



Construction NEWS



Vol. 37 No. 11

NOVEMBER 2021

\$1.50

Democracy Gets Back to Work

Leaders Hail \$1.2-Trillion Infrastructure Act; Billions in New Projects Heading to Region

By JOHN JORDAN

WASHINGTON—While the ink signing into law on the \$1.2-trillion “Infrastructure Investment and Jobs Act” may have dried on Nov. 15, it was the next day when President Joe Biden climbed aboard Air Force One to inspect a rickety steel bridge in Woodstock, NH that the nation would see the first example of what the federal government is doing to help write a new chapter in the history of transportation in this country.

Construction industry leaders praised the new law, described as the most significant piece of legislation in the past 50 years to deal with with the nation’s crumbling infrastructure. Industry estimates are that New York State will receive approximately \$170 billion in highway, mass transit and infrastructure funding from the bi-partisan bill.

At the law’s signing ceremony at the White House, President Biden said the measure is proof that, despite the cynics, Democrats and Republicans can come together and deliver results. The legislation was supported in the House by

13 Republicans and 19 Republicans backed the measure in the Senate.

This law will build back “our bridges, our water systems, our power lines, our levees better and stronger so few Americans will be flooded out of their homes or lose power in those days and weeks ahead when severe storms hit,” the President proclaimed.

Regional Outlook

In addition to a massive increase in highway and wastewater funding levels, a host of Congressional and industry leaders believe the legislation will provide some funding for some of the Downstate region’s mega-projects, including the Gateway Tunnel project, Penn Station Access, the East River Tunnels, and the Second Ave Subway, along with needed repairs to the Brooklyn-Queens Expressway and a proposed project to cap sections of the Cross Bronx Expressway that are below street level.

It is also believed that some funding could be accessed via grants for the Route 17 expansion

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President Biden picked a rickety New Hampshire bridge as the scene to begin promoting his infrastructure bill. The span, which has been declared structurally unsafe, crosses the Pemigewasset River in Woodstock, NH. On Tues., Nov. 16, the President kicked off the administration-wide campaign aimed at selling the benefits of the newly signed bipartisan \$1.2 trillion law for roads, bridges, broadband and clean water. See pages 12-13 for highlights.

Carpenters Union Stage Grand Re-Opening Of New Apprenticeship Center in Orange

By GEORGE DRAPEAU III

ROCK TAVERN, NY—A new comprehensive education facility to train young apprentices and advance the skills of journey-level members of Carpenters L.U. 279 officially re-opened this month in Orange County. The ribbon-cutting ceremony on Nov. 10 served as an example that imagination, when partnered with a deep organizational commitment of resources, can be the blueprint to develop a new generation of highly-skilled Carpenters.

“The best way to ensure a great future is to train for it today,” noted Bill Banfield, Assistant to the Executive



The North Atlantic States Regional Council of Carpenters L.U. 279 celebrated the completion of a \$3.5 million renovation of its training facility in Rock Tavern, NY in November. Cutting the ribbon are, from left, Jim Hayes, assistant executive training director of the Carpenters Training Fund, New York State Commissioner of Labor Roberta Reardon and Bill Banfield, assistant to the Executive Secretary-Treasurer at NASRCC.

Secretary-Treasurer, NASRCC. The newly renovated building,

located at 52 Stone Castle Road, allows members throughout the eight counties of the Hudson Valley to develop new training and skills and acquire new knowledge.

The new North Atlantic States Carpenters Training Center took nearly two years in planning and construction to complete, at a cost of more than \$3 million, reported James Hayes, assistant executive director of the North Atlantic

States Carpenters Training Fund which invested in the project. Young men and women eager to pursue careers in the Building Trades now have a comprehensive training center in the region.

“We believe in ‘work local, train local’ as keys to success,” he explained, adding that the new 25,000-square-foot, two-story center is highly convenient for journey-level members seeking to upgrade skills and

obtain recertification for various job requirements. Prior to the center opening, Carpentry apprenticeship training and enhanced skills-development programs required travel to one of two other Carpenters Union facilities, located on Long Island and in Albany. “An added benefit will likely be more journey-level Carpenters using the center to upgrade their skills and qualifications,” Mr. Hayes added.

The five levels of apprenticeship training, often completed Please turn to page 4

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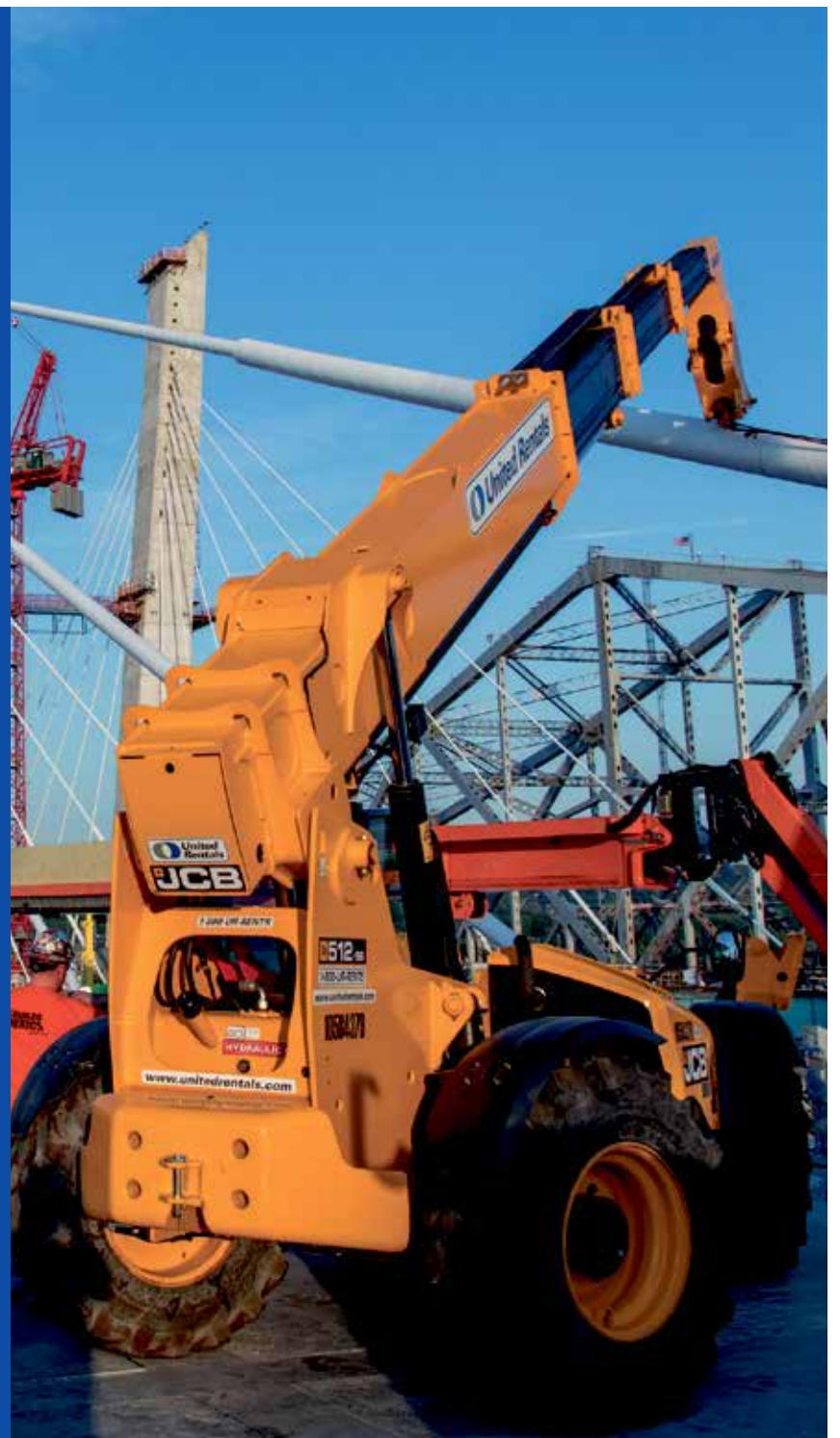
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\$135 Million 'Last Mile' Improvement Job On I-95 in Westchester County Completed

ALBANY—State officials announced on Nov. 1 the completion of the \$135-million infrastructure improvement project on a section of the New England Thruway (I-95) in Westchester County known as the "Last Mile."

During the past several decades, 14 miles of I-95 in the Bronx, Pelham, New Rochelle, Mamaroneck, Harrison and Rye have been reconstructed. This project, which began in 2018, focused on the final one mile stretch from Exit 22 (Port Chester-Rye-Midland Avenue) to the Connecticut state line, which serves more than 140,000 motorists every day.

"The completion of the 'Last Mile' project on I-95 demonstrates the Thruway Authority's commitment to investing in infrastructure and modernizing our transportation system," Thruway Authority Executive Director Matthew J. Driscoll said. "This stretch of I-95 is one of the busiest on the Thruway and it was long overdue for these needed upgrades to the mainline, the interchange system and local overpasses. With the completion of this project, motorists can now enjoy an improved travel experience in this area."

ECCO III Enterprises Inc. from Yonkers, NY completed the Design-Bid-Build Best Value contract.

The project included:

I-95 Reconstruction

The I-95 mainline (milepost 14.1 to milepost 15.0) in both directions was reconstructed along with safety upgrades such as wider shoulders, updated pavement markings and the installation of guiderails and barriers.

Ramp Upgrades

The area contains a six-ramp interchange system with the Cross Westchester Expressway (I-287) and Midland Avenue in the City of Rye and Village of Port Chester.

Several ramps were upgraded and reconfigured to improve traffic flow:

The I-287 eastbound to I-95 northbound ramp bridge was replaced and realigned; the ramp from Midland Avenue was realigned to connect directly to I-95 northbound; I-95 southbound was widened to provide a two-lane exit ramp to I-287 westbound and improvements were made to the I-95 northbound/Midland Avenue interchange.

Bridge Replacement and Rehabilitation

The Grace Church Street bridge over I-95 (milepost 14.46)

was replaced and opened in September 2020

The Boston Post Road bridge (milepost 13.71), Purchase Street bridge (milepost 13.48), the Blind Brook culvert bridge (milepost 13.34) and the Byram River bridge (milepost 14.93) were rehabilitated.

Senator Shelley B. Mayer said, "An incredible amount of planning went into ensuring the construction on this critical, high volume stretch of the Thruway addressed safety and neighborhood concerns. I applaud the Thruway Authority for working with neighbors and municipal officials to make this project as least disruptive as possible, and I am confident they will continue to engage the community moving forward. Congratulations on the completion of the 'Last Mile.'"

Assemblymember Steve Otis added, "Congratulations

to the Thruway Authority, contractors and workers who have reached a major milestone towards completion of the Last Mile project. This project is one of the largest reconstruction projects in the history of the Authority. It was planned for decades and was needed to address safety and neighborhood concerns."

He added, "A project of this scale involved disruption to communities, neighborhoods and motorists but from the local perspective the Thruway Authority made adjustments in design and in the construction schedule to address issues raised along the way and continues to work with us on issues that arise. I appreciate the authority's responsiveness in working with neighbors and municipal officials which I have seen firsthand here and across the state."



Part of this project, that began in 2018, was the replacement of the Grace Church Street bridge over I-95 (milepost 14.46), which opened in September 2020.

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Call for Downstate Casino Licenses Grows Louder

*Business,
Organized Labor,
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Rally for State
Legislation*

YONKERS, NY—“A Sure Bet for New York’s Future” alliance teamed with state and local elected officials and community partners in a spirited rally outside the Empire City Casino by MGM Resorts building here on Nov. 17 to voice overwhelming community support for legislation to permit full-scale commercial casino licenses here in Westchester.

Pointing to the thousands of jobs such a project would create in Yonkers, Mount Vernon and the Bronx, Assemblymember Gary Pretlow, chair of the Racing and Wagering Committee, called on Gov. Kathy Hochul to support his legislation to accelerate the downstate casino licensing process.



