



# Construction NEWS



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## State Senate Shows Added Support For NYSDOT 5-Year Capital Plan

By JOHN JORDAN

TARRYTOWN—Things are really heating up in Albany this month and it's not about the weather. A coalition of 23 transportation, building trades and labor organizations—representing more than 200,000 members and employees statewide—is amping up its calls to Gov. Kathy Hochul and the State Legislature to take advantage of a “generational” opportunity to invest in the Empire State’s infrastructure and significantly increase the funding for the proposed NYSDOT five-year capital program.

A broad swath of the transportation industry, united under the banner of Rebuild-

NYNow, are hopeful that the final FY 2023 budget is likely to produce a significant boost in

***The coalition reminded lawmakers that some 1,700 deficient bridges and more than 7,000 miles of highway are in poor condition, according to the DOT’s own findings. Those numbers will only increase if the bold action is not taken over the next five years, industry leaders said.***

the five-year NYSDOT capital program over what was originally proposed by Gov. Kathy Hochul. The multi-year plan

is to be enacted as part of the state budget is due April 1.

While the coalition praised Gov. Hochul’s \$32.8-billion proposal for the next five-year NYSDOT capital plan, it noted the NYSDOT’s core highway construction program actually declines under the Executive Budget proposal with all things considered. “Funding for the ‘State/Local Construction’ category in the 2020/21-2021/22 two-year funding program averaged \$3.675 billion. The proposed five-year (fiscal year) 2023-2027 plan’s average is \$3.474 billion.” This amounts to an approximate \$200-million decline, or a \$1-billion decline. Please turn to page 8



**GENERATIONAL OPPORTUNITY:** From left, State Sen. Shelley Mayer, State Assemblyman Thomas Abinanti, Teamsters Local 456 President Lou Picani, U.S. Rep. Mondaire Jones and CIC Executive Director John Cooney, Jr.

## Regeneron Pharmaceutical Plans \$1.4B Expansion

By JOHN JORDAN

WHITE PLAINS—Two major expansion projects by Regeneron Pharmaceuticals in Westchester County are expected to cost nearly \$2 billion to complete.

Regeneron Pharmaceuticals, Inc., believes work could begin as early as this spring on its \$1.394-billion “Loop Road” expansion project in the Town of Greenburgh if the company secures necessary incentives from the Westchester County Industrial Development Agency and other sources totaling approximately \$173 million and another \$100 million in other public incentives.

The Tarrytown-based company’s proposed project in Westchester County received a major boost on Friday, Feb. 25

when the Westchester County Industrial Development Agency, in a unanimous 7-0 vote, approved the preliminary inducement of the sought-after sales tax and real property tax incentives for Regeneron.

The company had requested from the Westchester County IDA a sales tax exemption of approximately \$47.5 million and real property tax exemption of approximately \$125.3 million. In addition to the financial assistance sought from the IDA, Regeneron has been granted \$100 million in other public incentives to partially defray the cost of the proposed project’s capital investment.

Regeneron representatives noted the company is also considering unspecified sites in New Jersey for its expansion project.

At the session, Regeneron officials said the biopharmaceutical company had already begun construction on its Parcel D expansion project at its headquarters campus property in Greenburgh, valued at \$480 million, which secured incentives from the Westchester County IDA last year. The Parcel D project involves the construction of a new two-story, 207,000-square-foot building, along with a parking structure and other infrastructure.

The Loop Road expansion project would be an additional

expansion involving the construction of eight new buildings, three parking garages and a central utility plant totaling approximately 724,000 square feet at 777 Old Saw Mill River Road. The development would be located on a portion of the 100 acres the company acquired for \$72 million in 2015.

Therefore, the company’s expansion projects could total 921,000 square feet of space and a total investment of \$1.87 billion.

The proposed Loop Road capital investment would serve to locate and staff multiple new

R&D laboratories, administrative buildings, and amenities. Regeneron, which currently employs more than 3,300 full time employees at its corporate headquarters facilities in Tarrytown, stated that the project would retain 250 jobs at its campus property in Greenburgh, Mount Pleasant and Tarrytown and add another 700 new jobs at the property.

The construction of the project will result in approximately 2,500 construction jobs. In connection with the project, a study commissioned by the Westchester County IDA estimates that the construction project would generate \$208.8 million in economic activity. Please turn to page 6



**Regeneron Pharmaceuticals Inc. of Tarrytown, NY has already broken ground on a \$480-million expansion and is seeking incentives for another project at its complex valued at nearly \$1.4 billion.**

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# Hudson Valley Business, Industry Leaders Rally for Rte. 17 Expansion Project Funding

By JOHN JORDAN

TOWN OF WALLKILL, NY—Near a busy overpass for Route 17, state and local government leaders joined business and building trades representatives to press New York State to move forward with necessary environmental studies that will lead to what they say is the long-overdue expansion of Route 17 in Orange and Sullivan counties.

The rally on March 10—staged in a parking lot at the Galleria at Crystal Run in the Town of Wallkill—was held by the 17-Forward-86 Coalition, which is advocating for an additional lane in both directions as well as interchange upgrades from Southern Orange County to Monticello.

The final report from the New York State Department of Transportation's Route 17 Planning and Environmental Linkage (PEL) Study group released in November 2021 recommended the state move forward with 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 to complete.

The PEL Study Group is also recommending that 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.

Maureen Halahan, president of the Orange County Partnership and 17-Forward-86 co-chair, noted that Gov. Kathy Hochul identified the Route 17 expansion as a priority for her administration in her State of the State message earlier this year. She said the rally's goal was to press New York State leadership to allocate the funding necessary to construct an additional lane on Route 17 and make other much-needed upgrades to the corridor as part of the new five-year New York State Department of Transportation capital plan.

"This long-overdue project is in all of our best interests. It's about safety, sustainability, protecting our environment and preparing for our future. Widening and upgrading the Route 17 corridor will make our roads safer and provide better access for first responders," Ms. Halahan said. "It will ease conditions for all motorists, reducing harmful emissions from idling vehicles. This project will create good-paying jobs, which will help restore a sense of stability in our communities and give local economies a much-needed boost."

John Cooney, Jr., executive director of the Construction Industry Council of Westchester & Hudson Valley, Inc., and a member of the 17-Forward-86 Coalition, also noted the press-



The rally organized by the 17-Forward-86 coalition was held at the Galleria at Crystal Run in the Town of Wallkill, NY.

ing need for Route 17 upgrades and urged members of the New York State Assembly, the New York State Senate and Gov. Hochul to include funding for the project in the five-year New York State Department of Transportation capital plan.

He added that the governor's

overall proposed NYSDOT Five-Year Capital Plan needs to be increased by \$10 billion from \$32.8 billion to \$42.8 billion so that signature projects like Route 17-I-86 can begin while also increasing the investment that will go a long way to improving the existing conditions

of all the roads and bridges in New York State.

"New York State has never, in its history, had a better opportunity to increase the amount of money to spend on its roads and bridges and specifically on Route 17," Mr. Cooney said. "The federal government has

given New York State a once-in-a-lifetime opportunity to leverage its dollars and truly make improvements in our infrastructure. Let's seize it."

In a clear act of bipartisan support for the project, Democratic State Senator James Skoufis and Republican Senator Mike Martucci stood side by side expressing the urgent need for the Route 17 project to proceed.

Sen. Skoufis noted that the campaign for upgrades to Route 17 and its conversion to federal Interstate-86 has been a long one, noting the I-86 signs on the roadway have begun to rust.

"The good news is we are almost at the finish line here," he said. "Because of the work we have all done, I can tell you, as a matter of fact, and the Commissioner of the Department of Transportation who I spoke

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# Rally for Roads



*“Investing in our roads, bridges and highways is critical for the health of our state’s economy—we must make it a priority in the New York State budget.”*  
—State Sen. Shelley Mayer



*“I am very excited about this monumental funding and what it means for the future of the Hudson Valley and elsewhere in New York State. I will continue to work with my colleagues in government and labor to ensure that our region continues to receive the investments and support that we need not just to survive, but to thrive.”*  
—U.S. Congressman Mondaire Jones (NY-17)

## Officials Shoutout for Full Allocation of Federal IIJA Funds

ELMSFORD, NY—The sentiments of New York State Assemblyman Thomas Abinanti (see below) were echoed by many other business, industry and political leaders at two recent rallies organized by members of a coalition of construction contractor associations, building trades and organized labor groups that are lobbying

state lawmakers for additional funding to fix the state’s deteriorated roads and bridges. The Rebuild New York Now coalition, the Construction Industry Council of Westchester & Hudson Valley, Inc. and 21 other partners in construction and labor across New York State launched a campaign that kicked-off on Feb. 28, at a

press conference at the Teamsters & Chauffeurs Local 456 in Elmsford, N.Y. Local, state and federal representatives joined the conference and voiced their support for investing in the state’s infrastructure. Rebuild New York Now is a broad-based coalition comprising members of the construction industry, organized labor and business enterprises, representing more

than 200,000 workers and their families statewide – with the common goal of investing in infrastructure to ensure the safety and economic health of New York State. CIC Executive Director John Cooney Jr. was joined by state and local politicians. Speakers included: U.S. Rep. Mondaire Jones (NY-17), New York State senators Shelley B. Mayer, Sue Serino and Mike Martucci; Joe

Paone, representing U.S. Rep. Sean Patrick Maloney (NY-18); Assemblymembers Jon Jacobson and Tom Abinanti; and County Legislators Vedat Gashi, Colin Smith and Mary-Jane Shinsky. Union officials included the press conference’s host, Teamsters Local 456 President Louis Picani, and Heavy Construction Laborers L.U. 60’s Business Manager Anthony Ascencao.



