Inflation and Lending Rates Likely to Spur Econ. Downturn
Page 3

Environmental Bond Act On November Ballot
Page 4

Court Enforces Contractor's Partial Waivers
Page 6

Construction NEWS

Vol. 38 No. 6 JUNE 2022 $1.50

In Response to Soaring Material Costs

Contract Price-Spike Escalator Bill Passes NY Legislature Unanimously

By JOHN JORDAN

ALBANY—In a major victory for the state's construction industry, the New York State Assembly and Senate both unanimously approved legislation this month that provide "equitable relief" to contractors facing unprecedented and unforeseen spikes in materials and commodity costs on state contracts.

The Assembly passed the bill on June 1 by a 149-0 vote, while the Senate the same day approved the measure by a 63-0 margin. The bill now goes to Gov. Kathy Hochul's desk for approval. State legislators do not expect a decision by the governor to be imminent, noting that she must either approve or veto the measure by the end of this year. At press time, the legislation has not been forwarded to the governor for approval.

The State Senate (S.8844) and the Assembly (A.10109) bills were sponsored respectively by New York State Sen. Elijah Reichlin-Melnick (D,WF,38th District) and Assemblyman Kenneth Zebrowski (D-96th District) and would provide some relief to firms that hold contracts with the state and public benefit corporations and have 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.

The eligible contracting companies 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.

Please turn to page 11

"This bill was a good example of industry coming to state government and explaining to us... what was going on and how the economy was impacting their businesses...making sure people have a fair opportunity to fulfill their contracts and not come out broke after doing what they agreed to do."

—State Sen. Elijah Reichlin-Melnick

U.S. DOT Open Applications for $12.5B Competitive Bridge Investment Program

WASHINGTON–The U.S. Department of Transportation's Federal Highway Administration on June 10 opened a call for applications through a Notice of Funding Opportunity for the competitive Bridge Investment Program established by the President's Bipartisan Infrastructure Law, which includes the single largest dedicated investment in bridges since the construction of the Interstate highway system.

The program will provide $12.5 billion over five years, with nearly $2.4 billion available in Fiscal Year 2022 to help plan, replace, rehabilitate, protect, and preserve some of the nation's largest bridges. The competitive grant program comes on top of the more than $27 billion in formula bridge funding the U.S. Department of Transportation had announced earlier this year. This investment will help ensure that some of the nation's most important bridges remain operational, support local economies, strengthen supply chains, improve safety and create good-paying jobs across the country.

"With resources from President Biden's Bipartisan Infrastructure Law, we're thrilled to begin accepting applications for one of the most significant investments in our bridges in decades, fixing everything from America's most economically significant bridges to smaller bridges that mean everything to a local community," said U.S. Transportation Secretary Pete Buttigieg. "When these bridges are repaired, the American people will benefit from greater safety, lower shipping costs for consumers and maintenance costs for drivers, faster movement of goods across our supply chains, fuel savings, and precious time being returned to their day."

The Bridge Investment Program is a competitive, discretionary program that focuses on the repair, rehabilitation, or replacement of existing bridges across the country to reduce the overall number of those bridges either in poor condition, or in fair condition at risk of declining into poor condition. It also expands applicant eligibilities to create opportunity for all levels of government to be direct recipients of program funds. In addition to states and federal lands management agencies, metropolitan planning organizations and local and tribal governments can also apply

Please turn to page 9

USDOT has earmarked in $378.4 million for main bridge and off-system bridge funding for New York State. Above, the I-87 bridge spanning Route 59 in Nyack in Rockland County is rated among those in need of repair in the Hudson Valley.

Photo Credit/DAVID ROCCO

Inside

Address Service Requested
629 Old White Plains Road, Tarrytown, NY 10591

PRESORTED
STANDARD
U.S. POSTAGE PAID
WHITE PLAINS, NY 10610
PERMIT NO. 146

Recession Risk Mounts

Rising Inflation, Higher Lending Interest Rates Likely to Spur Econ. Downturn, ARTBA Warns

By JOHN JORDAN

TARRYTOWN—Recent economic data continues to point to a slowing economy as the Federal Reserve tries to tame runaway inflation rates without plunging the U.S. economy into recession.

In recent weeks, a highly volatile stock market and disturbing inflation and materials costs increases caused the Federal Reserve to increase rates by 0.75 percentage points as a means to slow the economy down and at the same time lower the inflation rate. Economists in the banking, transportation and real estate industries all see an economic slowdown on the horizon, while a recent poll of corporate CEOs show a growing number expect a recession to take hold within the next 12 to 18 months.

The U.S. Bureau of Labor Statistics reported on June 10 that the Consumer Price Index rose to 8.6% for the 12 months ending May, the largest 12-month increase since the period ending December 1981.

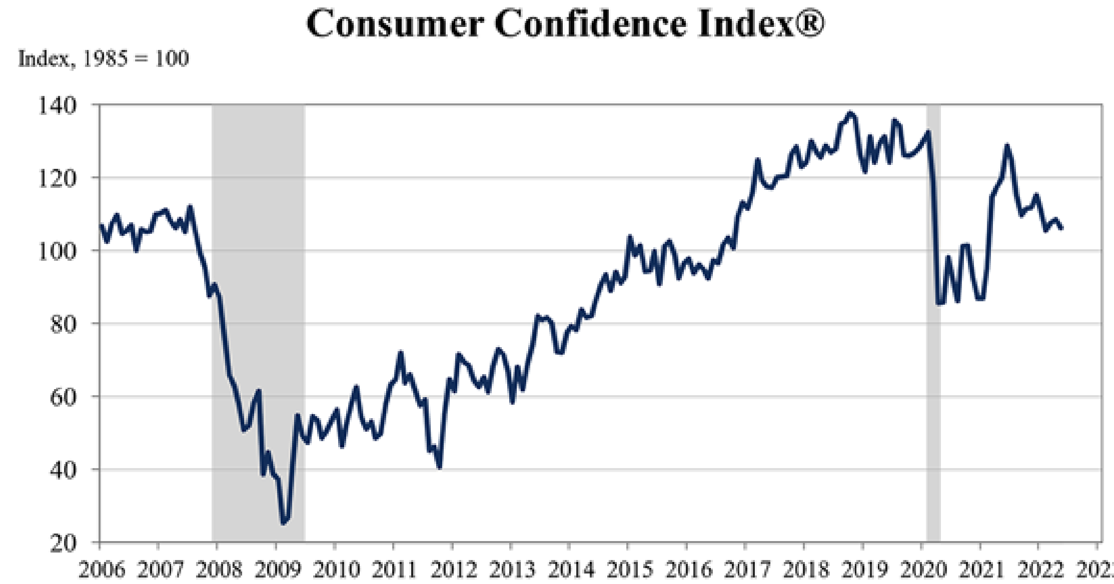
Soaring energy and materials costs are nothing new to the transportation, building and construction sectors and have impacted their bottom lines for well over a year. Massive new federal infrastructure funding will provide a boost to the industry, according to American Road and Transportation Builders Association (ARTTBA) Chief Economist Alison Black. At ARTBA's Federal Issues Conference on May 16, Ms. Black and David Wilcox, director of U.S. economic research at Bloomberg Economics and senior fellow at the Peterson Institute for International Economics, were cautiously optimistic about the future prospects for the transportation construction sector, despite material price increases that have driven costs up on average between 10% to 15%.

