site work improvements at Blue Mountain Reservation, legitimate construction need for such change.which includes replacement of electric, communications, sanitary and water utilities throughout the park. The projectalso includes resurfacing of pathways and small footbridges along with all associated site work and landscaping.

Bid Estimate Range: \$2.5 million to \$3.2 million.

Pre-Bid Inspection: Held May 11, 2021

Contact: Esther Rivas, 914-995-5584.

New York State  
Dormitory Authority

Bid Due Date: August 3, 2021

Title: Office of Mental Health, Kingsboro Psychiatric Center, Building 28 Ramp, Lift, & Asbestos Abatement

Contract: CR6 General Construction

Project# 3496309999

Sealed bids for the above work located at Kingsboro PC, Building 28, 681 Clarkson Avenue, Brooklyn, NY 11203 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.

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](http://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 August 3, 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: Ramesh Sharma, Project Manager, 888 Fountain Avenue, Brooklyn, New York 11208, 646-208-6294, [rsharma@dasny.org](mailto:rsharma@dasny.org) (the Owner's Representative) and DASNY at [ccontracts@dasny.org](mailto: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, July 15, 2021 at 10:30 AM at 681 Clarkson Avenue, Brooklyn, New York 11203. Contact Ramesh Sharma at 646-208-6294. 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 June 17, 2021 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>.

Bid Due Date: August 4, 2021

Title: City University of New York, City College of New York, Firehouse Renovation and Associated Asbestos Abatement Rebid

Contract: CR31 General Construction

Project# 3370009999

Sealed bids for the above Work located at City College of New York, 504 West 140th Street, New York, NY 10031 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 ("DAS-NY") 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](http://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 August 4, 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: Vadim Raskin, Sr. Project Manager, 138th Street & St. Nicholas Terrace, New York, New York 10031, 212-491-6930, [vraskin@dasny.org](mailto:vraskin@dasny.org) (the Owner's Representative) and DASNY at [ccontracts@dasny.org](mailto: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 Tuesday, July 6, 2021 at 10:00 AM via Microsoft Teams. Details will be published separately. Contact Vadim Raskin at 212-491-6930. 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>.

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## Financial Management

# Employee Retention Credit to Build On the Benefits of PPP Loans in 2021

By PHILLIP ROSS, CPA, CGMA, PARTNER

Much of the focus on government relief during the COVID-19 pandemic has zeroed in on PPP, or Paycheck Protection Program loans, which have been hugely impactful. However, another pandemic-related government program has also had a noticeable effect on the industry, especially this year—the Employee Retention Credit, or ERC.

As a result of PPP's popularity, ERC is lesser known and understood, but ERC can have an impact on helping clients leverage greater benefits and improve cash flow to be ready for the market's upswing. The ERC is a federal payroll tax credit that is taken on the company's quarterly Payroll Tax return.

Originally, companies that took a PPP loan were ineligible for ERC, so PPP loans seemed the natural choice. New legislation made the ERC program more beneficial and widely applicable; you can now apply for benefits for both programs as long as you're not utilizing the same wages for each one. In addition, the changes made the benefits easier to qualify for in 2021. In order to qualify for the benefits, a company must have at least a 20% decrease in their taxable gross receipts for a quarter as compared to the same quarter in 2019.

However, a firm may qualify for the credit even if it did not see a decrease in tax gross receipts if the firm was affected by a COVID-related govern-



ment shutdown, even as an essential business. This includes:

- If a city's mayor ordered closures of all non-essential businesses for a period that led to a nominal effect on an essential business,
- If a state implemented a shelter-in-place order that exempted essential services and those who work for them,
- If a curfew was instituted that affected the operating hours of a trade or business,
- If a local mandate forced business closures for cleaning or disinfecting,
- If a government order that stated operations can continue, but only with modifications, such as distancing measures, that required partial suspension of business, or,
- If a business can show proof that suppliers were unable to deliver supplies due to government shutdown mandates.

Importantly, if using the full or partial shutdown to qualify, you potentially only qualify

for the time of the shutdown and not the full quarter. It is worth noting that since most shutdowns occurred in 2020, it is not too late to amend your 2020 payroll tax returns to receive the credit.