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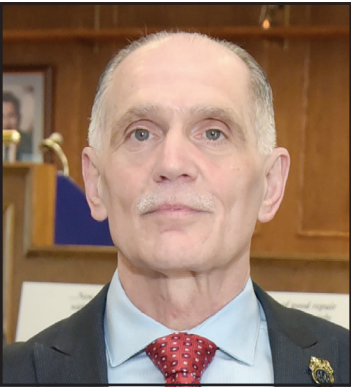
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*“We are here today to bring focus to the governor’s proposed NYSDOT five-year capital plan. The governor’s proposal does not leverage the historic federal dollars created by the passage of the Infrastructure, Investment and Jobs Act.”*  
—CIC Executive Director John Cooney Jr.



*“Simply put, the state’s current proposal does not match our region’s infrastructural needs. The restoration and repair of our roads and bridges directly connects to a strong local and state and economy and provides good paying jobs and a safe transportation network for our people.”*  
—Teamsters Local 456 President Louis Picani

*“We can make it to the moon, but we shouldn’t have a moonscape for roads. We can build big bridges and fix airports, but let’s not forget the roads that people use every day. Those are the roads they use to go to the supermarket, take their kids to school and go to work. They have to be in good shape also.”*  
--New York State Assemblyman Thomas Abinanti



*“With the largest state budget east of the Mississippi, we have the ability to double down on these federal funds, and we should. I encourage Governor Hochul to make this investment in our workers and our future. It will be a missed opportunity if we do not.”*  
—State Sen. Mike Martucci



## Attorney's Column

# Court Permits Fraudulent Inducement Claim To Proceed on Long Island Project

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

When a construction contractor egregiously fails to perform its obligations under a contract, it is easy for one's mind to turn to fraud. First, it's a provocative claim to make, given its quasi-criminal nature. Next, it's a natural human defense to believe that one could not have erred in the selection of such a bad contractor without some untoward input. Either way, it also has the benefit of bringing into a lawsuit a corporation's principal whom they may otherwise not have been brought in. However, while it's an easy claim to want to make, a court, in the recent case of *Hunter Roberts Construction Group LLC v Vector Structural Preservation Corp.*, reminds us that the claim is not an easy one to assert.

### Background

In early 2017, Hunter Roberts Construction Group entered into a general contract with RXR Realty for the construction of a project known as Garvies Point in Glen Cove, NY. Hunter Roberts, like many larger general contractors, maintains a subcontractor default insurance program, and it requires the enrollment of all subcontractors. As a part of this process, Hunter Roberts uses a third-party subcontractor qualification and risk mitigation agency to perform risk assessments of subcontractors who are to be enrolled in the SDI program.

Vector Structural Preservation Corp. submitted a bid to Hunter Roberts for the masonry scope of work for the project, and it was required to submit a response to a questionnaire for enrollment in the SDI program. The responses Vector's principal, Vassilios Handakas, provided to the questions about prior criminal investigations and ongoing legal matters were patently false. Based on the determination that Vector was the "lowest responsible bidder" (which was based on the false response to the questionnaire), the subcontract was awarded to Vector.

As the job progressed, Vector delayed the project, and it was delinquent in paying its vendors and employees. In March 2019, Hunter Roberts defaulted Vector based on these shortcomings and, ultimately, terminated the contract. In addition to suing Vector based on the claimed breaches of contract, Hunter Roberts sued Handakas personally for fraud, and sued to hold him liable for Vector's debts, alleging that he abused the privilege of doing business in the corporate form ("piercing the corporate veil"). As to the fraud claim, Hunter Roberts alleged that if it had known that Handakas was previously convicted of money

laundering and other financial crimes—and that Vector was the defendant in numerous lawsuits brought by suppliers and subcontractors alleging non-payment—it never would have awarded Vector the subcontract. Handakas moved to dismiss the corporate veil claims, arguing that the allegations did not rise to the high level required to hold him personally liable for the corporation's debts. Both Vector and Handakas moved to dismiss the fraud claim, arguing that the fraud claim (and damages) were simply duplicative of the contract claim and did not rise to the level required to establish a claim for fraud. Handakas further argued that his representations could not have been reasonably relied upon because his criminal past was easily discoverable with a simple Google search.

### Decision

The court split its decision. First, it dismissed the "corporate veil" claim to hold Handakas personally liable for the corporation's debts, finding that there were no specific allegations which would meet the high burden required to set aside Vector's corporate form and hold Handakas personally liable for its debts. However, the court denied the motion insofar as the fraud claim and permitted it to proceed. In doing so, the court held that Hunter Roberts sufficiently alleged that it relied on Handakas' false representations to its detriment when it rejected other subcontractors and awarded the contract to Vector. The court also held that Hunter Roberts sufficiently alleged that it incurred specific damages as a result of the fraud which were distinct from the breached contract, to wit: the damages incurred to clean up the aftermath of Vector's failures, such as paying Vector's suppliers.

As to Handakas' argument that the reliance could not have been reasonable when a Google search would have turned up the information on his past, following well settled case law the court held that, in the absence of "hints of falsity," the party to whom the representation was made has no heightened burden of investigation. As such, the question as to whether the reliance was reasonable would have to be determined by a jury, and could not be determined upon a motion to dismiss.

Finally, as to the fraud claim against Handakas himself, as opposed to Vector, it permitted the claim to proceed because "a corporate officer who participates in the commission of a tort can be held personally liable even if the participation is for the corporation's benefit."

### Comment

A popular strategy in litigation is to figure out a way to sue (and keep in the case) a corporation's principals. This has not only the practical effect of providing another pocket from which to recover (in the not unheard-of event that the corporation is insolvent), but it also may give the principal an extra incentive to resolve the case. A popular way to accomplish this is to level a fraud claim against the principal; another way is to claim that the corporation's principal abused the privilege of doing business in a corporate form.

As Hunter Roberts shows, while these are high burdens, they are not impossible to meet. As can be seen from the split decision here, the crucial difference was the specificity of the

*The court denied the motion insofar as the fraud claim and permitted it to proceed. In doing so, the court held that Hunter Roberts sufficiently alleged that it relied on Handakas' false representations to its detriment when it rejected other subcontractors and awarded the contract to Vector.*

allegations in support of each claim. The allegations made in support of the claim to disregard the corporation were conclusory and generic, so they were not sufficient to meet the high burden required to support that claim. However, the allegations made in support of the fraud claim were detailed as to the scope of the fraud, and its results. Accordingly, because the allegations were specific enough to allege a tort committed by Handakas individually, the claim was allowed to proceed to discovery.

The lesson here is that in discussing your matter with legal counsel, do not feel that any detail is too small, as detailed allegations can potentially be

helpful in drafting a claim which is sufficient to bring in a corporation's principals into a lawsuit—and keep them there.

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



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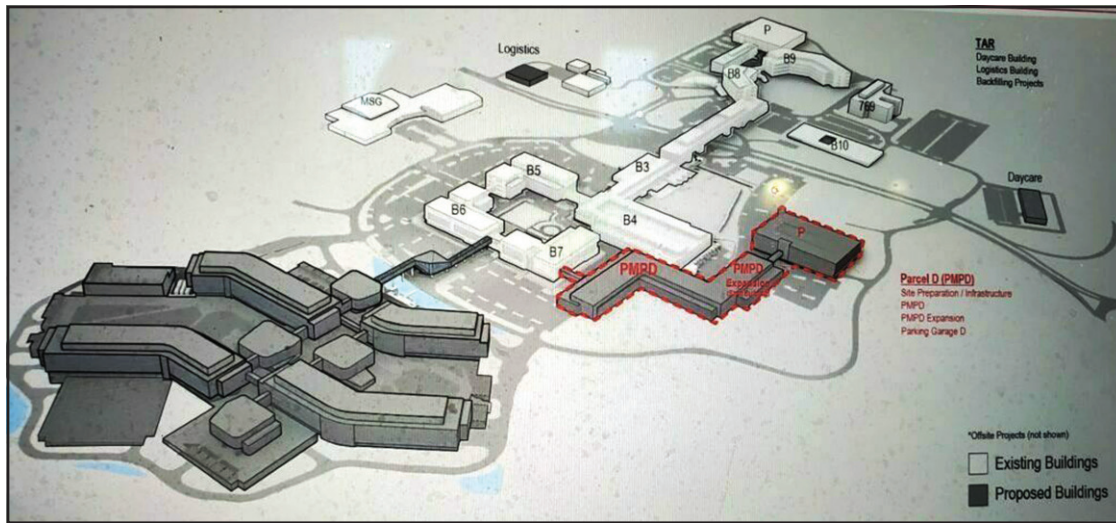
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## Regeneron Pharmaceutical's \$1.4B Expansion Planned Continued from page 1

million in direct spending in Westchester County.

In its filings with the IDA, the company noted that “there is considerable interest” in expanding at the Westchester site, though it did raise the specter of less-costlier alternative sites in New Jersey. “The recent consolidation within the life sciences industry sector has made multiple real estate options with existing buildings available throughout the state. The estimated cost to locate Regeneron’s proposed facilities and new workforce in New Jersey over a 10-year period is significantly lower than the Tarrytown greenfield option. New Jersey also presents an attractive answer from a qualified labor pool perspective. Given Regeneron’s sizeable local workforce, the majority of which are New York residents, identifying, recruiting, hiring, onboarding and training new employees is becoming more difficult and costly. New Jersey presents an advantage in this regard—the state has the highest concentration of scientists and engineers in the country



Regeneron Pharmaceutical’s expansion is pictured at the bottom left of the rendering. If the company moves forward with its plan, construction could begin this spring on the project.

and the 4<sup>th</sup> largest share of STEM graduates,” Regeneron stated.

