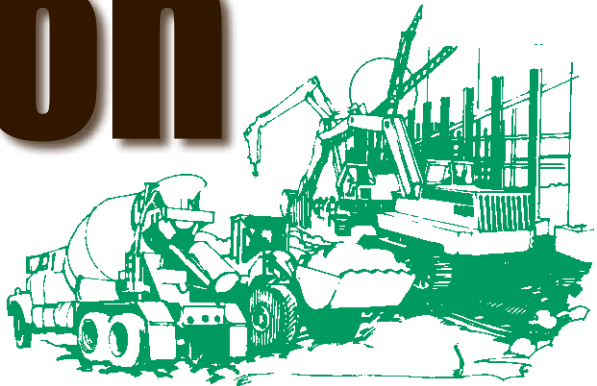




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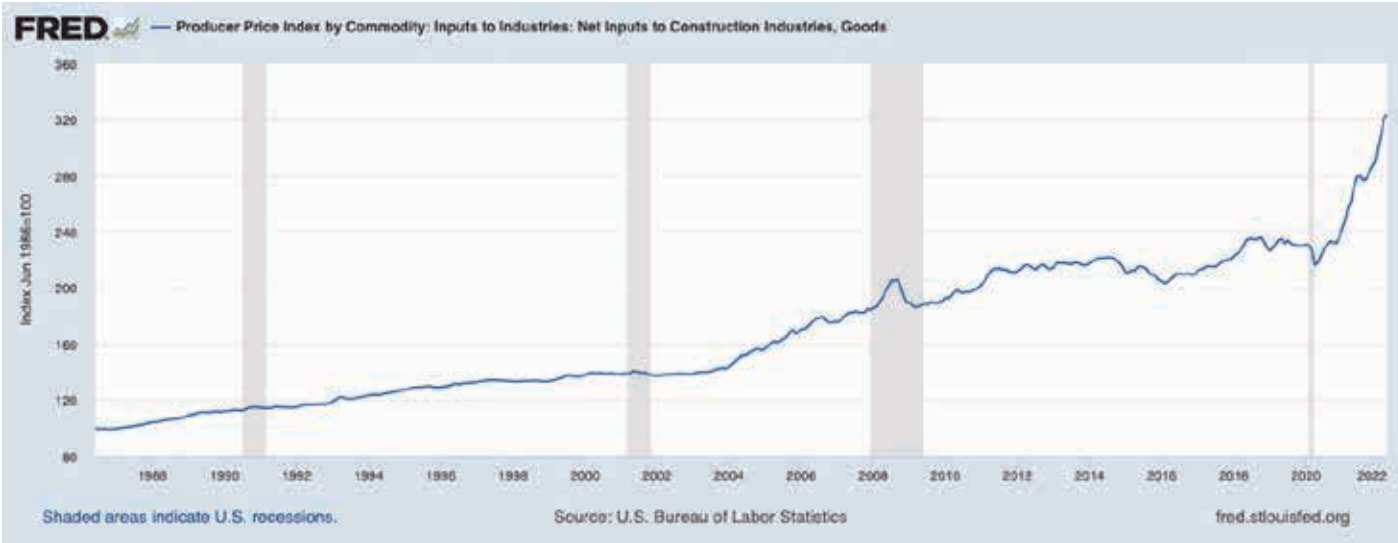
Soaring Material Costs Prompt Bills in Albany

Inflation, Supply Shortages Causing Procurement Havoc

By JOHN JORDAN

ALBANY—Many leading construction and general business associations in New York State are working with both chambers in Albany to pass a material price escalation bill to grant contractors “equitable relief” from the quickly escalating cost on many construction materials. The price hikes on materials and commodity costs contractors are facing were described as both “unprecedented” and “unforeseen spikes.”

The legislation pending in the State Senate (S.8844) and the Assembly (A.10109) sponsored by New York State Senator Elijah Reichlin-Melnick (D, WF, 38th District) and Assemblyman Kenneth Zebrowski (D-96th District) would provide some relief to firms who hold contracts with the state and public benefit corporations who experienced cost increases in excess of 5% for materials



that were purchased or invoiced after March 1, 2020, related to contracts for which they submitted bids before April 1, 2020.

The legislation would include contracts with such agencies as the Metropolitan Transportation Authority, the New York City Economic Development Corp. and the Empire State Development Corp.

At press time, the Senate bill was before the Senate Finance Committee, while the Assembly bill was under consideration in the Ways and Means Committee.

The eligible contractors could apply for an adjustment to their contract to recoup the increased material costs. It would then be up to the agency and the State Comptroller to approve any

increases in contract prices. In cases where contractors have suffered or will suffer net losses, the bill also provides that the State Office of General Services Commissioner would be authorized to grant an increase in the price of the materials in the contract to prevent further loss to contractors.

In the waning days of the legislative Please turn to page 10

NY State Awards \$69.3 Million in Grants For H.V. Water Infrastructure Projects

ALBANY—The Environmental Facilities Corporation has awarded more than \$69.3 million to Mid-Hudson municipalities for projects that are designed to protect public health or improve water quality. The investment is projected to contribute 4,850 jobs to the Mid-Hudson economy and save Mid-Hudson localities an estimated \$191.4 million.

The grant awards are part of the \$638 million package of grants to municipalities and public authorities for 199 water infrastructure projects across the state that the EFC announced recently.

All in, the impact of this

public works spending plan is enormous: nearly \$601 million in Water Infrastructure Improvement Act grants and more than \$37 million in additional federal subsidies will support approximately \$1.6 billion in total infrastructure investment.

The grants are projected to contribute more than 35,000 jobs to New York’s economy and save taxpayers an estimated \$1.4 billion. The announcement marked the largest-ever award of Water Infrastructure Improvement Act (WIIA) grants.

Environmental Facilities Corporation President & CEO Maureen A. Coleman said, “This historic level of grant

funding from EFC will provide transformational benefits for 151 communities as the state

Bipartisan Infrastructure Law.” Department of Environmental Conservation Commissioner

“Communities that have borne the brunt of decades-old industry pollution or historical neglect are utilizing these funds to help offset project costs and tackle the larger issues of clean water delivery.”

—Dr. Mary T. Bassett
New York State Department of Health Commissioner

implements the water quality goals. Grants from EFC provide relief for taxpayers and help local governments get shovels in the ground for critical projects that protect public health and the environment, create jobs, and spur economic development. EFC is poised to support many more water quality infrastructure projects through the initiatives in the enacted state budget and the infusion of federal funding from the

and Environmental Facilities Corporation Board Chair Basil Seggos also announced strong support for the spending.

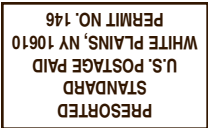
Department of Health Commissioner Dr. Mary T. Bassett said, “Replacing outdated infrastructure and implementing treatment for emerging contaminants in New York State’s public drinking water systems are critical components of ensuring equity in public health. Communities that have borne

the brunt of decades-old industry pollution or historical neglect are utilizing these funds to help off-set project costs and tackle the larger issues of clean water delivery.”

More than \$220 million has been awarded to improve drinking water systems and an additional \$206 million to projects that treat emerging contaminants. Eligible projects that address emerging contaminants above the state determined Maximum Contaminant Level (MCL) are being awarded 60% Please turn to page 4

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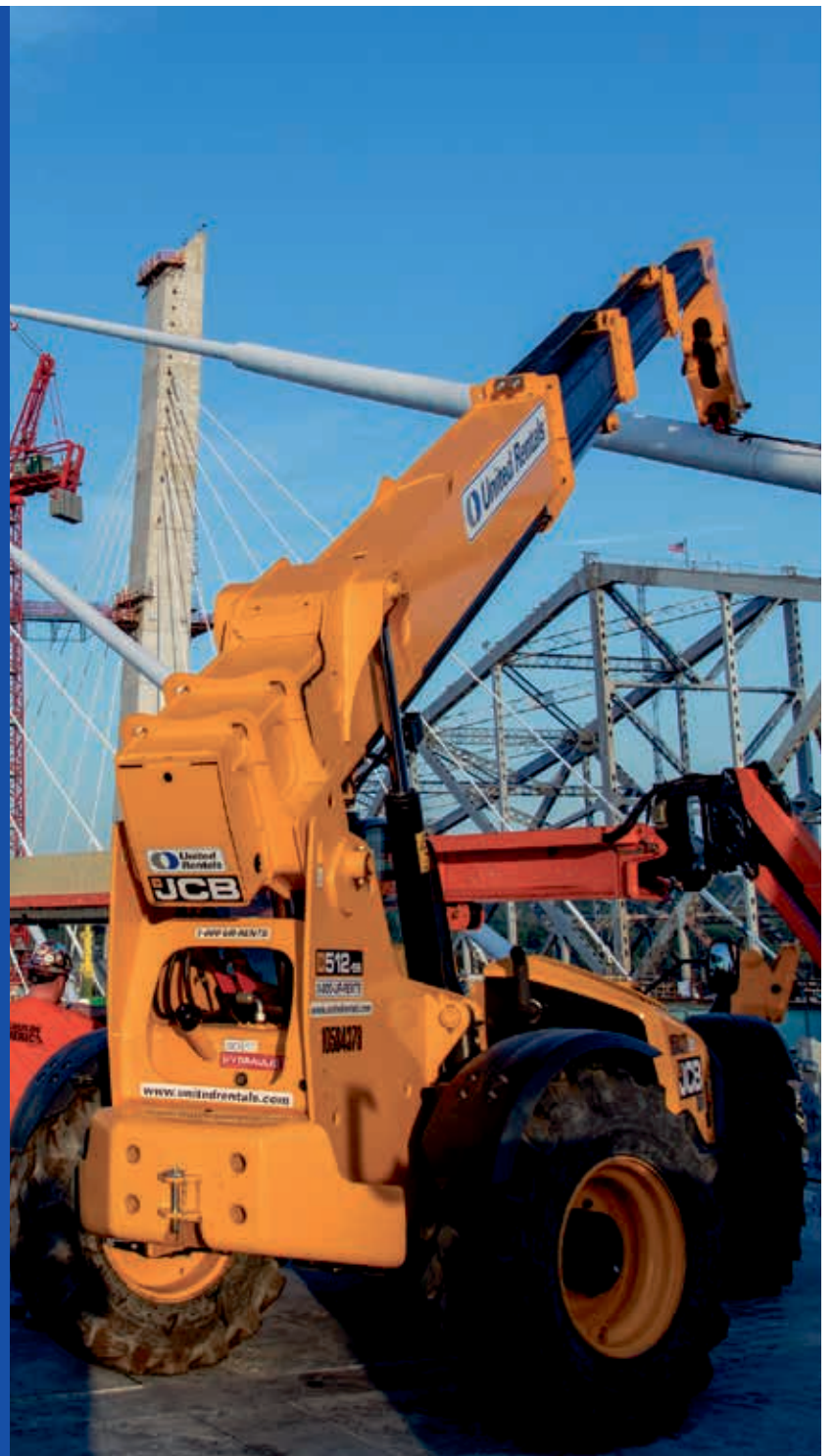


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Ridge Hill Shopping Complex Sold for \$220M; Plans to Rebrand as 'Outdoor Lifestyle Center'

By JOHN JORDAN

YONKERS—The Ridge Hill Shopping Center in Yonkers, which first opened more than a decade ago, has been sold to a partnership of Nuveen Real Estate, Taconic Partners and North American Properties for \$220 million. The new ownership intends to rebrand the 74-acre property into an outdoor lifestyle center as well as “unlock the full development potential of the site.”

