



Construction NEWS



Vol. 38 No. 1 JANUARY 2022 \$1.50

Gov. Hochul Seeks \$32.8B Plan For Statewide Transit Projects

*Wants \$4B Environmental
Bond Act on November Ballot*

By JOHN JORDAN

ALBANY—New York Gov. Kathy Hochul’s first budget address featured an extensive list of infrastructure funding initiatives that should bolster revenues and create many new jobs in the state and the Hudson Valley region’s construction trades in 2022 and beyond.

Gov. Hochul presented the proposed \$216.3-billion FY2023 Executive Budget on Jan. 18, one that construction industry leaders praised for putting forth a multi-year (five-year) NYSDOT Capital plan. That plan includes billions of dollars in mass transit funding, a \$4-billion Clean Water, Clean Air, and Green Jobs Environmental Bond Act, her intent to move up the timeline on what could be as many as three downstate casinos, significant housing and energy invest-

ment, as well as tax relief in the state’s continuing efforts to recover from the coronavirus pandemic.

“We have the means to immediately respond to the COVID-19 pandemic as well as embrace this once-in-a-generation opportunity for the future with a historic level of funding that is both socially responsible and fiscally prudent,” Gov. Hochul said.

“Gov. Hochul’s Executive Budget makes historic investments in critical areas while ensuring that we are equipped for future shocks,” Budget Director Robert F. Mujica Jr. said, “Never again will the state find itself unprepared for the opportunities—or challenges—ahead. After years of unprecedented hardship, this budget makes the state, **Please turn to page 8**



New York Gov. Kathy Hochul in her recent FY 2023 Executive Budget Address unveiled the \$32.8-billion Five-Year NYSDOT Capital Plan. The governor is proposing a \$100-million increase to the BRIDGENY program to \$200 million this year and is also calling for the \$4-billion Clean Water, Clean Air, Green Jobs Environmental Bond Act to go before voters for approval this November.

Bad Roads and Bridges Costing New York Drivers Billions: Study

TARRYTOWN—For the amount of money New York drivers shell out each year due to lousy roads and bridges, the state could build seven more spans just like the Gov. Mario M. Cuomo Bridge. Motorists in the state pay dearly for driving on deteriorated, congested or in some cases potentially unsafe roads and bridges. How much? \$28 billion a year, according to a new research report released this month.

Roads and bridges that are deteriorated, congested or lack some desirable safety features cost motorists statewide annually \$3,192 per driver in

the New York-Newark-Jersey City urban area—and \$1,835 per driver in the Mid-Hudson Region—attributable to higher vehicle operating costs, traffic crashes and congestion-related delays. Increased investment in transportation improvements at the local, state and federal levels could relieve traffic congestion, improve road, bridge and transit conditions, boost safety, and support long-term economic growth in New York, according to a new report released by TRIP, a Washington, DC-based national transportation research nonprofit.

The TRIP report, “New York

“Based on this new report released by TRIP—and with the increased funding levels recently provided by the federal government—Albany now has the unprecedented opportunity to measurably improve the condition of its roads and bridges.”

—John Cooney, Jr., CIC Executive Director

Transportation by the Numbers: Meeting the State’s Need for Safe, Smooth and Efficient Mobility,” finds that throughout New York, nearly half of major locally and state-maintained roads are in poor or mediocre condition, 10% of locally and state-maintained bridges (20 feet or more in length) are rated poor/structurally deficient, and 5,019 people lost their lives on the state’s roads from 2015-2019. New York’ major urban roads are congested, causing significant delays and choking

commuting and commerce.” The TRIP report included statewide and regional pavement and bridge conditions, congestion data, highway safety data, and cost breakdowns for the Albany-Schenectady-Troy, Binghamton, Buffalo-Niagara Falls, New York-Newark-Jersey City, Poughkeepsie-Newburgh-Middletown, Rochester, Syracuse and Utica urban areas.

The TRIP report found that 44% of major locally and state-maintained roads in the New York-Newark-Jersey City urban

area are in poor condition and another 24% are in mediocre condition, costing the average motorist hundreds more each year in extra vehicle operating costs, including accelerated vehicle depreciation, additional repair costs, and increased fuel consumption and tire wear.

Improvements to New York’s roads, highways and bridges are funded by local, state and federal governments. Annual investment in roads, highways and bridges by the New York **Please turn to page 13**

Inside

Obituary	4
Safety Watch	10
Photo Gallery	11
Next Gen Leaders.....	12
Economic Outlook.....	15
What’s New & Who’s News .	16
Washington Update	17
New York City Update.....	18
Financial Management	19
Low Bids	22

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Gov. Seeks New Study for Rte. 17 Expansion

State Environmental Review To Examine Third-Lane Option

By JOHN JORDAN

ALBANY—The prospect of major upgrades—including the construction of what business and government leaders say is a much-needed third lane on portions of Route 17 in Orange and Sullivan counties—just got a step closer.

Although not included in her State of the State speech on Jan. 5, accompanying material given to state lawmakers included a directive from New York Gov. Kathy Hochul to the New York State Department of Transportation to undertake an environmental review of the conversion of Route 17 to federal Interstate 86 (I-86). Later in the month, Gov. Hochul in her FY 2023 Executive Budget Address listed the conversion of Route 17 to I-86 as one of her top transportation priorities.

In her “State of the State Book” presentation, the governor said that as part of her multi-faceted transportation investment initiatives the state would accelerate the conversion of Route 17 into I-86 in Orange and Sullivan counties. Gov. Hochul stated, “Strategic investments in the Mid-Hudson Valley have resulted in the expansion of Woodbury Common and the construction of Legoland and the Resorts World Catskills Casino. Over the past several years, projects have been completed by NYSDOT to upgrade sections of Route 17, including reconstruction of the interchange at Exit 131, where Route 17 meets Interstate 87 and Route 32 (Woodbury Common), and reconstruction of Exits 122 and 125 (Legoland) to meet interstate standards. To facilitate future economic competitiveness and alleviate congestion within the region, the state will begin an environmental review to assess the conversion of the full Route 17 corridor in Orange and Sullivan counties to Interstate 86.”

NYSDOT released a statement in connection with the governor’s directive to accelerate the conversion of Route 17 to I-86, which stated: “As Gov. Hochul said in the State of the State Address, the state will undertake an environmental review to assess the conversion of the full Route 17 corridor in Orange and Sullivan counties to Interstate 86. This study will build on the work of the recently completed Planning and Environmental Linkage (PEL) study and look at alternatives along the 47-mile corridor between Orange and Sullivan counties, including Monticello.”

Michael Fleischer, a consultant with the 17-Forward-86 coalition, said that based on discussions with NYSDOT officials and the department’s aforementioned statement the environmental review will include the potential addition of a third lane on Route 17 in Orange and Sullivan counties

that was included in a recently released PEL study by DOT. The study released in November 2021 rejected several options to improve congestion on Route 17 and determined a host of others that should move forward to the Environmental Impact Statement (EIS) phase, including the construction of a third lane on Route 17 in Orange and Sullivan counties, upgrades to interchanges on Route 17 in both counties and improvements that should be undertaken to improve connectivity to transit.

Mr. Fleischer also noted the length of time for the environmental review process could be shortened considerably since the PEL study involved a significant amount of work that would have to be performed in the environmental review. He noted that the environmental review will therefore not be



The NYSDOT PEL study released in late 2021 calls for the construction of a third lane on Route 17 in Orange and Sullivan counties to move forward to the Environmental Impact Statement process. Gov. Hochul in her State of the State and Executive Budget addresses listed the conversion of Route 17 to I-86 as one of her top transportation priorities.

The New York State Department of Transportation has stated that the EIS would address the engineering, social, economic and environmental impacts associated with potential corridor alternatives. If the preferred alternative was to construct a third travel lane, the EIS would also include any necessary mitigation actions/strategies.

Maureen Halahan, president

and CEO of the Orange County Partnership and co-chair of the 17-Forward-86 Coalition, said, “During a time when New York’s recovery is most critical, the governor specifically has a plan for economic development through infrastructure rebuild, shovel ready sites and regional councils that focus on regional growth strategies, including the conversion of Route 17 to Interstate 86.”

She later stated that she be-

lieves that the governor’s directive requires the EIS to include a thorough review of the third lane option for Route 17.

The 17-Forward-86 Coalition released a statement on social media in response to the governor’s State of the State Address, stating, “Our 17-Forward-86 Coalition is grateful to Gov. Hochul for making Route 17 a priority for investment and we look forward to working with

Please turn to page 21

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PERSPECTIVE

Federal Infrastructure Bill Brings Good News For New York State Clean Water Projects

By STEVE OTIS

The recently enacted federal Bipartisan Infrastructure Law will provide an added boost to New York State's successful network of programs to support clean water projects throughout the state. Already a national leader in providing state support for a variety of clean water funding streams, New York is well-positioned to build on past efforts because the federal infrastructure bill includes a strong focus on clean water funding from Washington not seen in decades.

The federal infrastructure bill includes \$50 billion to fund drinking water and wastewater projects nationwide. Over 82% of the bill's funding directed to the U.S. Environmental Protection Agency is dedicated to clean



water infrastructure programs.

Credit for the strong emphasis on clean water in the infrastructure bill goes to Senate Majority Leader Chuck Schumer, Senator Kirsten Gillibrand and our NYS Congressional

delegation who recognized the importance of these programs to New York.

The allotment for New York State for the first year will surpass \$428 million. Funding categories include lead pipe replacement, drinking water programs, wastewater system support, emerging contaminants and funding for regional waterbodies such as Long Island Sound. Another priority is funding towards disadvantaged communities.

Further details will be outlined through guidance documents and regulations to be issued by the EPA next year, but most of the funding will be channeled through State Revolving Loan Funds (SRF). They are the existing state funding entity, supported by federal appropriations, that each state uses to support clean water borrowing by local governments. The SRF program was created in the late 1980s when the federal government moved away from clean water grants to a primarily low interest loan model for supporting clean water programs.

One of the outstanding elements of the new federal legislation is that as much as 49% of the new federal funding can be used towards grants.

New York State has one of the most robust and active low

interest loan programs in the country. Our state program is administered by the NYS Environmental Facilities Corporation. In 2015 New York supplemented the loan program with grant programs under the Water Infrastructure Improvement Act. In the first five rounds of funding, the WIIA program, using state dollars, has awarded over \$1.2 billion in grants to more than 690 projects throughout New York, creating 67,000 new jobs. Since 2017 New York has allocated \$500 million a year in state funds for a variety of clean water programs with the largest share devoted to the WIIA program.



Despite this nation-leading state commitment, the demand for state assistance to support local clean water projects continues to surpass available funding. The new federal funds will assist states in meeting that demand without additional burden to state taxpayers. The fact that New York already has a number of successful state clean water programs through EFC, the Department of Environmental Conservation and the Department of Health will allow New York to immediately put the federal funds to work on clean water projects throughout our state.

The funding should provide additional gains for West-


chester and the Mid-Hudson Valley. Through the efforts of local governments, regional engineering firms, labor and construction advocates like the Construction Industry Council of Westchester & Hudson Valley, our region has been very successful in securing state grants from New York's existing programs. It is my expectation that once EPA establishes their guidelines and the state government determines how to integrate the federal funds with our state programs, clean water projects will accelerate in our region.

Another positive sign comes from Gov. Kathy Hochul. One of her first actions upon taking office was to provide a generous allocation for the 2021 clean water grant application round. I expect we will see continued strong support in 2022.

About the author: State Assemblyman Otis (91st AD) represents the Sound Shore communities of Larchmont, Mamaroneck, New Rochelle, Port Chester, Rye Brook and the City and Town of Rye. He helped initiate the Water Infrastructure Improvement Act of 2015 and has worked closely with the Construction Industry Council on promoting and expanding New York's clean water grant programs.

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OBITUARY

Howard Lockwood Longtime Supplier, CIC Member

NAPLES, FL—One of the earliest members of the Construction Industry Council and owner of a leading supply company in the region, Howard Lockwood, passed away on Dec. 26, 2021 in Naples, FL at the age of 95.

Since 1978, when the CIC was formed, the trade association relied on Mr. Lockwood's counsel and experience in a variety of matters pertaining to the construction industry. He served on several committees for the association and was highly respected by contractors, by material suppliers, including his competitors, and organized labor.

"Howard was instrumental in bringing together owners of local building material supply businesses to negotiate fair and equitable labor agreements with Westchester Teamsters," said CIC President Ross J. Pepe.