The “A Sure Bet for New York’s Future” alliance, which is made up of business, civic and labor organizations in Westchester and The Bronx, staged a rally on Nov. 17 in front of the Empire City Casino in Yonkers to push for state legislation that could expedite the award of three downstate full gaming licenses. The alliance is lobbying lawmakers to award a full casino license to Empire City Casino.

“We in this part of the state want this to happen, and we want it to happen now. This helps the Bronx, Westchester, Rockland County, and the State of New York. That’s what this

is all about helping the State of New York,” Rep. Pretlow said.

New York State Gaming Commission recently issued a Request for Information from interested parties for either



developing or operating three downstate New York casinos in the New York metro region.

The issuance of the RFI on Oct. 20 followed the release of a report detailing the impacts of


downstate casino gaming and mobile sports betting by Spectrum Gaming Group released in January 2021 that found downstate counties show the greatest potential for growth in Gross Gaming Revenue, ranging from \$970 million to \$4.49 billion for New York City, and \$606 million to \$1.13 billion for Long Island. The potential of the New York City market could be captured by the addition of new gaming facilities, the report stated.

The Gaming Commission has set a deadline for the submission of questions concerning the RFI for Nov. 10, 2021 and for a submission to the RFI by Dec. 10, 2021. The New York State Gaming Commission per state statute has to prepare and distribute a report on the RFI to the governor and the State Legislature no later than six months from the Dec. 10, 2021 deadline. The statute was passed by the State Legislature and signed by then Gov. Andrew Cuomo in April 2021.

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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
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Construction Industry Council
of Westchester & Hudson Valley, Inc.
629 Old White Plains Road, Tarrytown, NY 10591
(914) 631-6070 • FAX # (914) 631-5172
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Carpenters Union Stage Grand Re-Opening Of New Apprenticeship Center in Orange

Continued from page 1
in four years, instructs some 170 craftworkers who aspire to journey-level stature.

Among the programs offered are: laser technology, 3D imaging for enhanced design and building, scaffold training, OSHA safety and fall-protection certification and recertification, advanced training in aerial lift operations, and infectious control and risk-assessment training.

The building will also provide faster and easier access for members in the Hudson Valley to acquire sophisticated training without traveling to Albany each time they need it. Union staff will occupy about a third of that, with the training program using the rest.

“This state-of-the-art facility will safely teach the highest level of skilled union tradesmen and women in a safe manner and help the hardworking Carpenters Union Local 279 complete important projects,”

said Orange County Executive Steve Neuhaus. “Union carpenters are an integral part of our workforce and I thank Local 279 for the many contributions they have made in Orange County.”

Rockland County Executive Ed Day also commented, “I am grateful to the Carpenters Union for their commitment to the betterment of our region, and especially for their investment in creating opportunities for our young people. Apprenticeships provide our area youth with the ability to earn while they learn so they can secure their future in the Hudson Valley.”

“We know that making training facilities convenient for our apprentices and journey-level workers is crucial,” said Tom Fischer, Executive Director of NASCTF. “Part of our ongoing plan is to create and maintain excellent facilities and programs wherever they are needed to serve union carpenters and the contractors that

rely on their skills.

Mr. Fischer noted that some 90% of a union carpenter’s training is hands-on. “You can’t do that without investing in space and equipment, so that’s what we did,” he said.

Other speakers at the event included: New York State Department of Labor Commissioner Roberta Reardon, North Atlantic States Regional Council of Carpenters Executive Secretary-Treasurer Joe Byrne and New York State Sen. James Skoufis and Sen. Mike Martucci.

The Rock Tavern facility is the latest to undergo significant expansion or upgrades in recent years. Other locations where the union has invested significantly are Manchester, N.H.; Yalesville, CT; Syracuse and Long Island’s Hauppauge and Albany as mentioned. Plans for renovations at Warwick, R.I. were being developed when the COVID-19 pandemic hit. They are expected to be revisited soon.

Responding to Growing Demand For a Well-Trained Workforce

Nationally, the construction worker shortage is reaching alarming levels, according to recent estimates and analysis from the Bureau of Labor Statistics data by the National Association of Home Builders (NAHB).

The report, based on research of the NAHB’s Economics Group, provides an overview of the state of the nation’s construction labor market. Other key findings include:

The number of open construction sector jobs currently averages between 300,000 to 400,000 each month.

Half of payroll workers in

construction earn more than \$50,460 annually and the top 25% make at least \$71,000. In comparison, the U.S. median wage is \$49,150 while the top 25% make at least \$67,410.

It was noted that the situation is likely to become more challenging in the coming year as other industries rebound and offer competitive wages and benefits to prospective employees.

The call to train the next generation of skilled tradespeople in construction is widespread.

“One of our most important tasks as an industry is to work with parents, educators and

high school students, even as early as the middle school years, to demonstrate that young people can have the promise of great jobs and careers in the Building Trades,” said Matthew Pepe, executive director of the Building Contractors Association of Westchester & The Hudson Valley Region, Inc. “This magnificent new Carpenters’ training facility here in Rock Tavern, NY demonstrates to the building and construction industries just how committed the Carpenters Union is to attracting and training the workforce of tomorrow.”

International Union of Operating Engineers Local 137



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Attorney's Column

Appellate Court to Contractor: Ignore Cure Periods at Your Own Peril

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

It is well known that in business, including the construction business, the applicable contract governs the relationship between the parties. As the subject of negotiation, its specific terms should be familiar to all parties. Unfortunately, during the bustle of the project, some contractual provisions, including notice provisions and right to cure provisions, fall by the wayside. While the majority of the time these missed provisions end up being inconsequential—because the parties make their way past the issues and deal with them at the end of the job—an appellate court, in *East Empire Construction, Inc. v Borough Construction Group LLC*, reminds us of the importance of complying with these provisions so that any subsequent actions, such as a termination, will be valid.

Background

In 2015, Borough Construction Group, a general contractor, entered into a subcontract with East Empire Construction whereby East Empire was to perform the steel scope of



work for the construction of a building in Columbus Circle in Manhattan. The relevant contract, which was an AIA A401/201 form of contract, contained a provision permitting Borough to undertake to correct East Empire's defective work if East Empire failed to do so itself within five days of receiving notice of such defective work. Another provision of the contract required Borough to provide East Empire with a 10-day period within which to cure any defect as a condition precedent to termination.

In May of 2016, Borough sent East Empire a notice of termination, stating that the subcontract would be terminated three days from the date of the letter, claiming that East Empire was in default by "failing to provide sufficient manpower [and] fail-

ing to meet the schedule, safety regulations and qualified workmanship" for the project. The parties discussed these issues and, after negotiations, Borough withdrew its termination letter. One week later, Borough sent East Empire an identical notice of termination, and subsequently retained a new steel contractor to complete East Empire's scope of work.

In November 2016, East Empire sued Borough for breach of contract, alleging that Borough breached the contract by improperly terminating East Empire's subcontract, and seeking the monies for which it had invoiced up until the termination. Borough denied the allegations in the complaint, and asserted East Empire's claimed breaches of the subcontract as a defense to payment. East Empire moved for summary judgment in its favor on its breach of contract claim, and dismissing Borough's affirmative defense, on the grounds that Borough denied it of its contractual opportunity to cure the claimed defects. In opposition, Borough argued that East Empire's acts

The motion court granted East Empire's motion and found that by failing to give East Empire the opportunity to cure provided for in the subcontract, Borough's second attempt at termination was improper and, itself, constituted a breach of that contract.

of default were persistent and incurable.

Decision

The motion court granted East Empire's motion, and found that by failing to give East Empire the opportunity to cure provided for in the subcontract, Borough's second attempt at termination was improper and, itself, constituted a breach of that contract. The appellate court affirmed, addressing not only the clear lack of the contractually required cure period, but also the limited exceptions to this requirement. The appellate court discussed that while such a notice to cure need not be given in at least four instances: where the terminated party repudiates its performance; where the terminated party abandons the project; where the breach is impossible to cure; or where the breach is so substantial that it undermines the entire contractual relationship such that it cannot be cured, the exceptions are of very limited scope. None applied here. In doing so, the appellate court cited well-settled law in holding that the defaults complained of, mere faulty steelwork and failing to meet the schedule, was "the very situation to which the cure provision was intended to apply."

Comment

Notice and opportunity to cure provisions, like other contractual provisions, must—absent extraordinary circumstances—be strictly complied with. Typically, arguments that extraordinary circumstances apply are made not when there are such extraordinary circumstances, but when the notice and cure provisions are overlooked (or, in a haste to remove

a contractor from a project, are simply not complied with).

East Empire highlights how a subcontractor in default was able to completely turn the tables on the general contractor and not only avoid the consequences of its own default (in this case being back-charged for the excess cost incurred by the general contractor to complete its work), but also have an affirmative recovery and get paid for its (claimed defective) work. While the reflexive statement to a contractor in default is to "get off of my jobsite," contractors would be well advised to review their contracts to see if there are notice and cure provisions, and then strictly comply with them. Surely the offense at having the contractor around for an extra few days while he tries to remedy a default is not as grievous as having to not only forego a back-charge for excess completion costs, but also actually writing that contractor a check for work you believe is defective. If you have any questions as to whether such an exception applies, experienced construction counsel can help.

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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Regional Bid Alert

NYSDOT - Region 8

Bid Letting Date: Dec. 2, 2021

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

Contract# D264659
PIN# 803048
FA Proj.# Z0E1-8030-483

Project Description: Rockland Co., Paving Route 59 from Route 303 to Route 9W and sidewalk improvements at West Broadway.

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

Goals: DBE: 10.00%

Bid Letting Date: Dec. 2, 2021

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

Contract# D264593
PIN# 810632
FA Proj.# Z0E1-8106-323

Project Description: Westchester Co., ramp reconstruction I-287 EB to Saw-Mill River Parkway NB.

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

Goals: DBE: 9.00%

Bid Letting Date: Dec. 16, 2021

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

Contract# D264523
PIN# 876232

Project Description: Orange, Rockland Cos., culvert rehabilitation and replacement. - Lower Rd (CR12) over tributary to Walkill River and Wesley Chapel Rd over Willow Tree Brook. - 2018 BRIDGE NY ROUND 2 - CULVERT BUNDLE 5.

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

Goals: MBE: 9.00%, WBE: 13.00%, SDVOB: 6.00%

NYSDOT - Region 10

Bid Letting Date: Dec. 2, 2021

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

Contract# D264592
PIN# 0DPM21
FA Proj.# Z0E1-0DPM-213

Project Description: Nassau, Suffolk Cos., durable pavement markings project, various locations.

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

Goals: DBE: 10.00%

Bid Letting Date: Dec. 2, 2021

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

Contract# D264634
PIN# 081026

Project Description: Nassau, Suffolk Cos., guide rail rehabilitation, replace guiderail sections at various locations.

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

Goals: MBE: 9.00%, WBE: 13.00%, SDVOB: 6.00%

Bid Letting Date: Dec. 2, 2021

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

Contract# D264638
PIN# 053480

Project Description: Nassau, Suffolk Cos., resurfacing on Southern State Parkway in the Towns of Babylon, Hempstead and Oyster Bay.

Bid Deposit: 5% of Bid (~ \$1,500,000.00)

Goals: DBE: 10.00%

Bid Letting Date: Dec. 2, 2021

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

Contract# D264683
PIN# DRC121
FA Proj.# Z24E-DRC1-214

Project Description: Bronx, Dutchess, Kings, Nassau, New

York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Westchester Cos., debris removal throughout Downstate New York.

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

Goals: DBE: 10.00%

Westchester County DPW

Bid Due Date: Dec. 1, 2021

Contract: 15-517 (\$100.)

Title: Outfall Jetty Rehabilitation, Mamaroneck Wastewater Treatment Plant, Mamaroneck, NY.

Description: The work under this contract consists of providing all necessary labor, material and equipment required to construct a new steel sheet pile bulkhead around the existing effluent Outfall Jetty located within the Village of Mamaroneck's Harbor Island Park. The new steel sheet pile bulkhead, using marine grade steel, will be constructed to the same finished elevation as the existing steel bulkhead and approximately two feet to the waterside of the existing steel bulkhead. Some portions of the new bulkhead will be constructed using stone revetment to the waterside of the existing bulkhead in areas where the new steel sheet piling is not being installed. A new concrete pile cap will be constructed on top of the new steel sheet piling which will also serve as a foundation for a new perimeter fence. In addition, previous pavement walkways, decorative lighting, benches, fencing and grass areas will be installed on the surface area of the rehabilitated jetty.