The property was sold by QIC Real Estate, which acquired interest in the 1.2-million-square-foot mixed-use complex off the New York State Thruway in 2016 and 2017 from Forests City Realty Trust. The 2017 transaction included the remaining Forest City Realty ownership of Ridge Hill, as part of 10-property portfolio deal on behalf of a QIC client.

The sale of the Ridge Hill Shopping Center does not include the Monarch at Ridge Hill condominium development. Forest City developed the Ridge Hill shopping center for approximately \$600 million.

The new ownership stated that its renovation/repositioning plans for the Ridge Hill complex are still in development, but the partners will “look to incorporate state-of-the-art initiatives that enhance Ridge Hill’s public spaces, street design and parking amenities. They will also draw on their combined network of retailers to attract top-tier local and NYC inspired food and beverage concepts, and national luxury apparel and boutique fitness providers, building on Ridge Hill’s existing experiential features to create the leading lifestyle center in the tri-state region.”

JLL marketed the property on behalf of the seller—QIC US Management, Inc. Additionally, working on behalf of the new ownership, JLL secured a \$181.3-million non-recourse acquisition loan from Heitman Capital Management LLC.

“We see this as an attractively priced asset in an evolving sector that fits within our well-diversified New York property focused real estate fund,” said Nadir Settles, Managing Director at Nuveen and Head of the New York Property Fund. “The acquisition of Ridge Hill reflects a generational opportunity to re-position an already dominant lifestyle center that sits in the heart of one of the country’s most affluent and densely populated regions.”

“This unique retail asset will be a great addition to our fund and we look forward to being a part of its successful redevelopment,” said Chris Balestra, President and Chief Investment Officer at Taconic Partners.

Ridge Hill is currently 71.7% occupied and home to a mix of retail and office tenants, including Whole Foods, Lowe’s, Dick’s Sporting Goods, T.J. Maxx, H&M, LA Fitness, LL Bean,



Ridge Hill Shopping Center was developed by Forest City Retail for approximately \$600 million and first opened in 2011.

Showcase Cinemas, Legoland Discovery Center, Guitar Center, the Container Store and Westmed Medical Group. The property welcomes 7.1 million annual visitors and is in the top

1% of the most trafficked centers in the U.S. and New York.

North American Properties stated that it will begin operations and repositioning of the property this month. NAP is a

boutique, full-service real estate owner/developer notable for projects such as Avalon in Alpharetta, GA; Birkdale Village in Charlotte, NC; Colony Square in Atlanta, GA and, Newport on

the Levee in Newport, KY. The partnership between Nuveen and NAP continues to grow, with Ridge Hill representing their third project together. The partners recently acquired the open-air lifestyle center The Forum on Peachtree Parkway in Peachtree Corners, GA.

“Over the last decade, Ridge Hill has become a core component of the Yonkers community and we are thrilled to have the opportunity to enhance it by applying our high-touch, hospitality-driven approach toward management,” said Tim Perry, managing partner at NAP. He later added, “We’ve already started working to enhance the public realm, bring technology forward in the guest and parking experience, as well as longer term unlocking the full development potential of the site. Helping to design

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Westchester County Executive Latimer Relaunches Public Engagement Program for County Airport

WHITE PLAINS—Westchester County Executive George Latimer announced on May 4th he is reintroducing a community engagement program coined as “On the Horizon” to hear from the public on the future of Westchester County Airport.

In February 2020, Mr. Latimer first launched the program to support the Master Plan Supplement for Westchester County Airport, but the COVID-19 pandemic put the project on hold for more than two years. County Executive Latimer is once again opening up a county-wide discussion to listen to the concerns of residents, community organizations, the business community, environmental activists and more. Together, Mr. Latimer said he is hoping to create a new vision for Westchester County Airport.

“Westchester County Air-



Westchester County Airport

port is just one project that unfortunately came to a screeching halt with the onset of the COVID-19 pandemic, but my administration is committed to completing a thorough evaluation of airport operations and its impacts, and a robust community engagement program,” Mr. Latimer said. “Whether you use the

airport to fly with your family to Florida, to pick up your parents who are visiting for the winter, or you use the airport for business travel, we need to hear from you. Our goal is to engage everyone the airport touches—our homeowners, business community, environmental groups, community organizations and more—a balance I am confident we can achieve. We look forward to having the public be an inte-

gral part of this process moving forward, and together, we will ensure the airport evolves as a valuable, transportation resource.”

The On the Horizon Master Plan Supplement Community Engagement Program includes a series of public events such as town halls. The Master Plan Supplement will focus on analysis of the airport with respect to the physical condition of the airport property, buildings and infrastructure, additional analysis of noise and environmental impacts and the local and regional economic impact of the airport. This analysis will be used to develop a vision for the airport in the future.

Director of Economic Development Bridget Gibbons said, “The airport plays a significant role in the economic development of the county. This Master Plan Supplement and the feedback from the business community will be vital in shaping a vibrant economic



landscape in Westchester County in the years to come.”

Director of Energy Conservation and Sustainability Peter McCartt added, “Westchester County understands the importance of protecting the environmental resources surrounding the airport. We look forward to developing a deeper understanding on how to continue balancing airport operations and environmental concerns in the future through the Master Plan Supplement and Community Engagement Program.”


The On the Horizon Town Halls on Westchester County Airport are scheduled for:

Thursday, June 2 at 6 p.m.
Manhattanville College
2900 Purchase St.
Purchase, NY 10577

Thursday, June 9 at 6 p.m.
Mercy College
555 Broadway
Dobbs Ferry, NY 10522



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PUBLISHER

Ross J. Pepe

ASSOCIATE PUBLISHER

John T. Cooney, Jr.

EXECUTIVE EDITOR

George Drapeau III

MANAGING EDITOR

John Jordan

ASSOCIATE EDITOR

Sheila Smith Drapeau

ADVERTISING MANAGER

Peter Fiore

BUSINESS/OFFICE MANAGER

Karen Zedda

ADVERTISING SALES OFFICE

629 Old White Plains Road
Tarrytown, NY 10591
(914) 631-6070

TYPOGRAPHY/DESIGN/PRINTING

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Chairman: George Pacchiana
President: Ross J. Pepe

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NY State Awards \$69.3 Million in Grants For H.V. Water Infrastructure Projects

Continued from page 1
of net eligible project costs. The state also announced more than \$139 million has been awarded for Wastewater Improvement Projects.

Thirteen municipal projects have been awarded a 25% WIIA grant plus a 25% federal additional subsidy to fund 50%

of the estimated project costs. This is made possible by awarding 25% in additional federal subsidies to these hardship communities that will receive interest-free financing for the remaining 50% of the project costs. The municipalities were chosen to receive the subsidy based on project eligibility,

impacts on water quality and financial hardship. One municipality in the Mid-Hudson region received WIA financing. The City of Newburgh secured \$5,577,500 in estimated federal subsidy and another \$5,577,500 in estimated WIIA grant financing for a total grant award of \$11,155,000.

Mid-Hudson Region Grant Awards			
Applicant	County	Project Cost	Estimated Grant
Bedford, Town of	Westchester	\$1,401,750	\$841,050
East Fishkill	Dutchess	\$5,093,266	\$3,055,960
Florida, Village of	Orange	\$218,160	\$54,540
Goshen, Village of	Orange	\$6,120,819	\$3,000,000
Greenwood Lake,	Orange	\$5,000,000	\$3,000,000
Harriman,	Orange	\$474,925	\$284,955
Harriman	Orange	\$897,585	\$538,551
Kingston, City of	Ulster	\$10,491,435	\$3,000,000
Lewisboro	Westchester	\$1,939,500	\$1,163,700
Liberty, Town of	Sullivan	\$18,000,000	\$4,500,000
New Windsor	Orange	\$59,140,805	\$14,785,201
Newburgh, City of*	Orange	\$22,310,000	\$11,155,000
Peekskill, City of	Westchester	\$5,000,000	\$3,000,000
Poughkeepsie JWB	Dutchess	\$4,921,000	\$2,952,600
Poughkeepsie	Dutchess	\$2,767,614	\$691,904
Red Hook	Dutchess	\$1,800,000	\$1,080,000
Rhinebeck,	Dutchess	\$6,456,000	\$3,000,000
Rockland, Town of	Sullivan	\$169,198	\$42,300
Rockland, Town of	Sullivan	\$165,040	\$41,260
Suffern, Village of	Rockland	\$532,800	\$319,680
Thompson, Town of	Sullivan	\$25,535,721	\$6,383,930
Tusten, Town of	Sullivan	\$7,499,513	\$3,000,000
Westchester County	Westchester	\$27,006,000	\$2,029,400
Westchester County	Westchester	\$11,882,400	\$2,970,600
Wurtsboro	Sullivan	\$1,746,000	\$1,047,600

**Applicant awarded a 25% WIIA grant plus a 25% federal additional subsidy.*

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Attorney's Column

In Constructive Change Directive Provision Case, Court Grants Win to Otherwise Breaching Contractor

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

Construction projects are often expensive undertakings, with the expense increasing with the duration of the project. For that reason, owners and upstream contractors do whatever they can to stave off delays. One way they can stave off such delays is to include a provision requiring downstream contractors involved in a change order dispute to continue working pending the resolution of the dispute.

An appellate court, in the re-



of the contract and supports the imposition of liability the same as a breach of any other substantive provision of the contract.

Background

In the early 2010s, Amtrak

the platform extensions. This work included the structural concrete for the pile caps and inspection pits and the concrete overlay for the platforms. The lump sum subcontract had certain enumerated exclusions, in-

In April 2014, Amtrak hired Middlesex Corp. as its general contractor which, in turn, retained Banton Construction Company to perform a specified scope of work in connection with the project. In October 2014, Banton hired McCarthy Concrete to complete the concrete work for

While the trial court gave short shrift to the “continue working” provision, the appellate court found that the breach of this provision required reversal. The appellate court specifically noted that as “plaintiff had agreed, pursuant to the subcontract, to continue the work while pursuing dispute resolution, its failure to perform the work amounted to a breach of the subcontract.”

While the withholding of work often is the only leverage that an unpaid contractor has to ensure full payment, in the face of a prior agreement to continue working notwithstanding the existence of such a payment dispute, the tactic has been analogized to hostage taking—including by the appellate court here.

cent case of *McCarthy Concrete, Inc. v Banton Construction Co.*, reminded us that the violation of this type of provision constitutes an independent breach

undertook to expand its Empire Corridor trackage between its Albany-Rensselaer and Schenectady, NY train stations by adding a fourth track.

cluding concrete pumping and tactile work and included unit pricing for the actual quantity of concrete used.

As to claimed changes, the

subcontract also contained a provision requiring McCarthy to “immediately perform the work as changed without delay,” and “pending resolution of any claim, dispute or other controversy, nothing shall excuse McCarthy from proceeding with prosecution of the work.”