Another change for 2021 enables larger companies to benefit from ERC. Now, employers with fewer than 500 average monthly employees in 2019 can claim this refundable tax credit, but the limit is still 100 employees in 2019 for 2020. If you exceed the 500 employees, only employees paid not to work can qualify for the credit. Additionally, the amount of the credit was also increased to up to 70% of the first \$10,000 of qualified wages to each employee (\$7,000 credit) for each quarter.

There is an interplay between the two programs in order to achieve the greatest combined benefit. Any wages for an employee above the PPP wage limit of \$100,000 annually can be used for ERC purposes. (Important to note, employer-

provided health insurance is also used in the ERC calculation but can't be used for both.) Addi-

they know they will qualify for that quarter instead of waiting to receive the refund after filing

the return. However, ERC is taxable and the credit is a reduction of payroll expense, so this could result in a slightly reduced Research & Development credit for a company. The R&D credit is a tax credit available to industry companies that design and develop new or improved products, processes, methods, techniques, or materials. Still, the ERC benefit far outweighs the reduced R&D credit and will be a huge boon for the industry in 2021.

For more information on the Employee Retention Credit, please contact your CPA.

***In order to qualify for the benefits, a company must have at least a 20% decrease in their taxable gross receipts for a quarter as compared to the same quarter in 2019. However, a firm may qualify for the credit even if it did not see a decrease in tax gross receipts if the firm was affected by a COVID-related government shutdown.***

tionally, once a company qualifies for the credit for a quarter, they automatically qualify for that next quarter as well, so there is an opportunity for planning here.

Companies can greatly improve cash flow by reducing their payroll tax deposits once

*About the author: Phillip Ross, CPA, CGMA is an Accounting and Audit Partner and Chair of the Construction Industry Group at Anchin, Block & Anchin, LLP. For more construction industry thought leadership and content, log on to [www.anchin.com](http://www.anchin.com).*

## Three Former IDA Execs Plead Guilty To Felony Corruption Charges

Continued from page 15

while working with the IDA's accelerator program, and still can make in the Orange County community."

Ms. Villasuso had no comment when contacted by *CONSTRUCTION NEWS*.

Ben Ostrer, an attorney for former County Executive Diana, said in a report in the *Middle-town Times Herald Record*. "If this could happen to Ed Diana, this could happen to anyone. If you are in government service be thankful it isn't you."

District Attorney Hoovler

said the case was complicated by the lack of oversight by the IDA Board and its Legal Counsel. The approvals were granted to, in some cases poorly written contracts and expenses, with little transparency or backup. He said their incompetence and negligence gave Mr. Cozzolino and Ms. Villasuso a "built-in defense." However, Mr. Hoovler said that the sheer volume of the conflicts of interest and multiple methods they used to "make money and try to hide it," overcome that defense.



Screening Unit recently purchased by the County of Westchester

## DTM PARTS SUPPLY INC. MOUNT VERNON, NY 10550

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Darlene White is the company Contract Administrator and she handles all contracts from bidding to completion. She monitors the contractors MWBE goals on contracts and reports to the appropriate authorities. She also maintains that DTM remains OSHA and DOT compliant.

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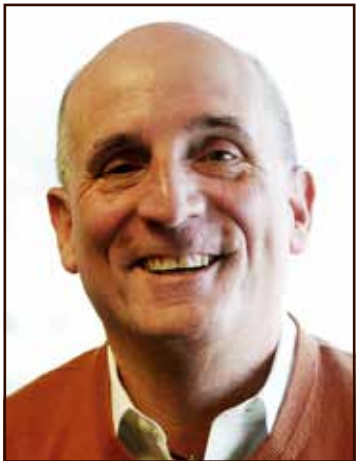
WHAT'S NEW & WHO'S NEWS

Pattern for Progress CEO Drapkin to Retire

NEWBURGH, NY—Jonathan Drapkin, the longtime president and CEO of Pattern for Progress, will be leaving the regional think tank at the end of this year.

Mr. Drapkin's departure was announced on June 8 by Suzanne Loughlin, Pattern Board Chair and Founder of CrisisRisk Strategies, LLC. "Our longtime leader, Jonathan Drapkin, will step down from his role as President and CEO at the end of the year, allowing him to explore passions and interests beyond Pattern," she said in a statement.