Born in Brooklyn and growing up in Yonkers, NY, Mr. Lockwood worked from a young age in the family-owned business, Lockwood Lumber, which was founded in Yonkers by his father and his father's siblings.

He enlisted in the Navy in 1944 at age 17 and served as a Staff Sergeant, commissioned on a sub chaser in the South Pacific.

Following his return from World War II, Mr. Lockwood met and married Eva Maria (ne Bass). They settled in Ardsley, NY, where they raised three children, Peter, Suzanne and Michael. He was involved in many aspects of his children's lives, serving as coach, scoutmaster and other



roles as he was needed. The family said he attended all the piano recitals of his daughter, Suzanne, and he never missed a hockey game during the college career of his son, Mike.

In 1976 Mr. Lockwood along with his son, Peter, departed Lockwood Lumber, venturing out on their own and purchased King Lumber, which is located in Goldens Bridge, NY—bringing that struggling business back to life. King Lumber is still a thriving enterprise today,

currently run by his son Peter and his two sons, Martin and Warren.

"Howard was a very social and generous man," his family said in a statement. "He enjoyed life to the fullest. He had very a strong work ethic and didn't care for wastefulness. He loved his country. He cherished his friends. He enjoyed playing cards, dining and occasionally dancing."

The statement continued, "Howard had a real passion for playing golf. He didn't pick the game up earnestly until later in his life, but derived much joy from the competition among his buddies. He has passed that love of the game on to his family."

Devoted to his children and his six grandchildren, he took great pride in always being there for them when they needed him. He is survived by Peter Lockwood (Mara), Suzanne (Lockwood) Pack, Michael Lockwood (Anne), and six grandchildren, Christopher, Martin, Kyle, Warren, Cara Anne and Keely. His wife of 54 years, Eva, predeceased him in 2007.



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Attorney's Column

Court Enforces Whistleblower Protection in Contract That Gave Owner Right to Direct Discharge CM's Worker

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

While this column often deals with issues relating to the construction industry, it is sometimes overlooked that construction contractors are, more generally, employers, just like those in other industries. However, those generally applicable rules can just as easily run afoul as those which are uniquely applicable to the construction industry. In the recent case of *Shevlin v Wonder Works Construction & Development Corp.*, a court reminds us that New York's generally applicable whistleblower protection statute (Labor Law §740) is also applicable to construction contractors.

Background

Prior to 2013, Wonder Works Construction Corp. entered into a contract with 421 Kent Development, LLC for Wonder Works to be the construction manager for a construction project at 421 Kent Ave. in Brooklyn. The contract between Wonder Works and 421 Kent provided that "[421 Kent] reserves the right to direct the removal of any of [Wonder Works'] staff for cause (at [421 Kent's] sole discretion),



including Key Personnel, and [Wonder Works] shall promptly replace such individuals with competent substitutes acceptable to [421 Kent]."

In 2013, Scott Shevlin was hired by Wonder Works to be a site superintendent at the 421 Kent Ave. project. At the commencement of the project, the 421 Kent Ave. site was surrounded by a fence around three sides, which had been left by the previous owner. The site was divided by a private street, which was guarded by rolling gates that were supposed to have been closed when not in use. The New York City Department of Buildings required that Wonder Works both build an interior fence on the fourth side of the site and keep the rolling gates closed when not in use in order to safeguard the site as a condition of lifting a previous

stop-work order. If the gates were left open, the public would use the private street as a shortcut between two local thoroughfares.

A problem arose with the site's neighbor, who preferred to leave the rolling gates open for his own convenience. As DOB continued to

warn Wonder Works about leaving the gates open, Mr. Shevlin would close them. Both Wonder Works' vice president and 421 Kent Development's site representative would tell Mr. Shevlin he should leave the gates well enough alone, and that they did not care about whether the gates were open or closed. This indifference was communicated to Mr. Shevlin several more times prior to his termination, and Mr. Shevlin, pursuant to both DOB's and his immediate supervisor's instructions, would insist on keeping the gates closed.

In January 2014, Wonder Works received a letter from 421 Kent Development's site representative directing Wonder Works to replace Mr. Shevlin with "alternative competent personnel for cause," claiming that "Shevlin has demonstrated a lack of fiduciary

The defense of "just following the contract" was not sufficient to save the CM from a significant lost wages claim—plus potentially more than \$50,000 in attorney's fees.

responsibility and a retaliatory approach in dealing with daily issues." In response, Wonder Works terminated Mr. Shevlin's employment. In subsequent correspondence between Mr. Shevlin and another Wonder Works principal, Mr. Shevlin was advised that the termination was the owner's decision, and that Mr. Shevlin did nothing wrong.

Mr. Shevlin commenced a lawsuit under New York's Whistleblower Protection Statute, Section 740 of the Labor Law, against both Wonder Works and 421 Kent Development, alleging that he was terminated for insisting on keeping the gates closed, even though it caused consternation with the neighbor. Wonder Works and 421 Kent Development both claimed that the termination had nothing to do with the rolling gates issue. Wonder Works also claimed that in light of its contract with 421 Kent Development, it was required to terminate Mr. Shevlin and had no discretion in the matter; 421 Kent Development also claimed that it could not be held liable because it was not Mr. Shevlin's employer.

Decision

A non-jury trial was held on Mr. Shevlin's claim, and the court credited the testimony that there were no complaints about Mr. Shevlin's employment other than his insistence on keeping the gates closed, and discredited the testimony that his firing was unrelated to the access issue. In order to find a violation of the version of Section 740 in effect at the time, the court also had to find that there was, in fact a violation of a statute, code, etc. The court found such a violation of Section 3307.3.4 of the Building Code, which requires that openings in fences, sidewalk sheds, barriers, and railings be closed at all times except during actual loading and unloading operations, and the court linked Mr. Shevlin's termination to his insistence on keeping these gates closed. (The current version of the statute only requires that the employee have a reasonable belief about the violation of a statute, code, etc., not that the

violation actually exists.)

The court found that Wonder Works' defense of just following the contract was unconvincing, holding that while the contract did give 421 Kent Development the right to remove Wonder Works' employees "for cause," as determined to exist in the sole determination of 421 Kent Development, it could not require Wonder Works to violate applicable law in doing so. As to 421 Kent Development, even though it was the root cause of Mr. Shevlin's termination, it was not liable because the statute was specifically made applicable to employers, and 421 Kent Development was not Mr. Shevlin's employer. Based on these findings, the court dismissed the case against 421 Kent Development, and it directed Wonder Works to pay Mr. Shevlin \$227,000 in back pay, plus his attorney's fees.

Comment

In dealing with contractual provisions between parties, this column has routinely cautioned that obligations should be made consistent both upstream and downstream (e.g., if a GC's contract with the owner requires arbitration, the GC should require arbitration of its subcontractors). As the Mr. Shevlin court reminds us, those obligations must also be consistent with state law, including generally applicable employment law. As Wonder Works learned here, the defense of "just following the contract" was not sufficient to save it from a significant lost wages claim—plus potentially more than \$50,000 in attorney's fees.

About the author: Thomas H. Welby, an attorney and licensed professional engineer, is General Counsel to the Construction Industry Council of Westchester & Hudson Valley, Inc., and is the Founder 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 partner with the firm, co-authors this series with Mr. Welby.

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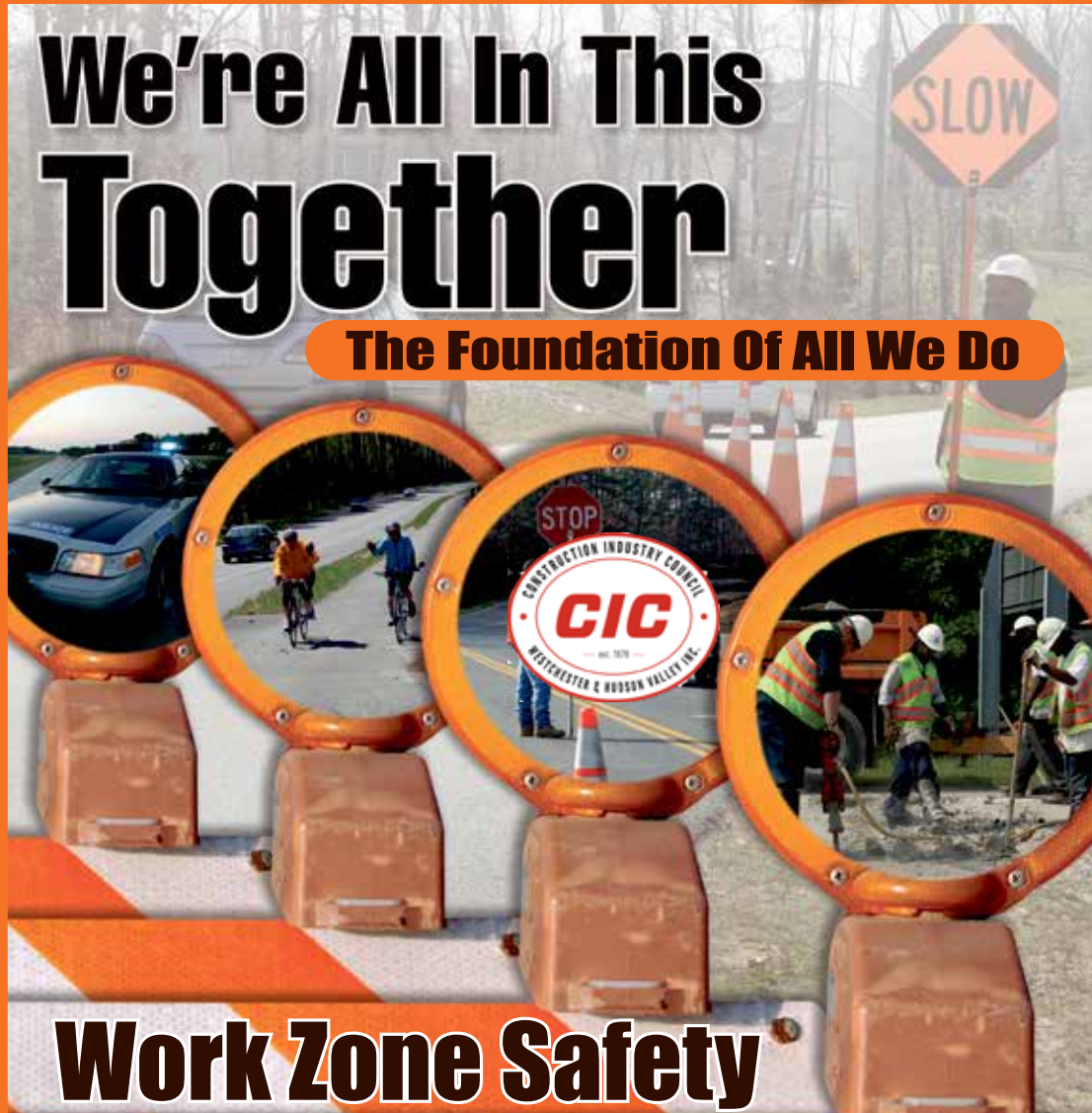
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Gov. Hochul Seeks \$33B Plan For Statewide Transit Projects

Continued from page 1

from a financial perspective, as resilient as its spirit. It is the budget that New Yorkers deserve and expect.”

Stephen Morgan, secretary of the New York Roadway & Infrastructure Coalition, said that at first blush the infrastructure funding proposals put forth by the governor would indicate a significant uptick in activity in 2022 and beyond. However, he cautioned that NYRIC is reviewing the governor’s various proposals and NYSDOT plan, noting that some will rely on federal program funding.

Mr. Morgan praised the governor, stating that her Executive Budget makes clear her commitment to investing in the state’s infrastructure now and into the future.

“The executive budget proposed by Governor Hochul today is a sign New York State is not only on its way to recovery—it’s coming back stronger than ever,” said Carlo A. Scissura, former president and CEO of the New York Building Congress. “Our transportation options will become more robust and efficient as part of a \$92-billion, five-year capital

plan, while the \$1.6 billion set aside to upgrade healthcare facilities will embolden a vital sector hit significantly hard during the pandemic. The New

York Building Congress represents the future of our industry.”

New York State will receive an estimated \$13.5 billion in highway and bridge formula aid

over five years from the federal Infrastructure Investment and Jobs Act (an increase of \$4.6 billion compared to the five-year Fixing America’s Surface Transportation (FAST) Act). The total includes a projected \$1.9 billion of formula funding for bridges.