In the summer of 2015, Amtrak ordered a suspension of the project, and Banton directed McCarthy to demobilize. Banton and McCarthy worked to resolve some then-outstanding payment issues, which ultimately resulted in a lawsuit in Connecticut. That lawsuit was settled with the understanding that Banton would pay certain of McCarthy’s claims, and McCarthy would return to work when Amtrak lifted the suspension. As a part of the resumption of work, Amtrak changed the plans which, as far as McCarthy was concerned, included the use of concrete pumping and the installation of tactile warning strips. Banton requested proposals for the changed work from McCarthy, and the proposals ultimately provided by McCarthy were not acceptable to Banton. In September of 2016, Banton directed McCarthy to return to work, stating that it was “willing to fund the alleged added costs for concrete pumping and added reinforcing, under a reservation of rights.” Banton also warned McCarthy that if it did not return to work, it would terminate McCarthy and retain a completion contractor. Ultimately, McCarthy never returned to the job, citing the lack of assurances of payment for the new work. Banton followed through on the termination and the hiring of a replacement contractor.

McCarthy sued Banton for some unpaid rebar left at the site, and to recover its unpaid retainage. Importantly, McCarthy also sued for its lost profits; the money it claimed it would have made but for the allegedly improper termination of its contract. Banton asserted a counterclaim, alleging that McCarthy breached the subcon-

tract by failing to return to the job on account of the payment dispute, in violation of the subcontract’s work directive provision.

The matter was tried, with the judge deciding in favor of McCarthy on its principal claim. The trial court awarded McCarthy a judgment in the total amount of \$92,582.98, which was the value of the unpaid rebar, the retainage, and \$28,500 in lost profits. Banton appealed, arguing that McCarthy’s breach of the contract by failing to return to the site, where the contract language required continued performance despite the existence of a payment dispute, excused it from having to pay McCarthy (or, at a bare minimum, was an offset against McCarthy’s claim).

Decision

While the trial court gave short shrift to the “continue working” provision, the appellate court found that the breach of this provision required reversal. The appellate court specifically noted that as “plaintiff had agreed, pursuant to the subcontract, to continue the work while pursuing dispute resolution, its failure to perform the work amounted to a breach of the subcontract. Thus, we disagree with Supreme Court that Banton breached the contract based upon terminating the subcontract when plaintiff refused to perform absent an express agreement as to costs for the increased work. Rather, we find that plaintiff breached the subcontract by refusing to perform the work as it was required to do under the subcontract and, as such, grant Banton’s counterclaim for breach of contract.” In doing so, the appellate court held that Banton was entitled to an affirmative recovery of \$61,986.22 from McCarthy, which was Banton’s \$106,068.22 cost to retain the replacement contractor, minus only the \$44,081.93 in retainage owed to McCarthy. The appellate court held that McCarthy was not entitled to lost profits since it, not Banton, breached the

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PHOTO GALLERY



Teeing Up for Housing

Habitat of Greater Newburgh Stages Golf Event at Powelton Country Club



Traditions have returned!

The annual Golf for Housing raised more than \$75,000 to support the organization’s work to provide homeownership for local families to build a stronger community for everyone. The morning shotgun on May 23 drew some 118 golfers, followed by a great lunch and prizes.

Despite its two-year golf hiatus due to the pandemic, the charity has worked hard in that time and recently completed its 102nd home in its 22 years.



WASHINGTON UPDATE

USDOT Offers \$1B In Grants for Safe Streets, Roads

WASHINGTON—The U.S. DOT announced on May 16 that the application process was opened for communities of all sizes to apply for \$1 billion in Fiscal Year 2022 funding to help them ensure safe streets and roads for all and address the national roadway safety crisis.

The Bipartisan Infrastructure Law's new Safe Streets and Roads for All (SS4A) discretionary grant program provides dedicated funding to support regional, local, and Tribal plans, projects and strategies that will prevent roadway deaths and serious injuries. The SS4A program supports the department's comprehensive approach, laid out in the National Roadway Safety Strategy, to significantly reduce serious injuries and deaths on the nation's highways, roads, and streets and is part of the work toward an ambitious long-term goal of reaching zero roadway fatalities. This comes at a time when traffic fatalities are at the highest level they have been at in over a decade.

"We face a national crisis of fatalities and serious injuries on our roadways, and these tragedies are preventable—so as a nation we must work urgently and collaboratively to save lives," said U.S. Transportation Sec. Pete Buttigieg. "The funds we are making available today from President Biden's Bipartisan Infrastructure Law will help communities large and small take action to protect all Americans on our roads."

"The rise in deaths and serious injuries on our public roads affects people of every age, race and income level, in rural communities and big cities alike," said Deputy Federal Highway Administrator Stephanie Pollack. "This program will provide leaders in communities across the country with the resources they need to make roads safer for everyone."

The primary goal of the SS4A grants is to improve roadway safety by supporting communities in developing comprehensive safety action plans based on a Safe System Approach, and implementing projects and strategies that significantly reduce or eliminate transportation-related fatalities and serious injuries involving pedestrians; bicyclists; public transportation, personal conveyance, and micromobility users, commercial vehicle operators; and motorists. Funding can also be used to support robust stakeholder engagement in order to ensure that all community members have a voice in developing plans, projects and strategies.

The funding supports DOT's National Roadway Safety Strategy and collaborative efforts to advance the Safe System Approach and address safety by implementing redundant measures that lead to multiple types and layers of protection.

The SS4A Grant Program was created by Congress under the Bipartisan Infrastructure Law, which directed the department to support local initiatives to prevent death and serious injury on roads and streets. The law also directed the department, when selecting projects under the program, to consider other factors in addition to safety, including equitable investment in the safety needs of underserved communities. The program also supports the Biden-Harris Administration's goals of promoting equity and fighting climate change.

Applications may come from individual communities, or groups of communities and may include Metropolitan Planning Organizations (MPOs), counties, cities, towns, other special districts that are subdivisions of a state, certain transit agencies, federally recognized Tribal governments, and multi-jurisdictional groups.

The department has made the application process to receive funding to develop a comprehensive safety action plan as easy as possible to reduce administrative burden and encourage broad participation in this new funding program, especially for smaller communities, Tribal governments and new federal funding recipients.

The Safe Streets for All Notice of Funding Opportunity can be found at <https://www.transportation.gov/SS4A>. Applications are due on or before Sept. 15, 2022.

The Department will convene a series of stakeholder webinars in June to help potential applicants learn about the SS4A Grant Program and what they need to know to prepare an application.

Monday, June 13: How to Apply for the Safe Streets and Roads for All (SS4A) Opportunity

Wednesday, June 15: How to Apply for the Safe Streets and Roads for All (SS4A) Opportunity: Focus on Action Plan Grants

Thursday, June 23: How to Apply for the Safe Streets and Roads for All (SS4A) Opportunity: Focus on Implementation Grants

Additional information and resources about the SS4A Grant Program, including webinar links, can be found at <https://www.transportation.gov/SS4A>.

More WASHINGTON UPDATE on page 11



State Sen. Pete Harckham was joined by other state lawmakers and local municipal officials in announcing the Route 9A study funding.

\$3M Study to Examine Route 9A Corridor Woes

BRIARCLIFF MANOR, NY—The local community and the construction industry have been on the case to press state government for more than two decades to study and fix the routinely-congested Route 9A corridor that runs through this community in the heart to Westchester County. The state included some \$3 million in the FY2022-2023 budget for the much-needed study.

The announcement was made at a news conference hosted by Briarcliff Manor Mayor Steven Vescio outside the Briarcliff Animal Hospital, just several yards away from the busy north-south roadway, where more than 40,000 vehicles travel daily, including passenger cars, SUVs, emergency transports, concrete mixers, delivery vans, landscaping trucks with equipment trailers and large 12-wheelers.

"For too many years, this very busy stretch of state highway, with its dangerous intersections, lack of a breakdown lane and poor drainage that negatively impacts adjacent neighborhoods, has required serious upgrading, and now we are finally moving forward with its overhaul and improvement," said Sen. Pete Harckham who spoke at the news conference.

The cost for a study of Route 9A was seen in prior years as being too prohibitive, Sen. Harckham noted, but by working together with Sen. Tim Kennedy, who serves as chair of the Senate Transportation Committee, and Sen. Elijah Reichlin-Melnick, with whom he shares part of the roadway with in their respective Senate districts, the funding was secured finally.

"As we rebound from the pandemic, we remain focused on rebuilding from the ground up—and that starts with our infrastructure," Sen. Kennedy said at the news event. "Route 9A has posed problems for first responders, drivers and homeowners for years, and by securing these critical dollars in this year's state budget,

we're taking a major step forward in identifying how this heavily trafficked roadway can be improved."

The announcement of a Route 9A study is based upon legislation (S.2988/A.5925) that Sen. Harckham and Rep. Sandra Galef have introduced (and which Sen. Reichlin-Melnick and Rep. Tom Abinanti co-sponsored) regularly in the last few years.

The study is limited to the portion of Route 9A within the towns of Mount Pleasant and Ossining, so it includes the Village of Briarcliff (which is in both towns). NYSDOT will conduct the study, which will include: the estimated total cost of new guardrail installation; estimated total cost of underpass renovations to accommodate commercial vehicles (some do not fit under the Pleasantville Road bridge); estimated duration of the project; the impact construction will have on local traffic patterns and the environmental impact of the project.

As the study proceeds, the state lawmakers recognize that areas for cooperation between agencies who have purview over this project or relevant properties need to be identified, and their input will be solicited and incorporated into the study as well.

It is well understood that the portion of Route 9A to be studied currently poses a significant risk to motorists. It has narrow shoulders, low-clearance underpasses and general design deficiencies, all of which put a major strain on traffic, as well as on the first responders who answer emergencies and deal with the more than 120 crashes on this stretch of roadway each year.

Mount Pleasant Supervisor Carl Fulgenzi said this study is critical and demands immediate attention due to the growth along the route over the years as well as the more recent and pending developments in the Town of Mount Pleasant alone.

Ridge Hill Shopping Complex Sold for \$220M

Continued from page 3

and define this will require community engagement to determine what's missing, from a retail, as well as experiential, perspective."

Nuveen Real Estate and Taconic Partners have collaborated since 2015, collectively investing more than \$2 billion across more than 2 million square feet in New York. The partners completed a \$260-million fundraising round for their jointly sponsored value-add New York City Property Fund II in 2021. The acquisition of Ridge Hill is the partnership's first investment into value-add retail and an opportunity to diversify beyond its existing life science, office and industrial holdings, the partnership stated.

The JLL Retail Capital Markets team that represented

the seller was led by Senior Managing Director Dave Monahan, Senior Director Cameron Pittman, Senior Managing Director and Co-Head of U.S. Retail Capital Markets Chris Angelone and Senior Managing Directors Jose Cruz and Andrew Scandalios.

"Ridge Hill is one of the more compelling investment opportunities that I have transacted in my career," Mr. Monahan said. "Driven by the exceptional trade area characteristics, highly desirable existing tenancy and multiple value creation opportunities, this asset received a

tremendous amount of interest from a broad range of investors. The collective experience and operational expertise of the buyergroup of Nuveen, Taconic and North American Properties creates an ownership that is uniquely qualified to enable Ridge Hill to achieve its highest potential."