According to ARTBA's Washington Newsline, both economists say that a recession is a real risk if the Federal Reserve hikes interest rates too much or too quickly. Ms. Black noted that COVID relief funds have helped state budgets and transportation programs over the last year. Moreover, funding from the Infrastructure Investment and Jobs Act (IIJA) is starting to have an impact. State and local government transportation contract awards are up 36% in the first quarter compared to last year. "This money is getting into the pipeline," she said.

The Fed's balancing act of trying to reduce inflation and steering the U.S. economy toward a "soft landing" is like the challenge pilots face guiding a plane onto an aircraft carrier bobbing about in the sea, Mr. Wilcox said. "The ocean doesn't offer much cooperation," he said, adding, "I haven't given up hope. But buckle your seat belts."

However, the risk of recession remains and a growing number of corporate executives expect one to take place sometime between now and the end of 2023.

Between May 10 and 24, The Conference Board surveyed 750 CEOs and other C-suite executives, primarily based in North America, Latin America, Asia, and Europe. The survey focused on the War in Ukraine's impact on business leaders around the world. The CEOs were also polled on the prospects of a recession taking place in the short term. A total of 76% expect a recession or believe it's already here: Among CEOs globally, 15% believe a recession is already underway. Another 61% expect a recession is forthcoming in their primary region of operation before the end of 2023—if not earlier.



*Shaded areas represent periods of recession.
Sources: The Conference Board; NBER
© 2022 The Conference Board. All rights reserved.

Dana Peterson, Chief Economist, The Conference Board, said, "Historically high energy prices, renewed supply chain disruptions, heightened geopolitics risks, and eroding consumer confidence are all putting downward pressure on global growth. That's on top of lockdowns in China and the cascading ripple effects of the war in Ukraine. These disruptions, along with restrictive monetary and fiscal policy decisions,

Please turn to page 9

$4.2B Clean Water Bond Act on Nov. Ballot

Gives New Yorkers Major Opportunity to Fund a Safer, Climate-Resilient Future

For the first time in a generation, New Yorkers will have the opportunity on Election Day this November to advance pollution control and environmental improvement projects. New York State elected officials successfully included a $4.2-billion Bond Act ballot measure in the final state budget agreement in April that will allow the state to take on debt to fund hundreds of specific projects.

"This is a historic step toward building a climate-resilient New York," said New York Assemblyman Chris Burdick (93rd AD) in Northern Westchester. If passed by voters in November, the Clean Water, Clean Air, and Green Jobs Bond Act will leverage the federal Infrastructure Investment & Jobs Act (IIJA) and enable historic investments in New York's environment through an array of solutions. These cover four key areas:

• Flood-risk reduction – $1.1 billion
• Open-space land conservation – $600 million
• Climate change mitigation – $1.5 billion
• Water quality improvements – $650 million

Two additional areas – Clean energy projects and Environmental justice advancements – were part of the original package but now look to be folded into the four listed categories.

This Bond Act is designed to put New York on a path to lasting resilience, and in doing so will stimulate the economy, create jobs and benefit the state's most vulnerable communities, Rep. Burdick noted. The investments will create 84,000 jobs across the state and generate $8.7 billion in project spending, according to a recent analysis by AECOM and Rebuild by Design.

If the $4.2-billion "Clean Water, Clean Air and Green Jobs Bond Act" is approved by voters this November, $1.1 billion will be earmarked for flood-risk reduction projects statewide.

The last time an environmental bond act went before voters was in 1996 under then-Gov. George Pataki. Voters approved the $1.75 billion spending program entitled "Clean Water/Clean Air EBA," by a margin of 12 percentage points (57% yes – 43% no), which was the narrowest margin in any of the 10 EBAs brought before voters in the 20th century. (When adjusted for 2020 dollars, the program amounted to $2.888 billion.)

Much has changed over the past 120 years. "Since 1900, the state has experienced at least a foot of sea level rise and scientists anticipate that this will accelerate over the next century. New York City alone already has more than 780,000 people living in the floodplain today," it was reported by the Environmental Defense Fund. Also, according to estimates from National Oceanic and Atmospheric Administration (NOAA), New York City will experience an inch of sea level rise every seven to eight years, while low-lying areas such as Kings Point and the Battery will experience more than 15 inches by 2050."

New Yorkers have experienced the devastating effects of the climate crisis too many times, the EDF noted. "The state has seen multiple historic extreme heat waves and flooding events through Hurricanes Sandy, Ida and Henri. As these extremes become the new normal, leaders must take direct action to build flood resilience across the state."

The Bond Act will dedicate $1.1 billion to restoration and flood-risk reduction. This money will fund long-term solutions, such as coastal rehabilitation, shoreline restoration and other natural infrastructure and nature-based projects. These projects will not only reduce flooding and coastal erosion but also provide added benefits to the communities through beautifying the landscape, creating recreational opportunities, generating jobs and stimulating the economy.

In 2017, the state legislature then passed the Clean Water Infrastructure Act and began putting more significant funding towards these needs beginning with an initial allocation of $2.5 billion, and in 2019 passed the landmark Climate Leadership and Community Protection Act, establishing statewide goals for emissions reductions and clean energy.

The latest iteration of state environmental bond acts builds on the trajectory of these goals and investments, according to the Rockefeller Institute of Government in Albany. The 2022 Bond Act is a remonikered and

Please turn to page 21

CIC BCA

Construction NEWS

Vol. 38 No. 6 JUNE 2022

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
Sharon Regan Masciovecchio

BUSINESS/OFFICE MANAGER
Karen Zedda

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

TYPOGRAPHY/DESIGN/PRINTING
Westmore News, Inc.