The Executive Budget provides \$6.7 billion for the first year of a record \$32.8-billion, five-year NYSDOT Capital Plan that will facilitate the improvement of highways, bridges, rail, aviation infrastructure, non-MTA transit, and NYSDOT facilities. Compared to the last five-year DOT Capital Plan, this is an increase of \$9.4 billion, or 40%, according to the governor’s office.

The governor in her budget presentation listed a number of major projects to be funded in the NYSDOT Capital Plan including the Hunts Point Interstate Access Improvement in the Bronx and accelerating the conversion of Route 17 to I-86 in Orange and Sullivan counties. The governor has

directed NYSDOT to begin the Environmental Impact Statement process on the roadway conversion that could include the construction of a third lane in each direction on sections of Route 17 in Orange and Sullivan. See story on page 3.

Other major projects the governor stated would be funded or advanced in this plan include phases of the replacement of I-81 in Syracuse, modernizing the Livingston Avenue Bridge in Albany, reconnecting neighborhoods across the Kensington Expressway in Buffalo, and assessing ways to improve road capacity at the Oakdale Merge in Suffolk County.

Funding for the Consolidated Highway Improvement Program (CHIPS) and the Marchiselli program is maintained at last year’s level of \$577.8 million. The budget provides \$100 million for the new Pave Our Potholes program, \$150 million in highway aid through the PAVE NY program and \$200 million to fund the local projects from the BRIDGENY programs, an increase of \$100 million from last year’s BRIDGENY program.

The \$4-billion Clean Water, Clean Air, and Green Jobs Environmental Bond Act, if approved by voters in November, will support the restoration of critical environmental habitats; reduce flood risks; conserve additional lands and open spaces; protect and improve the state’s water resources; and invest in climate change mitigation projects that will reduce pollution and lower carbon emissions. The Bond Act will also support a substantial investment in the Clean Green Schools initiative that will reach every public school located in a disadvantaged community.

In terms of mass transit, the Executive Budget provides more than \$7.3 billion in mass transit operating support: The MTA will receive \$6.6 billion in state operating aid in FY 2023, including resources collected by the state and sent directly to the MTA without appropriation. On-budget MTA assistance will increase more than 24%, from \$3.1 billion to more than \$3.8 billion. Upstate transit systems are slated to receive \$261 million, representing at least a 13% increase per system. Downstate systems will receive \$471 million, representing a 36% increase per system.

The \$52 billion 2020-24 MTA Capital Program remains the largest and most expansive plan in its history. In addition

to the \$25 billion secured in the FY 2020 Budget, the state will re-appropriate \$3 billion which will be matched by the City of New York.

The governor’s Executive Budget presentation notes that Non-MTA transit capital will receive \$160 million. Core appropriations will increase by 41%, from \$85 million to \$120 million, as part of an additional \$175 million five-year investment in non-MTA transit service, and the state will again appropriate \$20 million for bus electrification and \$20 million to rehabilitate NFTA’s light rail.

In terms of casino expansion in the state, State Budget Director Mujica noted in published reports that the existing law and the governor’s proposal do not explicitly state where the casinos have to be located. However, he said that most of the interest from bidders will be New York City-focused.

“The three (casino licenses) will be probably focused in the downstate area, but there’s no restriction there,” he said. “If we get a bid back that’s dramatic, we’re not going to exclude them.”

Downstate business interests have been pushing for the state’s casino approval process to be accelerated. Existing limited gaming operators MGM Resorts at Empire City Casino in Yonkers, NY and Resorts World at Aqueduct Racetrack in Queens, NY are considered front-runners for full casino designation.

Other infrastructure-related funding in the 2023 Executive Budget include:

- \$2.4 billion for healthcare capital infrastructure and improved lab capacity
- The Executive Budget includes \$500 million to develop the state’s offshore wind supply chains and port infrastructure. The initiative will create 2,000 jobs.

The Executive Budget advances a new \$25 billion, five-year Housing Plan to create and preserve 100,000 affordable homes, including 10,000 homes with support services for vulnerable populations, and electrify an additional 50,000 homes as part of the state’s plan to electrify one million homes and make another one million electrification-ready. Funding includes \$5.7 billion in capital resources, \$8.8 billion in state and federal tax credits and other federal allocations, \$11 billion to support the operation of shelters and supportive housing units and to provide rental subsidies.

“The three (casino licenses) will be probably focused in the downstate area, but there’s no restriction there,” he said. “If we get a bid back that’s dramatic, we’re not going to exclude them.”

—Robert Mujica,
NYS State Budget Director

York Building Congress applauds the governor’s executive budget and especially urges the advancement of the \$4 billion Clean Water, Clean Air, and Green Jobs Environmental Bond Act. This is crucial to creating good-paying jobs in

the NYSDOT Capital Plan including the Hunts Point Interstate Access Improvement in the Bronx and accelerating the conversion of Route 17 to I-86 in Orange and Sullivan counties. The governor has

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New Yorkers for Clean Water and Jobs ‘Thrilled’ Over \$4B Bond Act Proposal, ‘Largest in History’

NEW YORK—The New Yorkers for Clean Water and Jobs coalition stated the group was thrilled by Gov. Kathy Hochul’s proposed \$4-billion Environmental Bond Act, described as the largest ballot measure in New York history, to conserve natural resources, reduce emissions, advance environmental justice, protect family farms, and prepare New York for climate change.

A 2020 economic analysis found that a \$3-billion environmental bond measure would support 65,000 local jobs and generate \$6.7 billion in project spending across the state. Now that the measure is \$4 billion, the economic effects and number of jobs created will be even greater.

If enacted by voters this November, the Clean Water, Clean Air, and Green Jobs Bond Act would safeguard clean drinking water, reduce air pollution, modernize infrastructure, improve parks, and reduce climate risks. In the face of rising seas, extreme heat, and frequent flooding, these historic investments are critical to New York’s health, safety, and prosperity.

Among the broad stakeholders and supporting organiza-

tions of New Yorkers for Clean Water and Jobs who immediately applauded Gov. Hochul for proposing the \$4-billion bond act were:

- Jessica Ottney Mahar, The Nature Conservancy’s New York Policy and Strategy Director
- Julie Tighe, President of the New York League of Conservation Voters
- Sonal Jessel, Director of Policy at WE ACT for Environmental Justice
- Andy Bicking, Scenic Hudson’s Director of Government Relations and Public Policy
- Adrienne Esposito, Executive Director, Citizens Campaign for the Environment
- Erin McGrath, Policy Manager for Audubon New York
- Carter Strickland, Vice President of the Mid-Atlantic Region and New York State Director for The Trust for

Public Land

- John T. Cooney, Jr., Executive Director of the Construction Industry Council of Westchester & Hudson Valley, Inc.
- Kate Boicourt, Director, Climate Resilient Coasts & Watersheds for the NY-NJ region for Environmental Defense Fund
- Meme Hanley, Land Trust Alliance Senior Program Manager
- Erica Goodman, New York Regional Director, American Farmland Trust
- Kate Kurera, Deputy Director of Environmental Advocates NY.
- Jeremy Cherson, Senior Manager of Government Affairs for Riverkeeper
- Sarah Charlop-Powers, Executive Director of The Natural Areas Conservancy
- Amy Chester, Managing Director of Rebuild by Design

- Rich Schrader, New York Policy Director at the Natural Resources Defense Council (NRDC)
- Kim Elliman, President and CEO, Open Space Institute (OSI)
- Robin Dropkin, Executive Director, Parks & Trails New York
- Sarah Fleming, Ducks Unlimited, Director of conservation programs for the North Atlantic
- Peter Linderoth, Director of Water Quality, Save the Sound
- Jill Jedlicka, Executive Director, Buffalo Niagara Waterkeeper
- Cortney Koenig Worrall, President and CEO of Waterfront Alliance
- Michael Barrett, Executive Director of the Adirondack Mountain Club
- Tim Guinee, NY Climate

- Reality Chapters Coalition, Legislative Director
- Richard Amper, Executive Director, the Long Island Pine Barrens Society
 - Suzie Ross, Chairperson and Co-founder, Green Ossining
 - John Whitney, Chair of Western New York Environmental Alliance
 - George Hoffman, Executive Director, Setauket Harbor Task Force.

Editor’s Note: New Yorkers for Clean Water & Jobs is a broad coalition formed to demonstrate the vast support for New York environmental funding and programs that protect clean water and air, create jobs, and address the climate crisis. For more information on the coalition, please visit: www.cleanwaterandjobs.org. Follow the coalition on Twitter, Facebook and Instagram.

Trade Groups Challenge COVID Vaccine Mandate

WASHINGTON—Three leading building and construction trade associations filed a petition on recently for review of OSHA’s new COVID-19 vaccination mandate. The group explained that the new rule will put many construction companies at grave risk of losing a substantial number of their workers to smaller companies, instead of leading to more people getting vaccinated in the sector.

Joining the challenge of the new OSHA ruling are the American Road & Transportation Builders Association (ARTBA) and the Signatory Wall & Ceiling Contractors Alliance (SWACCA) and the Associated General Contractors of America (AGC).

“The Biden Administration and Congress are in the process of launching a historic federal infrastructure investment initiative,” ARTBA President Dave Bauer said. “Unfortunately, OSHA’s proposal would disproportionately impact the same transportation construction industry employers and workers who proved they could safely deliver essential mobility improvements during the height of the COVID-19 pandemic.”

“We all want to see more construction workers vaccinated and we are all doing our part to make that happen,” said Stephen E. Sandherr, the

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Respondent in Citation Contest Proceeding Scores Rare Win Via Summary Judgment

By GEOFFREY S. POPE, ESQ.

Citation contest proceedings before the OSH Review Commission, while subject to specialized procedural rules, for the most part are litigated under the Federal Rules of Civil Procedure that govern civil lawsuits in the U.S. District Courts.

Thus, while the same is infrequently resorted to, contest proceedings are subject to the summary judgment procedures of the FRCP. For you non-lawyers, summary judgment permits courts to better manage their dockets, curtail proceedings and avoid trials in the limited class of cases in which either side can show convincingly that there are no “material facts” (i.e., facts on which the outcome of the suit depends) as to which there exists a genuine dispute requiring a trial.

While summary judgment is to be employed sparingly, it is appropriate where all of the facts that will determine the outcome are admitted, or the evidence concerning them is so one-sided that it is obvious that the party moving for summary judgment must prevail as trial.

The party deeming itself entitled to summary judgment presents a motion to the court, annexing evidence (transcripts



of pre-trial deposition testimony, probative documents, etc.) and a legal memorandum explaining the basis for the motion. In assessing whether genuine fact issues exist, the court must resolve all ambiguities, and draw all reasonable inferences, in favor of the nonmoving party.

In my many years of experience litigating in federal and New York State courts, I have observed that, while judges look with favor on opportunities to pare their trial dockets, they are aware that appellate rulings overturning orders granting summary judgment greatly outnumber those reversing denials of summary judgment. Where the issue is doubtful, therefore, such a

motion is unlikely to succeed.

In my extensive review of decisions in citation contest proceedings, I have seldom seen summary judgment attempted by employers—no doubt in large part because preparing papers and arguing such a motion is labor-intensive on the part of the respondent’s counsel (which is to say, expensive). In the usual case, the penalty amounts at issue are often far less than in federal civil lawsuits, and the legal costs to be saved by a successful motion are often not enormous (as pre-trial discovery procedures are less extensive than in regular lawsuits, and lengthy trials are uncommon).

However, as illustrated by *Secretary v. Harvestland Constructors, Inc.*, a garden-variety fall-protection case, it may be worth asking your attorney to ponder whether the Secretary’s case has an “Achilles’ heel,” that could make it susceptible to a summary judgment motion.

Harvestland involved a single-item citation, alleging that the employer had violated the OSH Act, by exposing employees to falling through holes

in elevated working/walking surfaces by the non-use of personal fall arrest systems, covers, or guardrail systems erected around such holes.

Most of the relevant facts in this case were undisputed. An experienced, 66-year-old

In a detailed analysis set forth in her decision, the ALJ ruled for Harvestland, because there was no triable issue that it had actual or constructive knowledge that the decedent had been working around openings in the floor without fall protection.

carpenter had a continuing assignment to identify and cover uncovered holes in the flooring on a project in Georgia. Most of these “penetrations” had been created to allow equipment to be passed from one level of the floor to another. When a hole was observed, this individual, named in the decision as “Carpenter NM,” would cover it with plywood, and he would secure the plywood sheeting with cleats, nailed in to prevent slippage.