The company later stated in filings with the IDA, “Given these considerations, if Applicant is unable to obtain Agency Financial Assistance for the proposed project, it will not materialize in New York. Wherever this project is ultimately located will likely become home to future expansion activity of a similar nature.”

The company stated that if

all approvals are secured and it selects Westchester for the Loop Road expansion, the acquisition of equipment could begin in April with site work on the property commencing between April and June of this year. Project completion on the phased project is estimated for Dec. 31, 2027. The project has secured approval from the Town of Greenburgh’s Planning Department.

Westchester County Executive George Latimer said of Re-

generon’s planned investment and the IDA’s actions, “This investment is one of the most major developments we have seen in Westchester County in recent history. Regeneron has been on the cutting edge of the bioscience industry. We are pleased the IDA can be a significant part of it. We are proud Regeneron has chosen Westchester County as their home.”

“The Westchester IDA applauds Regeneron for its contin-

ued investment in our county’s economy with this major expansion of its Tarrytown campus. Today’s significant vote is yet another example of how the IDA is working to promote economic development in Westchester by creating, attracting and retaining jobs,” added Westchester County IDA Chair Joan McDonald.

Regeneron officials said that work on the Parcel D project now underway has been performed by approximately 90% union tradesmen. A company spokesman said that the general contractor on the proposed Loop Road project has talked to representatives of the Building and Construction Trades Council of Westchester & Putnam Counties and said that union labor is contemplated for the Loop Road project.

A public hearing on Regeneron’s proposed Loop Road project must be held before the Westchester County IDA can finalize the approval of the incentives for Regeneron. The next regularly scheduled Westchester County IDA meeting was slated for Thurs., March 24.

# Save the Date for 2022 Events!

**March 24th**     **Region 8 Safety Seminar in partnership with the NYSDOT**  
*The Culinary Institute of America, Hyde Park, NY*

**April 13th**     **General Membership Meeting**  
*Westchester Marriott, Tarrytown, NY*

**June 3rd**     **2nd Annual CIC Softball Game**  
*Pierson Park, Tarrytown, NY*

**June 7th**     **65th Annual BCA Golf Outing**  
*Knollwood Country Club, Elmsford, NY*

**July 11th**     **43rd Annual CIC Golf Outing**  
*Sleepy Hollow Country Club, Briarcliff Manor, NY*



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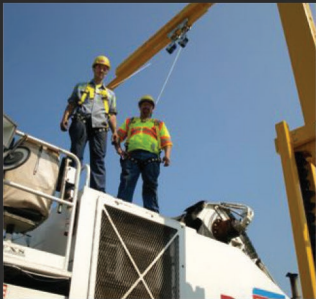
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## State Senate Shows Added Support For NYSDOT 5-Year Capital Plan

Continued from page 1

lion decline over the coming five years.

The coalition reminded lawmakers that some 1,700 deficient bridges and more than 7,000 miles of highway are in poor condition, according to the DOT's own findings. Those numbers will only increase if the bold action is not taken over the next five years, industry leaders said.

"How can the Executive budget propose increasing NYSDOT's overall program by only 6.5% year-over-year and reduce core construction capital spending when the President and our Congressional delegation delivered a 52% federal funding increase, and the state is projecting a record \$24-billion five-year surplus?" transportation coalition officials wrote.

While praising the Executive Budget for providing a strong foundation for NYSDOT's 2022-27 Five-Year Capital Program and is in fact the first fully funded NYSDOT five-year capital program proposed by a governor in nearly 12 years, the coalition warned that in its present form the NYSDOT five-year capital plan would waste a real opportunity to make necessary improvements to New York's roads and bridges.

The Rebuild New York Now coalition, including The Construction Industry Council of Westchester & Hudson Valley, Inc., and the Associated General Contractors of New York, were among the signatories of a March 18<sup>th</sup> letter to Gov. Hochul, Senate Majority Leader Andrea Stewart-Cousins and State Assembly Speaker Carl Heastie requesting the state utilize nearly \$5 billion earmarked for New York State under the \$1.2-trillion bipartisan federal Infrastructure Investment and Jobs Act (IIJA) to repair dangerously deteriorating bridges and



The industry rally in Westchester included more than a dozen elected officials and union leaders calling on other state lawmakers to make robust infrastructure investments in the upcoming state budget, as well as boost funding for the state's five-year capital plan for NYSDOT, which begins on April 1.

highways in New York State. This is the time, they wrote, to seize a "once-in-a-generation" chance and use the federal dollars under IIJA to bring New York's roads and bridges up to safety codes—and create jobs and spur economic recovery in the process.

The campaign has attracted the support of U.S. Con-



New York State Sen.  
Tim Kennedy  
Chairman—Senate  
Transportation Committee

gressmen Mondaire Jones and Sean Patrick Maloney who represent districts in the Hudson Valley. The letter came on the heels of a Feb. 28 rally in Elmsford where CIC, Rebuild NY Now offi-

cials met Rep. Jones, an aide to Rep. Maloney along with state legislators who voiced support for investing in the state's infrastructure by using federal funds allocated under the IIJA. A similar rally on March 18 was held on Long Island where the Long Island Contractors Association and Rebuild New York Now met with lawmakers to press the case for more NYSDOT capital funding. (See story on page 4.)

"If New York State makes the judicious decision to harness this additional federal aid, it will result in safer bridges and overpasses, create thousands of jobs, generate hundreds of millions of dollars in new tax revenues, and provide the resources for local and county municipalities to make our transportation safer and more reliable," said CIC Executive Director John Cooney, Jr. If the state fails to act, he said it would not be taking advantage of what he described as a "generational increase in federal funding."

The RebuildNYNow initiatives have already led to considerable support in the halls of the State Senate and Assembly. Coalition officials were heartened by the Senate Majority's "One-House" Bud-

get Bill would increase funding for the NYSDOT Capital Plan. The Senate proposal includes \$2 billion in bonding authority to grow the program by \$10-billion-\$12 billion over five years, as well as increases in funding for CHIPS and Emergency Winter Recovery (EWR).

In its letter, the coalition stated it strongly supports the Senate Majority's proposal and said the plan "seizes the generational opportunity presented by the federal infrastructure bill to move our roads and bridges to a state of good repair, put New Yorkers to work and spur economic recovery."

"We thank the New York State Senate Majority and New York State Transportation Committee Chair Sen. Tim Kennedy for ensuring that New York State's roads and bridges receive the full benefit of the Federal Funding increase created by the Infrastructure Investment and Jobs Act," Mr. Cooney noted. "The New York State Senate's proposal will provide significant improvement to the funding of the NYSDOT Capital Plan. We hope that the New York State Assembly and The Governor will agree with the New York State Sen-

ate proposal that allows a record five-year investment in New York State's roads and bridges. The New York State Senate's proposal recognizes the deteriorated condition of our roads and bridges and provides the funding that will bring long term improvement to these conditions. This proposal will help drive jobs and economic benefit across all of New York State."

A host of other industry and labor leaders echoed Mr. Cooney's comments that the state must harness the federal funding that is specifically earmarked for improving its infrastructure.

"Now is the time to fund the future of New York's infrastructure and to create a strong economy. With the improvements to the proposed NYSDOT Capital Plan, New York has a once in a generation opportunity," Marc Herbst, executive director of the Long Island Contractors' Association. "We applaud the Legislature for its commitment to better roads, bridges, highways and mass transit, and we look forward to furthering negotiations with Gov. Hochul." He also thanked all the leaders who pushed for more infrastructure funding, particularly Senate Transportation Committee Chairman Tim Kennedy, "for his bold leadership on this issue," Mr. Herbst stressed.

Mike Elmendorf, president & CEO of the Associated General Contractors of New York State, also praised members of the Senate Majority, particularly Senate Transportation Committee Chairman Timothy Kennedy, "for strong leadership in making historic, needs-based investments that will not only rebuild our ailing infrastructure, but put New Yorkers to work and drive economic recovery across the entire Empire State," he said.

## ALBANY UPDATE

### State Earmarks \$725M for Water Infrastructure Projects

ALBANY—New York Gov. Kathy Hochul announced on March 12 that the New York State Environmental Facilities Corporation Board of Directors had approved more than \$725 million in financial assistance to help 13 municipalities and public authorities advance critical infrastructure projects that protect or improve water quality.

The short-term financings and previously announced grants approved by the EFC

Board of Directors will provide capital to local governments to help them get shovels in the ground for critical projects. The board also approved several long-term financing conversions that provide interest relief for existing projects and reduce debt for municipalities.

Of the project financings announced, more than \$650 million in financial assistance will help the New York City Municipal Water Finance Authority make improvements at several of the city's water pollution control plants. Nearly \$6 million in grants and financing will help the City of Elmira in Chemung County to replace lead drinking water pipes, and a \$2.75 million grant and financing package will help improve the Village of Cobleskill's wastewater treatment plant in Schoharie County.

Environmental Facilities Corporation President and

CEO Maureen A. Coleman said, "EFC is pleased to provide cost-effective solutions for local governments through the State Revolving Funds and state water grants."