Bid Estimate Range: \$5.4 million to \$6.0 million.

MANDATORY PRE-BID INSPECTION: Scheduled at 10:00 a.m. on Nov. 3, 2021; meeting at Lobby of Mamaroneck Wastewater Treatment Plant, 119 West Boston Post Road, Mamaroneck, NY 10543. 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: John Coelho, 914-995-5144.

Bid Due Date: Dec. 1, 2021

Contract: 18-515 (\$100.)

Title: Roof Replacement Program, Mamaroneck Water Resource Recovery Facility, Peekskill Water Resource Recovery Facility, Mamaroneck and Peekskill, NY.

Description: The work under this contract consists of providing all necessary labor, material and equipment required for the full roofing system replacement and select structural modifications to the following roofs: The Primary Building including influent and effluent wings at the Mamaroneck Water Resource Recovery Facility (WRRF) in the Mamaroneck Sanitary Sewer District (SSD) and the Administration Building and Blower Building at the Peekskill WRRF in the Peekskill SSD. Work involved will address the replacement of all building roofing systems, resetting or replacement of coping stones, caulking of vertical joints, installation of safety railings, walking pads, brick repointing, repair or replacement of expansion joints and other related work as necessary at both facilities.

Bid Estimate Range: \$2.5 million to \$3.0 million.

MANDATORY PRE-BID INSPECTION: Held Oct. 28, 2021. MANDATORY attendance was required. Bids will be rejected from Contractors not in attendance at this meeting, or those who failed to sign the attendance sheet.

Contact: John Coelho, 914-995-5144.

Bid Due Date: Dec. 1, 2021

Contract: 19-531 (\$100.)

Title: Infrastructure Upgrades, Labs and Research, Valhalla Campus, Valhalla, NY.

Description: The work under this contract consists of providing all necessary labor, material and equipment required for exterior renovations including wall panel replacement, improvements at the loading dock including sidewalk replacement as well as interior renovations including reception atriums, staff lounge, finishes and various related work. Note: The Contractor is directed to the Special Notice regarding Project Labor Agreement (PLA).

Bid Estimate Range: \$800,000 to \$1.0 million.

MANDATORY PRE-BID INSPECTION: Scheduled at 10:00 a.m., Nov. 10, 2021; meeting at Labs and Research, 10 Dana Road, Valhalla, 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: Dec. 1, 2021

Contract: 21-516 (\$100.)

Title: Tarrytown Lighthouse Restoration, Kingsland Point Park, Village of Sleepy Hollow, NY.

Description: The work under this contract consists of providing all necessary labor, material and equipment required to repair caissons and the lighthouse tower exterior as well as replacement of windows and doors, repair of floors, upgrade of electrical systems, paving. Note: The Contractor is directed to the Special Notice regarding Project Labor Agreement (PLA).

Bid Estimate Range: \$2.0 million to \$2.3 million.

MANDATORY PRE-BID INSPECTION: Scheduled at 10:00 a.m. on Nov. 9, 2021; meeting at Kingsland Point Park –

Parking Lot. 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: Dec. 15, 2021

Contract: 15-550 (\$100.)

Title: Woodlands Lake Dam Rehabilitation, V.E. Macy Park, Irvington, NY.

Description: The work under this contract consists of providing all necessary labor, material and equipment required to modify the existing stone masonry dam spillway, replace the existing bridge with a pre-engineered bridge and relocate utilities supported on the bridge, replace handrails, modify the lakebed to create a low-flow channel and install new plantings.

Bid Estimate Range: \$4.0 million to \$4.5 million.

MANDATORY PRE-BID INSPECTION: Scheduled at 10:00 a.m. on Nov. 16, 2021; meeting at project site.

Contact: Esther Rivas, 914-995-5584.

NYS Dormitory Authority

Bid Letting Date: Dec. 7, 2021

Title: City University of New York, New York City College of Technology, Pearl Building Façade Replacement and Associated Asbestos Abatement

Contract: CR17 General Construction

Project Number 3562209999

Sealed bids for the above Work located at New York City College of Technology, 259 Adams Street, Brooklyn, NY 11201 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. 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 December 7, 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: Michael Costache, Sr. Project Manager, 186 Jay Street, Brooklyn, NY 11201, 917-299-2863, mcostache@dasny.org (the Owner's Representative) and DASNY at ccontracts@dasny.org. Contacts made to other DASNY personnel regarding this procurement may disqualify the prospective bidder and affect future procurements with governmental entities in the State of New York. For more information pursuant to this law, refer to DASNY's website; <http://www.dasny.org> or the OGS website; <http://www.ogs.state.ny.us>.

A Pre-Bid Meeting will be held on Wednesday, Nov. 10, 2021 at 10:00 a.m. at 60-68 Tillray Street, Brooklyn, NY 11201. Contact Michael Costache at 917-299-3863. 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 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. The plan holders list and a list of interested subcontractors and material suppliers may be viewed at DASNY's website: <http://www.dasny.org>. For Bid Opportunities and other DASNY related news, follow us on Twitter @NYS_DASNY and Facebook <https://www.facebook.com/pages/DASNY-Dormitor-Authority-of-the-State-of-New-York/307274192739368>.

Bid Letting Date: Dec. 9, 2021

Title: City University of New York, Queensborough Community College, Technology Building Roof Replacement and Associated Asbestos Abatement

Contract: CR10 General Construction

Project Number 3507309999

Sealed bids for the above Work located at Queensborough Community College, 221-25 56th Avenue, Bayside, 11364 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. 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 Dec. 9, 2021 will be considered. Bids shall be publicly opened and read aloud. Bid results can be viewed at DASNY's website; <http://www.dasny.org>.

In accordance with State Finance Law § 139-j and § 139-k, this solicitation includes and imposes certain restrictions on communications between DASNY personnel and a prospective bidder during the procurement process. Designated staff for this solicitation is: Ray Shadood, Project Manager, 221-03 56th Avenue, Bayside, New York 11364, 917-299-2741, rshadood@dasny.org (the Owner's Representative) and DASNY at ccontracts@dasny.org. Contacts made to other DASNY personnel regarding this procurement may disqualify the prospective bidder and affect future procurements with governmental entities in the State of New York. For more information pursuant to this law, refer to DASNY's website; <http://www.dasny.org> or the OGS website; <http://www.ogs.state.ny.us>.

A Pre-Bid Meeting will be held on Monday, Nov. 22, 2021 at 9:30 a.m. at Queensborough CC, 220-05 56th Avenue, Bayside, NY 11364. Contact Ray Shadood at 917-299-2741. 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 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. The plan holders list and a list of interested subcontractors and material suppliers may be viewed at DASNY's website: <http://www.dasny.org>. For Bid Opportunities and other DASNY related news, follow us on Twitter @NYS_DASNY and Facebook <https://www.facebook.com/pages/DASNY-Dormitor-Authority-of-the-State-of-New-York/307274192739368>.

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



Next Gen Leaders



Profiles of the Industry's New Generation



Nico Altomare

AGE
21

ACHIEVEMENT
Construction Advancement Institute Scholarship, 2018

EDUCATION
Rensselaer Polytechnic Institute, Troy, NY
Electrical Engineering, BA, in 2022
Pursuing his MA, on track to earn in 2023

FAVORITE COURSE
“Imbedded Control – Using code to interface microprocessors with motors to drive them. After taking that class, I became a teaching assistant on this subject, and I have served RPI faculty in that capacity for the past three semesters.”

ON THE CHOICE OF PROFESSION
“I took courses at a trade and technical high school in electric circuitry and robotics. I learned that the best way to apply the love of these fields was through engineering.”

CHALLENGES
“Graduating at the top of my high school class, I thought college was going to be a breeze, but the field is very complex and the school is both challenging and demanding. Alums I have spoken to say the working world is a lot easier than the actual school program.”

INSPIRATION
“My family—they always pushed me to do my best in whatever field I chose. Other than family, there are too many teacher-mentors to mention without omitting others.”

WORDS OF WISDOM
“For me engineering is a dream job, but for anyone interested in how to solve problems in any field, engineering offers great training. Engineers are problem solvers.”

GOAL
“In five years I would like to be in the field of robotics or microelectronics.”

OUTSIDE INTERESTS
“I play club-level baseball at RPI and rock climbing if I have the time. During the COVID hiatus, I built a metal forge for making knives in the back yard at home.”

HOW HAS COVID AFFECTED YOU?
Learning through COVID restrictions was difficult. The impression was that online learning would be superior. You could record a lecture as often as you needed for example, but in-person learning offers an in-depth comprehension. At times it has been difficult to close that gap.”

Researcher and Writer—Alan Kennedy

ABOUT THE BCA/CAI SCHOLARSHIP

Since its inception the Building Contractors Association/Construction Advancement Institute College Scholarship Program has awarded more than \$334,000 to 38 students who have enrolled at 30 colleges and universities throughout the U.S. region.

BCA/CAI SCHOLARSHIP COMMITTEE

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Calgi Construction Co., Inc.

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Darante Construction Ltd.

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Jamie Lynn
Fortunato

Louis G. Nappi Construction Labor-Management Scholarship Fund Awards \$85,000 to 17 College Students in Hudson Valley Region

By **GEORGE DRAPEAU III**
TARRYTOWN—Seventeen Hudson Valley college students began the 2021-22 academic year with a \$5,000 grant from the Louis G. Nappi Construction Labor-Management Scholarship Fund for undergraduate studies in mathematics, the sciences, engineering and technology. The scholarship, a major construction industry financial-aid program, was established in 2009 by Louis G. Nappi (1920-2014), a former Chairman (now *Emeritus*) of the Construction Industry Council of Westchester & Hudson Valley, Inc. It was his vision that the hard sciences of mathematics and engineering were keys to re-establishing the U.S. as a world leader in transportation and infrastructure construction.

Comprising representatives from both labor and management, the Louis G. Nappi Scholarship Committee carefully selects candidates who exemplify the high scholastic and personal standards needed to advance in the construction and building industries.

“This scholarship is a living testimony to Louis Nappi,” said Ross J. Pepe, President of the Construction Industry Council, of which Nappi was chairman from 1986 to 1991. “Lou’s commitment to engineering and science lives on today in these scholarships and through these students.”

Mr. Pepe added, “Lou believed that giving students the financial means to pursue higher education and advanced degrees would help our nation’s construction and building industries regain global competitiveness and preeminence.”

Scholarship Committee Chairman William Mascetta, President of Transit Construction Corp. of Yonkers, N.Y., congratulated the winners and reminded them of the value of learning practical skills and avoiding “digital distraction.”

“In this high-tech age, with unlimited access to information, it’s tempting to rely on technology very heavily,” Mr. Mascetta said. “However, remember that we build things and our world of infrastructure is three-dimensional. When you get caught up in digital distraction, it’s like going through life with blinders on. You, as future scientists and executives, must take

off the blinders and open yourselves to the full periphery and reality of what we do.”

Mr. Mascetta thanked the members of the Scholarship Committee representing labor and management, and applauded the students’ parents for their support. He acknowledged Lou Nappi’s family for its ongoing commitment, and cited appreciation to Moujalli Hourani, D.Sc., a professor of Engineering at Manhattan

company of the Contractors Association of Rockland County. Samantha is also a recipient of a 2020 Louis G. Nappi Scholarship grant.

Sebastian Arreola, 20, of Danbury, CT, is a junior studying computer engineering at the University of Hartford in West Hartford, CT. He is the grandson of Mario Anaya of Heavy Construction Laborers L.U. 60. Sebastian is also

Lynn is also a recipient of a 2020 Louis G. Nappi Scholarship grant.

Daisy Godoy, 22, of Lagrangeville, NY, is a senior majoring in architectural technology at New York Institute of Technology. She is the daughter of Jesus Godoy, a member of Heavy Construction Laborers L.U. 60. Daisy is also a recipient of a 2020 Louis G. Nappi Scholarship grant.