On the afternoon of the day in question, Carpenter NM, who had been performing this work on the project for about three weeks, as he usually did was working alone on the second floor of the structure.

All Harvestland employees were required to use fall protection when working four feet or more above ground level, supervisors inspected the site several times daily for compliance, and an outside consulting firm performed monthly safety inspections. This employer had a site-specific safety plan, conducted weekly safety meetings, and sent home workers observed to be in violation of safety rules.

Carpenter NM was up-to-date in his training, had been supplied with a personal fall arrest system, and had often been observed utilizing fall protection. In five years of employment with Harvestland, he had never been cited for safety violations.

On his last afternoon, Carpenter NM covered and nailed down the cleats on nine of 13 openings existing on the second floor. About 10 to 15 minutes after returning from a break, he fell through an uncovered hole, and plunged 38 feet to his death. For reasons unknown, he was not wearing fall protection at the time.

Of the four elements constituting the Secretary’s burden in order to prove the violation, three were open-and-shut in favor of the government. Since Carpenter NM was working on a

surface with openings far above the floor below, the necessity for fall protection was clear. Two additional elements—namely, a failure to comply with the fall protection standard and employee exposure—were established beyond question by the fact that Carpenter NM was not using fall protection when he fell 38 feet.

However, three elements out of four will not do, and on the fourth element—actual or constructive knowledge of the violative condition on the employer’s part—Harvestland prevailed, winning summary judgment and the vacatur of the citation.

The Secretary, as the court found, had to prove either that the employer (through a supervisor) had actual knowledge of the infraction, or that its inadequate safety program was such that a finding of constructive knowledge could be made, based on the conclusion that had the employer exercised due diligence, the violation would have come to a supervisor’s attention.

In a detailed analysis set forth in her decision, the ALJ ruled for Harvestland, because there was no triable issue that it had actual or constructive knowledge that the decedent had been working around openings in the floor without fall protection. The judge cited facts (many of them corroborated by the testimony of the Compliance Officer) concerning (among other things) the employer’s work rules, and its generally praiseworthy safety training, surveillance of its workforce and rule enforcement. Since these factors disproved constructive knowledge, and no basis existed to find actual knowledge, the citation had to be vacated.

The ALJ rejected, as immaterial, the Secretary’s contention that the arguably defective condition of a nylon strap on the harness that Carpenter M was not wearing established the violation.

Not many contests will present a strong case for summary judgment, but given the unpredictability of trials generally, and what witnesses will testify to in particular, your case should be carefully analyzed to determine if summary judgment might offer prospects of success.

About the author: Geoffrey S. Pope, an attorney practicing construction law and commercial litigation, after many years with Welby, Brady & Greenblatt, LLP, is joining the firm of Cermele & Wood, LLP, in White Plains. The articles in this series do not constitute legal advice, and are intended for general guidance only.



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AGE

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ACHIEVEMENT

Construction Advancement Institute Scholarship 2015

CURRENT EMPLOYMENT

Process Engineer, Merck & Co, Rahway, NJ.

EDUCATION

University of Delaware

BChE Chemical and Biological Engineering 2016.

FAVORITE COURSE

Cancer Biology. It gave me a different, clearer perspective on the work that engineers do.

ON THE CHOICE OF PROFESSION

I was always science-oriented and had a knack for chemistry, but I also liked the problem solving aspect of engineering.

CHALLENGES

The work I do is more conceptual than mechanical. Coming out of school I had expected more hands-on.

INSPIRATION

A chemistry teacher in high school pushed me toward engineering and helped me identify my interests. "You want to be a Chemical Engineer," he said.

WORDS OF WISDOM

Engineering can be very intimidating, given conventional opinion, that you have to be really smart. Another teacher once told me: "Engineering has little to do with how smart you are and everything to do with how much you want it."

GREATEST ACCOMPLISHMENT

A neurological cough medicine that I have been working on since I came here five years ago is now in the process of being approved by FDA.

THE FUTURE

In five years or so, I would like to be a production leader where I can have a little more oversight.

OUTSIDE INTERESTS

Hiking.

HOW HAS COVID AFFECTED YOU?

I have been fortunate that no family member has been affected, but as a scientist it is difficult to see anti-science attitudes going on. I wish people were a little more trusting.

RELATION TO BCA/CAI

At the time, Mike's father was employed by BCA-member company Peter Gisondi & Co. of White Plains.

Researcher and Writer—Alan Kennedy



ABOUT THE BCA/CAI SCHOLARSHIP

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Bad Roads and Bridges Costing New York Drivers Billions: Study

Continued from page 1

State Department of Transportation (NYSDOT) increased by 37% from 2018 to 2021 from approximately \$4.3 billion to \$6 billion.

The level of NYSDOT highway investment is likely to increase further as a result of the five-year federal Infrastructure Investment and Jobs Act (IIJA), signed into law in November 2021, which will increase annual federal funding for New York roads, highways and bridges by 52% from an average of approximately \$1.8 billion annually to \$2.7 billion. Federal funds currently provide 38% of the revenue used by NYSDOT to fund highway and bridge improvements.

“Based on this new report released by TRIP—and with the increased funding levels recently provided by the federal government—Albany now has the unprecedented opportunity to measurably improve the condition of its roads and bridges,” said John Cooney, Jr., executive director of the Construction Industry Council (CIC) of Westchester & Hudson Valley, Inc. “The CIC is optimistic that through the leadership of Gov. Kathy Hochul and the New York State Legislature, this increase in allocation of federal money will serve to raise the performance levels of our roads and bridges over the coming five years. The CIC looks forward to working with our elected officials to elevate these conditions so that future TRIP New York State Transportation studies reflect the improved conditions the state’s motoring public deserves.”

In the New York-Newark-Jersey City urban area, seven percent of bridges are rated poor/structurally deficient, with significant deterioration to the bridge deck, supports or other major components. Statewide, 10% of New York’ bridges are rated poor/structurally deficient.

Traffic congestion in the New York-Newark-Jersey City urban area caused 92 annual hours of delay for the average motorist and costs the average driver \$2,107 annually in lost time and wasted fuel. New York-Newark-Jersey City drivers waste approximately 324 million gallons of fuel each year due to traffic congestion, an average of 38 gallons per motorist. Statewide, drivers lose \$15.4 billion an-

nually as a result of lost time and wasted fuel due to traffic congestion. Due to the COVID-19 pandemic, vehicle travel in New York dropped by as much as 45% in April 2020 compared to vehicle travel during the same month the previous year, but rebounded to eight percent below October 2019 levels by October 2021.

“As Westchester County looks to reemerge from the pandemic it is critically important that New York stays laser focused on increasing investments in transportation improvements at the local, state and federal levels which will help relieve traffic congestion, improve roads, bridge and transit conditions,” said John Ravitz, executive vice president and COO of the Business Council of Westchester.

In the Poughkeepsie-Newburgh-Middletown urban area, 15% of bridges are rated poor/structurally deficient, with significant deterioration to the bridge deck, supports or other major components.

Traffic congestion in the Poughkeepsie-Newburgh-Middletown urban area caused 37 annual hours of delay for the average motorist and costs the average driver \$658 annually in lost time and wasted fuel. Poughkeepsie-Newburgh-Middletown drivers waste approximately 3.9 million gallons of fuel each year due to traffic congestion, an average of 19 gallons per motorist.

The TRIP report found that 26% of major locally and state-maintained roads in New York State are in poor condition and another 19% are in mediocre condition, costing the state’s motorists an additional \$7.7 billion each year in extra vehicle operating costs, including accelerated vehicle depreciation, additional repair costs, and increased fuel consumption and tire wear.

“These latest findings by TRIP shed more light on the continued need to address the countless roads and bridges causing businesses and employees time and money,” said Melvin Norris, senior director of government affairs for The Business Council of New York State, Inc. “These careful studies can be used as a roadmap to finally address and solve these problems altogether. We are hopeful that the federal infrastructure package will help in

NEW YORK KEY TRANSPORTATION FACTS

THE HIDDEN COSTS OF DEFICIENT ROADS

Driving on New York roads that are deteriorated, congested and that lack some desirable safety features costs New York drivers a total of \$28 billion each year. TRIP has calculated the cost to the average motorist in the state’s largest urban areas in the form of additional vehicle operating costs (VOC) as a result of driving on rough roads, the cost of lost time and wasted fuel due to congestion, and the financial cost of traffic crashes in which the lack of adequate safety features, while not the primary factor, were likely a contributing factor. The chart below details the cost of deficient roads statewide and for the average driver in the state’s largest urban areas.

Location	VOC	Safety	Congestion	TOTAL
Albany-Schenectady-Troy	\$423	\$531	\$796	\$1,750
Binghamton	\$244	\$559	\$377	\$1,180
Buffalo-Niagara Falls	\$420	\$402	\$1,044	\$1,866
New York-Newark-Jersey City	\$759	\$326	\$2,107	\$3,192
Poughkeepsie-Newburgh-Middletown	\$513	\$668	\$658	\$1,839
Rochester	\$375	\$540	\$832	\$1,747
Syracuse	\$568	\$628	\$409	\$1,605
Utica	\$313	\$558	\$382	\$1,253
New York Statewide	\$7.7 Billion	\$4.6 Billion	\$15.4 Billion	\$28 Billion

NEW YORK ROADS PROVIDE A ROUGH RIDE

Due to inadequate state and local funding, nearly half of major locally and state-maintained roads and highways in New York are in poor or mediocre condition. Driving on rough roads costs the average New York driver \$632 annually in additional vehicle operating costs – a total of \$7.7 billion statewide. The chart below details pavement conditions on major roads in the state’s largest urban areas and statewide.

Location	Poor	Mediocre	Fair	Good
Albany-Schenectady-Troy	16%	22%	21%	40%
Binghamton	8%	10%	23%	59%
Buffalo-Niagara Falls	14%	26%	23%	37%
New York-Newark-Jersey City	44%	24%	10%	22%
Poughkeepsie-Newburgh-Middletown	18%	38%	18%	26%
Rochester	12%	21%	29%	38%
Syracuse	32%	16%	9%	43%
Utica	7%	21%	30%	41%
New York Statewide	26%	19%	19%	36%

SOURCE: TRIP

solving this ongoing problem.”

Statewide, 10% of New York’ bridges are rated poor/structurally deficient with significant deterioration to the bridge deck, supports or other major components. Fifty-four percent of the state’s bridges are rated in fair condition and the remaining 36% are in good condition.

Traffic crashes in New York claimed the lives 5,019 people between 2015 and 2019. New York’s overall traffic fatality rate of 0.75 fatalities per 100 million vehicle miles of travel in 2019 is lower than the national average of 1.11. In the New York-Newark-Jersey City urban area, on average, 600 people were killed in traffic crashes each year from 2015 to 2019. The financial impact of traffic crashes in which the lack of adequate roadway safety features, while not the primary factor, were likely a contributing factor was an average of \$326 annually per each New York-Newark-Jersey City area driver.

The efficiency and condition of New York’s transportation system, particularly its highways, is critical to the health of the state’s economy. Annually,

\$1 trillion in goods are shipped to and from New York, relying heavily on the state’s network of roads and bridges. Increasingly, companies are looking at the quality of a region’s transportation system when deciding where to re-locate or expand. Regions with congested or poorly maintained roads may see businesses relocate to areas with a smoother, more efficient and more modern transportation system. The design, construction and maintenance of transportation infrastructure in New York supports approximately 319,000 full-time jobs across all sectors of the state economy. Approximately 3.5 million full-time jobs in New York in key industries like tourism, retail sales, agriculture and manufacturing are dependent on the quality, safety and reliability of the state’s transportation infrastructure network.

The authors of the TRIP report concluded their analysis of the state’s transportation network by saying, “New York must work to provide a 21st century network of roads, highways, bridges and transit that

can accommodate the mobility demands of a modern society. The state will need to modernize its surface transportation system by improving the physical condition of its transportation network and enhancing the system’s ability to provide efficient, safe and reliable mobility for residents, visitors and businesses.”

They added, “Making needed improvements to New York’s roads, highways, bridges and transit systems would provide a significant boost to the economy by creating jobs in the short term and stimulating long-term economic growth as a result of enhanced mobility and access.”