Construction Industry Council of Westchester & Hudson Valley, Inc.
Chairman: George Pacchiana
President: Ross J. Pepe

CONSTRUCTION NEWS is the official publication of the Construction Industry Council of Westchester & Hudson Valley, Inc., 629 Old White Plains Road, Tarrytown, NY 10591. Opinions contained in the articles herein do not necessarily reflect the opinions of the Council.

Subscriptions: $12 a year included in membership dues; $22 for two years; $1.50 for a single copy; bulk rates on request, $12 per year for non-members. CONSTRUCTION NEWS cannot be responsible for unsolicited manuscripts, nor can it undertake to return manuscripts or pictures unless accompanied by self-addressed, stamped envelopes.

Please make checks out to the Construction Industry Council.

Advertising rates: Available upon request.

Please send address changes to the Construction Industry Council of Westchester & Hudson Valley, Inc., 629 Old White Plains Road, Tarrytown, NY 10591.

BUSINESS & EDITORIAL OFFICE
Construction Industry Council
of Westchester & Hudson Valley, Inc.
629 Old White Plains Road, Tarrytown, NY 10591
(914) 631-6070 • FAX # (914) 631-5172
www.cicbca.org
e-mail - info@cicnys.org

Danskammer Energy Center, Newburgh

PHOTO CREDIT: SCENIC HUDSON

DEC Permit Denial Upheld, Jeopardizing $500 Million Danskammer Energy Project

By JOHN JORDAN

GOSHEN, NY—The $500-million Danskammer Energy project suffered a significant setback earlier this month when a New York State Supreme Court Judge dismissed its complaint and ruled that the state Department of Environmental Conservation had the legal right to reject a key air permit for the project.

The Danskammer Energy project is in the Article 10 process before the New York State Board on Electric Generation Siting and the Environment. The proposed project would convert the aging Danskammer plant into a 535-megawatt energy facility. The project cannot move forward without the Title V air permit.

In announcing the denial of the Danskammer air permit last October, DEC Commissioner Basil Seggos said the project is not in compliance with the requirements of the Climate Leadership and Community Protection Act. "The proposed project would be inconsistent with or would interfere with the statewide greenhouse gas emissions limits established in the Climate Act." Mr. Seggos said. "Danskammer failed to demonstrate the need or justification for the proposed project."

New York State Supreme Court Judge Robert A. Onofry denied a host of Danskammer claims, including that the DEC did not have the authority to reject a Title V permit based on the state's Climate Leadership and Community Protection Act, (CLCPA) which sets emission goals in response to climate change. The CLCPA was signed into law in July 2019.

In his lengthy ruling, Judge Onofry said, "the Court finds that the plain language of the statute must be interpreted to grant the DEC the requisite authority to deny a permit when the grant of the permit would be inconsistent with or interfere with the attainment of the goals of the CLCPA, and the grant cannot otherwise be justified or the adverse effects mitigated."

He also dismissed Danskammer's contention that the DEC "promulgated a de facto 'rule' that all gas-fired power plants be denied.

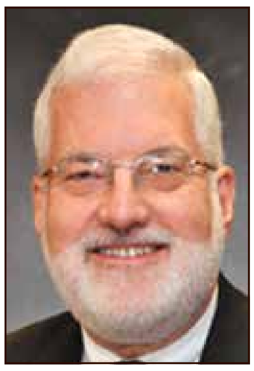
"Here, on the record presented, it cannot be reasonably found that the DEC, in effect, enacted a de facto 'rule' that all permit applications involving

Please turn to page 19

Attorney's Column

Court Enforces Contractor's Partial Waivers, Releases of Lien to Bar its Claim for Delay Damages

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



One of the most ubiquitous documents in construction is the partial waiver and release of lien, which is invariably a condition precedent to a contractor or subcontractor receiving its progress payment. While the most common question contractors have is whether signing the document before receiving payment actually waives the contractor's right to receive that payment (it doesn't), these documents can be a trap for the unwary because they will operate to waive claims for monies that are not specifically recited as being excepted from the partial waiver and release of lien (such as unpaid change order claims, delay claims, etc.).

An appellate court, in the recent case of *Pizzarotti, LLC v X-Treme Concrete Inc.*, reminded us of this state of affairs when it dismissed a contractor's counterclaim for delay damages based on its execution of such monthly waivers.

The appellate court also noted the existence of a no-damages-for-delay provision of the contract, and found that as the incomplete drawings were specifically mentioned in the parties' contract, they were contemplated and, therefore, not subject to one of the exceptions to the enforceability of such a clause.

Background

In September of 2015, Pizzarotti entered into an agreement to perform construction services for a residential construction project on West 27th Street in Manhattan. Pizzarotti subsequently entered into a subcontract with X-Treme Concrete for X-Treme to perform the concrete scope of work at the project. Of course, as part and parcel of the payment process, X-Treme signed partial waivers and releases of lien monthly, each one of which provided, in capital letters, that X-Treme "AGREES THAT THIS WAIVER OF LIEN AND RELEASE IS NEITHER A RECEIPT FOR PAYMENT NOR A CONDITION PRECEDENT TO PAYMENT, BUT A KNOWING AND WILLFUL ACKNOWLEDGEMENT THAT SUBCONTRACTOR HAS BEEN FULLY PAID . . . THROUGH THE ABOVE-REFERENCED DATE."

After discovery, Pizzarotti moved for summary judgment dismissing X-Treme's counterclaims, arguing that the partial releases and waivers of lien executed by X-Treme in exchange for monthly progress payments (eight, in total) barred its delay claim, which—unlike the recitation of unpaid retainage—was not excepted from the otherwise general release language.

Within months, disputes arose on both sides, with Pizzarotti alleging that X-Treme failed to remit payments to its subcontractors and suppliers, and X-Treme alleging that Pizzarotti failed to pay it promptly, and had delayed the job. Ultimately, X-Treme ceased work on the project (with X-Treme alleging that Pizzarotti improperly terminated it, and with Pizzarotti alleging that X-Treme abandoned the job), and X-Treme filed a mechanic's lien against the project (as did several other of X-Treme's subcontractors). Pizzarotti sued X-Treme for breaching the contract, alleging that it was going to incur excess completion costs as a result. X-Treme filed several counterclaims, each one of which alleged that X-Treme incurred significant damages as a result of Pizzaroti's delays arising from its failure to provide complete project drawings, and that Pizzarotti improperly terminated X-Treme as a pretense to cover for its own delays, and in an effort to avoid liability for such actions.