The JLL Capital Markets Debt Advisory team that represented the borrower included Senior Managing Directors Kellogg Gaines, Aaron Niedermayer and Evan Pariser, Managing Director Claudia Steeb and Analyst Joy Dracos.

LOW BIDS Every Month in the Construction NEWS

The Village of Ossining Reissues RFP For Redevelopment of 200 Main Street

OSSINING, NY—The Village of Ossining has issued a request for proposal (RFP) from a qualified developer for the adaptive reuse of a National Register-listed historic building—200 Main St., which was built in 1908 and sits on a village-owned parcel at the intersection of Main Street and NYS Route 9 (Highland Avenue).

The village stated in its May 9 announcement that it is “desirous of a developer with a good track record, sound financial backing, and commitment to implementing creative, quality development in a timely manner. The village is open to working collaboratively to support the long-term financial viability of the proposed project by leveraging grant funding.”

The village had issued an RFP on the 200 Main St. property on March 21, 2022.

The deadline for responses to the reissued RFP is 4:30 pm on Monday, June 20, 2022.



The Village of Ossining has issued an RFP for a developer to propose a suitable adaptive reuse of the historic building at 200 Main St.

The village listed among its goals and objectives for the property's redevelopment:

- Establish this historic site as a destination gateway to Ossining's Main Street and Riverfront corridor.
- Further catalyze economic

growth and vibrancy of this rapidly transforming community.

- Leverage the significant local and state investment that is being made in Ossining's downtown, waterfront district with the development

of a unique, experiential retail establishment.

In November 2021, the Village of Ossining was selected as a recipient of the New York State Regional Economic Development Council's highly competitive \$10-Million Down-

town Revitalization Initiative (DRI). Ossining is currently embarking on a six-month planning process that will link the community's vision, goals, and strategies to specific projects that have the potential to revitalize Downtown Ossining. The identification of a private sector developer, or sponsor, for the adaptive rehabilitation and reuse of 200 Main Street will help greatly to position this project as a compelling opportunity for DRI funding.

Information on this RFP is available at: <https://bit.ly/3wpYNsB>

Respondents should submit one PDF copy of the requested information to kdattore@villageofossining.org, and eight paper copies of the requested information. The complete package of material should be submitted to Village Manager Karen D'Attore, Village Hall, 16 Croton Avenue 2nd Floor, Ossining, NY 10562.

Soaring Material Costs Prompt Bills in Albany Continued from page 1

session, the bills have seen significant support from business, construction and labor organizations. These include The Business Council of New York State, the General Contractors Association of New York (GCA), the Construction Industry Council of Westchester & Hudson Valley (CIC) and the Building Congress of New York.

Do to the inflation rate in the United States, the construction industry has been suffering from higher costs the past 18 to 24 months, with some commodities rising as much as 50% to 200% during that period.

Rising Costs

Blow Up Budgets

Prices of materials and services used in new nonresidential construction leaped on average by nearly 21% in April from year-ago levels, according to an analysis of government data that was reported on May 12 by the Associated General Contractors.

“Nonresidential contractors have endured 12 months of 20% increases in the cost of items they need to build projects,” said Ken Simonson, the AGC's chief economist. “While they have been able to pass some of those increased costs on to clients, most of those increases have come out of their own bottom line.”

The sharp rise in material costs as well as supply-chain delays are making builders desperate for relief, Louis Colletti, president and CEO of the Building Trades Employers Association, told *Crain's New York Business*. “Costs are going through the roof and into the sky. It's fuel, it's steel, it's carpentry, it's all material used on a construction project.”

Industry Coalition Calls For Bill Passage

CIC Executive Director John Cooney, Jr., said that the CIC

and the New York Roadway and Infrastructure Coalition have been contacting state lawmakers in the Assembly and Senate to garner support for the Reich-

crises. “First in 1974, the state enacted Chapters 944 and 945 that provided equitable relief to contractors for steel and petroleum price increases on state

address the sharp spike in material costs caused by the COVID-19 pandemic that resulted in national supply chain problems, as well as the Russian

The CIC and GCA stated their strong support for S.8844/A.10109 that will “provide equitable relief to contractors who have been harmed by the significant spike in construction material costs.”

lin-Melnick-Zebrowski bills.

Mr. Cooney, who is a member of the NYRIC Executive Committee, told CONSTRUCTION NEWS the legislation is essential for contractors who started work on state contracts prior to April 1, 2020 because at the time there was no hint that there would be a sustained period of unanticipated spikes in construction material costs. After that date, contractors should have been aware of the material price increase risks going forward, he noted.

The proposed equitable adjustment contained in the bills does not include direct labor costs, profit or overhead. It should be noted that the New York State Department of Transportation is one state agency that has an index for steel, asphalt and fuel indices that make adjustments to changes in prices on DOT contracts.

In letters of support of the bills sent to state legislators, the CIC and GCA noted that New York State did provide relief several times during economic

and municipal contracts due to the energy crisis at the time. The new state laws allowed for price adjustments on bids submitted prior to Dec. 31, 1973.

Due to sharp price increases caused by U.S. tariffs on steel imposed in 2004, combined with a sharp increase in demand for steel from China, the state passed Chapter 56 that allowed for price adjustments to the prices of steel products in construction contracts let by the State of New York for contracts let prior to April 15, 2004.”

Mr. Cooney said a key facet of the legislation also provides relief to the state or contracting agency if prices of materials decline over the term of the contract.

“If there is relief granted based on a nationwide index that is recognized, if that is granted and it becomes part of the contract, if that construction material price drops then there will be credit given back,” he added.

A host of business and trade groups are calling for the passage of the two bills that would

invasion of the Ukraine that exacerbated the supply chain issues that fueled the largest increase in inflation in 40 years.

The CIC and GCA stated their strong support for S.8844/A.10109 that will “provide equitable relief to contractors who have been harmed by the significant spike in construction material costs. Based on legislative precedent providing equitable relief for contractors to address the unanticipated surge in material prices, we urge the Legislature to take similar actions and pass S.8844/A.101.”

GCA Executive Director Robert Wessels said in a *Crain's New York Business* report, “Small companies can be put out of business when your prices are bid for a job with fixed costs. Supply and demand prices went through the roof, and contractors were left holding the bag.”

Stephen Morgan, secretary of NYRIC said, “NYRIC will continue to work with the Legislature to pass the bill and then the Governor's Office and the Division of the Budget to im-

press upon them the fairness of addressing this unanticipated increase in cost to the construction industry.”

Another key construction trade organization has also voiced support for the legislation is the New York Building Congress. Carlo A. Scissura, president and CEO of the New York Building Congress, said, “This legislation would deliver equitable relief to contractors who have already entered contracts for important public works projects and have experienced losses from the spike in construction materials. Similar action was taken to provide relief to contracts for steel and petroleum price increases due to the unforeseen energy crisis in 1974, and the sharp increase in steel prices caused by the U.S. tariffs on steel, along with the spike in demand for steel from China in 2004. The Building Congress strongly urges the Senate and Assembly to move S.8844 and A.10109 through their respective committees and bring them to the floor for approval immediately.”

The Business Council of New York State also issued its support of the bills, stating: “The construction industry is dealing with steep and fast-rising costs for materials that are needed for them to complete their bids and finish the process. This bill will give contractors and subcontractors the assistance they need in doing their work and avoiding shutdowns.”

Construction and labor officials warn that without relief, general contractors, subcontractors and MWBEs could be adversely affected and that some could even be forced to shut down operations when they do not have the sufficient funds in reserve to meet these rapidly rising material and commodity project costs.

Arrowwood Hotel Target of Plan For ‘Dramatic Redevelopment’

RYE BROOK, NY—Manhattan-based Cohen Brothers Realty Corporation announced on May 12 it will submit a proposal for what it termed will be a “dramatic redevelopment” of the shuttered Doral Arrowwood Hotel and Conference Center.

The plan calls for the construction of a wellness-focused luxury boutique hotel and spa destination featuring multiple restaurants, celebrity-chef dining, extensive indoor and outdoor recreation facilities and luxury housing.

The proposal involves replacing the complex on Anderson Hill Road that closed in January 2020, with a 146-room luxury boutique hotel, together with 36 apartments and 78 townhomes on the approximately 90-acre property,



The Cohen Brothers proposal calls for demolishing the former Doral Arrowwood Hotel that closed in January 2020 and replacing it with a new boutique hotel, restaurants, apartments and townhomes.

much of which would remain open space. The concept will feature signature architecture and envisions two marquee destination restaurants, as well as a hotel restaurant, bars,

lounges, fitness facilities, conference and meeting rooms and ballrooms, company officials stated.

The existing hotel will be demolished, and the golf course

will be reimagined as natural open space with a trail network, the company stated.

“We are very excited to be moving forward with a proposal that we believe is

well-suited for the property, the adjacent community, the Village of Rye Brook and Westchester County,” said Charles S. Cohen, president/CEO of Cohen Brothers, who grew up in nearby Harrison. “This is a complete reimagining of an outdated use that is aligned with business and consumer trends of the 21st century.”

A formal proposal and application will be submitted to the Village of Rye Brook for consideration.

Cohen Brothers other Westchester County holding is 333 Westchester Ave. in White Plains. Once the headquarters of the General Foods Corp., Cohen Brothers acquired the 39-acre property and worked with architect Philip Johnson to transform it into a multi-tenant office campus.

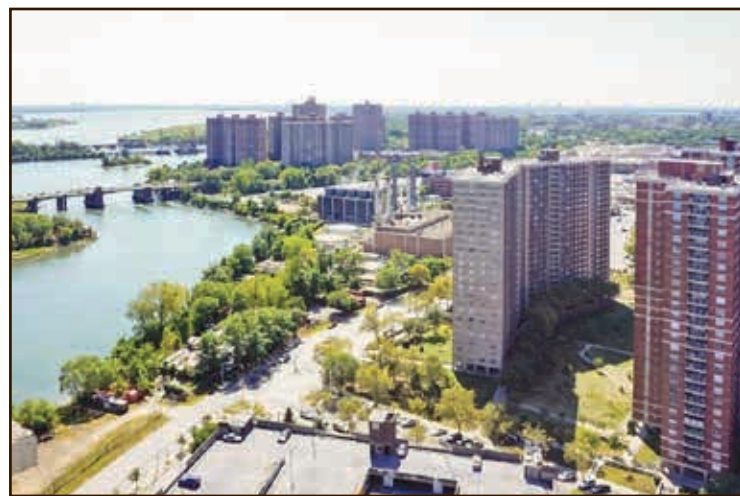
Co-Op City’s \$622M Refi Deal Frees Up \$124M for Repairs on Bronx Complex

NEW YORK—A host of federal, state and city agencies have closed on the refinancing of a \$621.5-million U.S. Housing and Urban Development loan with Riverbay Corp., the management company for Co-op City in the Bronx.

The refinancing deal announced on April 27, provides Riverbay Corp. with \$124 million in proceeds that will be used for capital improvements, including upgrades to the HVAC, façade maintenance, and electrical systems at the nation’s largest cooperative housing development.

This transformative injection of capital funding will permit modernize Co-op City, described by New York State as the largest housing cooperative in the world, and ensure long-term affordability for its 45,000 residents.