Mr. Drapkin joined Pattern in December 2006 and under his leadership Pattern has become well known as the region's



Pattern for Progress President and CEO Jonathan Drapkin

public policy think tank and a leading strategic planning organization.

"Throughout the Hudson

Valley and New York State, Jonathan's insight and guidance was often sought after. With the support of his talented staff, Pattern's influence was felt in shaping the delivery of government services, the realization of downtown revitalization, understanding regional demographics, housing and so much more," Ms. Loughlin added.

Mr. Drapkin's career experience in government and the private sector helped him earn the trust of New York State administrations, serving as a member of two commissions focused on the restructuring of local government. Since its inception, he also served on the Executive Committee

of the Mid-Hudson Regional Economic Development Council. During the COVID-19 pandemic he was a member of the Mid-Hudson's Regional Control Room. Through these engagements, Pattern developed relationships with many county and municipal leaders to support strategic thinking regarding the delivery of government services.

The more notable Pattern programs launched during Mr. Drapkin's tenure include the Urban Action Agenda to assist municipalities with their pathway forward; the Pattern Fellows, a mid-career training program on regionalism; Community Rebuilders, which assists residents in bringing

ideas to fruition on how to better their communities; and the newest program, the Board Institute, which will create a pathway from the community to board service for underrepresented people.

A search committee of the board has been formed and has begun the process of finding Mr. Drapkin's replacement. Prior to joining Pattern, Mr. Drapkin served as executive director of the Gerry Foundation in Sullivan County from 2000 to 2006, where he guided the creation of the Bethel Woods performing arts center at the site of the 1969 Woodstock Festival. Prior to that, he was the county manager of Sullivan County.

Coleman Named New Exec. Director At NYS Bridge Authority



Maureen Coleman

The New York State Bridge Authority announced on July 15 that Maureen Coleman had been appointed by the NYSBA Board of Commissioners as the authority's new Executive Director. Ms. Coleman will serve as the Chief Operating and Executive Officer of the Hudson Valley-based public benefit transportation authority.

"The NYSBA Board of Commissioners welcomes Maureen Coleman as she takes the helm from our retiring Acting Executive Director Tara Sullivan," NYSBA Board Chair Joan

McDonald said. "The Bridge Authority is in the midst of multiple transformational projects here in the Hudson Valley, including the conversion of all five NYSBA spans to cashless tolling. Maureen's breadth of experience and dedication to serving the people of New York State make her well-suited for this new role."

Ms. Coleman has more than 20 years of state service, most recently as General Counsel at New York State Environmental Facilities Corporation since 2015, where she also served as

Acting President and CEO from July 2019 through January 2021. Prior to that, she served as Assistant Counsel for energy and environment in the Executive Chamber as well as many years at the Department of Environmental Conservation. Ms. Coleman holds a J.D. from Brooklyn Law School and a bachelor's degree from College of Saint Rose.

Ms. Coleman is replacing Tara Sullivan, who is retiring after a decade with the Bridge Authority. Ms. Sullivan served as Acting Executive Director since 2019 and as Deputy Ex-

ecutive Director for eight years before that, the first woman to hold those positions at NYSBA. During her time at the authority, she spearheaded the creation of the Hudson River Skywalk; improved the authority's safety record and utilization of minority- and woman-owned business enterprises; launched the largest capital project in the Bridge Authority's history with the current Newburgh-Beacon Bridge re-decking project and ushered in the beginning of cashless tolling at the Bridge Authority.

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## Regeneron's Multi-Year Expansion Now Pegged at Nearly \$2 Billion

Continued from page 1

and development that benefits the entire world.”

Regeneron President and Chief Executive Officer Leonard S. Schleifer, M.D., Ph.D., said, “The COVID-19 pandemic has highlighted the importance of continued and long-term investment in the biopharmaceutical industry, and Regeneron is proud to pursue life-changing science and technology from our labs and manufacturing facilities in New York State. In 2020 and 2021, the Regeneron team has worked tirelessly, bringing forward new treatments for people with COVID-19, Ebola, multiple forms of cancer and pediatric atopic dermatitis. As we expand our team and site, we look forward to bringing even more medical breakthroughs to patients in need.”

Regeneron had recently amended an earlier expansion plan on property in the Town of Greenburgh from approximately \$149 million to \$480 million. Greenburgh Town Supervisor Paul Feiner told *CONSTRUCTION NEWS* that the proposal is nearing final approvals.