Dave Kearby, TRIP’s executive director, said, “Additional federal funding from the IIJA will allow New York to move forward with needed improvements to its transportation network that will make the state’s roads and bridges smoother, safer and more efficient while boosting the economy and creating jobs. In addition to the federal investment, it will be critical that New York State continue to increase its level of transportation investment.”

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NYSDOT - Region 9

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Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264702
PIN# 950124

Project Description: Broome Co., Pavement Resurfacing With Guide Rail And Sign Replacement, I-81 from Exit 7 to Cortland County line, Towns of Baker, Lisle and Triangle.

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

Goals: DBE: 8.00%

Bid Letting Date: Feb. 3, 2022

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

Contract# D264718
PIN# 935849
FA Proj.# Z0E1-9358-493

Project Description: Schoharie Co., Pavement Resurfacing With Guide Rail And Sign Replacement, I-88 from exit 23 to Schenectady County Line, Town of Schoharie.

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

Goals: DBE: 5.00%

Bid Letting Date: Feb. 3, 2022

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

Contract# D264732
PIN# 935850
FA Proj.# Z0E1-9358-503

Project Description: Broome Co., Bridge Deck OverlaYS, I-88 Connector, Town of Chenango.

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

Goals: DBE: 6.00%

NYSDOT - Region 10

Bid Letting Date: Feb. 3, 2022

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

Contract# D264692
PIN# 053481
FA Proj.# Z0E1-0534-813

Project Description: Nassau, Suffolk Cos., Concrete Pavement Restoration, Southern State Parkway, Ramps only to Sagtikos State Parkway, Towns of Hempstead, Oyster Bay, Babylon and Islip.

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

Goals: DBE: 10.00%

Bid Letting Date: Feb. 3, 2022

New York State Department of Transportation

Contract Management
50 Wolf Road, 1st Floor, Suite 1CM
Albany, NY 12232

Contract# D264714
PIN# 081041
FA Proj.# Z0E1-0810-413

Project Description: Suffolk Co., Priority Pavement Surface Treatment, various locations, Towns of Babylon, Islip and Smithtown.

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

Goals: DBE: 10.00%

Bid Letting Date: Feb. 3, 2022

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

Contract# D264629
PIN# 022948
FA Proj.# Z46E-0229-483

Project Description: Suffolk Co., Operational Improvements, Long Island Expressway (I-495), Towns of Islip & Smithtown., PLA Candidate.

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

Goals: DBE: 10.00%

Bid Letting Date: Feb. 3, 2022

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

Contract# D264675
PIN# 0BPT22
FA Proj.# Z0E1-0BPT-223

Project Description: Nassau, Suffolk Cos., Bridge Painting And Minor Steel Repairs, various locations.

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

Goals: DBE: 10.00%

Bid Letting Date: Feb. 3, 2022

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

Contract# D264689
PIN# 0BDP04
FA Proj.# Z0E1-0BDP-043

Project Description: Nassau, Suffolk Cos., Bridge Deck Overlay, 5 Bridges, Towns of Oyster Bay and Brookhaven.

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

Goals: DBE: 9.00%

NYSDOT - Region 11

Bid Letting Date: Feb. 3, 2022

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

Contract# D264679
PIN# XM2148
FA Proj.# Z0E1-XM21-483

Project Description: Bronx, Kings, New York, Queens, Richmond Cos., Pavement Preservation, various locations in NYC.

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

Goals: DBE: 10.00%

Bid Letting Date: Feb. 3, 2022

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

Contract# D264700
PIN# XM2204
FA Proj.# Z0E1-XM22-043

Project Description: Bronx, Kings, Queens, Richmond Cos., Bridge Painting, various locations in NYC, Night Time Work.

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

Goals: DBE: 6.00%

Bid Letting Date: Feb. 3, 2022

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

Contract# D264724
PIN# XM2149

Project Description: Bronx, Kings, New York Cos., Concrete Pavement Preservation, various locations in NYC.

Bid Deposit: 5% of Bid (~ \$200,000.00).

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

Bid Letting Date: Feb. 16, 2022

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

Contract# D264699
PIN# X73175
FA Proj.# Z0E1-X731-753

Project Description: Richmond Co., Bridge Deck Replacement and Rehab, I-278 (Staten Island Expressway) over Richmond Ave, New York City, Night Time Work, Pre-bid Meeting, Best Value Procurement.

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

Goals: DBE: 10.00%

Bid Letting Date: Feb. 17, 2022

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

Contract# D264703
PIN# X73173
FA Proj.# Z0E1-X731-733
Project Description: Kings Co., Bridge Repairs and Painting, I-287 Gowanus Expressway, Viaduct in Brooklyn., PLA Candidate.

Bid Deposit: 5% of Bid (~ \$10,000,000.00)

Goals: DBE: 9.00%

New York State Thruway Authority

Bid Letting Date: Jan. 26, 2022

Contract: TANY 22-4/D214852

Project Description: 1R Mill and inlay, safety improvements and miscellaneous work from M.P. 43.5 to M.P. 46.0 in Orange County in accordance with the plans and specifications.

Goals: MBE - 0% WBE - 0% SDVOB - 0%

Bid Deposit: \$375,000.00

Bid Letting Date: Jan. 26, 2022

Contract: TANY 22-3I/D214851

Project Description: Installation of ITS equipment at various locations in the New York Division in Bronx, Westchester, Rockland and Orange Counties in accordance with the plans and specifications.

Goals: MBE - 5.5% WBE - 5.5% SDVOB - 2%

Bid Deposit: \$125,000.00

Bid Letting Date: Feb. 2, 2022

Contract: TANY 22-6/D214854

1R one-course mill and inlay from M.P.16.4 to M.P. 24.0 in Rockland County in accordance with the plans and specifications.

Goals: MBE - 0% WBE - 0% SDVOB - 0%

Bid Deposit: \$750,000.00

Westchester County DPW

Bid Due Date: Feb. 2, 2022 (Second Date Change)

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.

Pre-Bid Inspection: held Nov. 16, 2021.

Contact: Esther Rivas, 914-995-5584.

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

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Economic Outlook

Artificial Intelligence Takes On Construction Industry Needs

By MICHAEL J. PATON

Artificial Intelligence (AI) is a term used to describe how machines can be trained to imitate human cognitive functions—spotting patterns, learning from experience or understanding images. AI in construction involves using these technologies to make building sites safer, reduce waste and boost efficiency.

AI in construction is one of several major innovations in construction technology to have emerged in recent years. And while the technology is still relatively new and not yet widely used, it is expected to grow. Indeed, Reports and Data, a market research and consulting company, calculates the building AI market will reach \$4.5 billion by 2026.

One of AI's greatest strengths is its ability to explore many different variations of a model to find the best option—this is known as generative design. Generative design could be useful for designers using Building Information Modeling (BIM) technology. AI would take a BIM model and explore tens of thousands of minor and major design changes to make a design safer, more stable, or simply cheaper and faster to build. For a person to explore all these possibilities would require months—an AI engineering program could do so in hours. In addition, AI is very effective at analyzing historical data and using this to create likely forecasts of future events. An AI program could feasibly be used to train a machine to spot patterns in maintenance issues and locations. Imagine an AI system, which assesses hundreds of thousands of damage or issue reports for different kinds of buildings over time, as well as information from sensors. Eventually, it could begin to predict when certain surfaces, fittings or materials will become damaged or worn and alert maintenance teams to this.

Another use of AI is in construction project management. Construction projects frequently become delayed or experience cost overruns—even with skilled project managers overseeing them. However, AI forecasting algorithms



have proven highly accurate in estimating cost overruns of projects. Project managers could use AI-enhanced software that identifies how likely their plans are to be delayed. This could help them revise projects and find ways to manage time and resources better.

AI construction robotics represents another possibility for saving time and reducing risk. We are still a long way from a world of autonomous robot bricklayers, yet firms are already providing bulldozers and excavators, which can be given defined tasks and work alone. This kind of technology could save enormous sums of money and make projects progress faster. Imagine a project in a remote location that it is difficult to get workers to—remote diggers could work 24/7 clearing sites and get the work done much faster.

According to the consulting company McKinsey & Company, AI use cases in construction are still relatively nascent, though a narrow set of start-ups are gaining market traction and attention for their AI-focused approaches. There are a few early-stage examples construction firms can evaluate:

- Project schedule optimizers can consider millions of alternatives for project delivery and continuously enhance overall project planning.
- Image recognition and classification can assess video data collected on work sites to identify unsafe worker behavior and aggregate this data to inform future training and education priorities.
- Enhanced analytics platforms can collect and analyze data from sensors to understand signals and patterns to deploy real-time solutions, cut costs, prioritize preventive

maintenance and prevent unplanned downtime.

The mandate for change and technological adoption of AI in construction is strengthening, and financial and strategic investors continue to fuel a rapid expansion of the construction technology industry, according to McKinsey. The COVID-19 pandemic has only added additional urgency to the preexisting productivity and data-visibility issues facing construction companies. While this next phase of growth and adoption will better equip construction industry leaders to effectively plan and manage projects, construction technology is still rapidly growing and highly dynamic. Further efficiencies will be unlocked with deeper integration of technology solutions directly on the job site and with predictive analytics leveraging data from connected teams and equipment. In the end, the

“platform era” will simply create the platform upon which these emerging technologies

in construction in the future. The potential applications of machine learning and AI in construction are vast. Requests for information, open issues and change orders are standard in the industry. AI will be like a smart assistant that can scrutinize this mountain of data. It then alerts project managers about the critical things that need their attention. Several applications already use AI in this way. Its benefits range from mundane filtering of spam e-mails to advanced safety monitoring. The future, as they say, certainly ain't what it used to be—it's wide open.

AI would take a BIM model and explore tens of thousands of minor and major design changes to make a design safer, more stable, or simply cheaper and faster to build. For a person to explore all these possibilities would require months—an AI engineering program could do so in hours.

are built.

As market barriers to AI entry in construction steadily lower—and advancements in AI, machine learning (ML) and analytics accelerate—you can expect AI (and allocation of resources funneled toward AI) to play a more significant role

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

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WHAT'S NEW & WHO'S NEWS

LeChase Unveils Training Center to Safeguard Hospitals, Labs During Building, Reno Projects

ARMONK—LeChase Construction Services has recently opened a new private environmental training center geared at teaching construction workers the best practices for containing noise, dust and contaminants during construction projects in hospitals, pharmaceutical research companies and other critical facilities.

At a tour of its facilities last month, LeChase Construction officials showcased the training center's mix of classroom and hands-on training, offering workers experience in containment barriers, negative air pressure, HEPA filtration, as well as good housekeeping techniques that will reduce the risk of cross contamination and provide a safe environment for patients, staff and others while nearby renovations occur.

Located at LeChase's New York Metro office at 1 Labriola Court in Armonk, NY, the new ICRA training center—infection control risk assessment—training center will be used as a company-wide resource to ensure the firm's employees and subcontractors stay at the forefront of the emerging and established health and safety protocols.

"As LeChase continues to grow its client base in the healthcare and pharmaceutical industries, this new ICRA training center will provide a critical skill for LeChase employees and for our subcontractors," said David Campbell, LeChase vice president.

Mr. Campbell made his remarks during an event introducing the center to customers, the media and other stakeholders. "With our center, we will train workers to properly use the systems and exercise the care needed to ensure our work does not disturb hospital patients and visitors, and researchers at pharmaceutical companies," he said.

At the 2,000-square-foot ICRA training center, workers will learn to use: temporary hard barriers to contain construction work areas; high-efficiency particulate air (HEPA) filters to remove dust and other contaminants; and techniques for personal protection and cleaning. LeChase has retained independent consultant Richard Vogel as the instructor to teach the classes at the center. Mr. Vogel was formerly in charge of infection control at New York Presbyterian Hospital prior to his retirement.



Standing in Protective, Dust-Free Zone

From left, Beth Boyle of Shaw Industries, a flooring manufacturer based in Georgia, Pam Piccini of RVP Flooring Systems of Carmel, Matt Strebel and Jim Finan of LeChase Construction Services in Armonk, and John Mahoney of Regeneron in Westchester.

Mr. Campbell said that while the impetus to open the new environmental training center was partially due to its increased market share in the health care-biomed arena, "I think on top of that there is a real need, internally, at least for us and our clients, especially when it comes to in the last year-and-a-half with COVID, to really make sure we have tight controls on our construction space."