The Board's approvals include financings through the Clean Water State Revolving Fund and Drinking Water State Revolving Fund and grants pursuant to the Water Infrastructure Improvement Act. The state urges localities to visit EFC's website to learn more about water infrastructure funding opportunities.

The lion's share of the funding—\$657,949,860—will be going to the New York City Municipal Water Finance Authority in the form of short-term, market-rate financing to design and construct various improvements at several of the city's water pollution control plants.

The other 12 municipal proj-

ects funded were upstate.

Included in the proposed FY 2023 Executive Budget is more than half a billion dollars in direct investment into clean water initiatives, including:

- \$500 million in clean water infrastructure funding, bringing the state's total clean water investment to \$4.5 billion since 2017.

- \$400 million—a record level of funding for the Environmental Protection Fund—to support critical projects that work to mitigate the effects of climate change, improve agricultural resources, protect water sources, advance conservation efforts and provide recreational opportunities.

- \$4 billion for the landmark Clean Water, Clean Air, and Green Jobs Environmental Bond Act. If approved by voters this fall, this historic initiative will provide the support New

York State needs to restore critical environmental habitats; reduce flood risks; conserve additional lands and open spaces; protect and improve our water resources; and invest in climate change mitigation projects that will reduce pollution and lower carbon emissions.

EFC is urging municipalities to participate in the Environmental Protection Agency Clean Watersheds Needs Survey, which EFC kicked off in New York on March 1. Participation is critical as it may impact how much federal CWSRF funding will be allocated to New York State to fund future clean water infrastructure projects. Municipalities are asked to document their community's wastewater infrastructure needs for submittal to EPA. Go to [www.efc.ny.gov/needs](http://www.efc.ny.gov/needs) to submit documentation and for resources to assist with submissions.

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NYSDOT - Region 8

Bid Letting Date: April 7, 2022

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

Contract# D264752  
PIN# 876235

Project Description: Ulster Co., culvert replacement, Samsonville Road over Tributary to Mombaccus Creek, Town of Rochester.

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

Goals: MBE: 9.00%, WBE: 13.00%, SD-VOB: 6.00%

Bid Letting Date: April 7, 2022

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

Contract# D264773  
PIN# 881465  
FA Proj.# Z0E1-8814-653

Project Description: Orange, Westchester Cos., guide rail rehabilitation or replacement, NY Routes 17, 123 and Cross County Parkway, various locations.

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

Goals: DBE: 10.00%

Bid Letting Date: April 21, 2022

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

Contract# D264759  
PIN# 881553  
FA Proj.# Y001-8815-533

Project Description: Westchester Co., over height vehicle detection systems, three bridges over Hutchinson River Parkway, towns and villages of Scarsdale, Harrison, cities of New Rochelle and White Plains.

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

Goals: DBE: 3.00%

NYSDOT - Region 9

Bid Letting Date: April 7, 2022

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

Contract# D264777  
PIN# 980746

Project Description: Chenango, Otsego Cos., job order contract - highway and drainage combined, various locations.

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

Goals: MBE: 5.00%, WBE: 10.00%, SD-VOB: 6.00%

Bid Letting Date: April 7, 2022

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

Contract# D264778  
PIN# 980748

Project Description: Broome, Tioga Cos., job order contract - highway & drainage combined, various locations., no plans.

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

Goals: MBE: 5.00%, WBE: 10.00%, SD-VOB: 6.00%

Bid Letting Date: April 21, 2022

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

Contract# D264783  
PIN# 980749

Project Description: Sullivan Co., JOC - highway/drainage combined, various locations.

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

Goals: MBE: 5.00%, WBE: 10.00%, SD-VOB: 6.00%

NYSDOT - Region 10

Bid Letting Date: April 21, 2022

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

Contract# D264779  
PIN# 051654  
FA Proj.# ZS3E-0516-543

Project Description: Nassau Co., various safety enhancements: Northern State Parkway exit ramp, Glen Cove Road Town of North Hempstead, Village of Old Westbury.

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

Goals: DBE: 10.00%

Bid Letting Date: April 21, 2022

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

Contract# D264801  
PIN# 090362

Project Description: Suffolk Co., taxiway improvements, Republic Airport, Town of Babylon, Prebid Meeting, Aviation Construction.

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

Goals: DBE: 10.00%

New York State  
Dormitory Authority

Bid Due Date: April 12, 2022

Title: City University of New York, Eugenio Maria De Hostos Community College, 475 Grand Concourse AHU Replacements and Asbestos Abatement

Note: Small Business Concerns and Minority Business Concerns Only

Contract: CR8 General Construction

Project Number 3332109999

Sealed bids for the above Work located at Hostos Community College, 475 Grand Concourse, Bronx, New York 10451 will be received by DASNY at its office located at 515 Broadway, Albany, NY 12207. Each bid must be identified, on the outside of the envelope, with the name and address of the bidder and designated a bid for the Project titled above. When a sealed bid is placed inside another delivery jacket, the bid delivery jacket must be clearly marked on the outside "BID ENCLOSED" and "ATTENTION: CONSTRUCTION CONTRACTS – DOMINICK DONADIO." DASNY will not be responsible for receipt of bids which do not comply with these instructions.

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

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

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

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

Only those bids in the hands of DASNY, from Small Business Concerns or Minority

Business Concerns as defined under the Small Business Concerns Set Aside Program, in accordance with Section 1699-m of the Public Authorities Law of the State of New York, available to be read at 2:00 PM local time on April 12, 2022, will be considered. Bids shall be publicly opened and read aloud. Bid results can be viewed at DASNY's website; <http://www.dasny.org>.

In accordance with State Finance Law § 139-j and § 139-k, this solicitation includes and imposes certain restrictions on communications between DASNY personnel and a prospective bidder during the procurement process. Designated staff for this solicitation is: Daniel Burgos, Project Manager, West 181st Street & University Ave, Bronx, New York 10453, 917-416-0544, [dburgos@dasny.org](mailto:dburgos@dasny.org) (the Owner's Representative) and DASNY at [ccontracts@dasny.org](mailto:ccontracts@dasny.org). Contacts made to other DASNY personnel regarding this procurement may disqualify the prospective bidder and affect future procurements with governmental entities in the State of New York. For more information pursuant to this law, refer to DASNY's website; <http://www.dasny.org> or the OGS website; <http://www.ogs.state.ny.us>.

A Pre-Bid Meeting is scheduled on Friday, March 25, 2022, at 11:00 AM at 475 Grand Concourse Lobby, Bronx, New York 10451. Contact Daniel Burgos at 917-416-0544. All prospective bidders are strongly encouraged to attend.

Prospective bidders are advised that the Contract Documents for this Project contain new "GENERAL CONDITIONS for CONSTRUCTION" dated June 17, 2021 that contain significant revisions from those documents previously contained in DASNY's Contract Documents. Prospective bidders are further advised to review applicable sections of these General Conditions for any potential impact on their bid price prior to submittal of the bid.

A complete set of Contract Documents may be viewed and/or purchased online from Camelot Print and Copy Centers. Only those Contract Documents obtained in this manner will enable a prospective bidder to be identified as an official plan holder of record. DASNY takes no responsibility for the completeness of Contract Documents obtained from other sources. Contract Documents obtained from other sources may not be accurate or may not contain addenda that may have been issued. In addition, prospective bidders are advised that the Contract Documents for this Project contain new "GENERAL CONDITIONS for CONSTRUCTION" dated June 17, 2021 that contain significant revisions from those documents previously contained in DASNY's Contract Documents. Prospective bidders are further advised to review applicable sections of these General Conditions for any potential impact on their bid price prior to submittal of the bid. The plan holders list and a list of interested subcontractors and material suppliers may be viewed at DASNY's website: <http://www.dasny.org>. For Bid Opportunities and other DASNY related news, follow us on Twitter @NYS\_DASNY and Facebook <https://www.facebook.com/pages/DASNY-Dormitor-Authority-of-the-State-of-New-York/307274192739368>.

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

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Construction NEWS  
**PHOTO GALLERY**



Pothole Nightmares: Mountain Brook Road, south from NY Rt. 6 in the Shrub Oak section of the Town of Yorktown in Westchester.

**Poor Bridges  
And Roads  
Beg Capital  
Improvements**

The Hudson Valley region is home to scores of bridges that have been classified as poor/structurally deficient condition. They carry more than 2.6 million vehicles each day to work, to school and to countless other activities. Poor roads also play havoc on automobiles, with car owners spending an average of more than \$1,800 each year in additional cost blamed on car repairs and lost productivity through congestion, according to the TRIP report, a national transportation research group. Orange, Dutchess and Ulster counties claim some two dozen of the region’s worst bridges with the highest average daily traffic crossing those spans.



Overpass on the New York State Thruway, I-87, northbound over Rt. 32 in the Town of Rosendale in Ulster.

PhotoCredits: DAVID ROCCO



Temporary steel bracing for I-684 southbound entrance ramp in Goldens Bridge, NY in northern Westchester.



One of several sections of the deteriorating conditions that exist on the Cross County Parkway eastbound arch bridge. The CCP arch bridge crosses over the southbound Bronx River Parkway in lower Westchester.



Support structure on the Cross County Parkway for local eastbound local lanes in Yonkers in southern Westchester.



## Safety Watch

# Always Provide Adequate Protective Systems During Excavation Work

By COSTAS CYPRUS, ESQ.

*Secretary of Labor v. Petrongolo Contractor's Inc.* is a good example for contractors performing excavation work because it highlights multiple issues in the OSHA Review Commission process pertaining to burden of proof, severity of penalties as well as the considerations made by Administrative Law Judges.