Garrett Duquesne, commissioner of community development & conservation for the Town of Greenburgh, stated that Regeneron's expansion plan is before the Town Board, Planning Board, Zoning Board of Appeals. Decisions on the proposal are anticipated in August and September. Regeneron has previously secured approvals for an expansion of its campus of approximately 1 million square feet at 555 Saw Mill River Road. That project has yet to be constructed.

“We are very excited that Regeneron is expanding their Greenburgh campus- creating jobs, helping us with



**Regeneron Pharmaceuticals is headquartered in Tarrytown at the former Landmark at Eastview complex.**

our tax base. It's also great for property values—their future employees will want to live nearby. Many will purchase homes here,” Greenburgh Supervisor Paul Feiner said.

On April 22, representatives of Regeneron Pharmaceuticals, Inc. made a presentation to the Westchester County Industrial Development Agency on an amended expansion plan for property in the Town of Greenburgh.

Janet Giris, a partner with the law firm DelBello, Donnellan & Weingarten, Wise & Wiederkeher, LLP who represented Regeneron at the IDA session, noted that the new project is an expansion of its Parcel D project originally proposed in 2015 as a building not to exceed 192,000 square feet that secured Westchester IDA approval, but never moved forward.

“Recently, Regeneron has been re-evaluating its long-term space needs and determined that the originally approved

Building D no longer meets its needs,” she said.

Ms. Giris said that Regeneron planned to submit an amended incentives application with the IDA for its new project that would involve the construction of a new two-story, 207,000-square-foot building, along with a parking structure and other infrastructure that will increase the development cost of the project (including equipment) by approximately \$331 million to \$480 million. The original plan called for the construction of a building totaling approximately 128,000 square feet of mixed lab/office space.

In its presentation, Regeneron estimates that construction costs will total \$310 million, design costs \$21.7 million and FF&E (furniture, fixtures and equipment) \$148.9 million. The cost of the original project was estimated at \$150 million. The firm estimated the tax savings it will secure will net

approximately \$7.7 million.

The new building will primarily house Regeneron's pre-clinical manufacturing and process development operations. She reported that Regeneron recently applied to the Town of Greenburgh for amended land use approval on the Parcel D building.

According to a project timeline submitted to the IDA, Regeneron hopes to secure approvals from the Town of Greenburgh and necessary permits that would allow construction to begin sometime in the third or fourth quarter of this year with project completion slated for mid-2024.

To date, Regeneron has not appeared before the IDA since to discuss its amended plan. The next Westchester County IDA meeting is scheduled for Thursday, July 22. According to an agenda posted on its website, the IDA is expected to hear a cost benefit analysis of the Regeneron project.

Empire State Development Acting Commissioner and President and CEO-Designate Eric Gertler called Regeneron's expansion “a game changer for the regional economy” that will “cement New York State as a world leader in the life sciences industry.”

Westchester County Executive George Latimer added, “Congratulations to Regeneron and thank you to Empire State Development. Westchester County is continuing to lead the way in the biotech industry. Not only is our county becoming a central location for the industry, but the people working here are living here and raising their families here. This expansion will not only create jobs, but inspire future generations interested in pursuing a biotech career to stay right here in Westchester.”

## Building Trades Criticize Decision to Sidestep IDA-Approved Labor Reg.

Continued from page 1

spelled out the cost overruns in a June 23 letter that was first given to IDA Board members at the session held on June 24.

Both the IDA's Mr. McSpedon and Mr. Doyle challenged those labor cost estimates.

Mr. Souls of Greystar stated in a letter, “By way of this correspondence, the Applicant is requesting, in writing, a relaxation of two of the Labor Policies relating to the Project, namely the Local Hire Labor Policy and the Apprenticeship Program Policy. To be clear, the Applicant is not seeking to brook an exception from complying with Labor Policies in their entirety. Instead, the Applicant is proposing a number of good faith, alternative means of achieving the spirit of the Labor Policies, which is to promote an important IDA corporate purpose, namely job creation for residents of Westchester County and the lower Hudson Valley.”