United States Department of Housing and Urban Develop-



Co-Op City is the nation’s largest cooperative housing development and is located on 320 acres in the Northeast Bronx.

ment Secretary Marcia L. Fudge said, “We applaud the successful completion of the refinance for the Bronx’s Co-op City complex. The Biden-Harris Administration and HUD are committed to stabilizing the housing market nationwide using every tool at our disposal, including utilizing

Federal Housing Administration multifamily mortgage insurance as a key financing source. From supporting larger loans in major metropolitan areas to smaller loans in rural communities and suburbs, HUD is proud to be a partner in creating and preserving affordable

housing across the country.”

The restructured \$621.5 million mortgage loan from Wells Fargo extends the term of affordability for an additional 10 years and provides \$124 million for the cooperative to undertake necessary capital repairs. With 15,372 homes, Co-op City is the largest cooperative housing development in the world. The Mortgage Insurance Fund of the State of New York Mortgage Agency, which is part of New York State Homes and Community Renewal, and the New York City Housing Development Corporation, will provide credit support with \$55 million and \$15 million coverage of the loan, respectively.

The loan includes \$15 million for immediate capital repairs, including approximately \$10 million for balcony and façade repair, \$2.5 million for the replacement of residential water pumps and \$2.5 million for the

replacement of garage elevators. The loan also includes \$109 million to replenish a reserve account for future repairs, all without raising maintenance charges for residents.

Co-op City Board President Bernard Cylich said of the refinancing deal, “This loan will assist us to maintain our buildings and infrastructure while reducing the need for our residents to pay huge fee increases.”

The 2012 Wells Fargo mortgage loan to Riverbay Corporation was the largest ever insured under the Department of Housing and Urban Development’s Sec. 223(f) program, which protects lenders against loss on mortgage defaults at multifamily properties.

Co-op City sits on 320 acres in the Northeast Bronx and has multiple schools, three commercial malls and its own power plant.

WASHINGTON UPDATE



President Joe Biden and U.S. Senator Rob Portman (R-OH) are the 2022 recipients of the ARTBA Award.

President Biden, Senator Portman Receive ARTBA’s Highest Honor

WASHINGTON—President Joe Biden and U.S. Senator Rob Portman (R-OH) are the 2022 recipients of the American Road & Transportation Builders Association’s (ARTBA) highest honor—the “ARTBA Award.” The announcement was made on May 17 in Washington, D.C., during ARTBA’s 2022 Federal Issues Program and Transportation Construction Coalition’s (TCC) Fly-In.

Established in 1960, the ARTBA Award recognizes outstanding contributions that have advanced the broad goals of the association. Recipients

have included governors, more than 25 U.S. senators or representatives, two U.S. secretaries of transportation, and dozens of top leaders and executives from government and the transportation construction industry private sector.

The president and senator are recognized for their leadership and willingness to work across the aisle to complete the landmark Infrastructure Investment and Jobs Act (IIJA). The November 2021 enacted law includes a five-year, \$450-billion reauthorization of federal highway, public transit, and highway

safety programs. It represents the largest increase in federal surface transportation investment in 65 years.

President Biden barnstormed the country advocating for major new infrastructure investments and his staff worked closely with groups of Republican and Democratic senators, led by Sen. Portman, to develop a rare bipartisan policy consensus. Sen. Portman’s approach was critical to helping secure 69 votes for final Senate passage.

The president signed the IIJA Nov. 15, 2021 at a ceremony on the White House South Lawn.

Newburgh Issues Two RFPs To Redo City-Owned Properties

By JOHN JORDAN

NEWBURGH, NY—The City of Newburgh has recently issued two requests for proposals that represent what it termed are “exciting and unique development opportunities” for several city-owned properties, including City Hall.

The first, RFP #11.22, seeks proposals for the creative redevelopment of numerous city-owned properties—both existing buildings and vacant parcels—that the city hopes will result in a new municipal campus.

The RFP includes 17 vacant parcels on Broadway, Johnston and Lander streets for redevelopment totaling nearly two acres, as well as three parking lots and one abandoned parking lot. The RFP also includes the historic City Hall building at 83 Broadway and the 55 Broadway complex that has been used as the headquarters for the city’s police and



Part of one RFP is the historic City Hall building at 83 Broadway in Downtown Newburgh.

fire departments.

Newburgh’s City Hall was originally constructed as an industrial building in 1882 to house the Bazzoni Carriage Works—a manufacturer of sleighs and horse-drawn carriages. The City of Newburgh purchased the building in 1893 and contracted

with the architectural firm of Frank Estabrook to renovate the building for public use. In 1895 the city government offices officially opened at 83 Broadway, and the City Council began holding meetings in the two-story Council Chambers on the second floor.

The RFP states: “The City of

Newburgh is requesting developers to create a master land use/redevelopment plan for one or all of the parcels listed above. Proposals may also include development on privately-owned parcels or in coordination with the development of privately-owned parcels, provided there is a reasonable possibility the proposer can enter into an appropriate agreement with the property owner.”

It continued, “The master land use plan must include a proposal to incorporate essential city services and uses—City Hall (and related municipal offices currently in other locations), Police Department (excluding any lock-up facilities) and Fire Department—and municipal parking within a mixed-use, transit-oriented development scenario. The re-purposing and redevelopment of the available city-owned parcels needs

to adhere to the appropriate zoning regulations, East End Historic District (EEHD) guidelines, and any stated city goals and objectives.”

The RFP document stated that the 55 Broadway building that houses the city’s police and fire departments could be either redeveloped or demolished as part of a bidder’s master plan.

Sealed bids will be received by the City Comptroller in the City Comptroller’s Office at City Hall, 83 Broadway, 4th Floor, Newburgh, New York 12550 until 4 p.m. on June 3rd, 2022 for the RFP# 11.22 solicitation.

The second, RFP #14.22, looks for proposals to remediate 842 Broadway, a fire-damaged gas station, and transform it into what the city describes as “a welcoming business establishment at a key gateway into the City of Newburgh.”

The property located at the western entrance to the city on Broadway was known and operated as Dennis’s Sunoco, a gas station and auto repair shop for many years. “The building was built in 1945, according to the assessor’s records, and is estimated to be approximately 3,360 square feet in size. The property suffered a significant fire in December 2018, which left the building as a burned-out shell. The property is an environmental hazard, both above and below ground,” according to the RFP.

The city is nearing the completion of a tax foreclosure proceeding to acquire title to the property. The city has also entered into an agreement with the New York Environmental Protection and Spill Compensation Fund to conduct the below-ground portion of the remediation. The approved developer will be required to enter into a Site Development Agreement with the city, with terms and conditions to be approved by the Newburgh City Council, the RFP states.

Sealed bids were to be received by the City Comptroller in City Comptroller’s Office at City Hall, 83 Broadway, 4th Floor, Newburgh, New York 12550 until 4 p.m. on May 13, 2022 for the Remediation and Purchase of 842 Broadway.

Detailed information on both RFPs can be found on the Bidnet website (<https://www.bidnetdirect.com/>) as well as on the Planning and Development’s departmental page on the City of Newburgh’s website (www.cityofnewburgh-nv.gov).

Potential purchasers are urged to consult the City of Newburgh’s updated Surplus Property Disposition Policy (<https://www.cityofnewburgh-nv.gov/249/Disposition-Policies>) before submitting any offers or proposals.

For more information, contact Director of Planning and Development Alexandra Church at 845-569-9400 or via e-mail at planning@cityofnewburgh-nv.gov.

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CLC and BCA Announce Scholarship Programs Are Open for 2022-2023 School Year

2022 Louis G. Nappi Construction Industry Labor-Management Scholarship Program

Application Link:
<https://cicbca.org/nappi/>

DESCRIPTION

The Louis G. Nappi Construction Industry Labor-Management Scholarship Program grants up to fifteen (15) \$5,000 College scholarships each year to students majoring in Applied Sciences, Technology, Engineering, Mathematics, Architecture or any other major as deemed acceptable by the Scholarship Committee.

REQUIREMENTS

Students must be related* to: a member of the Construction Industry Council of Westchester and Hudson Valley, Inc. (CIC); or a contributor to any IAF of (CIC); or a member of the following unions contributing to this scholarship program: Laborers International Union of N.A., Local 60; International Union of Operating Engineers Local 137; International Brotherhood of Teamsters, Local 456.

**(For purposes of this program related shall mean biological or legally adopted children or grandchildren, spouse; or as otherwise determined by the Scholarship Committee.)*



2022 Construction Advancement Institute Labor-Management Scholarship Program

Application Link:
<https://caiwestchester.org/scholarships/2022-scholarships/>

DESCRIPTION

Up to ten (10) scholarship awards of \$5,000 each will be awarded to students studying Engineering, Architecture, Construction Technology, Construction Management or related industry courses of study as determined by the selection committee.

REQUIREMENTS

Students must be related* to: a member of the Building Contractors Association of Westchester and Mid-Hudson Region; or a contributor to the Construction Advancement Institute (CAI); or a member of the following unions contributing to this scholarship program: Carpenters Local 279, International Union of Operating Engineers Local 137, Laborers Local 235 or Bricklayers Local 1 (formerly Local 5).

**(For purposes of this program related shall mean biological or legally adopted children or grandchildren, spouse; or as otherwise determined by the Scholarship Committee.)*



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Cierra Bruck

AGE
23

ACHIEVEMENT
Construction Advancement Institute Scholarship was received in 2016. “I am eternally grateful for the help the CAI’s scholarship has given me to be able to achieve my dreams and do what I have always wanted to do.”

EDUCATION
SUNY Binghamton BS in Biology 2019

FAVORITE COURSE
Molecular Genetics. “I was always a big Biology nerd.”

CURRENT EMPLOYMENT
First-year graduate student in the Physician Assistant Program at Marist College in Poughkeepsie, NY.

PRIOR EMPLOYMENT
Medstar Good Samaritan Hospital, Baltimore, MD
Cardiovascular Technician: 2019-2020

ON THE CHOICE OF PROFESSION
“I always wanted to be in the medical field. When I was younger I would volunteer at the Vassar Brothers Hospital where my mom worked as a catheterization lab nurse, putting in stents in people who have had heart attacks. That sparked my interest and, along with a love for biology and teaching, led me to a PA program.”

BIGGEST CHALLENGES TO JOB
“They told me that the Physicians Assistant workload here is bit like trying to drink from a fire hydrant.”

INSPIRATION
My mother, a Cardiac Catheterization Lab Nurse.

QUOTE
“The only wealth that you will keep forever is the service you give away.”

WORDS OF WISDOM
“Never give up. Believe in yourself and work hard.”

GREATEST ACCOMPLISHMENT SO FAR
Admission to the Physicians’ Assistant program.

GOALS FIVE YEARS OUT
“I would love to be a PA somewhere in the south where it is a bit warmer.”

HOW HAS COVID AFFECTED YOUR WORK?
“For a few weeks last semester, half the class would attend in person, and half on a virtual schedule. For most of that time, masks were required, but lately the restrictions on attendance and masks have eased. And, luckily, we have been able to do all the work that we need to.”

RELATIONSHIP TO CAI
My father is Thomas Bruck, a member of Operating Engineers Local 137.