Mr. Campbell said that the classes are orientation-based and are set up as two- or four-hour sessions and are limited at present to train LeChase employees and subcontractors. LeChase, which has 11 offices in the Northeast, employs a total of 750 workers, of which approximately 250 employees would be eligible for the health care environmental training courses. LeChase is headquartered in Rochester, NY.

Once the LeChase employees complete the training, the company will be asking them to take the Certified Health Care Physical Environment Worker Test provided by American Society for Health Care Engineering (ASHE).

The barrier walls, made of plastic and aluminum and filled with insulation, reduces sounds by 50%, enough to deaden loud, sharp sounds. The HEPA filtration removes a very high percentage of particulates and creates negative air pressure that draws air into the enclosed construction area, rather than allowing dust-laden air to escape into the occupied areas of the hospital or laboratory.

Trainees will also learn procedures to maximize the effectiveness of the system, including cleaning themselves of

dust with HEPA-filtered vacuums before leaving the enclosed construction area, and using sticky mats inside the space to

remove and safely secure dust and particulate matter from boots. In addition, training will cover use of personal protective equipment (PPE) and proper housekeeping in this specialized environment.

LeChase, a leading national firm specializing in healthcare, life science, education and commercial construction with a New York Metro office in Armonk, was among the first firms in Westchester County to invest in the technology and offer it to customers seeking superior infection control, enhanced safety and noise reduction during construction.

"LeChase has already applied this system and technique successfully on important projects at several healthcare centers," Mr. Campbell said. "Our core value is to do the right thing; this fuels our passion to create safe work environments and to deliver excellence for our clients."

Ydanis Rodriguez Appointed NYC DOT Commissioner

NEW YORK—New York City Mayor Eric Adams recently appointed Ydanis Rodriguez as Commissioner of the New York City Department of Transportation, the first Latino to head the agency. He also announced that Aloysee Heredia Jarmoszuk will continue to lead the New York City Taxi and Limousine Commission.

"Our city's transportation system faces major challenges, from surging traffic fatalities to increased congestion on our streets. We need proven leaders who are ready to roll up their sleeves on Day 1 and address these issues, with a focus on making transit more equitable and efficient for all New Yorkers. I know Ydanis Rodriguez and Aloysee Heredia Jarmoszuk are up to the challenge, and I look forward to working with them to keep our city moving forward," said Mayor Adams.

"As the next DOT Commissioner, I am proud



Ydanis Rodriguez

to soon be working alongside the many men and women in the agency who have been committed to improving the safety of our streets. I will continue looking for innovative ways to reduce our reliance on carbon-emitting vehicles and in its place build a city that prioritizes sustainability and the safety of pedestrians and cyclists," Mr. Rodriguez said.

Mr. Rodriguez previously chaired the City Council's Transportation Committee, a position he held for the past eight years. In that role, he has been a leading voice for street safety. He also spear-

headed a wide array of innovative initiatives and policies, including the city's annual "Car Free Earth Day" and the expansion of Citi Bike into underserved neighborhoods throughout the city. He has represented the 10th Council District since 2009, including Inwood, Marble Hill, and Washington Heights.

Hudson Valley Pattern for Progress Appoints Bosch as President, CEO

NEWBURGH—The Board of Directors at Hudson Valley Pattern for Progress announced recently the appointment of Adam Bosch to be the organization's next president and chief executive officer. Mr. Bosch, a lifelong resident of the Hudson Valley, worked as a journalist, college professor, and policy analyst across the region before joining the senior leadership team of the New York City water supply system. He will become Pattern's sixth president since the organization was founded in 1965.

The appointment is a journey back to Pattern for Mr. Bosch, who about a decade ago served as vice president of research and external affairs for the organization.

Hudson Valley Pattern for Progress is a policy, planning, advocacy and research non-



Adam Bosch

profit that has promoted regional, balanced, equitable, and sustainable solutions for the Hudson River Valley.

"I am excited to lead the team at Pattern for Progress during a time when the Hudson Valley faces so many challenges and opportunities," Mr. Bosch said. "Our region has long trusted Pattern to develop plans and policies that are based on objective research, steering our communities toward a more prosperous and equitable future. I'm

eager to amplify the work of Pattern's talented staff by collaborating with leaders across the region who have the passion and authority to turn our research into action."

Mr. Bosch will join Pattern for Progress on Jan. 31.

Please turn to page 21

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WASHINGTON UPDATE

NY State to Receive \$378.4 Million In Federal Bridge Funding in 2022

WASHINGTON—The U.S. Department of Transportation on Jan. 14 launched the historic Bridge Replacement, Rehabilitation, Preservation, Protection, and Construction Program (Bridge Formula Program), made possible by President Biden's Bipartisan Infrastructure Law.

The program, to be administered by the Federal Highway Administration, represents the single largest dedicated bridge investment since the construction of the interstate highway system—providing \$26.5 billion to states, the District of Columbia and Puerto Rico over five years and \$825 million for Tribal transportation facilities. The total amount that will be available to states, D.C. and Puerto Rico in Fiscal Year 2022 is \$5.3 billion along with \$165 million for tribes. The FHWA also published initial guidance on the new program.

"The Biden-Harris Administration is thrilled to launch this program to fix thousands of bridges across the country—the single largest dedicated bridge investment since the construction of the Interstate highway system," said U.S.

Transportation Sec. Pete Buttigieg. "Modernizing America's bridges will help improve safety, support economic growth, and make people's lives better in every part of the country—across rural, suburban, urban, and tribal communities."

Nationwide, the Bridge Formula Program is expected to help repair approximately 15,000 highway bridges. In addition to providing funds to states to replace, rehabilitate, preserve, protect, and construct highway bridges, the Bridge Formula Program has dedicated funding for Tribal transportation facility bridges as well as "off-system" bridges, which are generally locally-owned facilities not on the federal-aid highway system.

The Bipartisan Infrastructure Law includes an incentive for states to direct the new

Bridge Formula Program funds to off-system bridges owned by a county, city, town or other local agency. While states generally must match federal funding with up to 20% state or local funding, the guidance issued today notes that federal funds can be used for 100% of the cost of repairing or rehabilitating such locally owned off-system bridges.

U.S. Rep. Sean Patrick Maloney reported that New York State will receive \$1.9 billion from the Bipartisan Infrastructure Investment and Jobs Act to fix and rebuild its bridges. As a Member of the Transportation & Infrastructure Committee, Rep. Maloney helped draft the transformative infrastructure package and has been a critical advocate for investing in America's bridges.

The USDOT reported that



U.S. Transportation Secretary Pete Buttigieg

New York State, in Fiscal Year 2022, will receive \$321,652,184 in main bridge funding; \$56,762,150 in off-system bridges funding for a total award of \$378,414,334.

"Thanks to the Infrastructure Investment and Jobs Act,

we are going to fix New York's bridges. Repairing our infrastructure has always been one of my top priorities, and I am so proud to have helped write the law that is delivering for our country," said Rep. Maloney. "With this funding from the Federal Highway Administration, New York will receive nearly \$2-billion to get to work fixing its more than 1,700 bridges in poor condition, and will create millions of good-paying jobs in the process."

The federal bridge funding is available to improve the condition of 1,702 bridges in poor condition in New York State. In the counties that comprise New York's 18th Congressional District, there are more than 175 bridges in poor condition. These include 42 in Dutchess, 67 in Orange, 12 in Putnam and 66 in Westchester.

Vaccine Mandate

Continued from page 9

AGC's chief executive officer. "Encouraging vaccine-hesitant workers to shift to smaller employers won't improve health and safety. It will just put firms that employ 100 or more workers at grave risk of losing the workers they need to complete projects."

The associations filed their petition today in the U.S. Court of Appeals for the Fourth Circuit. The petition noted that OSHA exceeded its statutory authority to promulgate an Emergency Temporary Standard, and otherwise failed to comply with the Occupational Safety and Health Act.

The new standard applies to all companies with 100 or more employees, but the construction groups noted that roughly 64% of all jobs in the construction industry are with smaller companies. With nearly 90% of construction firms reporting they are having a hard time filling positions, and many other sectors eager for workers, many vaccine-hesitant workers will have little difficulty finding career opportunities at the smaller firms that are not covered by the OSHA mandate.

"This industry supports the coronavirus vaccine and is working to get as many workers vaccinated as possible," said Scott Casabona, the president of SWACCA. "But crafting an unworkable rule that will do little to get construction workers vaccinated is an approach that is not only wrong, but likely counterproductive."



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NEW YORK CITY UPDATE

NY, MTA Releases Feasibility Study On Interborough Express Project

NEW YORK—Gov. Kathy Hochul and MTA Acting Chair and CEO Janno Lieber on Jan. 20 unveiled the results of a year-long study assessing feasibility of the Interborough Express, the transformative transit project which would connect communities in Brooklyn and Queens to as many as 17 subway lines and the Long Island Rail Road, and significantly reduce travel times within and between the two boroughs.

“Infrastructure is all about connection, and with the Interborough Express we can connect people to their family and friends while also improving their quality of life,” Gov. Hochul said. “The Interborough Express will connect Brooklyn and Queens, not only shaving time off commutes but also making it easier to connect to subway lines across the route. With the completion of the feasibility study, we can move forward to the next phase of this project and bring us one step closer to making the Interborough Express a reality for New Yorkers.”

The feasibility study’s results indicate that it is indeed physically feasible to accommodate passenger traffic alongside the existing freight rail traffic, that there is significant



A map of the existing conditions in the Bay Ridge corridor in Queens and Brooklyn and the proposed Interborough Express project that would connect currently underserved areas with up to 17 subway lines. SOURCE: MTA

demand, and that Bus Rapid Transit, Light Rail, and conventional Heavy Rail are all options in terms of the possible modes of transit.

As announced in Gov. Hochul’s 2022 State of the State, the MTA’s next step is to conduct required state and federal environmental review

processes, which will also include public engagement to gather input from communities, elected officials, and other key stakeholders to further the process of determining the most appropriate mode of transit.

The Interborough Express would use the existing right-of-way of the Bay Ridge Branch, which is a freight rail line that runs through Brooklyn and Queens, connecting ethnically and socioeconomically diverse neighborhoods such as Bay Ridge, Sunset Park, Borough Park, Kensington, Midwood, Flatbush, Flatlands, New Lots, Brownsville, East New York, Bushwick, Ridgewood, Middle Village, Maspeth, Elmhurst and Jackson Heights. The project would include several new connections in neighborhoods that currently lack efficient connections to each other, and in some cases to Manhattan.

According to the study, up to seven out of 10 people served will be from communities of color; approximately one-half will come from households with no cars, and approximately one-third will be living in households at or below 150% of the Federal Poverty Line.

MTA Chair and CEO Lieber said, “MTA riders deserve a

reliable and wide-reaching transit system that promotes equity, and this study proves The Interborough Express will provide better access to jobs, education and economic opportunities for some 80,000 New Yorkers in Queens and Brooklyn.”

The project could provide potential connections to up to 17 subway lines, (2,3,5,7,A,B,C,D,E,F,J,L,M,N,Q,R,Z) serving areas of Brooklyn and Queens while initial studies indicate up to 80,000 daily weekday riders with annual ridership of approximately 2.5 million. Travel times between Brooklyn and Queens could be reduced by up to 30 minutes each way, depending on travel distance.

Proposed service would operate at up to five-minute headways during the peak periods, with off-peak headways of up to 10 minutes at other times of the day. The number and location of stations along the 14-mile corridor will be determined as part of the forthcoming environmental, planning, and engineering studies. Additionally, transportation planners believe the new service would work in concert with the Cross-Harbor Rail Freight Tunnel project. The

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Financial Management

What Industry Leaders are Saying About The State of Construction in 2022

By PHILLIP ROSS, CPA, CGMA, PARTNER

The construction industry has seen a range of challenges and shifts over the past two years—from financial uncertainty and tax code changes to new approaches to technology and workforce management. Looking ahead to 2022 and beyond, there is a lot of reason for optimism: the infrastructure bill is moving forward, and both public and private enthusiasm for new projects is rising.

However, it is still a very different landscape from the one we saw in February 2020. With more diversified project sectors today, along with the wide-scale adoption of construction technology and current labor conditions, many firms are strategizing differently for success.

Anchin recently conducted an end-of-year survey, asking leading firms to discuss the challenges and opportunities that are top of mind for executives. The survey reveals key insights into the state of the market and what still needs to change to ensure the industry can continue to deliver meaningful projects for the future.