The developer stated in the letter that it would engage in best efforts by its Construction Manager (LRC Construction, LLC of White Plains) to hire up to 85% construction workers from a local labor market—comprised of the Bronx, Dutchess, Orange, Putnam, Rockland, Westchester and Albany counties—with a minimum of 50% local labor from these markets, subject to available workers. Applicant will also request best efforts by the Construction

Manager to hire 30% of the above workforce solely from Westchester.

The new workforce rules require applicants receiving IDA benefits shall utilize at least 85% local labor (Bronx, Dutchess, Orange, Putnam, Rockland and Westchester) for their approved projects; 35% of which must be Westchester County residents.

In terms of the apprenticeship requirements, the developer is proposing an apprenticeship program through the Business Council of Westchester, whereby the Construction Manager has agreed to join with BOCES in enrolling apprentices into both classroom studies of 144 hours minimum as well as hiring for the project for field experience and practical training immediately upon enrollment into the BOCES or other New York State Department of Labor courses. The Construction Manager expects to offer enrollment to 30 apprentices which will be up to 15% of the project's 200 workers at the project site.

Mr. Doyle said he also objected the modifications to the apprenticeship requirements. He told *CONSTRUCTION NEWS* that he was first contacted by the construction manager, Louis Cappelli of LRC Construction, on June 23 to discuss workforce specifics of the Gateway II projects.

In its letter, Greystar stated it intended to hire union workers on the project. Specifically, the firm stated it would hire Local 456 Teamsters for all concrete

deliveries; Local 137 Operating Engineers on the excavation equipment, as well as assisting on cranes, tower cranes, and high-rise building hoist car operations; Local 279 Interior Carpenters for studs, finished trim, and cabinet/millwork installation; Local 46 Lathers for post-tension cable installation on high-rise sections of the buildings superstructure; and Local 60 Laborers for general cleanup on debris of the high-rise building.

Prior to the vote, IDA Chairman Joan McDonald expressed her support for the preliminary inducement for the project by remarking that the Gateway II developer is looking to begin construction in August. “I think what has been negotiated with the developer regarding the apprenticeship program—enrolling a minimum of 30 apprentices in an apprenticeship training program—is a very positive first step,” she said.

Ms. McDonald said at the session she also factored into her decision the project's economic impact, as well as the fact that the developer had recently held discussions in good faith with the building trades and has committed to the IDA to use local labor and in particular members of the building trades, which is not a requirement. Ms. McDonald noted that if the developer failed to comply with the terms of its deal with the IDA, there are claw back provisions in place.

In a subsequent interview with *CONSTRUCTION NEWS*, Ms. McDonald noted that the recently enacted workforce policy does not require the project applicant to use strictly members of organized labor, but rather qualified labor residing in the region considered local.

In response to the criticism from the building trades, Ms. McDonald said, “We approved the (revised IDA labor) policies in February. There were some projects that were further along in the (approval) process that were ready to go to construction. We have also met with some developers who won't go into construction for two years out, so that gives us time to do job fairs and work with the developer and the trades to do the local hire piece.”

She continued, “It was our intent, and I think that is the sentiment of the majority of the (IDA) Board, that we do it on a case-by-case basis. It is a delicate balancing act.”

### Project Details

The proposed Gateway II project seeks to redevelop an existing surface parking at 25 North Lexington Avenue into a 500-unit, 25-story residential apartment building. The project includes 19,000 square feet

of ground floor retail and 755 parking spaces (626 serving the project and 129 spaces dedicated to the adjacent Gateway One office building, which is owned by the Alaska Permanent Fund.

The proposed residential building encompassing 500 apartment units includes a 25-story tower portion paralleling North Lexington Avenue to the East and an intersecting 16-story tower running westerly from North Lexington to Ferris Avenue. The residential lobby will be located with access on both Lexington Avenue and Hamilton Avenue. The residential building will also include both indoor and outdoor amenities serving residential tenants.

The mix of apartment units includes 167 studio units, 208 one-bedroom units, 117 two-bedroom units, and eight three-bedroom units. A total of 15 on-site units will be classified as affordable in compliance with the city's Affordable Rental Housing Program Regulations in addition to a \$3.8-million contribution to the City of White Plains' affordable housing contribution fund.

The ground floor of the project will include 19,000 square feet of retail designed to activate the Hamilton Avenue frontage.

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LOW BIDS

Transit Construction, Annseal Win  
NYSDOT Region 8 Project Work

ALBANY—The New York State Department of Transportation recently announced the selection of two apparent low bidders for work in Region 8.