After discovery, Pizzarotti moved for summary judgment dismissing X-Treme's counterclaims, arguing that the partial releases and waivers of lien executed by X-Treme in exchange for monthly progress payments (eight, in total) barred its delay claim, which—unlike the recitation of unpaid retainage—was not excepted from the otherwise general release language. In opposition, X-Treme argued that the releases were only meant to document payments received to date (receipts, in essence), and not to release any unresolved change orders or delay claims.

Decision

The motion court dismissed X-Treme's counterclaims, briefly citing the partial waiver and release of lien documents—and holding that X-Treme failed in its burden to demonstrate that the releases did not apply to its claim, or otherwise establish any equitable basis to vitiate their effect. The appellate court affirmed, citing the capitalized language of the partial waiver and release of lien in which X-Treme specifically acknowledged that the document was not a mere receipt but, rather, operated to release any claims not specifically preserved, including its delay claim (which existed prior to the execution of the latest release documents). The appellate court also noted the existence of a no-damages-for-delay provision of the contract, and found that as the incomplete drawings were specifically mentioned in the parties' contract, they were contemplated and, therefore, not subject to one of the exceptions to the enforceability of such a clause.

Comment

Clearly, contractors are in the construction business to make money. However, this case should caution contractors that they should not simply sign any document put in front of them to get some money flowing in their direction. Setting aside, for the moment, that X-Treme's delay claim was also barred by specific contractual language, the partial waiver and release of lien documents here serve as clear evidence that simply signing required documents for the sake of getting some money flowing can result in the foreclosure of other claims which may (or, here, may not) have merit. Accordingly, contractors would be well advised to consult with experienced construction counsel as to how to best preserve their right to collect on all of their claims, and not just the ones that will result in an immediate payment. Have your attorney review the partial release and waiver of the lien document at the time of the very first requisition—not eight months into the job, when the damage has already been done.

About the author: Thomas H. Welby, an attorney and licensed professional engineer, is General Counsel to the Construction Industry Council of Westchester &Hudson Valley, Inc., and is the Founder of and Senior Counsel to the law firm of Welby, Brady & Greenblatt, LLP, with offices located throughout the tri-state 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.

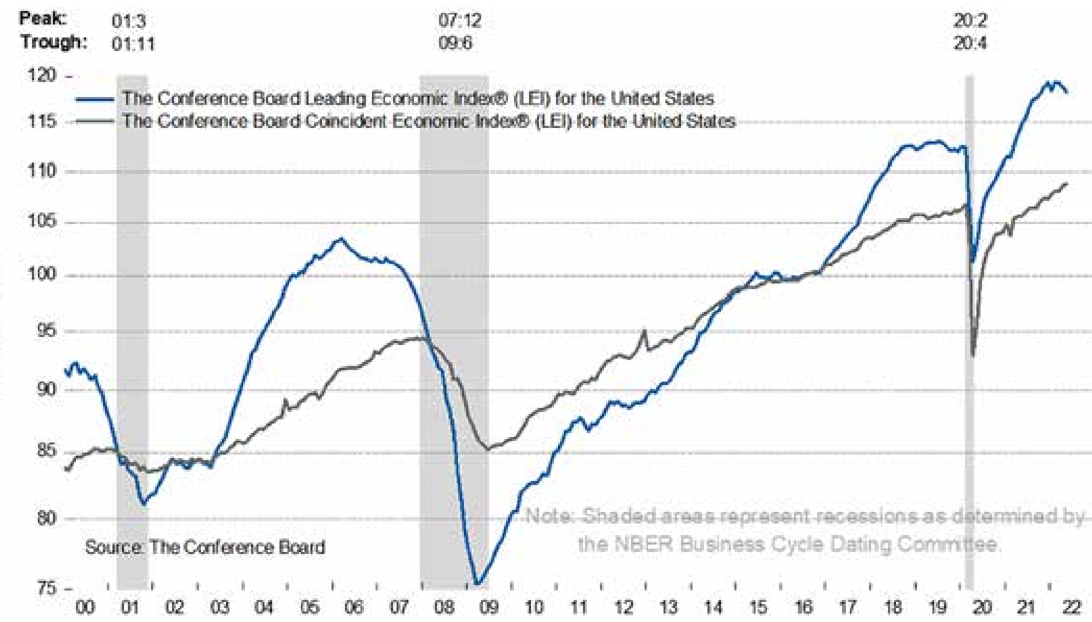
Rising Inflation, Higher Lending Interest Rates Likely to Spur Econ. Downturn, ARTBA Warns

Continued from page 3

are fueling recession expectations—with nearly eight in 10 CEOs expecting their primary region of operations to be in recession within 12 to 18 months, if not already underway."

The Conference Board survey also found that labor shortages continue to present a challenge, with 57% of those surveyed saying they are promoting hybrid work models to attract workers, while 43% are increasing automation.

The Conference Board reported on June 17 that its Leading Economic Index for the U.S. decreased by 0.4 % in May 2022 to 118.3 (2016 = 100), following a 0.4% decline in April 2022.



"The US LEI fell again in May, fueled by tumbling stock prices, a slowdown in housing construction and gloomier consumer expectations," said Ataman Ozyildirim, Senior Director of Economic Research at The Conference Board. "The index is still near a historic high, but the US LEI suggests weaker economic activity is likely in the near term—and tighter monetary policy is poised to dampen economic growth even further."

The increase in rates by the Federal Reserve has had its impact on the housing market. Reports have surfaced that lending rates now approaching 6% have put a dent in demand and caused some sellers to lower asking prices.

NAR Chief Economist Lawrence Yun said the Federal Reserve will impose further rate increase at meetings in upcoming months. "So far, the short-term fed funds rate that the Fed directly controls has risen by 175 basis points. But the 30-year fixed rate mortgage has risen even more—by nearly 300 basis points. On the same $300,000 mortgage, the monthly payment has risen from $1,265 in December to $1,800 today. That's painful and, consequently, will shrink the buyer pool," Mr. Yun said.

He continued, "Home sales have recently been trending down toward 2019 figures."

The Associated General Contractors Association of America said that contractors are finally factoring in higher material and energy costs in their bid prices. In a report released on June 14, the CCA cautioned however that contractors will be hard-pressed to keep pace with expected additional price increases for many key construction materials going forward.

"After enduring more than a year of runaway increases in the cost of items needed to build projects, contractors have finally raised their bid prices by an equivalent amount," said Ken Simonson, the association's chief economist. "But the run-up in materials costs appears likely to continue to pressure contractors' profit margins."