Mark Griffin, 19, of Yonkers, NY, is a sophomore majoring in aerospace and mechanical engineering at the University of Buffalo. He is the son of Lisa Griffin and nephew of Vincent Romagnoli of Yonkers Contracting Company, Inc., a CIC-member company.

Alyssa Mangone, 21, of Hartsdale, NY, is a senior studying business management at Quinnipiac University in Hamden, CT. She is the granddaughter of George Meinel and niece of James Meinel who are members of Operating Engineers L.U. 137 of Briarcliff, NY. Alyssa now has been the recipient of four Louis G. Nappi Scholarship grants (2018-2021).

Sophia Mangone, 18, of Hartsdale, NY, is a freshman at SUNY Oneonta. She is the granddaughter of George Meinel and niece to James Meinel who are members of Operating Engineers L.U. 137 of Briarcliff, NY.

Cooper Mistishin, 19, of Lake Areal, PA, is a sophomore studying software engineering at Rochester Institute of Technology. He is the son of Michael Mistishin, an employee of Peckham Industries, a CIC-member company.

Daniella Mulvey, 21, of Valhalla, NY, is a senior studying architecture at Ithaca College in Ithaca, N.Y. She is the daughter of Dennis Mulvey, an employee of Stratis Contracting Corp., a CIC-member company. Daniella is also the recipient of a Louis G. Nappi Scholarship grant in 2020.

Nicholas Mulvey, 18, of Valhalla, NY, is a freshman studying civil engineering at Bucknell University in Bucknell, PA. He is the son of Dennis Mulvey, an employee of Stratis Contracting Corp., a CIC-member company.

William Roberts, 18, of Montrose, NY, is a freshman studying computer engineering at George Washington University. He is the son of a member of Teamsters & Chauffeurs L.U. 456 of Elmsford, NY.

Ava Zorilo, 19, of Wappingers Falls, NY, is a sophomore studying Health Science at Pace University in Westchester. Ava is the daughter of a member of Operating Engineers L.U. 137 of Briarcliff, NY.

Marking its 12th anniversary this year, the Louis G. Nappi Scholarship Fund has awarded more than \$785,000 in 187 grants to some 78 students attending nearly 50 colleges and universities throughout the U.S.

College in Riverdale, N.Y., for his guidance of the students and the scholarship program.

Marking its 12th anniversary, the Louis G. Nappi Scholarship Fund has awarded more than \$785,000 in 187 grants to some 78 students attending nearly 50 colleges and universities throughout the U.S. Candidates mostly reside in the seven-county region of the lower Hudson Valley—Westchester, Putnam, Dutchess, Columbia, Ulster, Orange and Rockland—and are related to employees of CIC-member companies or affiliated unions. The participating labor unions are Laborers International Union of N.A. Local 60, International Union of Operating Engineers Local 137, and the International Brotherhood of Teamsters Local 456.

For information on the program, contact Karen Zedda at (914) 631-6070 or Karen@icnys.org.

Scholarship Winners

Julia Maria Apostolou, 19, of Yorktown Heights, NY, is a sophomore studying civil engineering at the University of South Carolina. She is the daughter of James Apostolou who is a member of Teamsters & Chauffeurs L.U. 456 of Elmsford, NY. Julia Maria is also a recipient of a 2020 Louis G. Nappi Scholarship grant.

Samantha Argenio, 21, of Carolina Beach, NC, is a senior studying business administration with a concentration in finance at North Carolina State University in Raleigh. She is the granddaughter of a principal at Argenio Bros., a member

of the recipient of three Louis G. Nappi Scholarship grants from 2018 to 2020.

Taylor Bruck, 19, of New Paltz, NY, is a sophomore studying computer science at Binghamton University in Binghamton, N.Y. She is the daughter of Thomas Bruck, a member of Operating Engineers L.U. 137. Taylor is also a recipient of a 2020 Louis G. Nappi Scholarship grant.

Robert Caulfield, 19, of Blauvelt, NY, is a sophomore studying civil engineering at Manhattan College in Riverdale, NY. He is the son of Timothy Caulfield of Yonkers Contracting Co., Inc., a CIC-member company. Robert is also a recipient of a 2020 Louis G. Nappi Scholarship grant.

Ryan Danyluk, 21, of New Windsor, N.Y., is a senior studying civil engineering at Wentworth Institute of Technology in Boston, MA. He is the son of Peter Danyluk of Walsh Construction/Grace Industries, a CIC-member company. Ryan has now been a recipient of four Louis G. Nappi Scholarship grant awards (2018-2021). Nice going, Ryan!

Massimo Fante, 19, of Sleepy Hollow, NY, is a sophomore studying biological sciences at Cornell University in Ithaca, NY. He is the son of Mark Fante of Darrante Construction Ltd., a CIC-member company. Massimo is also a recipient of a 2020 Louis G. Nappi Scholarship grant.

Jamie Lynn Fortunato, 20, of Fairfield, CT, is a junior studying biology and pre-health at the University of Wisconsin at Madison. She is the granddaughter of Anthony Guido, a member of Operating Engineers L.U. 137. Jamie



Daisy
Godoy



Mark
Griffin



Alyssa
Mangone



Sophia
Mangone



Cooper
Mistishin



Daniella
Mulvey



Nicholas
Mulvey



William
Roberts



Ava
Zorilo

Safety Watch

ALJ Vacates Citation for Failure of Proof Despite Employer's Failure to Protect Workers

By GEOFFREYS. POPE, ESQ.

When a client is cited for alleged OSHA violations, it's a perennial—and often difficult—question as to whether, or in what circumstances, all or some of the items should be contested.

It is rumored that penalties for OSHA violations may soon be increased, by as much as tenfold. Historically, penalties have been sufficiently small—and the disproportion between the combination of legal fees and expenses to litigate a contest proceeding before the OSH Review Commission, along with the additional penalties at stake, often favors a decision to strike a quick compromise when possible and move on.

In addition to the Secretary's advantage of being staffed with a corps of specialized lawyers, paid by taxpayers, vs. the dearth of private attorneys experienced in handling such matters, there are many technical and procedural advantages favoring the government in citation contest proceedings.

Of course, OSHA infractions are a blemish on an employer's safety record. In addition to violations that carry penalties, which can run into six figures



per item, "Willful" and "Repeat" can impair an employer's ability to win contracts. So, too, can an accumulation of "Serious" infractions. Every employer likes to be perceived as safety conscious, and many business owners take citations very personally. It's flat out irksome to be slapped with a substantial monetary penalty due to a possible lapse on the part of one careless employee.

In my opinion the OSH Review Commission is no "kangaroo court," and its Administrative Law Judges are knowledgeable and conscientious. From reading hundreds of proceedings over the years, I find ALJs are generally reluctant to discount the testimony

of OSHA inspectors. Therefore, a defense based on legal grounds offers the respondent better chances than one that would require the ALJ to discredit the testimony of an OSHA compliance officer.

I believe the most fertile grounds for success in an OSHA contest proceeding are a thorough understanding of the elements of the Secretary's case, and close attention to the proof if the case goes to trial. If the attorney representing the employer is both attentive and well-prepared, an argument to the ALJ that the Secretary has failed to prove any element of his case by a preponderance of the competent and admissible evidence, will often win the day.

It sometimes comes as a surprise to an employer that the ALJ, where warranted, will vacate a citation, even where there was an injury (actually, an injury, even a fatality, is legally irrelevant) and despite the employer's conduct having been less than exemplary. However, the Secretary's failure to

prove even a necessary element of his case is probably the most common basis for citation items being vacated.

A striking example of this is the case of *Secretary v. George Weis Co.* The employer in that case was a family-owned

ALJs are generally reluctant to discount the testimony of OSHA inspectors. A defense based on legal grounds offers the respondent better chances than one that would require the ALJ to discredit the testimony of an OSHA compliance officer.

The employer was cited under 29 CFR 1926.502(b)(3) and timely contested the citation. The Secretary had the obligation to prove at trial four points: the applicability of the standard; that the standard was violated; employee access to the cited condition; and the employer's actual or constructive knowledge.

Following trial, the administrative law judge in his decision had no difficulty in finding that the standard applied, and that the employer had a duty to provide fall protection to the injured employee. Since the guardrail was the sole means of fall protection deployed, the ALJ found that both the top-rail and the mid-rail needed to satisfy the 200 pounds of force requirement.

Employee exposure was obvious, the ALJ ruled, as the injured employee had been working next to the guardrail for about two hours when the mishap took place. Plainly, given that the fall occurred upon the employee having grabbed the guardrail to support himself as he stood up, he was exposed to the allegedly defective condition.

The complainant had established constructive knowledge, the court also found, as (notwithstanding some inconsistent testimony on this issue) the respondent had failed to discharge its obligation to perform a "careful and critical examination" necessitated by the location of the work, the potential gravity of injury, and lack of any additional means of fall protection. The foreman's claim of having tugged and pulled on the rope, the ALJ found, was unconvincing and, in all events, insufficient.

Despite the foregoing, and while emphasizing that he was not finding that the employer had acted properly, the ALJ vacated the citation for lack of testimony or documentary evidence that a man of the injured worker's height and weight, performing the activities engaged in at the time of the accident, would not have imposed more than 200 pounds of force on one or more of the wire guardrails. The ALJ distinguished several cases cited by the Secretary, finding that in the case before him, unlike the cases cited, there was lacking "objective and patently obvious reasons" why the guardrail could not support the required force.

"This case," the ALJ concluded, "highlights the importance of the Complaint's

drywall, ceiling and plaster contractor, hired as a subcontractor on a hotel construction project in Missouri.

The employer had a two-man crew installing soffits underneath a sun deck about 26 feet above grade. The foreman installed the soffits from the bucket of an aerial lift located just below the sun deck, while the second worker knelt on the edge of the sun deck, just inside the wire rope guardrails, and handed materials to the foreman.

The worker on the roof, intending to rise to his feet, grabbed the mid-rail and pushed down, in order to support himself. The mid-rail gave way, and as it did so, the worker fell headfirst through both the mid-rail and top-rail onto the aerial lift. Although the worker, fortunately, did not plunge to the ground, he was badly injured when he tumbled into the bucket.

Subsequent inspection by OSHA showed that the c-clamps, which allowed the wire ropes to loop around the stanchions and clamp back onto themselves, had not been adequately tightened. The OSHA inspector determined that a contractor had removed the guardrails from the sun deck to deliver materials and failed to re-set them properly. Although the employer proffered testimony that it had inspected the guardrail, such inspection, if it occurred at all, was merely visual; neither the employer nor the general contractor, following the removal of the guardrail to allow the materials delivery, had physically tested it to ensure that it met the standard, which required that it be capable of withstanding a force of at least 200 pounds, applied within two inches of the top edge, in any outward or downward direction.

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Leaders Hail \$1.2-Trillion Infrastructure Act; Billion in New Projects Heading to Region

Continued from page 1

project in Orange and Sullivan counties, as well as the I-81 improvement project in Syracuse.

“Infrastructure is always a political winner,” said John Cooney, Jr., executive director of the Construction Industry Council of Westchester & Hudson Valley, Inc. “The \$1.2 trillion Bipartisan Infrastructure Legislation is a historic leap forward into the 21st century for the United States. This legislation recognizes the unparalleled legacy of the massive investments we have made in our nation’s transportation infrastructure over the past century. This infrastructure bill also allows us to tackle the enormous backlog of needs and repairs to critical facilities that protect and expand drinking water facilities and resources, that fortify our dams and make our communities safer from the ravages of catastrophic rain and wind storms and the flooding and damages they cause.”

He added, “We applaud President Biden, Senate Majority Leader Chuck Schumer, House Speaker Nancy Pelosi and all our supporting members of New York State’s delegation to U.S. Congress for standing strong and pressing forward for the plan, which will benefit all Americans.”

Mr. Cooney pledged CIC’s commitment to working with federal, state and regional leaders to apply for the additional funds available from the federal infrastructure bill that New York State can use to make needed improvements to public facilities and services in the Hudson Valley/Downstate region.