The passing of the infrastructure bill was one of the main focuses of the survey, and a majority of respondents said their firms had diversified into infrastructure since the beginning of the pandemic. More specifically, 85% said that they believe infrastructure will be the busiest industry over the next five years. Increased growth could also be expected in the transportation, life sciences and healthcare sectors, per the



survey, especially if New York City seeks to continue to expand its STEM profile through new lab spaces and other strategies. A final sector that respondents singled out was industrial, which has become an in-demand asset sector, largely due to e-commerce.

The increasing confidence in the market has led to new strategies for talent retention and acquisition. The vast majority of respondents said they had adopted a form of WFH or hybrid-work, but 47% reported they've raised salaries and 30% said they've incorporated new culture-building activities, in efforts to compete for talent and demonstrate themselves as industry leaders moving forward.

Besides the aforementioned challenges, 65% of respondents said that the biggest problems facing the industry were labor shortages and public funding for infrastructure. While labor shortages may be helped by adoption of new technologies to help attract new talent, other issues highlighted were sustain-

ability and DEI (Diversity, Equity and Inclusion) initiatives, as well as public health and COVID-measures.

Amongst these challenges are needs that respondents identified, many of which may be aided by the \$1.2 trillion federal infrastructure act. Of respondents, 75% said that flood mitigation, tunnels and rail were the most important construction needs for the city today. Roads and affordable housing were also high in mind for those in the survey. The trends here relate directly to future city resilience, specifically in the face of population growth and growing climate change problems.

With the infrastructure act's funding comes hope for economic growth and recovery. Anchin's survey shows this recovery had begun even before the passing of the bill, with 50% of firms reporting increased work volume, and 42% reporting decreased backlogs. Though these are encourag-

ing signs, other problems still persist, specifically around modernization and technology. Respondents identified a

cited rising insurance costs and project delays. While market disruption and fluctuations may be calming due to recent economic gains and stabilization, the increased costs could continue, Anchin reported based on its findings.

The diverse asset sectors in the construction, architecture and engineering sectors have contributed to growing optimism. Additionally, as shown by the survey, there are still numerous issues and market shifts facing the industry. Nevertheless, industry leaders are adapting to new hybrid roles,

technology and talent retention challenges as the New York City market moves into a new era and a new year.

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.

Of respondents, 75% said that flood mitigation, tunnels and rail were the most important construction needs for the city today. Roads and affordable housing were also high in mind for those in the survey.

NY, MTA Releases Feasibility Study

Continued from page 18

Port Authority will complete the environmental review for the freight tunnel as mentioned in the governor's State of the State address. Increasing rail service and reducing truck traffic could have a significant impact on the region.

New York City Mayor Eric Adams said, "The Interborough Express is a creative proposal and a critical step towards our shared goal of providing greater connectivity for New Yorkers living in transit deserts as well as much-needed economic development. By building efficiently on existing infrastructure, we can provide commuting options for hundreds of thousands of potential riders from Middle Village and Midwood and from Brownsville and Bushwick."

President of the New York State Building and Construction Trades Council and President of the Building and Construction Trades Council of

Greater New York Gary LaBarrera said, "This is an important first step towards embarking on a thoughtful and effective infrastructure plan that will not only enhance connections between communities, but create thousands of middle-class careers with benefits in the process. The Interborough Express will be a key element of New York's transportation infrastructure for years to come."

Determining fares will be the responsibility of the MTA Board at time of implementation; they are expected to be equivalent to standard subway fares.

The Interborough Express could take many different forms depending on factors such as operating mode, service frequency, station locations and its relationship with existing freight tracks. The total project cost will be determined as part of the forthcoming environmental review and design process.

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State Awards More Than \$216M In 'BridgeNY' Funding This Year

Region Nabs \$34M for 8 Span, 8 Culvert Projects

ALBANY—New York Gov. Kathy Hochul announced recently the award of \$216.2 million in enhanced assistance for 88 local governments to rehabilitate and replace bridges and culverts in every region of the state. The funding provided through the state's "BRIDGENY" initiative supports projects that enhance safety, reduce the risk of flooding, improve resiliency of structures, facilitate regional economic competitiveness and prioritize projects that benefit environmental justice communities.

Of these municipally owned pieces of infrastructure, Gov. Hochul said, "We must continue to make these strategic investments in our local communities to protect our residents from the increased frequency of extreme weather events, as well as to provide New Yorkers with the modernized and streamlined infrastructure they deserve."

The announcement builds upon the nearly \$500 million previously awarded to local governments under this initiative. The BRIDGENY awards were made through a competitive solicitation process and will support all phases of project delivery, including design, right-of-way acquisition and construction. Projects were selected based on criteria that included:

- the structural condition and susceptibility of the bridge or culvert to flooding or scour;
- the significance of the bridge or culvert based on detour considerations and the number and types of businesses served;



The Mid-Hudson region secured eight bridge awards valued at \$27 million and eight culvert awards valued at \$7.5 million for a combined funding award of \$34,751,680.

CREDIT: NEW YORK STATE DEPARTMENT OF TRANSPORTATION

- benefits of the corridor on Environmental Justice Communities;
- the overall impact on the movement of commerce.

The BRIDGENY program is administered by the New York State Department of Transportation and part of the state's sustained efforts to enhance investments in local roads, bridges and other vital transportation infrastructure across New York State.

The Mid-Hudson region secured eight bridge awards valued at \$27,233,689 and eight culvert awards valued at \$7,517,991 for a combined funding award of \$34,751,680. New York City secured one bridge project award valued at \$29.4 million.

The specific 2021 BRIDGENY award recipients in the Mid-Hudson Valley, New York City region were:

Mid-Hudson Region \$34.8 million

- \$1.603 million to the Town of Red

Hook (Dutchess County) for the replacement of the Saw Kill Road bridge over the Saw Kill;

- \$4.235 million to Orange County Department of Public Works (Orange County) for the replacement of the Hulsetown Road bridge over Cromline Creek;

- \$1.256 million to Rockland County for the rehabilitation of the Lawrence Street bridge over the tributary to Pascack Brook;

- \$4.477 million to Sullivan County for the replacement of the County Route 49 bridge over Neversink River;

- \$4.727 million to Sullivan County for the replacement of the Beaver Brook Road bridge over Beaver Brook;

- \$4.095 million to Ulster County for the replacement of the County Road 54 bridge over the Beaver Kill;

- \$1.999 million to the Town of Rochester (Ulster County) for the replacement

of the Boice Mill Road bridge over Falls Mill Brook;

- \$4.842 million to the Town of Rye (Westchester County) for the replacement of the South Barry Avenue bridge over Otter Creek;

- \$993,000 to the Town of East Fishkill (Dutchess County) for the replacement of the Hillside Lake Road culvert;

- \$1.0 million to Orange County Department of Public Works for the replacement of the Neversink Drive (CR80) culvert carrying the tributary to Shinhollow Brook;

- \$526,000 to the Town of Newburgh (Orange County) for the replacement of the Elmhurst Avenue culvert carrying Bushkill Creek;

- \$1.0 million to Orange County Department of Public Works for the replacement of the Lakes Road (CR5) culvert carrying the tributary to Shinhollow Brook;

- \$1.0 million to Putnam County for the replacement of the Peekskill Hollow Road culvert carrying Wiccopee Brook;

- \$1.0 million to Putnam County for the replacement of the Snake Hill Road culvert carrying the Philipse Brook Tributary;

- \$999,000 to the Town of Kent Highway Department (Putnam County) for the replacement of the Lake Louise Drive culvert;

- \$999,000 to Rockland County for the replacement of the Spook Rock Road culvert carrying Willow Tree Brook.

• New York City Region \$29.4 Million

- \$29.4 million to the New York City Department of Transportation for the replacement of the Fifth Avenue bridge over the Brooklyn-Queens Expressway.

Work Begins on \$45M Kingston Bridge Job

KINGSTON, NY—New York Gov. Kathy Hochul announced recently a total of \$56.2 million in infrastructure investments for the City of Kingston, which includes the start of a major bridge rehabilitation project and the completion of a roundabout within the city.

A \$44.6-million project is getting underway that will rehabilitate the historic Kingston-Port Ewen Suspension Bridge, also known as the Wurts Street Bridge, which has been closed since September of 2020. Additionally, the \$11.6-million Kingston Roundabout project was recently completed, which reconstructed the intersection of Interstate 587 (Colonel Chandler Drive), State Route 32 (Albany Avenue) and Broadway in the City of Kingston.

Back in June, the NYSDOT announced that Wurts Bridge Constructors LLC won the Best Value Selection Designation with a score of 91.85. The estimated cost of the bid at the time of the award was \$44,927,000.

In October, 2019 NYSDOT reported that D.A. Collins Construction Co. of Wilton, NY was the lowest of four bidders at \$11,589,775.29 for I587 at Albany Avenue intersection improve-



The \$11.6-million Kingston Roundabout project was recently completed. The completed job reconstructed the intersection of Interstate 587 (Colonel Chandler Drive), State Route 32 (Albany Avenue) and Broadway in the City of Kingston, NY.

ments (roundabout installation), in the City of Kingston in Ulster County.

"We continue to make ambitious investments in transportation projects throughout New York that are built to last, and these two in Kingston are perfect examples of how we are connecting communities efficiently and safely," Gov. Hochul said. "Project by project, we are moving New York forward and building one of the most robust

and versatile transportation networks in the nation."

The Wurts Street Bridge project will completely rehabilitate the 100-year-old crossing by enhancing the structural stability of the bridge and re-establishing an important connector between the City of Kingston and the Town of Esopus in Ulster County. Improvements planned for the bridge include a new bridge deck, guide rails, sidewalks, railings and

suspender cables. The bridge's load capacity will be increased to 20 tons and sidewalks will be widened to meet current standards. New paint will also be added, lessening the need for annual maintenance.

The chambers, where the main cables are anchored, will have state of the art climate control systems to control moisture and ensure the anchorages remain free from corrosion. Additionally, the control systems

will be enabled with remote monitoring and operation.

The popular pedestrian walkway and docks below the bridge will remain open during construction. The roadway below the bridge, Dock Street/West Strand Street, will also remain open, but existing parking spaces will be temporarily closed. Abeel Street on the northern end of the bridge will be reconstructed, requiring a temporary closure of one lane. All work is expected to be completed by the fall of 2023.

DOT Commissioner Marie Therese Dominguez said, "New York State continues to make critical investments that will create a more resilient transportation network, strengthen communities and improve quality of life. The rehabilitation of the Wurts Street Bridge will restore an important link for Ulster County residents and travelers and, at the same time, add aesthetic enhancements that will cement this bridge's status as a Hudson Valley icon. Additionally, the new roundabout will reduce congestion at one of Kingston's most vital gateways and help keep people and goods flowing throughout

Please turn to page 22

Gov. Seeks New Study for Rte. 17 Expansion

her administration to make these long-needed upgrades a reality.”

The Construction Industry Council of Westchester & Hudson Valley, Inc. is a founding member of the 17-Forward-86 coalition.

The final report from the New York State Department of Transportation’s Route 17 Planning and Environmental Linkage Study group recommended the state move forward with an environmental review of a General Use Third Lane in each direction on Route 17 in Orange and Sullivan counties that could—if built as one major project—cost anywhere from \$650 million to \$1.27 billion. The PEL Study Group also called for a study of interchange upgrades be undertaken at exits in Orange and Sullivan counties and that improvements be made in the region to improve connectivity to existing transit.

The scope of the construction of the General Use Third Lane beginning at Exit 131 in Harriman (Orange County) to Exit 103 (Rapp Road) in Monticello in Sullivan County would determine the cost of the project.

Option 1, which involves using the basic existing footprint of the roadway and shoulders to accommodate a third lane in each direction would cost \$385 million to \$470 million for the Orange County stretch of roadway and another \$265 million to \$325 million in Sullivan County.

Under Option 2, which would involve widening the existing roadway to accommodate the third lane expansions in both directions so that most of Route 17 would conform to federal Interstate standards, the costs would escalate. For the Orange County section, the cost would run between \$615 million to \$750 million, while the Sullivan County component’s cost ranges from \$425 million to \$520 million.

The PEL Study Group did not recommend one option over the other. While listing interchanges in Orange and Sullivan counties that could be upgraded, it did not issue any specific recommendations, although it did point out those with the greatest need.