The producer price index for inputs to new non-residential construction—the prices charged by goods producers and service providers such as distributors and transportation firms—rose 1.9% from April to May and 18.9% since May 2021, following 12 consecutive months of 20% or greater increases. An index for new nonresidential building construction—a measure of what contractors say they would charge to erect five types of nonresidential buildings—rose 0.4% for the month and 19.3% from a year earlier.

A wide variety of inputs accounted for the increase in the cost index, the AGC reported, making further increases likely in the near term. The price index for diesel fuel jumped 84.9% over 12 months. The index for liquid asphalt leaped 80.5%. The indexes for steel mill products and aluminum mill shapes climbed 32.9% and 31.2%, respectively. The index for architectural coatings such as paint soared 31.6%. There were increases of more than 20% in the indexes for plastic construction products, which rose 29.5%; truck transportation of freight, 25.8%; and gypsum building materials, 23.9%.

In addition, there were double-digit increases in several other price indexes that affect construction costs, Mr. Simonson noted. He cited as examples the index for roofing asphalt and tar products, which rose 18.9% over 12 months; insulation materials, 16.6%; paving mixtures and blocks, 16.1%; concrete products, 12.0% and construction machinery and equipment, 11.5%.

Finally, the AGC reported on June 17 that 43 states and the District of Columbia added construction jobs during the past 12 months, but momentum slowed in May 2022 with only 22 states adding jobs.

New York State lost the most construction jobs in May (-5,100 jobs, -1.3%), followed by Florida (-4,000 jobs, -0.7%) and Ohio (-3,700 jobs, -1.6%). North Dakota (-3.0%, -800 jobs) and Wyoming (-3.0%, -700 jobs) had the largest percentage losses, followed by Iowa (-2.6%, -2,100 jobs).

$12.5B Bridge Investment

Continued from page 1

directly to FHWA, making it easier to advance bridge projects at the local level.

The Bridge Investment Program provides an additional $12.5 billion in funding to the more than $27 billion provided to states by the Bridge Formula Program, which totals $40 billion in investment to be provided by President Biden's Bipartisan Infrastructure Law. The program gives the USDOT the ability to fund numerous bridge improvement projects in communities across all 50 states.

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

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

"These funds will make a significant contribution to improving the condition of our nation's aging bridges, both large, signature bridge projects that are important for our national economy as well as smaller structures that provide benefits at the regional and local levels and are critical for communities across the country," Deputy Federal Highway Administrator Stephanie Pollack said. "FHWA has designed this program to meet the needs of communities and bridges of all sizes, including those that are still in the planning stage."

Bridge Investment Program funding is unique in three key areas:

• It allows multi-year grant agreements to fund large projects by making it possible to take a project through preconstruction activities and into construction.

• The program grants help to fund the planning process, including planning, feasibility analysis and revenue forecasting associated with the development of a project that would subsequently be eligible to apply for the Bridge Investment Program.

• It offers two types of construction grants, covering "large" projects more than $100 million and "bridge projects" at up to $100 million.

The FHWA plans to conduct extensive community outreach and public engagement throughout the application process that will include a Zoom Webinar. Technical assistance is also available to recipients who receive Bridge Investment Program grants. Since the enactment of the Bipartisan Infrastructure Law and the Fiscal Year 2022 appropriations—FHWA will have made available $8.8 billion for bridge improvements under the Bridge Formula Program, the Bridge Replacement and Rehabilitation Program and Bridge Investment Program with the publication of the NOFO.

For more information, please visit FHWA's Bipartisan Infrastructure Law web page. The Notice of Funding Opportunity is available on FHWA's Bridge Investment Program web page.


ECCO
ECCO III ENTERPRISES, INC.

Contract Price-Spike Escalator Bill Passes NY Legislature Unanimously

Continued from page 1

A host of business, construction and labor organizations supported the measure and pressed state lawmakers to approve the bills, including: the Construction Industry Council of Westchester & Hudson Valley, Inc., the Business Council of New York State, the General Contractors Association of New York, Inc., and the Building Congress of New York.

In an interview with CONSTRUCTION NEWS, Sen. Reichlin-Melnick said the bill also provides protections for subcontractors up to six months after the general contracting bid was submitted, if the GC bid was submitted prior to April 1, 2020.

He said that supporters of the bill will now have to work to convince Gov. Hochul and her staff of the merits of the legislation despite the increased costs that may come along with it.

"This bill was a good example of industry coming to state government and explaining to us… what was going on and how the economy was impacting the business," he said. "And then the state trying to do what we can to help support the community and making sure people have a level playing field and a fair opportunity to fulfill their contracts and not come out broke after doing what they agreed to do."

He said he sponsored the bill based on conversations with contractors and industry trade groups that spoke of firms that secured bids prior to the pandemic who were then being forced to absorb materials and commodities increases as high as 70% or 80% over their bid estimates.

Assemblyman Zebrowski told CONSTRUCTION NEWS that supporters of the measure will now work to convince the governor of the industry's pressing needs to address rising material costs and to sign the measure into law.

"I think it is important for government to quite frankly respond and to solve problems in our state. Sometimes that means recognizing when there are immense shifts and changes in the landscape of a given industry," he said. "And certainly, with the rise in costs of commodities and all types of products it has created a situation that could really have a negative effect on businesses and the economy across New York State. We are hoping with this bill to mitigate some of that."

He said the main goal of the legislation was to help construction firms deal with material and commodity costs that in some cases have risen by double-digits, which he noted are jeopardizing the solvency of some of these businesses.

Assemblyman Zebrowski said he is hopeful Gov. Hochul will sign the bill but noted that he and other state legislators are "committed to the issue" of advocating for equitable relief for contracting firms.

"We are going to continue to work with the industry—general contractors and subcontractors—and make sure that government is responding in a way that protects the industry and protects the economy," Assemblyman Zebrowski said.

"We are going to continue to work with the industry—general contractors and subcontractors—and make sure that government is responding in a way that protects the industry and protects the economy."

—Assemblyman Kennith Zebrowski

In letters of support of the bills sent to state legislators prior to the bills' passage, the CIC and the GCA noted, "Over the last 18 months to two years, GCA members have experienced unanticipated—and unprecedented—increases in the cost of construction commodities, including but not limited to steel and rebar, concrete, adhesives, lumber, and fuel. These increases range from 50% to as much as 200%. In addition, the availability of many of those materials have also been impacted by the national supply chain dilemma, which in turn, delay projects and cause cost increases."

There is some precedent for the state to provide some measure of assistance to contractors during hard economic times. First in 1974, the state enacted Chapters 944 and 945 that provided equitable relief to contractors for steel and petroleum price increases on state 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.