OUTSIDE INTERESTS
“When I have the time, and because fitness is important to me, I like being outdoors and hiking with my two dogs. I also have artistic interests in drawing, and in growing and tending my plants.”

Researcher and Writer—Alan Kennedy

ABOUT THE BCA/CAI SCHOLARSHIP

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

BCA/CAI SCHOLARSHIP COMMITTEE

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Safety Watch

Establish and Maintain Programs that Communicate Clear Rules and Actions to Prevent Fall Hazards

By COSTAS CYPRUS, ESQ.

Secretary of Labor v. Miller Insulation is an instructive case showing the need for safety programs that include proper training, guidance and communication for fall protection. This matter arose from an accident in North Dakota in April 2019 involving an employee of Miller Insulation who fell from the edge of a mezzanine floor where the wooden floor met a drop ceiling with a nine-foot height differential.

Miller provides insulation services with approximately 600 employees. Here, Miller was to repair insulation on piping and valves and replace stained ceiling tiles at a school. Approximately a month prior to the accident, Miller's superintendent conducted a walk-through of the worksite with the superintendent of the general contractor. They both reviewed the punch list of items to be completed and took photographs. During the walk-through they climbed a ladder to enter a mechanical room on



for permission to conduct additional work.

After commencement of their work on the mezzanine, Mr. Andrade heard one employee yelling that the other employee had fallen and was injured. This employee was taken to the hospital and died from the injuries he sustained in the fall. Miller's subsequent investigation revealed that Mr. Andrade had only partially completed a Job Hazard Assessment (JHA) before starting work because he "spaced out on it." He was

Miller violated the applicable safety standard and that its employees had been exposed to a fall hazard.

However, Miller raised the "employee misconduct" affirmative defense and the ALJ found that the evidence showed that Miller did not have actual or constructive knowledge of the hazardous condition of the victim working from the mezzanine's unprotected edge without fall protection. Neither Miller's superintendent nor Mr. Andrade had knowledge of the hazard as neither identified a clear hazard while either observing or working at the site. The fall area had no scheduled work, was 20 feet away, and partially barricaded by pipes from the work he was instructed to complete. Mr. Andrade never directed the deceased employee to work in the fall area since no work was required there.

Miller established that it had work rules and policies that communicated fall protection for employees working at or above a height of six feet, including in a safety handbook (providing specific fall protection rules and guidance), an employee handbook, a Work-Place Accident and Injury Reduction Act Program, a Risk and Hazard

OSHA conducted its own investigation and determined that the employee had been exposed to a fall hazard next to an un-protected edge that had at least a nine-foot height differential from floor to the drop ceiling below. A citation for an OSHA violation was issued.

Assessment Program and safety manuals, all of which were distributed to and available to employees. They also conducted toolbox talks (including 30 in the prior incident year on fall protection alone), employee orientation tests and provided safety handouts.

Miller's safety program required use of guardrails and barricade warning tape, along with fall protection while working near unprotected sides/edges. Miller adequately communicated its rules on fall protection through orientation videos, its work rules and distributed literature as well as making its employees receive training through OSHA 10/30 trainings. Here, the record

showed that both the deceased employee and Mr. Andrade were well aware of the work rules and Mr. Andrade had even provided the deceased employee hands-on training that included direction to tie off any time when working six feet above ground away from an edge.

Miller took reasonable steps to discover safety violations, employed six safety coordinators who consistently audited jobsites while safety superintendents would also visit jobsites at least once per week. Miller also incentivized employees to identify safety violations under a "good catch program." Lastly, Miller took reasonable steps to enforce violations to its fall. **Please turn to page 22**

The record showed that both the deceased employee and a supervisor were well-aware of the work rules. The supervisor had even provided the deceased employee hands-on training that included direction to tie off any time when working six feet above ground away from an edge.

a mezzanine floor, above. The mezzanine had wood flooring that did not extend all the way to the walls at each end of the floor. Between the end of the wood floor and walls were thin tiles placed on metal grid, which served as drop ceiling for the hallway below. The superintendents spent about five minutes and did not identify a clear hazard, but Miller's superintendent requested that the overall area have better illumination.

On April 19, 2019, Miller's superintendent met with Miller employee, Mr. Andrade, and two workers to discuss the repairs and reviewed the punch list items and photographs. The superintendent could not go to the site that day, but rather instructed Mr. Andrade to meet with the GC's superintendent to also go over the work and to look after the two employees. They arrived at the site, and Mr. Andrade met and discussed the work with the GC's superintendent and then directed the two employees to only complete the repair work depicted in the pictures. They were not to look outside this original scope and were to call a supervisor

subsequently disciplined and suspended.

Accident reports were completed, photographs were taken, and it was determined that there was adequate lighting on the mezzanine, including in the area where no work was scheduled to be performed and where the deceased employee had been working. OSHA conducted its own investigation and determined that the employee had been exposed to a fall hazard next to an un-protected edge that had at least a nine-foot height differential from floor to the drop ceiling below; a citation for an OSHA violation was issued. The matter was brought before an ALJ for OSHA's Review Commission.

The cited standard required Miller to ensure that each of its employees on a walking/working surface with an unprotected side or edge, six feet or more above a lower level, were protected from falling by use of guardrail systems, safety net systems, or personal fall arrest systems. Here the record was clear that Miller's repair work fell under OSHA's definition of "construction work" and that

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NYSDOT - Region 8
Bid Letting Date: June 2, 2022

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

Contract# D264797
PIN# 881521
FA Proj.# Y400-8815-213

Project Description: Dutchess, Westchester Cos., signal optimization, wireless vehicle detection system; NY Routes 9, 35 & 120, Towns of Fishkill, Harrison, Poughkeepsie and Yorktown.

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

Goals: DBE: 0.00%

Bid Letting Date: June 2, 2022

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

Contract# D264812
PIN# 881408
FA Proj.# Y240-8814-083

Project Description: Westchester Co., mill & fill with other improvements, NY Routes 100, 120, 127 & 133, Village & Town of Harrison, Town of New Castle and City of White Plains.

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

Goals: DBE: 5.00%

Bid Letting Date: June 2, 2022

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

Contract# D264822
PIN# SRCDD22

Project Description: Bronx, Columbia, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Ulster, Westchester Cos., sign requirements contract downstate: Regions 8, 10 & 11, No Plans, Incentive/Disincentive Provisions.

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

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

NYSDOT - Region 9
Bid Letting Date: June 2, 2022

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

Contract# D264794
PIN# 980756
FA Proj.# Y240-9807-563

Project Description: Allegany, Broome, Chemung, Chenango, Delaware, Otsego, Schoharie, Schuyler, Steuben, Sullivan, Tioga, Yates Cos., geotechnical subsurface explorations, Regions 6 & 9.

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

Goals: DBE: 0.00%

NYSDOT - Region 10
Bid Letting Date: June 2, 2022

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

Contract# D264817
PIN# DRC121
FA Proj.# Z24E-DRC1-214

Project Description: Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Westchester Cos., downstate where & when demand response debris removal contract.

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

Goals: DBE: 10.00%

NYS Thruway Authority
Bid Letting Date: June 1, 2022

Contract: TANY 22-3IR/D214851

Project Description: Replacement of ITS equipment at vari-

ous locations in New York Division in Bronx, Westchester, Rockland, and Orange counties in accordance with the Plans and Specifications.
Bid Deposit: \$125,000.00

Goals: MBE - 11.5% WBE 11.5% SDVOB - 2%

NYS Dormitory Authority
Bid Due Date: June 1, 2022

Title: City University of New York, Herbert H. Lehman College Music Building Chimney Reconstruction and HAZMAT Abatement

Contract: CR13 General Construction

Project# 3410109999

Sealed bids for the above work located at Herbert H. Lehman College, 2921 Paul Avenue, Bronx, New York 10468 will be received by DASNY at its office located at 515 Broadway, Albany, NY 12207. Each bid must be identified, on the outside of the envelope, with the name and address of the bidder and designated a bid for the Project titled above. When a sealed bid is placed inside another delivery jacket, the bid delivery jacket must be clearly marked on the outside "BID ENCLOSED" and "ATTENTION: CONSTRUCTION CONTRACTS – DOMINICK DONADIO." DASNY will not be responsible for receipt of bids which do not comply with these instructions.

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

All individuals who plan to attend pre-bid meetings or bid openings in person will be required to complete and present a DASNY Visitor Covid-19 Screening Questionnaire, present government-issued picture identification to building security officials, show proof of Covid vaccination and obtain a visitors pass prior to attending the bid opening. Unvaccinated visitors will not be allowed on campus. The questionnaire and all instructions are located after Section 19.0 of the Information for Bidders.

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

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

Only those bids in the hands of DASNY, available to be read at 2:00 PM local time on June 1, 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: Christopher Wuest, Sr. Project Manager, 250 Bedford Park Boulevard West, T3 Building Room 124, Bronx, New York 10468, 347-590-9041, cwuest@dasny.org (the Owner's Representative) and DASNY at contracts@dasny.org. Contacts made to other DASNY personnel regarding this procurement may disqualify the prospective bidder and affect future procurements with governmental entities in the State of New York. For more information pursuant to this law, refer to DASNY's website; <http://www.dasny.org> or the OGS website; <http://www.ogs.state.ny.us>.

A Pre-Bid Meeting was scheduled on Wednesday, April 20, 2022, at 10:00 AM at Lehman College, Music Building, 2921 Paul Avenue, Bronx, New York 10468. Contact Chris Wuest at 347-590-9041. All prospective bidders are strongly encouraged to attend.

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

A complete set of Contract Documents may be viewed and/or purchased online from Camelot Print and Copy Centers. Only those Contract Documents obtained in this manner will enable a prospective bidder to be identified as an official plan holder of record. DASNY takes no responsibility for the completeness of Contract Documents obtained from other sources. Contract Documents obtained from other sources may not be accurate or may not contain addenda that may have been issued. In addition, prospective bidders are advised that the Contract Documents for this Project contain new "GENERAL

CONDITIONS for CONSTRUCTION" dated June 17, 2021 that contain significant revisions from those documents previously contained in DASNY's Contract Documents. Prospective bidders are further advised to review applicable sections of these General Conditions for any potential impact on their bid price prior to submittal of the bid. The plan holders list and a list of interested subcontractors and material suppliers may be viewed at DASNY's website: <http://www.dasny.org>. For Bid Opportunities and other DASNY related news, follow us on Twitter @NYS_DASNY and Facebook <https://www.facebook.com/pages/DASNY-Dormitor-Authority-of-the-State-of-New-York/307274192739368>.

Bid Due Date: June 2, 2022

Title: City University of New York, John Jay College of Criminal Justice, Club Row Renovations

Contract: CR15 General Construction

Project# 3473709999

Sealed bids for the above work located at John Jay College of Criminal Justice, 550 West 59th Street, New York, New York 10019 will be received by DASNY at its office located at 515 Broadway, Albany, NY 12207. Each bid must be identified, on the outside of the envelope, with the name and address of the bidder and designated a bid for the Project titled above. When a sealed bid is placed inside another delivery jacket, the bid delivery jacket must be clearly marked on the outside "BID ENCLOSED" and "ATTENTION: CONSTRUCTION CONTRACTS – DOMINICK DONADIO." DASNY will not be responsible for receipt of bids which do not comply with these instructions.