Petrongolo Contractor's Inc. is a public utility contractor primarily engaged in excavation work. On Jan. 27, 2020 it was excavating a trench in a city street in Philadelphia to access a sewer line owned by the Philadelphia Water Department. Petrongolo had to remove the existing manhole and replace it with a larger precast manhole for its subcontractors to be able to access the sewer for relining. Petrongolo removed the existing manhole and dug a trench, which was about 10 feet deep from street level to the top of the sewer pipe and the footprint of the trench was 10 feet x 6 feet.

The gas utility, Philadelphia Gas Works, had its own gas main running parallel to the sewer line, and it became concerned that Petrongolo's excavation would compromise the integrity of its gas main. Its employee caused Petrongolo to stop work, in the early evening on Jan. 27, 2020. PGW's employees took pictures of the trench in the evening of Jan. 27 and the morning of Jan. 28 and contacted OSHA to report a hazardous excavation. OSHA sent one of its Compliance Safety and Health Officers to the site on Jan. 28, 2020 which led to the issuance of two citations under Safety and Health Regulations for Construction's Requirements for Protective Systems under 29 C.F.R. § 1926.652(a)(1) and (c)(1).



Citation #1 alleged a serious violation of Design Support Systems utilizing published appendices for the design of timber shoring in trenches with a proposed penalty of \$3,393. Citation # 2 alleged a repeat violation "for failing to ensure that each employee working inside an excavation of approximately 12 feet deep was protected by cave-in protection" and proposed a penalty of \$29,687.

To establish a violation of such standard, the Secretary of Labor must prove by a preponderance of the evidence—meaning the legal standard where a party is able to convince a fact finder that there is a greater than 50% chance that their claim is true. These would be that the cited standard applies, that there was non-compliance with its terms, that employees had access to the violative condition, and that the cited employer had actual or constructive knowledge of the violative condition.

The matter was brought before the commission with remote hearings and submissions before the Administrative Law Judge who decided that the Secretary failed to prove that Petrongolo failed to obtain the

soil type in determining the proper configuration of timber shoring that was installed on Jan. 28, 2020. Consequently, Citation # 1 was vacated.

However, the ALJ found that the Secretary proved Petrongolo employees were working in a trench that lacked an adequate protective system and that Petrongolo had knowledge of it. Further, Petrongolo failed to rebut the Secretary's showing that this violation was similar to Petrongolo's prior violations of the same standard and thus constituted a repeat violation warranting a \$22,000 penalty.

Citation # 1 alleged that Petrongolo failed to obtain the soil type to determine the proper configuration when using timber shoring in accordance with the conditions and requirements. Petrongolo's president, who was a registered professional engineer with years of experience in testing soil and performing excavations in the local area, was deemed a "competent person" and his manual and visual test of the soil were in conformance with the requirements.

Citation # 2 alleged that Petrongolo failed to provide adequate safety devices for cave-in protection to workers inside an excavation of approximately 12 feet deep. The trench was over five feet deep and constituted a hazard for as long as it was open and lacked an adequate protective system from the time the steel plates covering it were removed up until the time Petrongolo's crew completed installation

of the timber shoring. The photographs taken by PGW's workers showed workers inside the trench and the fact no other contractor or subcontractor had been working in the

of the exposure, precautions taken against injury and likelihood that an injury would result. Here, the gravity of the violation was considered high, and coupled with two similar prior violations for the same standard within two years, clearly constituted a prior history and lack of good faith. However, the business' small size was also considered. In light of all these circumstances, a \$22,000 penalty was assessed.

This matter shows that adequate protective systems must be in place during excavation work when it is contemplated that workers will be present within a trench, as it is an open hazard, even during the interim. In this case, the timber

shoring protective system that was ultimately installed was proper but adequate protective systems had not been installed throughout the entire time that employees actually worked in the trench as documented by photographs taken by PGW's employees, creating a cave-in hazard and leading to the citations. Moreover, a contractor's prior violation history for substantially similar violations will be considered during the assessments of any penalties.

*About the author: Costas Cyprus is an associate attorney practicing construction law and commercial litigation with Welby, Brady & Greenblatt, LLP, in White Plains, NY. He can be reached at 914-428-2100 and at ccyprus@wbglp.com. The articles in this series do not constitute legal advice and are intended for general guidance only.*

***The ALJ found that the Secretary proved Petrongolo employees were working in a trench that lacked an adequate protective system and that Petrongolo had knowledge of it.***

trench area provided sufficient circumstantial evidence that Petrongolo's own employees were working in that area.

Petrongolo had been previously cited for violations arising from failures to provide adequate protective systems for which it had entered into settlement agreements. Here, the ALJ found that Petrongolo employees had been exposed to substantially similar, although not identical [cave-in] hazards that led to those two prior violations.

In assessing penalties, consideration is given to four criteria 1) The gravity of the violation; 2) The size of the employer's business; 3) The employer's good faith; and 4) the prior history of violations. Gravity (of risk) is the primary consideration and determined by factors such as the number of employees exposed, duration

## Hudson Valley Business, Industry Leaders Rally for Rte. 17 Expansion Project Funding

Continued from page 3

with two weeks ago will tell you, that this project getting done is no longer a matter of if, it is just a matter of when."

Sen. Martucci, said this long-stalled project should proceed now that there is federal money available. "Our time is now. The groundwork has been laid and the men and women of labor who stand behind us today are ready to get this done with us," he said. "This is a once-in-a-generation opportunity to finally address an issue that impacts our quality of life, our economic development and really everything here in the Hudson Valley. Let's get this done."

At the rally, a host of other business, political and organized labor leaders also called for the state to complete the studies and fund the expansion project for Route 17. Among the speakers were: Sharon Soons,

Executive Director of Vision Hudson Valley; David Yannetta of Local 825, International Union of Operating Engineers; Orange County Undersheriff Ken Jones; Orange County Deputy Executive Harold Porr; Town of Thompson Supervisor William J. Rieber, Jr. and Town of Wallkill Supervisor George Serrano.

If the state moves forward with the expansion project, the scope of the construction of the General Use Third Lane beginning at Exit 131 in Harri-man (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 stretch, the cost would run between \$615 million to \$750 million, while the Sullivan County component's cost ranges from \$425 million to \$520 million.

Not included in those project numbers are potential interchange upgrades in Orange County, which could run from \$135 million to \$175 million and in Sullivan County from \$43 million to \$144 million.

Recommended 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.

At the rally, 17-Forward-86 Coalition co-chair Marc Baez, president and CEO of the Sullivan County Partnership, urged the state to act now and make the long-overdue upgrades to Route 17.

"There are thousands of stakeholders committed to seeing this project through," Mr. Baez said. "We're at the 30-yard line. This budget must get us into the end zone or we'll be stuck on the 30-yard line for at

least another five years. That extra \$5 billion in federal funding earmarked for New York State positions us to move forward—now. Let's run with it."

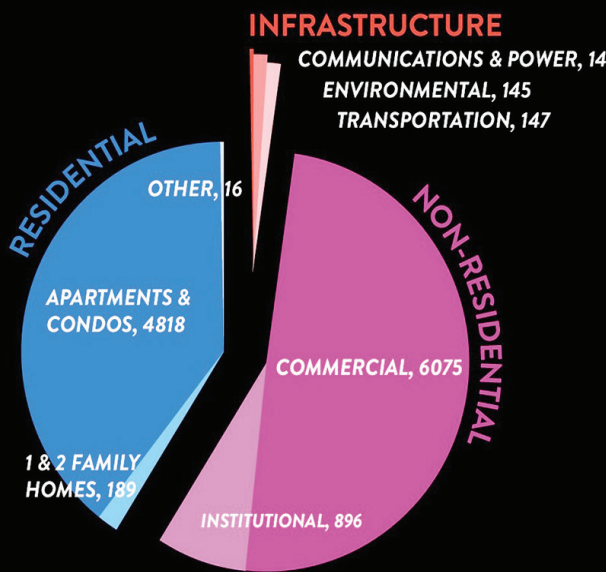
The 17-Forward-86 Coalition, established in mid-2018 by a handful of advocates to support improvements to Route 17, is now comprised of more than 200 members in sectors that include economic development, construction contracting and engineering, organized labor, environmental stewardship, tourism, general business, health care and energy companies.

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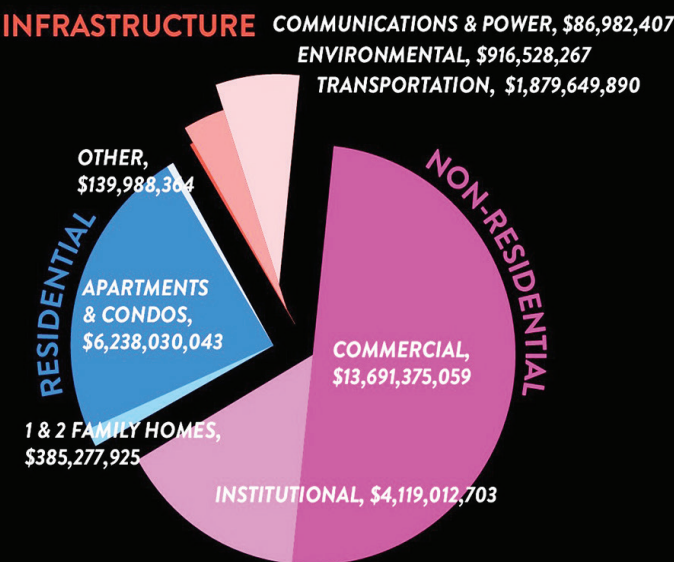
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NUMBER OF CONSTRUCTION STARTS



VALUE OF CONSTRUCTION STARTS



SOURCE: NEW YORK BUILDING CONGRESS

# NYC Construction Projects Showing Upward Trend Despite COVID-19

NEW YORK—A New York Building Congress report released recently shows that, despite a decrease in new projects due to COVID-19, Manhattan construction activity is on an upward trend. The “Construction Outlook Update - Manhattan Snapshot” report provides an overview of Manhattan’s construction spending and activity from 2018 to 2021 and highlights the economic impact the building industry has had on the city’s recovery from COVID-19.