The CIC noted that 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 there will be credit given back," John Cooney, Jr., executive director of the CIC noted. This provision could be beneficial when the governor's office is calculating future costs of the legislation.

"What we are arguing going forward is that these indices (such as the NYSDOT steel, fuel and asphalt indices) should remain in contracts period," Mr. Cooney said. "Because when you get in a deflationary or softer period, government picks up money when those indexes drop, and contractors are paid less for those materials."

He added that over time by taking away the uncertainty of the material cost risks, the contractor will include less mark-up on its bid price, thus saving the state money on its capital projects.

For more information, contact the CIC at 914-631-6070 or info@cicnys.org

Construction NEWS

Photo Gallery

BCA Putting Contestant Finalists: From left, Beth Cheverie, Andrew Danna, Tim Murphy, Richard Maloney, Gaetano Giardino, Frank Inello, Vic Serricchio, Tom Welby, Ken Fuirst, John Ruggiero and Ernesto Hernandez.

From left, utility contractor Jim McMurray of CAC and Victor Serricchio of Northbrook Contracting Corp.

BCA GOLF OUTING

Knollwood Country Club, Elmsford, NY • June 7, 2022

82 Golfers, 114 Dinner Guests Participate in 65th Annual Golf Outing.

And the winners are...

Justin Stagg of the Stagg Group scored the Low Gross of 76, followed by Ryan Stagg who shot 77. Closest to the Pin winner was Anthony Foto of Laborers Local 60 on Hole No. 3, John DelVecchio on Hole No. 8, Dan Sanseveino on Hole No. 16.

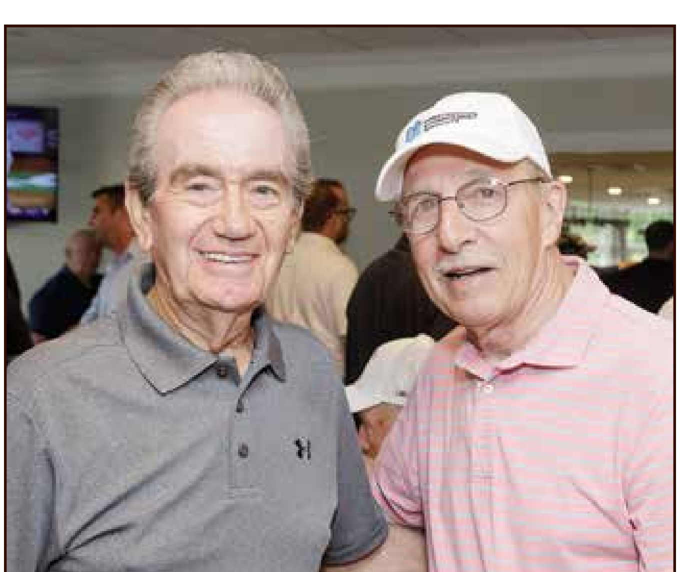
In other contests, Longest Drive went to Andrew Grundman on Hole No. 5. Andrew Laidlaw of Calgi Construction claimed the Straightest Drive on Hole No. 9 on the challenging Knollwood Country Club.

From left, BCA/CIC's George Drapeau, LECET's Beth Cheverie, Landscape contractor Angelo Andrioli, Laborers 235 Dario Boccarossa, Operating Engineers L.U. 235 Sal Santamorena, Joe Schneider and Jim Sasso, and CIC's John Cooney, Jr.

Andrew Laidlaw

Anthony Fofo

Richie Maloney



From left, Carlos Ascencao (former business manager of Local 60) with Ross Pepe, BCA and CIC president.

From left, Ken Fuirst of Levitt-Fuirst Associates, Ltd., Jason Schiciano, Bud Hammer, Andrew Grundman and Michael McLaughlin of Levitt-Fuirst Associates, Ltd.

WHAT'S NEW & WHO'S NEWS

Matthew Amicone

Amicone Promoted to Principal Of OLA Consulting Engineers

HAWTHORNE, NY—OLA Consulting Engineers recently announced it had promoted Matthew Amicone to principal in charge of the firm's New York City office.

An electrical engineer, Mr. Amicone's expertise includes the design of electrical systems for various building types. During his 20-year tenure with OLA, he managed many of the firm's significant projects for clients such as New York-Presbyterian, ArchCare, City of Hoboken, NYC Department of Construction & Design, and Touro College.

Amicone, a resident of Yonkers, NY, first joined OLA Consulting Engineers as a summer intern and then began full-time in 2002 after graduating from Villanova University.

In 2017, after more than 40 years of engineering projects throughout New York City, OLA opened an office in Manhattan. The firm tasked Mr. Amicone with leading the New York City team and managing the day-to-day operations—including marketing and business development, client relationship management project management, and quality assurance.

OLA Consulting Engineers' expertise ranges from HVAC, electrical, plumbing and fire protection, with a depth of knowledge in mechanical, electrical, and energy engineering that delivers cost-effective, sustainable solutions.

Megan Mooney

LeChase Picks Mooney To Expand Brand in NYC Metro

ARMONK, NY—LeChase Construction Services, LLC recently welcomed Megan Mooney, a business development executive with 16 years of experience, as the regional director of business development in its New York Metro office here in Westchester.

In this role, Ms. Mooney will help grow the LeChase brand throughout the metropolitan region by identifying and developing new business opportunities and nurturing relationships both with clients and centers of influence.

"Megan brings a breadth of experience in business development and relationship management that is ideal for identifying new clients and expanding LeChase's reach throughout the region," said LeChase Vice President David Campbell.

A University of Delaware alumna, Ms. Mooney began her career in the financial services industry and transitioned to the construction, energy and infrastructure sectors. She has led business development initiatives both locally and nationally, and brings vast experience increasing market position for a diverse range of clientele.

"LeChase enjoys a well-deserved, stellar reputation. I look forward to expanding the company's brand to untapped segments of the nation's largest metropolitan area," Ms. Mooney said.

A Manhattan resident, she is a travel enthusiast and enjoys New York City's food and art scene.

$18M Available In Water Grants

ALBANY—The New York State Environmental Facilities Corporation announced on May 9 the application period was open for the Green Innovation Grant (GIGP) and Engineering Planning Grant (EPG) programs. The funding is made available funding through the launch of Round 12 of the Consolidated Funding Application (CFA).

As part of Round 12, EFC announces the availability of up to $15 million for GIGP and $3 million for EPG. Applications must be submitted through the CFA website no later than Friday, July 29 at 4 p.m.