In referencing the need for a General Use Third Lane, the study group stated, “Reconstruction under the General Use Third Lane Alternative would provide the opportunity

to address deficiencies in the existing roadway to correct non-standard features and storm-related flooding. High crash locations containing curves and overpasses would



“During a time when New York’s recovery is most critical, the governor specifically has a plan for economic development through infrastructure rebuild, shovel ready sites and regional councils that focus on regional growth strategies, including the conversation of Route 17 to Interstate 86.”

—Maureen Halahan, President and CEO, Orange County Partnership

benefit from widening shoulders, increasing pavement friction, and increased banking (removal of non-conforming super elevation) under this concept. Increasing the capacity of Route 17 would provide a 24% reduction in congestion related crashes overall, per the Crash Modification Factors Clearinghouse.”

The study indicated the cost of the interchange upgrades in Orange County could run from \$135 million to \$175 million and in Sullivan County from \$43 million to \$144 million.

Improvements to Connectivity to Existing Transit projects are projected to cost between \$1 million to \$1.5 million in Sullivan County and \$9 million to \$10 million in Orange County.

The study group also recommended moving forward with a No Build scenario, but that was done chiefly because it is a requirement of the National Environmental Policy Review Act (NEPA) process for any proposed Route 17 project. The group also considered the construction of a High Occupancy Vehicle Lane and the addition of Light Rail and Bus Rapid Transit but did not recommend going forward on any of those options.

While study group officials have stated at previous virtual public workshops that the full project would likely not move forward all at once due to funding constraints and other factors, the report listed the total project cost involving the construction of the General Use Third Lane, interchange improvements and improvements to connectivity to existing transit projects would run from \$529 million to \$935 million in Orange County and \$309 mil-

lion to \$665.5 million in Sullivan County.

While the Route 17 expansion may qualify for some federal funding, it is likely that the overall project would be done in

phases and based on the report it appears work would begin on a stretch of the roadway in Orange County.

“As previously noted, NYSDOT will determine the logical termini and specific project limits of the General Use Third Lane Alternative in the future, following careful consideration of existing and projected traffic congestion, public and agency input, and available funding,” the report stated. “Based on this Route 17 PEL Study, the area of greatest need appears to be between Exits 120 (NY Route 211 – Wallkill) and 131 (Woodbury), a distance of approximately 22 miles, and the segment of the corridor that is projected to experience the highest levels of congestion in the year 2055.”

Continued from page 3

Advocates for the Route 17 expansion were heartened to learn that the project could receive funding from the \$1.2-trillion infrastructure bill recently signed into law by President

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.”

The PEL process was initiated by the NYSDOT in cooperation with the Federal Highway Administration. The DOT last year began a scoping and preliminary review process as part of the \$5-million PEL study, whose funding was secured through the 2018-2019 state budget.

The PEL study was a follow-up to a NYSDOT study released in May 2013 that examined the corridor between Monticello, Exit 103 (Rapp Road) and Harriman, Exit 131 (New York State Thruway) to help accommodate transportation demands brought about by economic growth in the region and to help accommodate future growth.

The 2013 final report recommended: adding a general use third lane, in each direction, from Interstate 87 in Harriman to just west of Middletown, Orange County; improve key interchanges in Orange and Sullivan counties; provide new and expanded park and ride lots at strategic locations in Orange and Sullivan counties and recommend some provisions for future transit.

Hudson Valley Pattern for Progress Appoints Bosch as President, CEO

Continued from page 16

“As Pattern enters into this next chapter of its history, I am excited to work with our new President and CEO Adam Bosch, our talented staff, and our committed and dedicated board of directors,” said Anthony Campagiorni, Chair of the Pattern for Progress Board of Directors. “Adam is the right leader for Pattern at this moment. He has demonstrated success in developing actionable research for the region, he brings an exciting vision for the Hudson Valley and Pattern’s role in advancing that vision, and he demonstrates an inspiring passion that will undoubtedly attract new individuals and organizations to Pattern’s critical mission.”

“Adam is the perfect choice to lead Pattern for Progress at this important time for the Hudson Valley,” said Jonathan Drapkin, who stepped down as president of Pattern in December after leading the organization for 15 years. “Throughout his career, Adam has built many strong relationships across the region. Those who have worked with Adam respect and trust him for his savvy advice, creative thinking and ability to knit issues together. Adam is a thorough researcher and an articulate communicator who will help the region assess where it was before the pandemic, and where it needs to go in the

future. Pattern was indeed fortunate to attract Adam to this vital position.”

Mr. Bosch started his career as a journalist in the Hudson Valley. He covered public affairs, courts and the environment for the *Wallkill Valley Times*, the *Middletown Times Herald-Record*, and in the Albany bureau of *The New York Times*. His work also appeared in several regional and national magazines. His work in journalism earned six Associated Press awards for investigative reporting, depth reporting, and breaking news coverage. Bosch also served as an adjunct professor of journalism for 10 years at SUNY New Paltz.

After leaving journalism, Mr. Bosch joined Hudson Valley Pattern for Progress in 2012 as vice president of research and external affairs. Bosch authored reports on the adaptive re-use of closed school buildings across the region, New York’s tax cap, and an investigation of Rockland County’s budget deficit. His examination of Rockland County’s fiscal crisis, and recommendations to solve it, earned Pattern the President’s Award from the Rockland County Business Association.

For the past nine years, Mr. Bosch has served as director of public affairs for the New York City water supply system. In that role, he was responsible for

community outreach, intergovernmental affairs, education programs and more. He served as the primary liaison between New York City and federal, state and local officials across the Hudson Valley and Catskills for issues related to the city’s reservoir system and its infrastructure. His work focused on explaining the operation, maintenance and protection of the water supply system that serves nearly 10 million New Yorkers, especially as the city pursued several large capital projects to upgrade its dams, aqueducts and treatment facilities in the region.

Mr. Bosch currently serves as a volunteer on the Catskill Advisory Group, a state-appointed panel that is developing a strategic framework to tackle the challenges and opportunities of increased visitation to the Catskill Park. He also serves on a nationwide advisory group that is developing risk communications for perfluoroalkyl substances (PFAS) in drinking water supplies.

Mr. Bosch was born and raised in the Town of Newburgh in Orange County, and graduated from Wallkill High School. He earned his bachelor’s degree from SUNY New Paltz, and his master’s degree from Columbia University in the City of New York. Mr. Bosch lives in Saugerties with his wife, Jennifer, and their 8-year-old son, Tristan.

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LOW BIDS

12 Firms Win NYSDOT Projects In NYC, Hudson Valley Regions

ALBANY—The New York State Department of Transportation recently announced the selection of 12 apparent low bidders for work in the Hudson Valley and New York City metro regions.

Transit Construction Corp. of Yonkers, NY was the lowest of three bidders at \$1,856,000.00 for culvert rehabilitation and replacement. Locations are Lower Road (CR12) over tributary to Wallkill River and Wesley Chapel Road over Willow Tree Brook. 2018 BRIDGENY ROUND 2 CULVERT BUNDLE 5 in Orange and Rockland counties.

Ben Ciccone Inc. of Poughkeepsie, NY was the lowest of 20 bidders at \$8,482,616.20 for ramp reconstruction I287, eastbound, to Saw Mill River Parkway northbound in Westchester County.

Constar Inc. of Central Islip, NY was the lowest of 15 bidders at \$12,981,850.00 for bridges and highways – NonStructural Where and When Corrective Maintenance Repairs – in the Bronx, Kings, New York, Queens and Richmond counties.

Jorrey Excavating Inc. of Middletown, NY was the lowest of four bidders at \$2,197,140.00 for build and repair sidewalks and ramps for ADA compliance in Orange County.

ELQ Industries Inc. of New Rochelle, NY was the lowest of five bidders at \$10,527,576.25 for resurfacing by milling and paving routes 141 and 117, Town of Mount Pleasant in Westchester County.

Westmoreland Construction Inc. of Bronx,

NY was the lowest of six bidders at \$2,749,040.00 for sign panel replacement project at various locations in the Bronx and Queens.

Rover Contracting Inc. of Hopewell Junction, NY was the lowest of seven bidders at \$8,115,056.00 for bridge painting at various locations in Broome, Delaware and Sullivan counties.

Rover Contracting Inc. of Hopewell Junction, NY was the lowest of six bidders at \$3,921,763.00 for bridge painting at various locations in Chenango, Delaware and Sullivan counties.

Yonkers Contracting Co. Inc. of Yonkers, NY was the lowest of four bidders at \$8,011,533.00 for paving on the Taconic State Parkway, from Tyrrel Road to Willow Lane in the towns of Pleasant Valley and Clinton in Dutchess County.

PCI Industries Corp. of Mount Vernon, NY was the lowest of three bidders at \$1,402,500.00 for Highway Job Order Contract at various locations in Putnam, Rockland and Westchester counties.

Dom's Lawnmaker Inc. (DBA Dom's Tree Inc.) of Port Washington, NY was the sole bidder at \$2,950,395.76 for landscape improvements at various locations in Dutchess, Orange, Rockland, Ulster and Westchester counties.

Economy Paving Co. Inc. of Cortland, NY was the lowest of five bidders at \$1,277,227.27 for scour repair at Route 17 over DeBruce and Willowemoc in the Town of Rockland in Sullivan County.

Mace Contracting Tabbed for Two Westchester DPW Jobs

WHITE PLAINS—The Westchester County Department of Public Works recently announced that **Mace Construction Corp.** of New Rochelle, NY was the apparent low bidder for two DPW projects.

Mace Contracting Corp. of New Rochelle, NY was the lowest of seven bidders at \$8,436,600.00

for sluice gate replacement at the Yonkers Joint Wastewater Treatment Plant in Yonkers.

Mace Contracting Corp. of New Rochelle, NY was the lowest of three bidders at \$3,262,890.00 for Tarrytown Lighthouse restoration at Kingsland Point Park in the Village of Sleepy Hollow, NY.

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CIC & BCA Directory & Buyer's Guide Being Prepared for April 2022 Distribution

TARRYTOWN, NY—The annual Construction Directory & Buyer's Guide that lists hundreds of heavy/highway and building contractors, material suppliers, service professionals and consultants in the Hudson Valley's robust construction marketplace is now being prepared by the Construction Industry Council and the Building Contractors Association.

The Directory & Buyer's Guide includes a comprehensive guide of federal, state and local municipal officials associated with procurement of construction and professional services. It is also acclaimed as a one-stop course to find the names and contact information on the Building Trades, labor union locals and unions apprenticeship programs in the downstate region.

"This is a unique and targeted opportunity to advertise your product or services to reach industry decision makers," said Ross J. Pepe, president of the CIC and BCA, which has produced the Directory & Buyer's Guide for more than four decades.

Sized for easy desktop use, the Directory is used daily by estimators, subcontractors, material and equipment suppliers and public officials throughout the region.

A limited number of copies are available from CIC and BCA, which compiles and publishes the 200-page Directory, for \$300 per copy. The Directory is distributed free to members of the CIC and BCA.

Space reservation deadline is Friday, March 4, for distribution in late April 2022. Advertising display space is available beginning at \$300 for a business-card size display. For more information, contact CIC Advertising Manager Peter Fiore at peter@cicnys.org or by calling 914-631-6070.

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Work Begins on \$45M Kingston Bridge Job

Continued from page 20
the Hudson Valley for many years to come."

The Kingston Roundabout project transformed a busy intersection into a modern roundabout that provides enhanced safety for all travelers and more efficient traffic flow for vehicles at one of the city's key gateways. New sidewalks, signals and other pedestrian accommodations were also added.

As part of the project, a park-like space was created adjacent to the roundabout between East St. James, Broadway and Albany Avenue. Raised crosswalks, updated sidewalks, a mixed-used path and rectangular rapid-flashing beacons were also installed to enhance accommodations for pedestrians. The beacons provide a high-visibility strobe-like warning to drivers when pedestrians use a crosswalk.

Additionally, a storm water treatment system was created onsite to collect and filter runoff, which will help protect the surrounding environment. The DOT coordinated with the City of Kingston, Kingston Water Department and the Central Hudson Gas & Electric Corporation to replace and modernize underground infrastructure, including sewer, water and gas facilities.

Named a DRI Round 2 winner in 2017, Kingston's Strategic Investment Plan is guiding revitalization projects that advance the community's vision for its downtown and can leverage and expand upon the state's \$10-million investment. Funded projects will build upon other recent investments in the downtown and surrounding area to create a sustainable environment for a year-round innovative and prosperous economy.



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