According to the report, the borough’s construction starts for 2021 were valued at \$7 billion, a \$1-billion increase since 2020 with current potential projects in the pre-design, design and bidding phases valued at \$29.5 billion. The report found that from 2018 through the third quarter of 2021, construction spending in Manhattan was valued at \$27.5 billion across 12,300 residential, commercial and infrastructure projects.

“New York City’s building industry, which employs hundreds of thousands of people, showed its true strength and resiliency over the last two years, and we aren’t slowing down in 2022,” said Carlo A. Scissura, president and CEO of the New York Building Congress. “We’ve seen the way the industry kickstarts economic growth and puts New York City on pace for an equitable and robust recovery in the face of extreme hardship. We are ready to bring the nearly two million New Yorkers in Manhattan the high-quality infrastructure, housing and public space they deserve.”

The report stated: “BLS data shows Manhattan has 2,450 construction firms that employ over 34,000 people. In 2020, these workers, including specialty trade contractors, heavy and civil engineers and those involved in the construction of buildings, earned on average \$111,830. This is significantly higher than average salaries in the outer boroughs, which range from \$66,800 to \$84,150 a year.”

Key insights from the report include:

**Borough Reeling from Halted Construction Starts:** Despite construction starts doubling in June 2020 after a staggering 11-week pause for all non-essential activity, the Building Congress report showed a downward trend in the first seven months of 2020 with construction starts dropping to \$3.75 billion, 37% fewer projects than the same period in 2019.

**Increase in Affordable Housing Construction in 2021:** The Building Congress found that Manhattan represents 15% of recent affordable housing construction in the city. From 2018 to September 2021, work began on 2,980 new affordable housing units and 19,520 preserved units in the borough. The housing pipeline is valued at \$6.8 billion, which represents 41% of new projects and 25% of the value of starts in the borough.

**Non-Residential Construction Spending Valued at \$17.8 Billion through September 2021:** Non-residential commercial and institutional construction is the largest sector in the borough, making up 65% of Manhattan’s total project value.

**Infrastructure Construction Has Highest-Valued Projects Since 2018:** With infrastructure construction spending valued at \$2.9 billion across 309 projects in 2021, improvements to the Queensboro, George Washington and Brooklyn bridges each totaled more than \$100 million. Roads, bridges and tunnels were 65% of the total value of infrastructure starts’ while utilities and power account for 3%; and environmental public works represent 32%.

Meanwhile, there are infrastructure projects in the pipeline worth \$10 billion, including major works in the pre-design and design phases. Manhattan is looking forward to new developments in transportation infrastructure that will better connect this borough, such as the extension of the Second Avenue Subway and Gateway Program, the report stated.



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Financial Management

Key Ways to Attract, Retain Talent During the ‘Great Resignation’

By PHILLIP ROSS, CPA, CGMA, PARTNER

A number of factors made 2021 a difficult year for hiring and retaining talent, including the rise of remote work and the effects of COVID. Recently as well, the so-called “Great Resignation” has swept over the economic landscape, as millions of workers have continued to quit their jobs each month. In effect, the social contract between employers and employees has changed in the last year, and employees are in a position to ask for better amenities, incentives and new work strategies. Yet, employers and owners can implement new strategies and solutions to adapt to this new landscape and continue their success and growth in 2022.

Furthermore, employers have had to manage shifts in hiring and firing, fluctuations in capital funds and changes in operations. With this in mind, it remains clear that identifying the essential benefits for employees will be key moving forward as owners and business leaders adapt to resignation increases and new strategies in retaining and attracting key talent. Firms that are able to incorporate these new strategies quickly will have the potential for a leg up on their competition.

Changes in the Hiring And Retention Process

Each step of the hiring process, including the retention of employees after onboarding, has been altered, as is visible with jobs posted to LinkedIn. In March 2020, one in 67 jobs offered remote work, now it is one in six.

With this in mind, major companies have shown initiative and planning by changing their hiring and retention strategies. Other firms have chosen to expand their benefits program. For example, one firm has included added investments in their employees. These investments lead to benefits and expanded programs that can include leadership and educational training, as well as industrial and technical skill-training. These expanded amenities offer a blueprint of what employees may expect in the hiring process in coming months, and how firm leaders have changed strategies to strengthen their talent acquisition and retention strategies.

Moreover, new buzzwords have gained popularity in the



workforce, such as “burnout,” which has shown the necessity for companies to expand bandwidth for their teams and new employees. Companies have been able to identify new and innovative ways of utilizing their teams, along with analysis of office space and usage, which can assist in finding efficiencies in workflow and communication and greatly support the streamlining of retention and hiring processes. There are also some simple strategies that employers can implement in cost- and time-effective ways.

Create an Optimized And Flexible Workspace

With high turnover rates, employers working to retain and attract talent have begun using new strategies when it comes to workspace operations and communication. However, it will be important to note that not all workers have indicated they are interested in remote work continuing. For Gen Z workers overall, who represent the next generation of workers for many industries, including construction, architecture and engineering firms, 74% prefer interacting with colleagues face-to-face. Prepared firms have shown that an effective use of hybrid-work roles that allow for in-person meetings as well as collaborative efforts over services such as Zoom, have contributed to a style of work that has the capability to cater to each type of worker.

Embracing these hybrid-work roles will be a necessary and effective tool for employers and owners to retain talent. Consider that 63% of high-revenue growth companies have used hybrid workforce models, and 69% of companies that have seen no growth or negative growth have in the past rejected a hybrid approach for employees. Companies that are able to foster a sustainable

company culture with both in-person and virtual meetings and work strategies have the potential to see a competitive advantage moving forward.

More specifically and in view of Gen Z preferences, workers prefer a hybrid model 83% of the time, highlighting the fact that employers who are adaptable to the needs of their workforce in order to retain talent across ages and backgrounds will see success. A varied approach to work that allows employees to operate from different locations as well as in office can bring new efficiencies as well. This can also help with firms that are looking to reduce office space and maximize use of existing workspace. By cutting costs and supporting efficient work time for all employees, firm leaders can see growth and progression from all employees, regardless of age or generation.

Solutions for Talent Shortage Issues

While a flexible workforce

and workplace can pay dividends for AEC firm leaders, there remains the issue of talent shortage issues. Economic recovery has the potential to be stalled, and the problem

Prepared firms have shown that an effective use of hybrid-work roles that allow for in-person meetings, as well as collaborative efforts over services such as Zoom, have contributed to a style of work that has the capability to cater to each type of worker.

is further exacerbated and compounded by the lack of talent entering the industry and workforce. Recent data shows the extent of this problem: the U.S. will require an additional 1.28 million construction workers by 2023, necessitating new strategies for attracting young and knowledgeable workers to firms, and finding the correct

talent pool to complete and excel on projects.

These strategies can come in a number of forms for AEC firms, including educational initiatives and programs, as well as outreach to local communities and schools to instill and foster an interest in AEC in the future. Firms that are fully prepared for these obstacles through new flexible workspace and workforce operations, adaptations to the hiring and retention process through expanded amenities and incentive programs, and outreach to find new talent, can help maintain a firm’s growth and ensure the continued ability to adapt to market fluctuations and shifts moving forward.

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



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WASHINGTON UPDATE

Newburgh, Poughkeepsie, Yorktown, Spring Valley, Middletown to Receive Federal IIJA Funding

WASHINGTON—The Hudson Valley region’s construction industry will reap the benefits of the \$1.5-trillion omnibus funding package for Fiscal Year 2022 passed by Congress earlier this month.

U.S. Senators and Congressman from the Hudson Valley announced a host of local projects in their respective districts that have secured funding from the legislation.

U.S. Senate Majority Leader Charles E. Schumer and U.S. Sen. Kirsten Gillibrand revealed that the Hudson Valley/Westchester region will receive more than \$10 million in funding from the omnibus funding package for Fiscal Year 2022 for critical local projects.

“From finally replacing the Lake St. Bridge in Newburgh to bridging the digital divide

to boosting affordable housing in Westchester these projects will address some of the most critical infrastructure, public health, and community needs across the Hudson Valley,” said Sen. Schumer. “This funding means jobs, gun violence prevention programs, new community centers, and so much more. I am proud to deliver this major investment in the Hudson Valley’s future.”

“From upgrading water systems and affordable housing to providing broadband to funding infrastructure projects, these resources will lay the groundwork for the Hudson Valley’s future,” said Sen. Gillibrand. “I am proud to have worked to secure these millions in funding to address some of the Hudson Valley’s most pressing problems and I’ll keep fighting to bring

federal dollars back home to New York.”

Among the local projects in the Hudson Valley cited by the senators include:

\$1.75 million for the City of Newburgh. Funding will be used for the Lake Street Bridge replacement project.

\$1.2 million for the Town of Yorktown. Funding will be used for Phase 1 of the Sewer Extension Project in Hallocks Mill Sewer District.