"These grants will help enable water quality projects in communities of need across our state and help these areas make sewer and stormwater upgrades that will last a lifetime," EFC President & CEO Maureen A. Coleman said. "EFC encourages low-income and environmentally burdened communities to apply for these funds. Funding through these programs has historically been awarded to disadvantaged communities and EFC is committed to ensuring that continues."

Green Innovation grants are awarded annually to projects that improve water quality and mitigate the effects of climate change through the imple-

Please turn to page 17

Safety Watch

Careful Pre-Planning of All Hoist Operations is a Must

By COSTAS CYPRUS, ESQ.

Secretary of Labor v. S & R Enterprises, LLC demonstrates the importance of adequately pre-planning all hoisting operations, especially in the realm of steel erection, preferably in writing and with clear instruction to all involved employees to avoid accidents. This matter arose in Savannah, GA in June 2019 involving the hoisting of a grappler (a giant steel claw) that weighed 10,500 pounds, which was intended as a decorative element for a hotel lobby. The element became displaced, causing serious injuries to three workers on site.

S & R Enterprises, LLC ("S&R") is a steel erection contractor who had been a subcontractor on a renovation project for roughly two years prior to the incident. The project was to re-purpose a decommissioned power plant and transform it into a luxury hotel. S&R was asked by the hotel owner to hang an industrial grappler, a giant steel claw, to the new hotel's atrium lobby, as a decorative element. This request was not part of S&R's original scope of work but they agreed to do so. S&R determined it would not be possible to position a crane in the area to perform a conventional lift. Instead, they decided to use an air tugger consisting of a drum and cable. To perform the lift, a padeye (a steel plate with a hole in it used as an attachment point) was welded to the east and west girders. The grappler was supported by these two girders. The plan was to run the wire rope from the padeye of the east girder to the rigging attached to the grappler, up to the padeye on the west girder and down to the air tugger, which would pull the rope to raise the grappler.

The weight of the grappler dragged the wire rope against the personnel basket of the aerial lift, damaging the basket and injuring two employees and another employee who was struck by a wire while supervising the lift. The fall resulted in serious injuries and hospitalization of three workers.

Prior to the commencement of the lift, S&R's vice-president prepared a written, activity hazard analysis (AHA) based upon the assistant superintendent's drawing of the proposed plan. The AHA identified the job steps, hazards and controls of the operation with numbered instructions. *It specifically mentioned how no workers were to be under the suspended load at any point during the lift.* During the operation, the padeye on the west girder tore away causing the weight of the grappler and rigging to fall. The weight of the grappler dragged the wire rope against the personnel basket of the aerial lift, damaging the basket and injuring two employees and another employee who was struck by a wire, while supervising the lift. The fall resulted in serious injuries and hospitalization of three workers.

After the incident, OSHA's compliance officer came to inspect the site. Upon investigation he determined that the assistant superintendent had done no metallurgical testing to ascertain the strength of the girders. The compliance officer believed the measurement could have been taken prior to the lift to get a better calculation of the load of the girders. His opinion resulted in a two-item citation of two statutes. The first statute cited was for failing to adequately determine the lift, thickness, and strength of the steel erection hoisting operation given that "all hoisting operations in steel erection shall be pre-planned to ensure that the requirements" of the applicable standard are met. The second statute cited was for not adequately rigging the hoisted material (the grappler) to prevent displacement. The matter was brought before an ALJ for OSHA's Review Commission. Here, the facts were not in dispute but rather the interpretation of the steel erection standard's requirements and definitions.

Whether the cited statutes applied depended first upon whether S&R engaged in "steel erection" when it attempted to raise the grappler to the overhead crane hook. By definition of the subpart of the cited statute, steel erection is the "construction, alteration or repair of steel buildings, bridges and other structures, including the installation of metal decking and all planking used during the process of erection." Steel erection activities include installation of miscellaneous metals, ornamental iron and similar materials. Therefore, the ALJ determined S&R's activities fell within this standard.

Although S&R at the time was deemed to be engaged in "steel erection" activity, the Secretary failed to establish S&R was noncompliant with the cited statutes. Even though there was no written requirement to have a pre-plan of the hoisting, in writing, *S&R had developed a written activity hazard analysis prior to the lift*. The failing of the girder to sustain the weight of the hoisted load was not considered/planned for by S&R. Although the failure to calculate load capacity was a significant omission, it was not addressed by the cited standard which required an employer to preplan the route of the suspended load so that no employee was required to work under it. Here, there were specific instructions in S&R's AHA to avoid being under the load, but employees acted contrary to this instruction. How the lift was preplanned and how the lift actually transpired were separate issues and the ALJ found that the Secretary failed to establish that S&R violated the applicable standard and thus vacated this citation.

S&R was asked by the hotel owner to hang an industrial grappler, a giant steel claw, to the new hotel's atrium lobby as a decorative element. This request was not part of S&R's original scope of work but they agreed to do so.

As to the second citation, in terms of failing to prevent displacement of the hoisted material, the ALJ inquired about the definition of "load" in this context and found that the structure that supports the weight being hoisted cannot, by definition, be a part of the load. Therefore, the west girder, which caused the fall was not part of the materials being hoisted. Although S&R failed to accurately assess the load capacity of both east and west girder, that is not detailed in the cited statute for this violation and the "failure of the lift is not enough… to establish S&R violated the standard the Secretary chose to cite." Evidence was not presented showing S&R rigged the load incorrectly or the equipment it used was faulty and therefore this citation was vacated as well.

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

Regional Bid Alert

NYSDOT - Region 8

Bid Letting Date: July 7, 2022

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

Contract# D264787
PIN# 881530
Proj.# Y240-8815-303

Project Description: Columbia, Dutchess, Putnam Cos., rustic guide rail replacement, various federal aid eligible locations.

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

Goals: DBE: 0.00%

Bid Letting Date: July 7, 2022

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

Contract# D264831
PIN# 881402
F.A. Proj.# Y240-8814-023

Project Description: Dutchess, Orange, Rockland, Westchester Cos., crack sealing & mastic, various federal aid eligible locations.

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

Goals: DBE: 0.00%

Bid Letting Date: July 21, 2022

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

Contract# D264785
PIN# 881531
F.A. Proj.# Y240-8815-313

Project Description: Orange, Ulster Cos., rustic guide rail replacement, various federal aid eligible locations.

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

Goals: DBE: 0.00%

Bid Letting Date: July 21, 2022

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

Contract# D264816
PIN# 810145

Project Description: Westchester Co., extending acceleration lane including bridge widening over the Hutchinson River Parkway.