**Transit Construction Corp.** of Yonkers, NY was the lowest of eight bidders at \$5,420,000.06 for bridge rehabilitation project: six bridges

in the Village of Tarrytown and the cities of Peekskill and Yonkers in Westchester.

**Annseal Inc.** of Johnson City, NY was the lowest of three bidders at \$1,565,040.00 for pavement preventative maintenance contract in the counties of Columbia, Dutchess, Orange, Putnam, Rockland, Ulster and Westchester.

Six Firms Win Westchester DPW Jobs

WHITE PLAINS—The Westchester County Department of Public Works recently announced the selection of six apparent low bidders for work at its facilities.

**Key Construction Services, LLC** of Poughkeepsie, NY was the lowest of four bidders at \$12,629,516.00 for low-rise building renovations and HVAC improvements at 110 Dr. Martin Luther King, Jr. Blvd. in the City of White Plains.

**Sun-Dance Energy Contractors Inc.** of Peekskill, NY d.b.a. Markley Mechanical, was the lowest of four bidders at \$637,812.00 for boiler replacement and associated work at the Vernon Plaza Family Center, located at 17 South Second Ave., in the City of Mount Vernon, NY.

**Verde Electric Maintenance Corp.** of Mount Vernon, NY was the sole bidder at \$529,880.00 for Westchester County pedestrian

safety improvements in the villages of Port Chester, Rye Brook, the towns of Harrison, Mamaroneck, Greenburgh, Mount Pleasant, and the cities of Peekskill, Rye, White Plains and Yonkers, NY.

**Frank Cyrwus Inc.** of Lafayette, NJ was the lowest of 10 bidders at \$415,711.00 for roof replacement and exterior repairs at the SOD Garage on the Valhalla Campus in Valhalla, NY.

**Icon Construction Group, Inc.,** of White Plains was the lowest of five bidders at \$3,180,000.00 for new golf cart storage facility and clubhouse upgrades at the Mohansic Golf Course in Yorktown Heights, NY.

**Westchester Hills Landscaping** of West Harrison, NY was the lowest of six bidders at \$1,964,714.40 for resurfacing of various county-maintained roads in Westchester.

ALBANY UPDATE

NYSDOT Begins Nearly \$16M in Pavement  
Resurfacing Projects in Westchester County

ALBANY—New York State Department of Transportation Commissioner Marie Therese Dominguez recently announced that work is getting underway on a \$15.7-million project to resurface sections of four key roadways in Westchester County.

The project will enhance safety and improve travel conditions on 11.5 miles of roadways that provide access to some of the county’s busiest villages and town centers, as well as the Westchester County Airport and Interstate 287. Roadways to be resurfaced include State Route 9 in the villages of Tarrytown and Sleepy Hollow, State Route 22 and State Route 433 in the Town of North Castle and State Route 120 in the Village of Harrison and Town of North Castle.

“As New York State recovers from the COVID-19 pandemic and more of our economy reopens, it’s imperative that we keep investing in our roads and bridges to ensure they are ready to meet the demands of the 21<sup>st</sup> Century,” DOT Commissioner Dominguez said. “This project will enhance safety and improve driving conditions on some of the most important roadways in Westchester County, facilitating the smooth flow of people and goods for many years to come.”

The contractor for these resurfacing projects

is Restani Construction Corp. in Astoria, NY.

While preliminary work has already begun, resurfacing of the roadways will begin in July and employ the use of a reinforced asphalt overlay, which is a stronger and longer-lasting material than the existing surface. The project will also repair or upgrade shoulders, guide rails, basins, gutters, and curb ramps. Traffic signals will also be updated to enhance vehicle flow.

Consistent with Governor Cuomo’s Drivers First initiative, the project has been planned to minimize impacts to traffic and adjacent communities. Paving operations will occur between 8 p.m. and 6 a.m. with periodic nighttime road closures. The project is expected to be complete by late 2021.

The paving projects include: State Route 9 from State Route 119 in the Village of Tarrytown to College Avenue in the Village of Sleepy Hollow; State Route 22 from Route 120 to Middle Patent Road in the Town of North Castle; State Route 433 from the Connecticut state line to State Route 22 in the Town of North Castle; State Route 120 from Lake Street in the Village of Harrison to the Greenwich American Centre in the Town of North Castle and State Route 120 from Westchester Avenue to Westerleigh Road in the Village of Harrison.