\$1.2 million for Family Services Inc. in Poughkeepsie. Funding will be used on a capital project to increase the safety, accessibility, and long-term sustainability of the Family Partnership Center, located in the heart of Poughkeepsie.

\$2 million for a New Center of Excellence for Women’s Health at Refuah Health

Center, Inc., in Spring Valley. Funding will be used for a state-of-the-art facility dedicated to the provision of accessible, high-quality, affordable health care for women, with a particular focus on infertility services for an underserved population.

\$1.1 million for the O&W Rail Trail project in Sullivan County. Funding will be used for the construction of a planned bicycle and pedestrian bridge over the Neversink River to connect two existing segments of the Sullivan O&W Rail Trail, resulting in a contiguous 13-mile section from Mountain Dale, a hamlet in the Town of Fallsburg, to Ferndale, a hamlet in the Town of Liberty. Development of an additional on-road segment will link up with the existing Liberty Rail Trail, resulting

in nearly 18 miles of trail through five hamlet and village centers in the Sullivan County Catskills.

U.S. Rep. Sean Patrick Maloney (D-NY-18) noted that the legislation includes more than \$8 million to improve clean water infrastructure across the Hudson Valley. Among the projects the leaders pushed for are: removing PFAS chemicals from the water supply in the Town of Lewisboro, upgrades for Middletown’s City Water Distribution System, as well as for a new sewer system for Newburgh.

Projects cited by Rep. Maloney include:

\$1.8 million for the Oakridge Water District PFAS Mitigation Project in Lewisboro in Westchester County. This project would repair the Oakridge Water District public water system, which was recently found to have PFAS levels above New York State’s maximum contaminant level for public drinking water systems. The contaminated well was shut off and a backup has been used, but this is not a permanent solution. Corrective action will require granular activated carbon filtration and an expansion of the existing water plant structure.

\$3.5 million for the City of Middletown Water System Improvements Project Phase II. This project in Orange County will create a reliable water source to provide water to the community of Middletown. The current transmission mains, which supply drinking water to the entire city, are past their useful life and put the city at risk of catastrophic failure of the drinking water system. This project would replace and upgrade parts of the high-pressure transmission mains around the city.

\$3.2 million for the North Interceptor Sewer Project in Newburgh in Orange County. This project would fund the reconstruction and realignment of the North Interceptor Sewer and the repaving of roadways along the project’s corridor.

U.S. Congressman Jamaal Bowman (D-NY-16) listed several construction-related projects that secured federal funding as part of the appropriations bill, including:

\$500,000 to the Riverbay Fund in Co-op City the Bronx for improving access to green space and promoting waterfront resilience at the complex.

\$1.5 million to the City of Mount Vernon for a sewage cleanup project to promote equity and resilience.

Rep. Mondaire Jones (D-NY-17) also reported a host of projects in his district that secured funding, including:

\$2 million for the Refuah Health Center – New Center of Excellence for Women’s Health

Please turn to page 16

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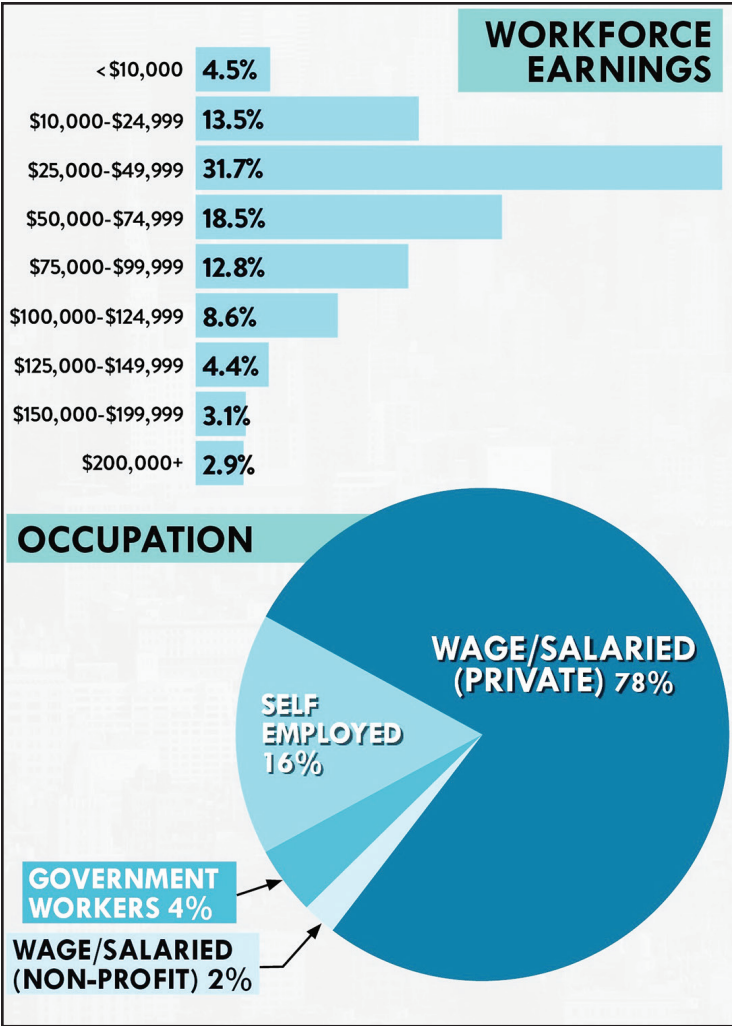
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# New York City Construction Sector Quickly Recovered from Pandemic: Report

By JOHN JORDAN

NEW YORK—A recently released report characterizes New York City’s construction sector as “resilient,” which experienced a quick recovery from industry-wide low points during the height of the COVID-19 pandemic.

Despite suffering the loss of more than 70,000 jobs during the pandemic, the construction industry still employed more than 208,400 people throughout the five boroughs in 2020, according to the report entitled “Construction Outlook Update—Workforce Snapshot 2022,” released by the New York Building Congress.

The Building Congress report examined demographic, mobility and employment data from the U.S. Census Bureau’s American Community Survey for 2018 through 2021 and determined the industry’s strengths and also offered recommenda-

tions to bolster what it considers the city’s “diverse and talented workforce.”

“Despite the economic setbacks of the COVID-19 pandemic, the New York City building industry remained resilient,” said Carlo A. Scisura, President & CEO of the New York Building Congress. “Hundreds of thousands of New Yorkers—from all different backgrounds, education levels and experiences—were able to provide for their families and keep this great city moving. Now, as we continue to reopen, the construction workforce will only get stronger, more diverse and forward-thinking as we build the future of New York.”

The report made several recommendations to make the workforce more resilient to pandemic-related job losses, including investment in both STEM education and career

and technical education. STEM jobs were proven to be the least affected by the pandemic, while career and technical education would give the construction workforce more stability and resources.

Some of the key data points from the report included:

A total of 63.3% of all construction workers identify as non-white. In addition, 56.2% of workers engaged in construction indicated English is not their primary language, with the vast majority preferring Spanish.

Women are also increasingly turning to the construction sector, although COVID put a dent in women’s market share. A total of 8.7% of all construction industry workers are women, down from 9.5% in 2019, yet still trending up from 8.4% in 2018. The decline is due to pandemic-related job losses, which appear to have disproportionately affected women in the industry, the report stated. Other demographic data concerning women in construction include 74% of women in the industry have some college education or higher and 61% of women in the industry earn more than \$50,000 compared to 49% of men. These two statistics highlight the value of educational attainment as it relates to earnings, the New York Building Congress report stated.

The median earnings for New York City workers in 2020 were \$41,492: 49.7% of all construction workers reported earnings of less than \$50,000 per year, with 31.3% between \$50,000 and \$100,000 and 19% at more than \$100,000.

The percentage of blue-collar workers in the construction industry decreased from 2019 due to the pandemic: 73.8% of all jobs in the construction industry are blue-collar workers, while 21.3% of the workforce are white-collar employees, and 4.9% are in service occupations. This is a shift from 2019, when 75.8% of the workforce were considered blue-collar workers.

A total of 58.7% of the workforce has health insurance: In 2020, 122,346 workers, or 58.7%, had health insurance, staying mostly the same as 2019. The industry-wide percentage is largely dependent on blue-collar workers, of whom 55% are covered by health insurance.

The construction sector is seeing a large contingent of younger workers with 52.7% of construction workers in New York City between the ages of 25 and 45. Also, 31.9% of workers are 50 or older (up almost 2% from 2019), while 4.9% are under 25 years old (down 1.6% from 2019).

The report also found that 86.2% of New York City construction workers have a high school diploma and 51.1% have some college education or higher—a significant increase from 42% posted in 2019.

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WASHINGTON UPDATE

ARTBA Launches Ad Campaign Against Gas Tax Suspension

WASHINGTON—“We’re arguing over a gimmick that would save you half a tank of gas over the course of the entire summer so that everyone in Washington can pat themselves on the back and say they did something. Well, let me tell you, this isn’t an idea designed to get you through the summer, it’s designed to get them through an election.”

So declared then presidential candidate Sen. Barack Obama in the spring of 2008 responding to a federal gas tax suspension proposal supported by both fellow Democratic candidate Sen. Hillary Rodham Clinton and presumptive Republican nominee Sen. John McCain.

Mr. Obama’s views are at the heart of a new paid social media ad campaign launched

March 2 by the American Road & Transportation Builders Association to demonstrate the folly of recent congressional efforts to suspend the 18.4-cent-per gallon tax.