Other industry leaders also offered high praise for the much-needed infrastructure funding.

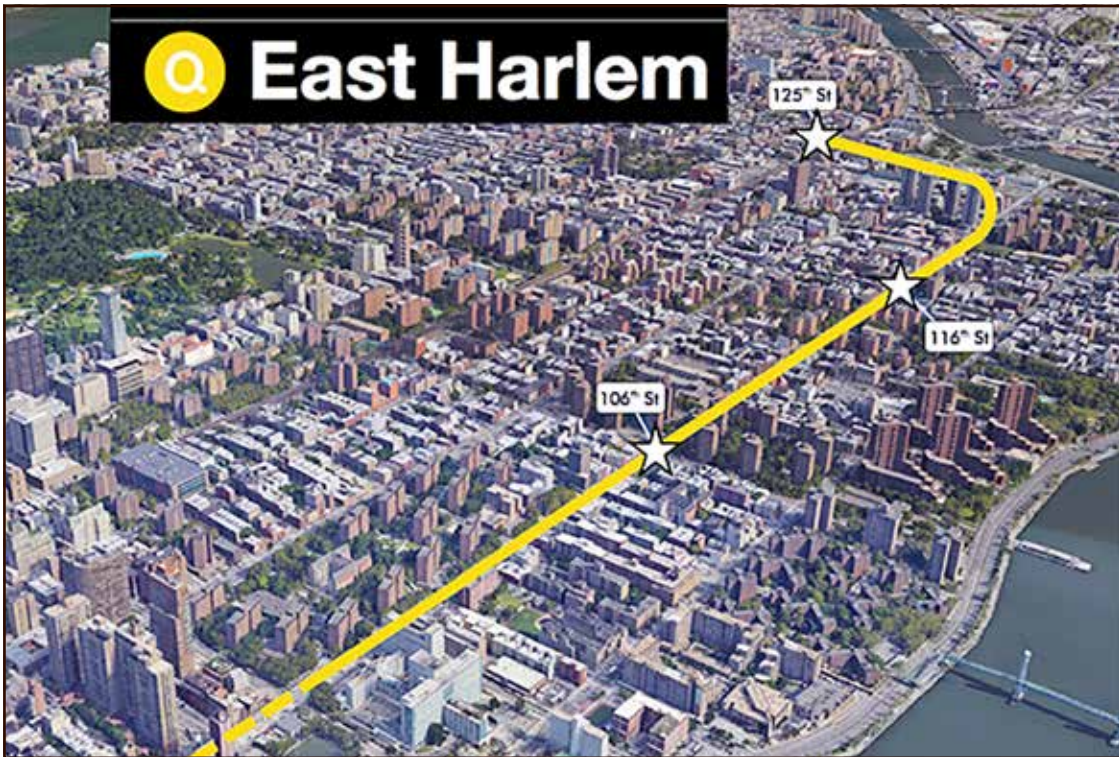
Marc Herbst, executive director of the Long Island Contractors’ Association, said, “Today is an historic day for New York. With President Biden’s signature, the \$1-trillion bi-partisan infrastructure bill will transform our state’s roads, bridges, and water infrastructure. The best part is this bill is also an investment in our people, creating good union jobs that will continue to lift our economy up off the mat. We applaud President Biden for guiding this bill through Congress and delivering on a key promise he made to the American people. Long Island and

the rest of New York are shovel ready.”

The Infrastructure Investment and Jobs Act Targets:

According to the Regional Plan Association and other sources, the federal infrastructure bill will provide:

- **\$13.5 Billion** – Fund additional highway and formula bridge aid in New York State;
- **\$12.5 Billion** – For a competitive bridge program that states and localities will vie for;



A rendering of the route of the second phase of the Second Avenue Subway project.

- **\$1 Billion** – For Reconnecting Communities Pilot Program in competitive grants for planning and projects to remove, retrofit, or mitigate existing highways that were built through neighborhoods and created a barrier to mobility and economic development;
- **\$7.5 Billion** – For the popular RAISE (Rebuilding American Infrastructure with Sustainability and Equity) grants, formerly known as BUILD or TIGER, to fund transportation projects of national and regional significance (funded in the bill over five years);
- **\$3.2 Billion** – For the INFRA (Infrastructure for Rebuilding America) grant program, another competitive program that funds transportation projects with a strong connection to improving freight operations;

- **\$3.5 Billion** – For additional funding for the MTA over the next five years, and about \$10 billion in total funding;
- **\$24 Billion** – Passenger and freight rail funding as federal-state partnership set-asides for Northeast Corridor modernization and \$6 billion in grants for the Northeast Corridor;

- **\$8 Billion** – For the region’s rail network is funding for the Capital Investment Grant Program as the possible funding sources for the Gateway Program projects;

- **\$1 Billion** – For airports, including approximately \$22.6 million for Westchester County Airport and approximately \$12.5 million for New York Stewart International Airport;

- **\$15 Billion** – Set aside support within the Drinking Water State Revolving Fund to replace lead service lines across the country, including communities across New York State;

- **\$100 Billion** – For broadband infrastructure projects nationwide.

Additional Clean Water Improvements

As part of the national program to protect and improve water infrastructure-related facilities and networks, a total of \$55 billion nationwide, New York State is expected to see \$2.6 billion for

projects in New York State. This Act seeks to address water contaminants, including replacing lead pipes and eliminating PFAS so that New York State can ensure communities have the clean drinking water they deserve. The bill includes: billions of dollars for the Drinking Water and Clean Water State Revolving Funds which provide below-market rate loans and grants to fund water infrastructure improvements.

Climate Change Initiatives

The Act includes: \$11.6 billion to the Army Corps of Engineers for flood control projects; \$700 million to the Federal Emergency Management Agency for buyouts and elevations; \$492 million to the National Oceanic and Atmospheric Administration to map and forecast inland flooding; and \$216 million to the Bureau of Indian Affairs for adaptation and resilience measures for tribal nations, including \$130 million for community relocation, the RPA stated.

In addition, the Department of Transportation will send states money to get highways out of areas prone to flooding and the Environmental Protection Agency will support communities in relocating drinking water infrastructure at risk of flooding and extreme weather. These investments will advance climate, environmental and public health goals nationally and within the lower Hudson Valley region.

Possible Funding For Route 17 Expansion

The New York State Department of Transportation is expected to release its PEL study on the expansion and make recommendations sometime this month. Preliminary cost estimates range between \$500 million to more than \$1 billion.

U.S. Rep. Sean Patrick Maloney (D-CD18) listed the Route 17 project at a press conference in Newburgh, NY on Nov. 8 as a highlighted project that is needed in the region. He referenced the Infrastructure Act’s \$13.5 billion that will go directly to New York State’s highways and bridges, and said that revamping Route



President Joe Biden signs the \$1.2-trillion Infrastructure Investment and Jobs Act as House Speaker Nancy Pelosi, Senate Majority Leader Charles Schumer and others in Congress show their support.

17 through Orange County is “a much-needed project that has been stalled for too long.”

“Route 17 can receive funding through the Infrastructure Investment and Jobs Act,” a spokesman for Rep. Maloney told CONSTRUCTION NEWS. “However, the law does not directly earmark funds to specific projects. It will be up to New York State to determine how to dedicate their funds from this legislation to projects like Route 17. However, as he has throughout the legislative process drafting the Infrastructure Investment and Jobs Act, Rep. Maloney will continue to fight for funding for critical projects and priorities here in the Hudson Valley.”

Next Up: ‘Build Back Better’ Act

Finally, in what could be another major boost for the construction sector, Congress passed on Nov. 19 by a



With billions of dollars in new federal aid coming, the MTA will avert the “fiscal tsunami” it forecasted just one year ago that threatened massive layoffs, service cuts and disruptions to maintenance and repairs.

220-213 vote the controversial “Build Back Better” Act. The measure now goes to the Senate, where it will likely be changed. The House version includes:

- **\$555 Billion** – For clean energy and climate investments;
- **\$150 Billion** – For housing among a host of social

funding expenditures.

- **\$65 Billion** – To repair and preserve public housing;
- **\$35 Billion** – To build and preserve affordable housing;
- **\$25 Billion** – In rental assistance for those in need;
- **\$10 Billion** – In down payment assistance for first-time homebuyers;
- **\$6.5 Billion** – To address health hazards, including lead remediation;
- **\$2.45 Billion** – To address fair housing and zoning reform.

This BBB wishlist, paid for with likely tax increases to uberwealthy taxpayers and a corporate rate hike, now sits at nearly \$850 billion.

There was certainly lots of drama, suspense—and reward—in the months leading up to the final Congressional vote on Nov. 5 on the \$1.2 trillion infrastructure package. Stay tuned for how this new one plays out!



A map of the new Metro North Stations to be developed as part of the Penn Access project.



Business and political leaders are hopeful New York State can tap some federal funding for the planned expansion of Route 17 in Orange and Sullivan counties.



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From left, John Cooney, Jr., executive director of the Construction Industry Council of Westchester & Hudson Valley Inc. of Tarrytown, Westchester County Executive George Latimer and President and Principal Officer of Teamsters Local 456 Louis A. Picani.

County Partners With Building Trades, CIC

Standing next to the construction at Playland Park in Rye, Westchester County Executive George Latimer announced at a press conference on Oct. 26 the success of the county's partnership with Westchester Building Trades and the Construction Industry Council. Over the past four years, Latimer's administration has budgeted the largest amount of money for Capital Projects than any previous administration, and has many proposed projects in the pipeline for 2022.

By solidifying a strong relationship with labor unions and the construction industry, the county has created a bigger, better workforce of skilled union workers, developed greater job opportunities for union workers, lifted the state bonding cap and seen many developments come to completion in Westchester, the County Executive noted.

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Smaller Penn Station Improvement Project Envisioned

NEW YORK—In early November New York Gov. Kathy Hochul unveiled a smaller vision compared to her predecessor for a new Penn Station, but one that is also designed to help revitalize the surrounding neighborhood.

The new plan reduces 1.4 million sq. ft. the amount of space that is to be developed. The plan also calls for the reconstruction of the existing Penn Station to accelerate, given that 60% of those using the facility are subway and LIRR riders.

The new neighborhood plan comes after several months of collaboration and more than 100 meetings with community stakeholders, government agencies and elected officials. The plan will also be subject to further public review and is part of a larger public process that remains ongoing, state officials said.

“I’m reimagining the New York City commuter experience; New Yorkers do not deserve what they have been subjected to for decades at Penn Station,” the governor said.

The current Penn Station—the Western Hemisphere’s busiest transit hub—serves more passengers than LaGuardia, John F. Kennedy and Newark Airports. The relocation of Amtrak’s operations to the new Moynihan Train Hall provides the opportunity to overhaul Penn Station, eliminating the bulk of the first subterranean level to open up the main concourse to natural light, improving retail and other user amenities, increasing safety and security, significantly expanding passenger circulation areas, expanding entrances and exits, and making it easier for passengers to navigate within the station as well as connect to their destinations beyond. The reconstruction of the station is expected to cost up to \$7 billion, and will take up to five years to complete after construction begins.

In terms of the surrounding development, which will help fund the project, the governor said the new proposal still achieves the necessary revenues while notably scaling down the previous plan. The new plan includes recommendations from the Community Advisory Committee Working Group (CACWG), which worked in consultation with Empire State Development, the Metropolitan Transportation Authority, Amtrak and NJ Transit. The CACWG will continue to inform the plan through its build-out. The governor is directing the MTA to actively engage community stakeholders, transit, sustainability and planning experts as well as users of Penn Station from across the region.

Reimagining the station is intended to create equitable transit access and spur economic development. This will be particularly beneficial for future riders of the proposed Metro-North stations in the East Bronx (Co-op City, Morris Park, Parkchester, and Hunts Point), for whom travel



Gov. Kathy Hochul’s new plan for Penn Station could cost as much as \$7 billion.

times to and from Midtown will be reduced by up to 50 minutes with the Penn Access.