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

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

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

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

Only those bids in the hands of DASNY, available to be read at 2:00 PM local time on June 2, 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: Ammar Abdul Hussein, Project Manager, 445 West 59th Street, North Hall, Second Floor, New York, New York 10019, 646-235-7961, aabduhu@dasny.org (the Owner's Representative) and DASNY at contracts@dasny.org. Contacts made to other DASNY personnel regarding this procurement may disqualify the prospective bidder and affect future procurements with governmental entities in the State of New York. For more information pursuant to this law, refer to DASNY's website; <http://www.dasny.org> or the OGS website; <http://www.ogs.state.ny.us>.

A Pre-Bid Meeting was scheduled on Wednesday, May 11, 2022, at 10:00 AM. The meeting will be limited to one person per contractor. Also, access to the building requires either a COVID vaccine card or a negative COVID test within a week of the meeting. Contact Ammar Abdul Hussein at 646-235-7961. All prospective bidders are strongly encouraged to attend.

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

A complete set of Contract Documents may be viewed and/or purchased online from Camelot Print and Copy Centers. Only those Contract Documents obtained in this manner will enable a prospective bidder to be identified as an official plan holder of record. DASNY takes no responsibility for the completeness of Contract Documents obtained from other sources. Contract Documents obtained from other sources may not be accurate or may not contain addenda that may have been issued. In addition, prospective bidders are advised that the

Contract Documents for this Project contain new "GENERAL CONDITIONS for CONSTRUCTION" dated June 17, 2021 that contain significant revisions from those documents previously contained in DASNY's Contract Documents. Prospective bidders are further advised to review applicable sections of these General Conditions for any potential impact on their bid price prior to submittal of the bid. The plan holders list and a list of interested subcontractors and material suppliers may be viewed at DASNY's website: <http://www.dasny.org>. For Bid Opportunities and other DASNY related news, follow us on Twitter @NYS_DASNY and Facebook <https://www.facebook.com/pages/DASNY-Dormitor-Authority-of-the-State-of-New-York/307274192739368>.

Bid Due Date: June 8, 2022

Title: Office for People with Development Disabilities, Staten Island DDSO, Residential Fire Alarm Upgrades and HAZMAT Abatement

Contract: CR18 General Construction

Project# 3594109999

Sealed bids for the above work located at Staten Island DDSO, 5 Locations, Staten Island, New York 10314 will be received by DASNY at its office located at 515 Broadway, Albany, NY 12207. Each bid must be identified, on the outside of the envelope, with the name and address of the bidder and designated a bid for the Project titled above. When a sealed bid is placed inside another delivery jacket, the bid delivery jacket must be clearly marked on the outside "BID ENCLOSED" and "ATTENTION: CONSTRUCTION CONTRACTS – DOMINICK DONADIO." DASNY will not be responsible for receipt of bids which do not comply with these instructions.

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

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

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

Only those bids in the hands of DASNY, available to be read at 2:00 PM local time on June 8, 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: Layla Bahbahani, Project Manager, 930 Wil- lowbrook Road, Building 13-K, Staten Island, New York 10314, 718-982-5132, lbahbaha@dasny.org (the Owner's Representative) and DASNY at contracts@dasny.org. Contacts made to other DASNY personnel regarding this procurement may disqualify the prospective bidder and affect future procure- ments with governmental entities in the State of New York. For more information pursuant to this law, refer to DASNY's website; <http://www.dasny.org> or the OGS website; <http://www.ogs.state.ny.us>.

A Pre-Bid Meeting was scheduled on Wednesday, May 18, 2022, at 11:30 AM at 62 Justin Avenue, Staten Island, New York 10314. Contact Layla Bahbahani at 718-982-5132. 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 comple- ness 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>.

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Financial Management

Build a Strong Three-Legged Stool Of Succession Planning

By PHILLIP ROSS, CPA, CGMA, PARTNER

Though many aspects of the construction industry necessitate robust planning and strategy, one factor that is sometimes overlooked is planning for succession and transition. This plan should be developed regardless of the need for it at the moment, as it will help to streamline operations in the future and reduce risk and unnecessary delays. A well-crafted transition plan will provide for an exit strategy for owners and allow for identification of future owners who will be able to fill the leadership roles and maintain growth for any company.

Leg No. 1: the Financial Goals aka The Kingdom. The overall importance of a succession and transition plan can be boiled down to one simple point—construction owners should consider the long-term future health of their business while also maintaining the goals of operational, organizational and financial viability and efficiency throughout the process. A robust plan can also help enhance earnings and sustain cash flow while enacting a foundation for the next generation of leadership. The potential for consistent earnings throughout a transition plan can also incentivize



aka The Power. The ability to install talented leadership can help to future-proof a construction company's financial, business and management systems and maintain continuity for leaders and retain employees for years to come. This also streamlines the entire process and reduces conflicts or concerns from clients and customers as well as aiding in any issues that may arise from internal dynamics.

Through the development of a concise and clear timeline for succession, leaders can minimize risk, gain consensus among stakeholders, and identify the next head of the company who will lead the company forward. Furthermore, leaders who can continue the skills and

mal valuation. This valuation can establish a baseline for both owners that are exiting as well as incoming owners. An additional and crucial step is to involve attorneys and accountants in the transition plan, as they are able to advise on the legality, safety and thoroughness of the process. This task also requires the terms of the transition to be spelled out in detail, including buy-in and buy-out amounts, length of payments, interest rates and terms, earn-outs (if applicable), and other factors that should be considered, such as licensing requirements, tax considerations, entity structure, in-place investments, and employment agreements. Another important note to remember is that this process will require leadership to devote the necessary time to make the plan and transition successful.

Leg No. 3: the Future aka The Legacy. In review, con-

sistency and growth should be prioritized throughout this process, and the more robust

tion, as well as assisting in motivation and loyalty to the next generation.

Though construction companies may be focused on the normalizing of the economic landscape and the near future in 2022, transition and succession plans should still be high in mind regardless of whether it is a short- or long-term plan. Construction firms that are prepared for this process already will be able to efficiently and smartly streamline new leadership without any obstacles or worries about delays or slow-downs.

For succession and transition planning best practices, make sure to reach out to your CPA.

The overall importance of a succession and transition plan can be boiled down to one simple point—construction owners should consider the long-term future of their business while also maintaining the goals of operational, organizational and financial viability and efficiency throughout the process.

and comprehensive the strategy is, the higher the chance that a company will be able to retain talent and attract new talent. Some final strategies include compensation plans for key talent that may consider other opportunities during a transi-

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.

The ability to install talented leadership can help to future-proof a construction company's financial, business and management systems and maintain continuity for leaders and retain employees for years to come.

stakeholders and new leaders to buy-in, as these new leaders will ultimately be the main factor in determining the success, value, and public standing of the company. Proper planning can also lead to a boost in operational efficiency and margins and a higher valuation and increased ROI, which would also result in a higher value for the business.

Leg No. 2: the Leadership

behaviors of previous leadership, especially traits valued by board members and others, can allow for an accurate and effectively deployed transition plan without concern for worries among minority owners, lenders and sureties.

One vital task in this process is for owners to understand the value of their company, and in turn, to oversee a for-



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\$110M Rye Lake Water Filtration Plant Reaches Key Regulatory Milestone

MAMARONECK, NY—The Westchester Joint Water Works, a nonprofit public benefit corporation that supplies water to some 120,000 Westchester County residents, has prepared a Draft Environmental Impact Statement for a proposed \$110-million drinking water filtration plant to be built in the Town and Village of Harrison.

At its April 12 board meeting, the WJWW authorized the release of the DEIS for public comment and review by other public agencies. The DEIS was prepared in accordance with the New York State Environmental Quality Review Act (SEQRA). The document identifies and takes a hard look at the potential environmental impacts of the proposed project, including positive and negative effects to the environment, and considers project alternatives and potential measures to mitigate any negative impacts, the agency stated.

The DEIS was prepared by WJWW in collaboration with an expert team of environmental engineers, scientists, planners, architects, government agencies and legal specialists. The purpose of the DEIS is to consider potential environmental impacts of the proposed Rye Lake Filtration Plant project, inclusive of a land exchange with Westchester County by which



An aerial view of the location of the Rye Lake Water Filtration Plant adjacent to Westchester County Airport.

WJWW would acquire 13.4 acres of land on the grounds of Westchester County Airport to build

exchange studied in the DEIS would also include deeding a 13.4-acre tract of nearby land

If approved, the project would include construction of the building, driveway, parking lot, installation of supporting ancillary facilities, utilities including water and sewer, and stormwater management features.

and operate a 30-million-gallon per day Dissolved Air Flotation/Filtration plant.

If approved, the project would include construction of the building, driveway, parking lot, installation of supporting ancillary facilities, utilities including water and sewer, and stormwater management features. The proposed land

owned by WJWW to Westchester County for inclusion in the airport grounds.

The DEIS includes a thorough examination of existing conditions and potential impacts in a number of areas, including wetlands and topography; land use and zoning; the Town and Village of Harrison's Comprehensive Plan; visual re-

sources and community character; air-quality, noise and traffic; utilities; and economic impacts.

"Entrusted with providing safe drinking water to the public, Westchester Joint Water Works understands the urgency to build a water filtration plant for the health and safety of the people we serve," said Paul Kutzy, WJWW Manager. "We also are sensitive to protecting the environment, and as we move forward, we will work closely with our team of professionals to ensure the process is conducted in the most careful, effective and efficient manner. We welcome all questions and comments as part of our thor-

ough environmental review of this critical project."

day water supply demand of WJWW's entire water distribution system. Traces of HAA5 have been detected in the Rye Lake water supply system. HAA5 compounds are a common by-product of the water disinfection process, as they form when chlorine reacts with naturally occurring organic matter in untreated surface water from the Rye Lake source. Chlorine is the most commonly used disinfectant among public water suppliers to kill bacteria and viruses that could cause serious illnesses. Filtering the water is a proven treatment to remove organic matter and thereby reduce the formation of HAA5 compounds. Long-term exposure to high levels of HAA5 has been linked to an increased risk for cancer.

WJWW had scheduled a public hearing on the DEIS for May 25 at the Town of Mamaroneck Town Center Court Room, 2nd floor, 740 West Boston Post Road, Mamaroneck, NY 10543. WJWW will accept written comments on the DEIS until June 6, 2022 by mail to Westchester Joint Water Works at 1625 Mamaroneck Avenue, Mamaroneck, NY 10543 or by e-mail to seqr@wjww.com.

The Westchester Joint Water Works is a nonprofit public benefit corporation formed in 1927 by its three member municipalities: the Village of Mamaroneck, the Town of Mamaroneck, and the Town/Village of Harrison pursuant to the provisions of Chapter 654, Laws of 1927, State of New York to acquire, construct and provide a joint water works. WJWW supplies water to its member municipalities and to portions of the cities of Rye and New Rochelle, serving 59,629 consumers through 14,682 service connections. WJWW also supplies water on a wholesale basis to the Village of Larchmont and Suez Water Westchester, which supplies water to the City of Rye, Village of Rye Brook and Village of Port Chester, which collectively represent approximately another 60,000 consumers.