Legislation introduced Feb. 9 by six Senate Democrats facing re-election this fall proposes to suspend the gas tax through the end of 2022 to address increased pump prices. A companion measure was introduced Feb. 18 by House Democrats.

ARTBA said the bills threaten to unravel the revenue structure and transportation funding levels in the historic Infrastructure Investment and Jobs Act (IIJA), signed into law last November by President Joe Biden.

A June 2020 Transportation

Investment Advocacy Center analysis of more than 100 adjustments—increases and decreases—to state gasoline taxes found little, if any, lasting effect on what consumers pay at the pump.

The ads on Twitter and Facebook target members of Congress and their staffs inside the D.C. beltway.

“High gasoline prices worsened by a faraway war are hurting drivers’ wallets,” wrote the New York Daily News Editorial Board. “So it’s understandable that, especially in an election year, politicians want to ease the pain at the pump. But cutting or suspending the gas tax — either the state or federal version — is a foolish short-term stunt that robs investment in our transportation

infrastructure, from roads, highways and bridges to subways, buses and commuter rail.”

The newspaper continued, “New York’s fuel tax is not tied to the price but volume, so it’s the same 46.19 cents per gallon regardless of whether Russia is invading Ukraine or the Saudis are boosting supply or Venezuela or Iran are up to no good. It’s the same 46.19 cents per gallon, of which 37% goes to the Mass Transportation Trust Fund and 63% into the Highway and Bridge Trust Fund. (Separately, the feds charge 18.4 cents per gallon.)”

Albany is not alone in eyeing the gas tax, the newspaper noted. “Earlier in the month, Maryland began its own 30-day gas tax holiday on its 36.1 cents per gallon levy. On April 17 it comes back,

or that’s the plan for now. And the Maryland Transportation Trust Fund goes wanting for a month, even though it’s meant to pay for their tremendously over-budget Purple Line transit route in the D.C. suburbs. Friday, Georgia also lifted its 29.1 cents per gallon tax until May 31. In the Peach State all gas taxes are used for road projects. Transit gets nothing.”

The newspaper concluded, “As short-sighted pols bang the drum, skeptical Gov. Hochul has correctly said there’s no guarantee that suspending the tax would help motorists — the cut might not actually slash prices at the pump by much. She and the Legislature must resist the lure of a wasteful non-fix meant to buy some headlines.”

Federal IIJA Funding

Continued from page 14

in Spring Valley. The funding will be used to construct and equip an approximately 10,000-square-foot facility at RefuahHealth, a federally-qualified health center (FQHC) that will house the Center of Excellence for Women’s Health at Refuah.

\$1.5 million for the Rockland County Pride Center — Outpatient Diagnostic and Treatment Facility. This funding will be used for the Montefiore Nyack Hospital to construct a new Outpatient Diagnostic and Treatment Facility at the Rockland County Pride Center and/or expand the Pride Center’s Outpatient Diagnostic and treatment facility.

\$1 million for the Town of Clarkstown—West Nyack Revitalization in Rockland County. The funding will be used for water drainage system upgrades, wetland and stream habitat restoration, and stormwater management improvements with the intent of reducing flooding and revitalizing the historic hamlet of West Nyack. The project will create 130 jobs in construction and an additional 112 in indirect and induced jobs.

\$1 million for the Town of Greenburgh—NYS Rt. 100B – Dobbs Ferry Road Sidewalk Project. This funding will create a sidewalk on Dobbs Ferry Road, a heavily trafficked state road of approximately 10,000 daily vehicle trips, to improve safety for pedestrians and drivers alike.

\$640,000 for the YWCA White Plains & Central Westchester—Capital Improvements to the YWCA’s North Street Activity Center.

This funding will create a new space for the YWCA’s Westchester Center for Racial Equity, expand the Children’s Learning Center and Kids Connection classroom space, and finance new roofing to allow the YWCA gymnastics program to continue.



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# Next Gen Leaders



*Profiles of the Industry’s New Generation*



## Andres Franco

**AGE**

23

**EMPLOYER & CURRENT POSITION**

Biomedical Technician at White Plains Hospital

**ACHIEVEMENT**

Louis G. Nappi Scholarship Grant – 2016

**EDUCATION**

Rensselaer Polytechnic Institute, Troy NY;  
Biomedical Engineering, BS, 2020

**FAVORITE SUBJECT**

Advanced Systems Physiology

**ON THE CHOICE OF PROFESSION**

I was always good at math and science, and I liked to solve problems. At one time, I thought I wanted to be a doctor, but saw the biomed field as a more direct path to helping others.

**CHALLENGES IN YOUR WORK**

Trying to maintain and fix hospital equipment that is near the end of its life.

**BIGGEST SURPRISES WHEN YOU ENTERED THE FIELD**

Finding that there are other paths to learning and furthering my career path in addition to advanced degrees.

**WHO INSPIRED YOU**

Aaron Glazer, a high school teacher, who pushed me to do more.

**MOST MEMORABLE QUOTE**

“It’s so important to do something every day that will make you happy.” –Bob Ross

**GREATEST ACCOMPLISHMENT**

Graduating college in pandemic year 2020. Also, my senior group project was designing a wheelchair that could help scoliosis patients.

**WORDS OF WISDOM**

Look around for anything extra you can do, and do it – because it will all count in the end.

**GOAL**

Becoming a certified Fundamental Engineer (FE exam) working as a biomedical engineering developer.

**OUTSIDE INTERESTS**

Playing video games. Also, I built my own controller for video games.

**RELATIONSHIP TO**

**CONSTRUCTION INDUSTRY COUNCIL**

Son of a member of Operating Engineers L.U. 137 of Briarcliff Manor, NY.

—Alan Kennedy, research and writer

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PAID MESSAGE

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## LOW BIDS

### Transit, El Sol, A. Colarusso, Ahern Win NYDOT Projects

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

**Ahern Painting Contractors Inc.** of Port Washington, NY was the lowest of five bidders at \$32,584,044.72 for bridge painting at various locations in the Bronx, Kings, Queens and Richmond counties.

**El Sol Contracting** (ESII Enterprises) of Maspeth, NY was the lower of two bids at \$167,358,000.00 for bridge repairs and painting on the I-287 Gowanus Expressway and Viaduct in Brooklyn.

**Transit Construction Corp.** of Yonkers, NY was the lowest of seven bidders at \$4,185,000.00 for culvert replacements in the towns of New Castle, North Castle, North Salem and Yorktown in Westchester County.

**A. Colarusso & Son Inc.** of Hudson, NY was the sole bidder at \$11,539,391.00 for PMI Paving—Taconic State Parkway from NY Route 217 to Interstate 90 in the towns of Austerlitz, Chatham and Ghent in Columbia County.

### PCI Industries Nabs BRP Bridge Rehabilitation Job

WHITE PLAINS—The Westchester County Department of Public Works recently reported that **PCI Industries Corp.** of Mount Vernon, NY was the lowest of three bidders at \$4,121,000.00 for rehabilitation of two Bronx River Parkway bridges (North and South of Leewood Drive) over the Bronx River (BINs 3348829 & 3348839) in the Town of Eastchester and City of Yonkers.

## WASHINGTON UPDATE

### EPA Proposes 'Good Neighbor' Plan To Cut Smog Across Much of the U.S.

WASHINGTON—Following clear Clean Air Act requirements and meeting a court deadline, EPA proposed on March 11 a federal plan that would cut pollution from power plants and industrial sources that significantly contribute to unhealthy levels of ground-level ozone, or smog, for millions of Americans who live downwind.

Relying on a longstanding regulatory framework and commonly used, affordable pollution controls, the action would help states fully resolve their Clean Air Act "good neighbor" obligations for the 2015 Ozone National Ambient Air Quality Standards, enhancing public health and environmental protections regionally and for local communities.

"Following the science and the law, this 'good neighbor' plan will better protect the health of Americans across the country," said EPA Administrator Michael S. Regan. "Air pollution doesn't stop at the state line. This step will help our state partners meet air quality health standards, saving lives and improving public health in smog-affected communities across the United States."

EPA's proposal builds upon a combination of proven approaches to limit ozone season emissions of nitrogen oxides (NOX), a key ingredient in the formation of ground-level ozone. Beginning in 2023, EPA is proposing to include electric generating units in 25 states in the Cross-State Air Pollution Rule NOX Ozone Season Group 3 Trading Program, which would be revised and strengthened for the 2015 ozone NAAQS. And, beginning in 2026, EPA is proposing emissions standards for certain industrial sources in 23 states that have a significant impact on downwind air quality. EPA's proposed limits on health-harming pollution from power plants and industrial sources reflect the installation and operation of proven, cost-effective emission controls, which in many cases have been implemented for years in numerous states.

Together, these NOX control strategies would achieve health and environmental benefits that far outweigh the costs. In 2026, EPA projects that the proposed rule would prevent approximately 1,000 premature deaths and avoid more than 2,000 hospital and emergency room visits, 1.3 million cases of asthma symptoms, and 470,000 school absence days. Reducing ozone levels also would improve visibility in national and state parks and increase protection for sensitive ecosystems, coastal waters, estuaries, and forests.

In 2026, the cost of achieving these reductions would be approximately \$1.1 billion (2016\$), a fraction of the estimated value of the benefits. EPA estimates the monetized benefits in 2026 would be at least \$9.3 billion and could be as high as \$18 billion (2016\$, 3% discount rate). Annually, the monetized net benefits of EPA's proposed Federal Plan would be \$15 billion (2016\$, 3% discount rate) each year over the period from 2023 to 2042.

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