Key features of the new proposal include:

New, World-Class Train Facility. Creates a single level, double-height train hall that doubles passenger circulation space on the new public level from approximately 123,000

square feet to approximately 250,000 square feet and eliminates the congested, cramped and crowded passageways in existing Penn Station.

The plan also includes a 450-foot-long sunlit train hall that is the size of Moynihan’s and Grand Central’s halls combined; simplifies navigation; creates clear sight lines to exits

and entrances and adds 18 more escalators or stairs and 11 more elevators to platforms.

Reduced Density. Shaves off 1.4 million square feet of development from the previous plan and decreases heights for proposed buildings. The plan also provides new design controls to protect views of the Empire State Building along 33rd Street.

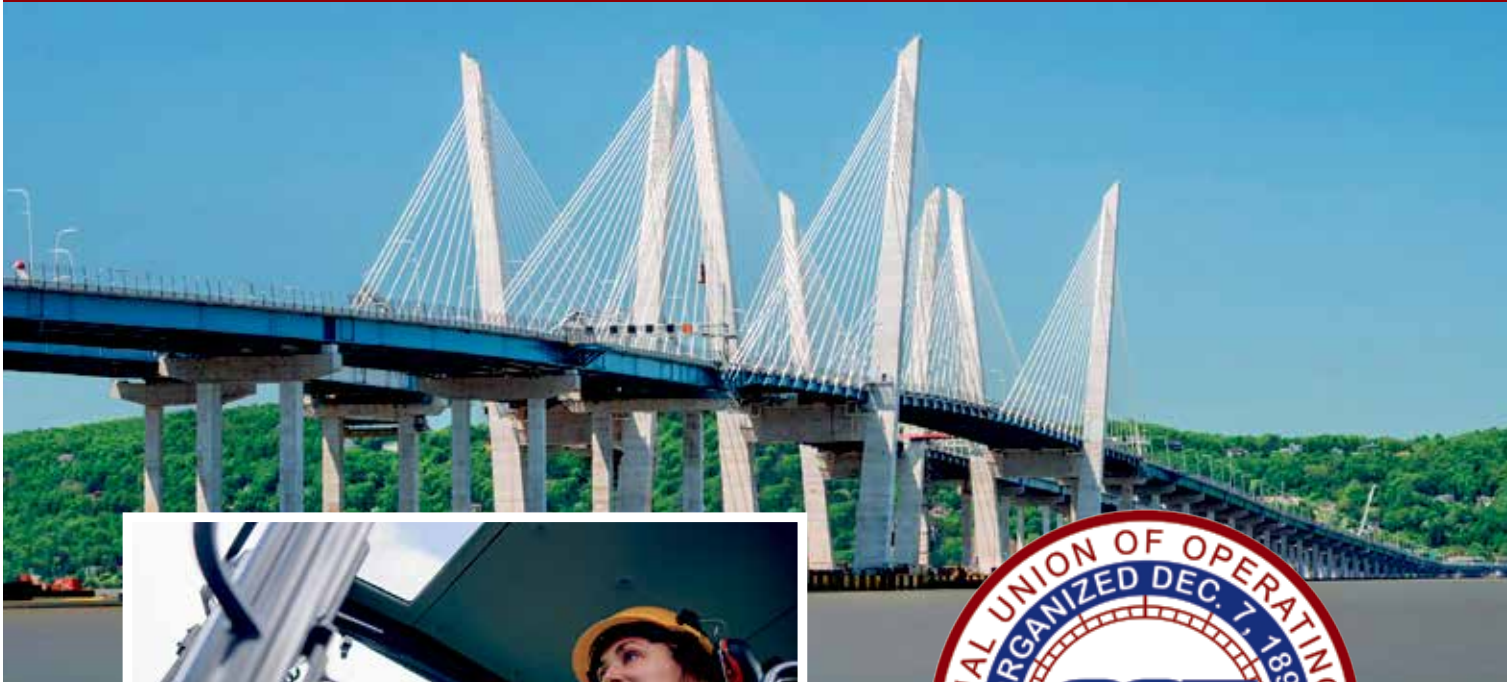
Public Realm and Social Services. Adds eight acres of public space, including a 30,000-square foot plaza comparable in size to Rockefeller Plaza and mandates public space set-asides on each building site.

Creates a Public Realm Task Force. Comprised of community leaders and stakeholders, the group will develop a plan of prioritized public realm improvements, to be funded by a Public Realm Fund, with initial revenue from redevelopment being dedicated to this fund. It also requires community facility spaces that will prioritize much-needed social services for the neighborhood, with a particular focus on New Yorkers experiencing homelessness and creates underground loading/unloading for Madison Square Garden, taking trucks off the street.

Affordable Housing. Allows up to 1,800 residential units, of which 540 would be permanently

Please turn to page 17

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WHAT'S NEW & WHO'S NEWS

Two Westchester Engineering Firms Merge

WHITE PLAINS—Two well-known Westchester planning and engineering firms who provide land use and project design services for many development projects in Westchester County and the New York metro and Hudson Valley regions have joined forces.

Divney Tung Schwalbe, a White Plains-based planning, civil engineering and landscape architectural firm, and Provident Design Engineering, a traffic, transportation and civil engineering firm based in Hawthorne, NY, have formed DTS Provident Design Engineering, LLP. The merger went into effect on Nov. 1. The firm's headquarters will be at 1 North Broadway in White Plains where DTS has been located.

"We have known each other and worked on the same project teams since the 1990s," said Andrew Tung who, along



From left, Andrew V. Tung, ASLA, Esq., LEED AP; Gerhard M. Schwalbe, P.E.; Charles 'Carlito' Holt, P.E., PTOE and Brian Dempsey, P.E., PTOE, RSP1.

with Jerry Schwalbe, are the principals of their firm, which is celebrating its 50th anniversary. "We take a very similar approach to our clients with a focus on service and bringing an in-depth knowledge of the municipalities and counties in which we work. We are both locally founded and based, and we believe that makes a difference in today's regulatory environment."

Charles 'Carlito' Holt, managing partner of Provident, who has joined the new entity with Partner Brian Dempsey, added the firms are a good fit: "Our approaches are the same."

DTS has worked predominantly with the private sector, helping guide its clients through the often lengthy and complex approval processes including Edge-On-Hudson, the redevelopment of the former

General Motors site in Sleepy Hollow, and the creation of Chappaqua Crossing on the site of the former Reader's Digest campus in the Town of New Castle. Among its other current projects are the conversion of a former office building site to multi-family residential use at 3 Westchester Park Drive in the Town of Harrison, and the development of the Broadview Senior Living complex on the SUNY Purchase campus in Purchase.

Provident's clients are split 60-40 between the private and public sectors. Among its recent high-profile projects are representing the Town of Goshen in Orange County in its review of LEGOLAND New York on Route 17, and the Town of Mount Pleasant in its review of the \$3-billion North 60 bioscience complex planned for the "North 60" site adjacent to the

Westchester Medical Center in Valhalla. Its current projects include a traffic review study for the planned redevelopment of the United Hospital site in Port Chester, NY and the upgrade of 40 traffic signals and associated roadway improvements in New Rochelle, NY.

DTS services include land planning and approvals, site and civil engineering, landscape architecture, and project management. Provident, whose principals previously worked for Raymond Keyes Associates (RKA) and TRC Engineers which acquired RKA, provides similar site/civil services, as well as transportation planning and traffic engineering services for municipalities, public agencies and private developers. RKA also had deep roots in the county, having served clients within the metropolitan area since 1957.



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Nivardo Lopez
Deputy Sec. of NYS DOT

Lopez Named Deputy Sec. of Transportation

ALBANY—New York Gov. Kathy Hochul recently announced that Nivardo Lopez has been appointed Deputy Secretary for Transportation.

Most recently, Mr. Lopez served as Bronx Borough Commissioner for the New York City Department of Transportation (NYCDOT). In that role, Mr. Lopez advised the commissioner on all policy issues affecting transportation in the Bronx and worked with the various divisions within the agency to ensure effective service delivery in the Bronx.

Mr. Lopez joined NYCDOT in 2014, as the Director of Legislative Affairs, responsible for developing the agency's legislative agenda. During his tenure he helped to secure the passage of a local law increasing the yearly amount of Accessible Pedestrians Signal installation and on state legislation expanding the Bus Lane Camera Enforcement Program. Prior to working for NYCDOT, Mr. Lopez worked for Comptroller Scott Stringer as Director of City Legislative Affairs and also for the Bloomberg Administration as the Bronx

Please turn to page 22

Call for Downstate Casino Licenses Grows Louder Continued from page 4

If the process does move forward, it could be assumed that a Request for Proposals could be issued in mid-2022 and an award sometime thereafter. It should be noted that the state's gaming law bans the award of downstate casino licenses until 2023. The measure was intended to allow the upstate casinos to establish a client base before they faced competition from downstate facilities.

"From a business standpoint, from a local government standpoint, this is a no brainer," said Westchester County Executive George Latimer, adding, "You have here already the infrastructure for the most successful casino you could imagine."

Yonkers Mayor Mike Spano said, "Enough is enough. We don't need to wait. We know that this will bring in hundreds of millions of dollars in revenue and thousands of jobs to this region."

"This is not the circus that comes to town and picks up and leaves," noted Mount Vernon Mayor Shawyn Patterson-Howard, adding "This is ten thousand jobs here to stay."

"I can't think of a project more deserving of our collective attention than getting full gaming right now, this year for Yonkers and for downstate," said State Sen. Shelley Mayer. "We in the Senate majority under the leadership of Andrea Stewart-Cousins are totally committed to getting this done this year, no question, no excuses, no delay."

"This is a renaissance moment for not only my city of Yonkers, but all of Westchester and the Bronx, and really the region," said Assemblymember Nader Sayegh. "Let's keep the revenue right here in New York State."

"We need to come back big-

ger, stronger, better, and that's what this investment can do," stated Assemblymember Nathalia Fernandez, a member of the Bronx delegation. "I really hope the Governor is on board, because if not, she's going to hear from all of us, especially in the Bronx."

Community groups also showed their support for the

ter. Citing local support for the full casino license, Ravitz noted "Westchester, the Bronx, and all of the downstate region are urging Albany to work quickly. Downstate can't wait."

Highlighting the broader economic effects of a full-scale license for Empire City, Lisa Sorin, Alliance co-chair and President of the Bronx Chamber

nizations from Westchester and the Bronx who support the creation of thousands of new, family-sustaining union jobs for local families.

Attendees stressed the importance of Albany prioritizing meaningful relief and sustainable job growth for a region severely impacted by the COVID-19 recession. Al-

New Bronx Chamber of Commerce; and Henry Wilson, Executive Director of Y-COP.

Also in attendance were representatives for NYS Senate Leader Andrea Stewart Cousins and Yonkers City Council Member Shanae Williams.

Members of the Alliance also attended to show their support, including John Cooney, Jr, Executive Director, Construction Industry Council of Westchester and Hudson Valley Inc.; Carlos Laboy, COO of the Municipal Housing Authority of Yonkers; Henry Djonbalaj, President, McLean Avenue Merchant Association; Carmen Goldberg, Advisor, 100 Hispanic Women of Westchester; Millie Becker, President, Skyqueen Enterprises; Kenneth Plummer, President, Kenworth Consulting; Richard McSpeddon, Vice President, LOCAL 3 IBEW / Westchester Central Labor Body; Florence McCue, Yonkers Federation of Teachers; Stacey Thompson, President, Tompkins Excavating; Dwayne Norris, Co-founder & COO, Soulful Synergy; Douglas Singer, Managing Member, Singer Law PLLC; Olga Luz Tirado, Executive Director, Bronx Tourism Council, and Jodie Reaver of SWAC-PAC.

The Alliance currently has more than 70 members, and it continues to grow.

A Sure Bet for New York's Future is an Alliance of businesses, community organizations, labor groups, and other local groups who are calling on Albany to introduce a process and timeline to quickly award downstate full-gaming commercial casino licenses to create thousands of new jobs New Yorkers need, create billions in economic impact, and help revitalize our communities.

"This is not the circus that comes to town and picks up and leaves. This is ten thousand jobs here to stay."