Village of Haverstraw Releases RFP  
To Develop Waterfront Parcels

HAVERSTRAW, NY—The Village of Haverstraw is releasing a Request for Proposal for development in Haverstraw, of two waterfront parcels currently known as the Chair Factory and Damiani Properties. The Village has owned these parcels for several years. This more than nine-acre combined parcel sits on a peninsula at the foot of Main Street at the widest point of the Hudson River and features views of High Tor Mountain, Westchester, and Bowline Point Park.

The purpose of the RFP is to obtain proposals from a group of experienced developers and select one of the respondents, led by a lead development firm and supported by a project team of design and other professional consultants, as the preferred developer for the site. Although the RFP provides full details on the village’s vision for the development of the Site, the Village is focused on: providing an anchor use for the downtown that attracts economic activity year-round; connecting the site to and integrating

with the Village downtown a mixed-use development that includes, residential, hotel, entertainment, and retail that complement the Village’s existing businesses and serve as a draw to the waterfront; and a development that mirrors the scale and pattern of the Village downtown.

Responses to the RFP will be due on Oct. 1, 2021. Written questions will be due on Aug. 26, 2021. The RFP is available for download at <https://voh-nyc.com/rfp-chair-factory-development-site/>.

Westchester to Award  
\$31M in Capital Projects

Continued from page 6

including associated piping and valves; primary clarifier scum pit piping and valves; aeration tank influent and effluent sluice gates; upgrade of aeration blowers and all aeration blower piping; piping, valves, and controls for caustic and hypochlorite tanks associated with the odor control scrubbers; plant and service water system upgrade; replacement of return activated sludge discharge isolation valves, final clarifier drain valves and plant effluent water system including pumps and associated valves; demolition and removal of obsolete boilers and fuel oil storage tanks at the Pump House Building; and installation of security system improvements. Expected design completion in the fourth quarter of 2021, bidding in the first quarter of 2022. The construction is estimated to take 18 months

**Bond Act (Amended)  
SPK-14 Peekskill Flow  
WWTP-Secondary Process  
& Heating System  
Upgrades—\$15.25 Million**

This project aims to provide upgrades to the aeration and heating system at the Peekskill Wastewater Treatment Plant. The majority of equipment to be replaced in this project is almost 40 years old and has reached the end of its useful life. Work will include the replacement of buried aeration piping, existing slide gates and stop logs for the aeration tanks, replacement of the three heating boilers, existing heat exchangers, the Administration Building multi-zone air handler and all related ancillary components and controls of these systems. Also included will be the replacement of the above-ground fuel oil storage tanks and a study and evaluation of the existing HVAC system at the Peekskill Wastewater Treatment Plant. Expected design completion in the fourth quarter of 2021, bidding in the first quarter of 2022. The con-

struction is estimated to take 18 months.

**Bond Act-SPS07-Repair  
& Upgrade of Alexander  
Street Influent  
Structure—\$2.5 Million**

The Bond Act, in the amount of \$2,500,000, will provide additional construction funding for rehabilitation of the influent structure which directs sewage to the North Yonkers Pump Station. Work will include inspection, cleaning, and structural repair of the influent structure at Alexander Street. The project will also include replacement of the three influent sluice gates in the influent chamber, including the addition of portable operators. Design is now 90% complete and is being performed by outside consultants. It is estimated that construction will take 12 months to complete and will begin after award and execution of the construction contracts.

**Bond Act-SW032-Flow  
Monitoring Program  
'21-'30-\$4 Million**

The Bond Act, in the amount of \$4,000,000, is required to finance construction costs associated with a flow monitoring study in the Ossining Sewer District (the “District”). The Department of Environmental Facilities has advised that this is the final phase of the comprehensive flow monitoring study that the Department has conducted throughout all of the county’s sewer districts. Work under this phase will include the installation of flow monitoring equipment in the district’s trunk sewer piping at strategic locations and recording and analyzing the data to determine the amount of inflow and infiltration that enters the district’s sewer collection system during rainfall events. Following bonding authorization, the flow monitoring program will continue for a period of two years, with the final report taking an additional one year thereafter to complete.

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