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ALBANY UPDATE

Yonkers Water Project Secures State Funding

ALBANY—The Environmental Facilities Corporation has approved more than \$62 million in funding for critical wastewater and drinking water system improvements. The short-term financing packages, including previously announced grants, approved by the board will provide the capital needed by two municipalities and a public authority to undertake their water infrastructure construction projects with estimated total costs of more than \$84 million, to protect public health and the

environment.

The board's approvals include financings through the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) and grants already awarded pursuant to the Water Infrastructure Improvement (WIIA) grants program. Visit EFC's website to learn more about water infrastructure funding opportunities.

A \$1.71-million WIIA grant was approved for the City of Yonkers in Westchester

Please turn to page 22

Union Contractors & Organized Labor Team Up for Ukrainian Relief



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WHAT'S NEW & WHO'S NEWS

Dominican College Graduates to Become DUNY

BLAUVELT, NY—Dominican College has been elevated to the status of a university, becoming the first university in Rockland County. Dominican College President Sr. Mary Eileen O'Brien, O.P., Ph.D., announced on May 18 that New York State Board of Regents had granted Dominican College university status and approved the name change to Dominican University New York.

"This is an important milestone in our history as we prepare to celebrate our 70th anniversary," said Sr. Mary Eileen. "Changing our name to Dominican University New York brings formal recognition to the caliber of our academic programs. With our new name comes additional prestige and more opportunities for the school and our students."

Dominican offers a range of undergraduate programs and graduate programs in nursing, business, occupational therapy, education, and organizational leadership and communication. In addition, it has the distinction of being the only institution in Rockland County to offer doctoral degrees—including



Dominican officials stand next to the new signage reflecting its name change to Dominican University. The New York State Board of Regents granted Dominican College university status and approved the name change to Dominican University New York on May 18.

Doctor of Physical Therapy (DPT) and Doctor of Nursing Practice (DNP). Dominican has a strong academic reputation for its liberal arts, business, education, and health-related programs. Recently, Dominican added programs in finance, information technology, health sciences, and marketing. Dominican also caters to adult learners through programs in

the evenings, on weekends, or online.

The news of the university status follows earlier announcements that Dominican had secured two federal grants, one from the U.S. Department of Education (ED) and the other from the U.S. Department of Health and Human Services (HHS). Dominican was one of only 10 higher education in-

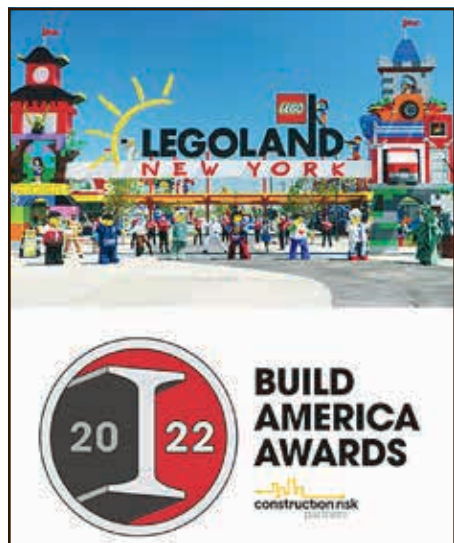
stitutions nationwide and the only one in New York State to receive the HHS grant and will use the funding to launch a new Public Health Informatics and Technology (PHIT) program this fall.

"The news about our university status coupled with the infusion of the federal funds will certainly raise the profile of our school," said Sr. Mary Eileen.

Dominican was granted university status by the New York State Board of Regents based on the fact that Dominican offers graduate programs in at least three of the following discipline areas: agriculture, biological sciences, business, education, engineering, fine arts, health professions, humanities, physical sciences, and social sciences.

Founded in 1952 by the Dominican Sisters of Blauvelt, the college began as a two-year college for religious women to become educators. Over the years, the campus expanded to accommodate a growing enrollment and to welcome resident students. A number of new buildings were constructed including an athletics facility, residence halls, a dining hall, and a new academic building for health and science education. The most recent construction was the expansion of the Hennessy Center with a new gymnasium and fitness center. A new turf field is anticipated for 2023. Dominican has a total of 17 NCAA Division II sports teams, as well as a competitive rowing club and a new esports team.

LEGOLAND New York Resort Built by LeChase Named One of Nation's 'Most Impressive' Jobs



ARMONK, NY—LeChase Construction Services won the prestigious 2022 Construction Risk Partners Build America Merit Award for construction of LEGOLAND New York Resort. The company served as construction manager for the 150-acre destination—the Northeast's first new theme park in decades.

LEGOLAND New York Resort, located in Goshen, N.Y., was honored in the category of "building, new or renovations, over \$126 million," according to the Associated General Contractors (AGC) of America, which presented the Build America Awards to recognize firms who build the "most impressive" construction projects in the nation.

Representatives from LeChase accepted the project's award at the Construction Risk Partners Build America Awards Breakfast during AGC's annual convention in Grapevine, TX.

"LeChase takes great pride in constructing many different types of projects, but it's especially rewarding to build a destination where families can create lasting memories," said LeChase vice president David Campbell of the New York Metro office in Armonk in Westchester County. "We're honored to receive this award and thank everyone who played a role in delivering a resort that truly reflects the creativity and fun of the LEGO brand."

Building the resort was a massive undertaking, with LeChase working in close collaboration with the park's owner, Merlin Entertainments. More than 50 contractors and 600 workers were on site daily. LeChase built 64 buildings, including the 250-room hotel, and handled a number of special tasks that ranged from hanging the colorful and playful elements on the buildings, to erecting the steel for the Dragon roller coaster.

LEGOLAND New York Resort Divisional Director Stephanie Johnson credited LeChase with helping navigate the challenges and the complexities of building a major theme park and hotel destination.

FTA Names Vanterpool Deputy Administrator

WASHINGTON —Administrator Nuria Fernandez of the Federal Transit Administration announced on May 11 the appointment of Veronica Vanterpool as Deputy Administrator. Ms. Vanterpool has served as Senior Advisor in the FTA Office of the Administrator since August 2021.

In her role as Senior Advisor, Ms. Vanterpool coordi-

nated and provided executive direction on the agency's work on climate change, equity, innovation, safety and workforce development—areas of focus for the FTA and Biden-Harris Administration. Additionally, she provided oversight and guidance for the development of FTA's first Strategic Plan published in more than 20 years; led FTA's first-ever

listening session series on Transit Oriented Development and serves as the agency's representative on groups such as the White House Inter-agency Policy Council Puerto Rico Working Group and the Joint Office of Energy and Transportation.

Together, Administrator Fernandez and Deputy Administrator Vanterpool are the first Latinas to serve in their roles.

Prior to joining FTA, Ms. Vanterpool served as the first Chief Innovation Officer at Delaware Transit Corporation, assuming that position after 15 years of transportation leadership roles in the New York metro region. She is the former deputy director of the national Vision Zero Network



FTA Deputy Administrator Veronica Vanterpool

and executive director of the New York City-based Tri-State Transportation Campaign.

She was nominated by former New York City Mayor Bill de Blasio to the board of the New York Metropolitan

Transportation Authority (MTA), where she served from 2016 to 2019 on five committees while also chairing the board's paratransit working group. In 2017, she received the Women in Business/Nonprofit Excellence Award from the New York City Hispanic Chamber of Commerce and the 2020 Environmental Leadership Award from the Bronx River Alliance, where she remains as Emeritus Board Member.

Ms. Vanterpool is a native New Yorker born and raised in the Bronx. She holds an M.S. in Environmental Policy from the New Jersey Institute of Technology and a B.A. in Environmental Science and Political Science (dual majors) from Binghamton University in NY.

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LOW BIDS

ES Enterprises, Verde, Cobleskill Stone, EJ Electrical Secure NYSDOT Work

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

ES Enterprises LLC of Maspeth, NY was the lowest of six bidders at \$14,599,171.95 for the inspection and corrective maintenance and repair of masonry retaining walls at various locations in the Bronx, Kings, New York, Queens and Richmond counties.

Verde Electric Maintenance Corp. of Mount Vernon, NY was the sole bidder at \$1,324,350.00 for the installation of traffic signal generator transfer switches in Columbia,

Dutchess, Orange, Putnam, Rockland, Ulster and Westchester counties.

Cobleskill Stone Products Inc. of Cobleskill, NY was the sole bidder at \$475,135.14 for highway/drainage combined, various locations in Sullivan County.

EJ Electrical Installation Co. of Long Island City, NY was the lower of two bidders at \$3,122,000.00 for over height vehicle detection systems, three bridges over the Hutchinson River Parkway in the towns and villages of Scarsdale and Harrison, and cities of New Rochelle and White Plains in Westchester County.

Grace Industries Lands Bid For Thruway Pavement Repairs

ALBANY—The New York State Thruway Authority announced recently that **Grace Industries LLC** of Melville, NY was the lowest of three bidders at \$8,990,009.22 for pavement repairs at various locations in

the New York Division from MP 0.0 TO MP 76.5 on I-87 and MP GS 0.0 to MP 2.4 on the Garden State Parkway Connector (GSP) in Westchester, Rockland, Orange and Ulster counties.

Safety Watch

protection rules that included write-ups and terminations for repeated failures.

Here, Mr. Andrade's failure to fully complete a JHA led to disciplinary action for his failure to follow the work rules and ultimately led to his termination. The ALJ found that Miller had met its burden of proof regarding the affirmative defense of unpreventable employee misconduct and vacated

Continued from page 15

the OSHA citation.

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 cccyprus@wbglp.com. The articles in this series do not constitute legal advice and are intended for general guidance only.

Attorney's Column

Continued from page 6

contract (and also held that McCarthy had previously released the claim for the rebar).

Comment

This case is a reminder that those who live in glass houses should not throw stones. In other words, in the context of a breach of contract lawsuit, the plaintiff must not first be in breach of contract itself. While the withholding of work often is the only leverage that an unpaid contractor has to ensure full payment, in the face of a prior

agreement to continue working notwithstanding the existence of such a payment dispute, the tactic has been analogized to hostage taking—including by the appellate court here. It noted that "Plaintiff's refusal to perform the changed work without an express agreement as to increased costs had the effect of holding Banton hostage in that work." Accordingly, contractors would be well advised to consult with experienced construction counsel to determine what remedies they truly have, and what actions will only grasp defeat from the jaws of victory.

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 the founder of and senior counsel to the law firm Welby, Brady & Greenblatt, LLP, with offices located throughout the tri-state metropolitan region. Gregory J. Spaun, general counsel to the Queens and Bronx Building Association, and an attorney and a partner with the firm, co-authors this series with Mr. Welby.

Yonkers Water Project

Continued from page 18

County. The grant will support an approximately \$2.7 million drinking water project to install 2,000 linear feet of water main and related fixtures along Warburton Avenue, Lamartine Avenue and Ashburton Avenue to interconnect the city's high- and low-pressure zones.

The board also approved grant and financing packages for two wastewater projects: \$45.9-million to upgrade the secondary treatment system at the Bird Island Wastewater Treatment Plant for the Buffalo Sewer Authority in Erie County and a \$1.63-million WIIA grant and \$12,836,201 in short-term, interest-free financing to upgrade the Sewer District No. 2 wastewater treatment plant in Washington County.

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