—City of Mount Vernon Mayor Shawyn Patterson-Howard

project, which they say will have far-reaching benefits to the local community.

"Returning parents back to work is one of the city's highest goals so we don't have to rely on staying home," said Henry Wilson, alliance co-chair and executive director of Youth Community Outreach Program. "I strongly support this effort, the board of directors of the Mount Vernon YCOP strongly supports this effort, and many of my colleagues and all the friends and parents support this effort."

Local leaders also underscored the importance of the long-term investment that a full-scale commercial casino license at Empire City represents.

"This could be a huge, game-changing incubator for workforce development like we've never seen before," said John Ravitz, Alliance co-chair and Vice President and COO of the Business Council of Westches-

ter of Commerce said, "We keep talking about the jobs, which are so critical, but we're also looking at businesses that will be supported by this; minority-owned businesses, small mom and pop shops, construction work, everything that's needed to build something like this."

"Ten thousand jobs in this economy is definitely a sure bet to help the Bronx's economy, Westchester's economy, and the state's economy," stated Marlene Citron, Alliance co-chair and President of Bronx Overall Economic Development Corp. Emphasizing the urgent need for the casino licensing process to move forward, she added, "There are a lot of jobs that were lost during COVID that are not coming back. So, we need these jobs, and we need to ensure that this casino be brought here so that all of us can win."

The Alliance includes more than 70 business, labor, non-profit and community orga-

liance members repeatedly highlighted the overwhelming community support for Empire City to be able to apply for and receive a full gaming license.

The press conference featured remarks from Yonkers Mayor Mike Spano, Westchester County Executive George Latimer, NYS Senator Shelley Mayer, Assembly Members Nader Sayegh, J. Gary Pretlow, Nathalia Fernandez, and Steve Otis, Mount Vernon Mayor Shawyn Patterson Howard, Yonkers City Council Members John Rubbo, Mike Breen and Tasha Diaz, along with the founding co-chairs of "A Sure Bet for New York's Future", co-chairs John Ravitz, Vice President and COO of the Business Council of Westchester; Thomas Carey, President of Westchester Putnam Central Labor Body; Marlene Cintron, President of Bronx Overall Economic Development Corp; Lisa Sorin, President of The

Smaller Penn Station Improvement Project Envisioned Continued from page 15

affordable and mandates one building as residential, which will include 162 permanently affordable units—more than the entire number of residences that would be displaced if the southern expansion of Penn Station occurs.

Public Transit Access and Shared Streets. Expands new underground corridors to the Sixth Avenue IND line, allowing users of the 34th Street Herald Square Station (B, F, M, N, R, W lines) seamless access to Penn Station and nearly doubles the existing entrances to Penn Station from 12 to 20, and requires developers to add additional

subway entrances and exits directly to and from buildings, ultimately reducing density and congestion at over-crowded entrances. In addition, the plan widens sidewalks throughout the neighborhood and recommends that 31st, 32nd and 33rd streets become shared streets that prioritize pedestrians. It also adds protected bike lanes and greatly expands bike parking while reducing vehicular parking.

Pedestrian-Friendly Streetscape. The proposal limits the size of new building commercial lobbies and requires that 40% of every building front-

age is an "active use" such as retail and community facilities.

Janno Lieber, MTA acting chair and CEO, said of the new proposal, "Penn Station is the busiest transportation facility in the city, with six subway lines, countless bus routes, and soon four railroads, and we've been waiting generations for Penn Station to be upgraded."

Assemblymember Amy Paulin, chair of the New York State Assembly Committee on Corporations, Authorities, and Commissions, said, "Public transportation is essential to the lives and livelihoods of our region's residents and economy. A renovation of Penn Station would give a significant quality-of-life benefit to the over 500,000 commuters to New York City including Metro-North riders when Penn Station Access is completed. It would also support reverse commuters, benefitting New York's job market and economy. The way to build up and maintain ridership is to transform major hubs like Penn Station to serve customer needs beyond catching the train."



Gov. Kathy Hochul's plan reduces the scope of the Penn Station project by approximately 1.4 million square feet.



A rendering of the improved Penn Station.

Safety Watch

Continued from page 10
burden of proof, and the distinction between failing to prove a violation and whether a violation, in fact, existed." The employer in Weis "failed to take appropriate steps to ensure its employees were not exposed to hazardous conditions," but while it was likely, even probable, that the guardrail could not have met the specific terms of the

standard, the Secretary failed to prove it, wherefore the citation had to be vacated.

About the author: Geoffrey S. Pope, an attorney, 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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Financial Management

Flight to Quality in Class A Office Market Prioritizes Technology, Amenities

By PHILLIP ROSS, CPA, CGMA, PARTNER

Typically, commercial office buildings are separated into three classes: A, B and C, based on a combination of factors that indicate the building's competitive ability in the tenant market. Until recently, owners of these buildings generally did not take a particularly active hand in the buildout of individual tenant spaces, essentially offering MEP infrastructure and retail spaces on the ground floor while occupiers received a space to build their individual workplaces.

However, in recent years, the emergence of Class A+ or trophy-class buildings is changing the way owners and tenants envision the commercial leasing dynamic. It's impacting the projects that contractors are delivering, from new ground-up projects to commercial fit-out opportunities.

The appeal for owners in delivering Class A+ spaces is that they can maximize the price per square footage of their buildings, while also seeing ROI on cost efficiencies gained through smart, Internet of Things technology and carbon reduction. For tenants, there is increasing appeal in flex offices, flexible leasing, better connectivity and cybersecurity, lifestyle amenities and improved energy efficiency, as well as the cobranding opportunities that being in a trophy building can bring. However, amid the pandemic's office downturn, the power dynamic in the office market has shifted to tenants, which is also driving this issue.

For construction firms looking to win commercial work in 2022 and beyond it means understanding that connectivity in projects is paramount, as is the ability to deliver high-grade technological infrastructure and sustainable building practices. Additionally, more buildings are incorporating big data into building strategies, starting from the design process. That means construction firms must collaborate with firms such as Willow to capture every quantifiable aspect of a building project. Showing technological proficiency can be a differentiator in winning work.

Similarly, leveraging your firm's diversified verticals can be an asset, as the blending of live-work-play means that many of these projects are incorporating more ambitious retail, dining, hospitality and entertainment components. Here are some things to consider when bidding on new, forward-thinking commercial office projects:

Be Collaborative

Commercial buildings are increasingly an exercise in branding, and distinctive elements are becoming the norm—



such as the observation deck at Hudson Yards or the rooftop experience at One Vanderbilt. These aspects that offer tenants, visitors and skyline viewers a wow factor can also bring major construction and engineering challenges. Construction firms competing for these projects must prove they have the experience and the collaborative diplomacy to navigate designs that may be near-and-dear to an owner or designer's heart. Additionally, distinctive designs for the top of the building can account for upward of five percent of the construction budget. In a word, these are a major investment.

Show Diversification

Elite amenities are a significant factor in the competitive environment for attracting tenants to trophy buildings—especially as more owners are bringing more of a hospitality approach to office “amenitization.” Owners increasingly want offices to feel like luxury hotels and this involves diversified aspects of buildings as they incorporate more dining, gyms, lounges, conference centers, hotels, entertainment venues and arts and cultural attractions into business as usual. Showing that you have the project personnel, from project executives to project managers, with experience on a wide range of asset types can be a major bonus for a construction company.

Similarly, with the rise of flex working brands like WeWork and Industrious, many owners are delivering their own flex brands (such as Tishman Speyer's Studio). More owners are also building turnkey spaces—i.e. offices that are move-in ready—with significant footprints. This is a value-add opportunity for ground-up contractors, and it offers new kinds of fit-out opportunities for specialty contractors.

This is an evolution of the open office or team-based office that started to dominate the pre-pandemic market. Now contractors need to deliver new kinds of spaces designed to minimize frictions—from move-in through the life of multiple leases, meaning the project delivery needs to be built

to ambitious specifications for the long term.

Incorporate Technology

A big part of the new frictionless office is technology. MEP engineers and the construction firms that collaborate with them have a harder job than ever in delivering the physical infrastructure to support fiber optics, extensive wireless connectivity and a range of sensors, monitors and other hardware pieces of the vast IoT networks that go into smart buildings. Ensuring your construction firm is well-versed in the technologies owners and tenants want is crucial.

In the same vein, showing digital fluency and innovation in the ways your own firm incorporates construction technology goes a long way in instilling confidence that your project will itself be smart, sustainable, on-time and on-budget. From industry standards like BIM, drones and VR to more cutting-edge solutions like digital twins and augmented

reality, owners want to see that their contractors are embracing new and more efficient (i.e. more cost effective and safe) ways of

ing fluency and a collaborative approach to technology really does touch every aspect of how your firm can present itself.

Be Sustainable

Just as sustainability is a cornerstone of the modern luxury resident or hospitality experience, trophy-class buildings tout their own ecological stewardship to win tenants and accolades—especially now with Local Law 97. This starts with the construction project. Showing a robust sustainability record and commitment to sustainable sourcing, waste, ground water and energy usage, as

well as ensuring everything is always up to code and will maintain high performance and safety for the life of the building, are all major decision points in bidding on Class A+ work, whether it's the ground up project or later fit-out work. Additionally, with air quality becoming a long-term post-pandemic concern, high-performing HVAC technology that is also sustainable is a

Please turn to page 22

Owners increasingly want offices to feel like luxury hotels and this involves diversified aspects of buildings as they incorporate more dining, gyms, lounges, conference centers, hotels, entertainment venues and arts and cultural attractions into business as usual.

working. This is a great way to add further value to work done that could qualify for the Research & Development Tax Credit, available to A/E/C industry companies that design, develop or improve products, processes, methods, techniques, or materials.

What's more, many of these trophy-class offices work from the ground up with big data, turning the buildings themselves into digital assets. Show-



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From left, State Assemblywoman Amy Paulin, Metro North President Catherine Rinaldi and State Senator Andrea Stewart-Cousins.

\$95-Million Renewal Lifts Services at White Plains Metro-North Station

WHITE PLAINS—A host of state, city and agency officials gathered on Nov. 1 to celebrate what \$95 million can mean for the renewal of MTA Metro-North Railroad’s station in Downtown White Plains. The renovation began in 2018 as part of Metro-North’s Station Improvement Initiative to create a more customer friendly atmosphere for commuters.

The top-to-bottom station transformation included a refurbishment of the station’s main entrance at the station plaza, the Main Street entrance, the Hamilton Avenue entrance, and the Mott Street tunnel. The station was remodeled to bring an updated, modern aesthetic to the station, including updated signage, glass entrances, wood soffits, a widened main lobby, improved lighting and upgraded HVAC system. The side and island platforms were extended to increase capacity as more commuters return to the system.

Crews installed a new elevator that is fully compliant with the Americans with Disabilities Act. The elevator leads from the main lobby to a side platform generally used for northbound arrivals. The project included construction of new staircases with an automatic system to melt snow and ice as it falls, helping to prevent slippery surfaces during the inclement weather. Crews also installed new platform canopies with wood ceilings, and LED lighting to match the upgraded aesthetic of the main lobby.

The waiting room on the island platform was remodeled with expanded space, glass-enclosures with new interior station wall panels, wood ceiling and fixtures. The ticket office, restrooms and concession spaces were

also remodeled to fit the station’s new feel. Digital screens were installed in addition to better heating and cooling control so commuters can comfortably wait for their trains.

White Plains station is the third largest Metro-North station, serving more than 12,000 commuters on a pre-pandemic weekday, trailing only Stamford, CT and Grand Central Terminal. Similar to the Stamford station on the New Haven Line, the White Plains station is a hub station for Harlem Line commuters, providing express and local service. In addition to local and express connections, the station is also a hub for bus connections, with approximately 3,000 bus transfers per day in pre-pandemic times.

White Plains Mayor Tom Roach congratulated Metro-North and its president, Catherine Rinaldi, on the completion of the upgrades to the White Plains station, which is one of the busiest in the Metro-North system.

The project was part of Metro-North’s Station Improvement Initiative, funded by the MTA’s 2015-2019 and 2020-2024 Capital Programs, and in concert with Metro-North’s Way Ahead plan to enhance customer experience. The objective of this Station Improvement Initiative is to transform and elevate the overall customer experience by bringing world-class standards, with a focus on improving public perception through the introduction of new technology and design innovation.

The Design Build Team on the White Plains Metro North project was Arup/Halmar International. The Project Management and Construction Management team was MNR BU, while the third party consultant was AECOM.



Danskammer Energy Plant, Newburgh, NY.
Photo Credit: SCENIC HUDSON

Danskammer Energy Plant Denied State DEC Permit

By JOHN JORDAN

ALBANY—The New York State Department of Environmental Conservation announced on Oct. 27 that it had denied key air permits for the \$500-million Danskammer Energy Center project in Newburgh, NY and the Astoria Gas Turbine Power project in Queens.

The two projects were widely supported by business and labor sectors, but were opposed by environmental groups and some politicians. After receiving more than 4,500 public comments on the project, the DEC denied the required Title V air permit for the Danskammer Energy Center in the Town of Newburgh in Orange County.

In a prepared statement, DEC Commissioner Basil Seggos said, “Our review determined the proposed project does not demonstrate compliance with the requirements of the Climate Leadership and Community Protection Act. The proposed project would be inconsistent with or would interfere with the statewide greenhouse gas emissions limits established in the Climate Act. Danskammer failed to demonstrate the need or justification for the proposed project notwithstanding this inconsistency.”

In the department’s 14-page decision, Daniel Whitehead, director, division of environmental permits for the DEC, stated that Danskammer has the right to request an administrative adjudicatory hearing regarding the denial of its Title V Application. If Danskammer wishes for such a hearing to be held, it must submit a request in writing within 30 days.

The Danskammer Energy project, which had been valued at \$500 million, was in the Article 10 process before the New York State Board on Electric Generation Siting and the Environment. Earlier this year it received a major endorsement from the New York State AFL-CIO. The proposed project would convert the aging Danskammer plant into a 535-megawatt energy facility. The project cannot move forward without the Title V air permit.

The project was opposed by many politicians and environmental groups. New York Gov. Kathy Hochul said of the DEC denials of the Danskammer and Astoria Gas Turbine projects, “I applaud the Department of Environmental Conservation’s decisions to deny the Title V permits for the Danskammer Energy Center and Astoria Gas Turbine Power, LLC in the context of our state’s clean energy transition. Climate change is the greatest challenge of our time, and we owe it to future generations to meet our nation-leading climate and emissions reduction goals.”

Representatives of Danskammer Energy could not be reached for comment at press time.

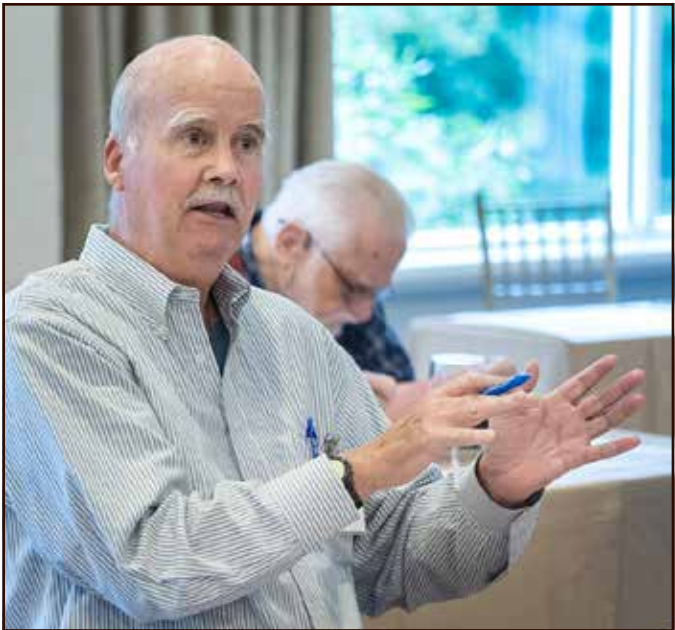
The Astoria Gas Turbine project is being proposed by a subsidiary of NRG Energy. The project is expected to replace 50-year old power generators in 2023 with state-of-the-art technology reducing the total generating capability of the site and lowering on-site peak air emission rates by up to 99% per hour. A recent study showed the project would create 510 jobs per year during construction, 73 jobs per year during operations, and contribute more than \$325 million into New York’s economy through 2040. Like the Danskammer project, the Astoria Gas Turbine project cannot move forward without the state Title V air permit.

STRONG UNIONS BUILD STRONG COMMUNITIES

Heavy Construction Laborers Local 60 Hawthorne, NY	Operating Engineers Local 15D Long Island City, NY	Laborers Local 17 Newburgh, NY
Teamsters Local 456 Elmsford, NY	Building Laborers Local 235 Elmsford, NY	Ironworkers Local 417 Wallkill, NY
Operating Engineers Local 137 Briarcliff Manor, NY	Carpenters Local 279 Hopewell Junction, NY	Ironworkers Local 40 New York, NY

Construction NEWS

PHOTO GALLERY



Michael McBride, P.E.



Guest speaker William Lyons III of the Euclid Chemical Co.

11th Annual CAI Seminar For P.E.s Draws Dozens for CPE Credits

TARRYTOWN, NY—The eleventh annual program entitled “Construction Solutions for Engineering Designs” for professional engineers was held on Oct. 6 at Abigail Kirsch/Tappan Hill Mansion here. The program earned the enrolled P.E.s a total of six professional continuing-education credits, according to Mark Fante, chairman of the Construction Advancement Institute of Westchester & The Mid-Hudson Region, Inc., which presented the program.

Attendees earned the professional development/HSW hours from the American Institute of Architects (AIA), and those health safety welfare credits are also recognized by the New York State Department of Education for P.E.s, added Mr. Fante, who is vice president of Darante Construction Inc.

The guest experts presenting at the pro-

gram covered a range of topics, including concrete, groundwater, foundations, legal matters and fireproofing. They were:

Modern Concrete Repair Technology – William Lyons III, F.A.C.I., who is National Business Development Manager, North East of The Euclid Chemical Company;

Reducing Engineering Liabilities – Thomas H. Welby, Esq., P.E., of the law firm Welby, Brady & Greenblatt, LLP;

3-D modeling and Steel Design – Michael J. Squarzini, P.E., who is Co-CEO of the engineering firm Thornton Tomasetti;

Subsurface Exploration for Foundation Design & Construction – Alfred H. Brand, P.E., D.G.E., who is Technical Specialist at Mueser Rutledge Consulting Engineers;

Construction Dewatering – Matthew Cichetti, P.E., Principal, Cichetti Engineering/Earth Construction Services; and,

Building Compartmentalization Utilizing Fire-Resistive Materials – Jonathan B. Wohl, principal of Wohl Diversified Services.

A new program is now being planned for mid-2022. For more information and registration, contact CAI Program Manager Laurel Brunelle at (914) 631-1033 or laurel@bcany.org.



Attendee Beth Wittig, P.E., educator and consulting engineer



From left, attendees Altin Batska, P.E., of Batska Consulting Group and Vincent Masucci, P.E.



Attendee Amr Hafez, P.E., of AMR Engineering Consulting P.C.



Guest speaker Tom Welby, Esq., P.E., raised issues of E&O insurance and liabilities.



From left, guest speaker Matthew Cichetti, P.E., of Cichetti Engineering/Earth Construction Services; program manager Laurel Brunelle of the Construction Advancement Institute; guest speaker Thomas H. Welby, Esq., P.E., of the law firm Welby, Brady & Greenblatt, LLP; Alfred H. Brand, P.E., D.G.E., of Mueser Rutledge Consulting Engineers; Michael J. Squarzini, P.E., of Thornton Tomasetti; William Lyons III, F.A.C.I., of The Euclid Chemical Company; and Moderator George Drapeau of the sponsor, the Building Contractors Association of Westchester & The Mid-Hudson Region. (Not pictured, guest speaker Jonathan B. Wohl of Wohl Diversified Services.)



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LOW BIDS

NYS DOT Awards 10 Contracts For Work in Downstate and H.V.

ALBANY—The New York State Department of Transportation has announced the selection of 10 apparent low bidders for work in the New York City and Hudson Valley regions.

Yonkers Contracting Company, Inc., of Yonkers, NY was the lowest of four bidders at \$17,511,000. for Interstate 84 paving between the Bowden Road overpass to Connecticut state line in Dutchess and Putnam counties.

Argenio Brothers Inc. of New Windsor, NY was the lowest of five bidders at \$3,877,877.00 for paving on Route 218, West Point Highway, and Old State Road in the Village of Highland Falls and Town of Highlands in Orange County.

DeFoe Corp. of Mount Vernon, NY was the lowest of six bidders at \$22,782,601.90 for bridge replacement of Hospital Road over NY Route 27 in the Town of Brookhaven in Suffolk County.

Tully Construction Company Inc. of Flushing, NY was the lowest of five bidders at \$43,631,805.00 for pavement resurfacing on I-495 in the towns of Brookhaven & Islip in Suffolk County.

Tully Construction Company Inc. of Flushing, NY was the lowest of five bidders at \$41,085,911.50 for 11.36 miles pavement milling and resurfacing, I-495 in the towns of Huntington, Smithtown and Islip in Suffolk County.

Callanan Industries Inc., of Albany, NY was the lowest of three bidders at \$7,846,906.04 for paving project: Routes 32, 199 and 209 in the Town of Ulster in Ulster County.

Perfetto Contracting Company Inc. of Brooklyn, NY was the lowest of 17 bidders at \$29,512,900. for ramp reconfiguration at the I-95/Pelham Parkway Interchange and construct new exit ramp from Hutchinson River Parkway to Bartow Avenue in Bronx County.

DiFazio Industries LLC of Staten Island, NY was the lowest of 14 bidders at \$26,864,770.75 for bridge rehabilitation of Woolley Ave. and Bradley Ave. over the Staten Island Expressway in Staten Island.

Constar Inc. of Central Islip, NY was the lowest of four bidders at \$3,647,100.00 for bridge cleaning contract NYSDOT Region 10 in Nassau and Suffolk counties.

E.J. Electric Installation Co. of Long Island City, NY was the lower of two bids at \$7,095,000.00 for ITS Field Network System Maintenance and Support throughout New York City in Bronx, Kings, New York, Queens and Richmond counties.

Gianfia Wins Sludge Force Main Rehabilitation Project

WHITE PLAINS, NY—The Westchester County Department of Public Works has announced that **Gianfia Corp.** of Hawthorne, NY was the lowest of seven bidders at \$8,939,460. for Twin Sludge Force Main Rehabilitation in Mamaroneck and New Rochelle, NY.

Financial Management

Continued from page 19

priority for new buildings. Understanding new developments, such as variable refrigerant flow or geothermal energy, can be bonuses in winning bids.

Realistic Cost Planning

Because of the complex nature of these projects and the bar-raising nature of their finished products, their high emphasis on design and quality can mean unexpected costs and delays, whether it's unforeseen engineering or delivery delays or supply chain issues. Furthermore, there is less precedent for these kinds of projects than there is for Class A, B or C buildings, so effective cost planning and measurement can be a challenge. Your team should be thorough and realistic in estimating costs from the outset, both in terms of setting expectations for your

potential clients and for determining if the risks make sense for your firm in the first place.

As technology advances and sustainability becomes more of a driving factor in commercial real estate, trophy-class buildings will continue to set standards for top-tier design, construction and engineering processes. It is important to show how your firm is at the leading edge in this class of project—as well as pick the project where your firm can really shine and win bidding success on future projects.

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.

Lopez Named Deputy Sec.

Continued from page 16

Director for the Mayor's Community Affairs Unit.

Mr. Lopez began his career in government working at the New York City Council, first for Bronx Councilman James Vacca and then as a Legisla-

tive Policy Analyst for the City Council's Committee on Transportation. He is a longtime resident and native of the Bronx. He holds a B.A. in History from Saint Joseph's University and a M.A. in History from The City College of New York (CUNY).



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LOCAL 157, SCHENECTADY, Ian Joshua Shaul, Business Manager

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