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

Goals: MBE: 8.00%, WBE: 15.00%, SDVOB: 6.00%

Bid Letting Date: July 21, 2022

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

Contract# D264841
PIN# 881355
F. A. Proj. # RPS3-8813-553

Project Description: Orange Co., 9W parapet wall repair, Town of Highlands.

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

Goals: DBE: 9.00%

NYSDOT - Region 10

Bid Letting Date: July 7, 2022

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

Contract# D264820
PIN# 000822

Project Description: Suffolk Co., improvements to south ferry dock, NY Route 114, Village of North Haven, Town of Southampton.

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

Goals: DBE: 10.00%

Bid Letting Date: July 21, 2022

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

Contract# D264830
PIN# 001768

Project Description: Suffolk Co., guide rail rehabilitation, Robert Moses Causeway, NYS Route 27A to Southern State Parkway, Town of Islip.

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

Goals: MBE: 8.00%, WBE: 15.00%, SDVOB: 6.00%

NYSDOT - Region 11

Bid Letting Date: July 7, 2022

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

Contract# D264834
PIN# XM2231

Project Description: Bronx, Kings, New York, Queens, Richmond Cos., maintenance cleaning, various highways in NYC.

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

Goals: MBE: 8.00%, WBE: 15.00%, SDVOB: 6.00%

Bid Letting Date: Aug. 3, 2022

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

Contract# D264772,
PIN# X02446
F.A. Proj Y230-X024-463

Project Description: New York Co., Resurfacing of the Route 9A Bikeway, New York City, Prebid Meeting.

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

Goals: DBE: 9.00%

New York State Dormitory Authority

Bid Due Date: July 21, 2022

Title: Office of Mental Health, Kingsboro Psychiatric Center, Buildings 2 & 28 Interior Renovations and HAZMAT Abatement

Contract# CR14 General Construction

Project# 3553209999

Sealed bids for the above Work located at Kingsboro Psychiatric Center, 681 Clarkson Avenue, Brooklyn, New York 11203 will be received by DASNY at its office located at 515 Broadway, Albany, NY 12207. Each bid must be identified, on the outside of the envelope, with the name and address of the bidder and designated a bid for the Project titled above. When a sealed bid is placed inside another delivery jacket, the bid delivery jacket must be clearly marked on the outside "BID ENCLOSED" and "ATTENTION: CONSTRUCTION CONTRACTS – DOMINICK DONADIO." DASNY will not be responsible for receipt of bids which do not comply with these instructions.

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 July 21, 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: Ramesh Sharma, Project Manager, 80-45 Winchester Boulevard, Building 73 Basement Rear Entrance, Queens Village, New York 12207, 646-208-6294, rsharma@dasny.org (the Owner's Representative) and DASNY at ccontracts@dasny.org. Contacts made to other DASNY personnel regarding this procurement may disqualify the prospective bidder and affect future procurements with governmental entities in the State of New York. For more information pursuant to this law, refer to DASNY's website; http://www.dasny.org or the OGS website; http://www.ogs.state.ny.us.

A Pre-Bid Meeting is scheduled on Thursday, June 30, 2022, at 10:30 AM at 681 Clarkson Avenue, Brooklyn, New York 11203. Contact Ramesh Sharma at 646-208-6294. All prospective bidders are strongly encouraged to attend.

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

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

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

Financial Management

Key Strategies for Retaining Talent In 2022 and Beyond

By PHILLIP ROSS, CPA, CGMA, PARTNER

As employers and employees adapt to the new normal following the pandemic, firm leaders should continue to prioritize and maintain awareness of talent retention strategies. In order to successfully implement and oversee a successful retention plan, especially for key employees, owners should focus on a number of vital goals. First, owners should remain focused on furthering their company's strategic plan throughout the process, while keeping employees motivated.

Additionally, customization of benefits for individual employee needs and the continuation of client relationships and knowledge will also be crucial factors in any retention plan. By keeping the foundation built by previous employees and leadership, companies can continue their growth and progress into 2022.

Update Benefits and Meet New Employee Expectations. As was mentioned previously, through the update of benefits and meeting employee expectations, owners can drive employee loyalty and see leadership teams remain consistent for years. Even when the industry returns to normalcy, the needs of employees have changed, and owners must adapt.

While increased salaries, wages and benefits can go a long way in retaining key talent and employees, owners should also aim to diversify their strategies. For example, instituting mentorship, training and education programs—not only for onboarding but also throughout the employee lifecycle—can support retention.

While increased salaries, wages and benefits can go a long way in retaining key talent and employees, owners should also aim to diversify their strategies. For example, instituting mentorship, training and education programs —not only for onboarding but also throughout the employee lifecycle—can support retention. More specifically, by developing these kinds of programs, owners can develop relationships and maximize skills in their employees and will also grow and broaden their company's values and culture.

Furthermore, a mentorship program can assist in retaining talent and also aid in developing employees who understand and implement the company's culture and work ethic throughout their careers with a particular firm. This can also aid in reducing obstacles or struggles when onboarding new employees, as those already installed in leadership positions are well-versed in training new hires.

A final strategy in terms of benefits is new and creative solutions for bonuses and wages. Owners can, for example, offer a retention bonus following a stated number of years with a firm, thereby promoting loyalty and longevity within the company.

Promote Improved Communication and Workplace Culture. Another key strategy in retaining talent is improving and optimizing the work environment as much as possible. With the increase in recent years of new technologies, combined with the construction industry being slower than other industries to adopt new technology, owners and operators more than ever should prioritize innovations that can help to streamline communication and further develop the company culture.

By instituting clear expectations for how communication should take place, construction companies can both retain talent by creating an efficient and optimized work environment, and also save time and costs.

Moreover, through the creation of a workplace environment in which all employees are confident in their roles, their communication lines, and their responsibilities, a company culture can be made that develops loyal employees who are motivated to stay with their firm and to help drive new projects and hires for the long-term.

Conduct Hiring Process with Talent Retention in Mind. Finally, construction firm leaders should prioritize talent retention from the beginning of the hiring process. In essence, the earlier the process is started, the better. For those conducting a hiring process, the strategy of retaining talent from the beginning has several advantages, and several aspects to consider. First, identify candidates who align with company culture and values and indicate that they are interested in a long-term working relationship with a straightforward growth path. In addition, firm leaders should consider the continuation of remote or hybrid roles for employees who fit the criteria, and either begin or expand the use of training, mentorship and education programs and resources. Furthermore, expanded benefits packages can assist in hiring top talent and retaining talent once onboard.

Identify candidates who align with company culture and values and indicate that they are interested in a long-term working relationship with a straightforward growth path. In addition, firm leaders should consider the continuation of remote or hybrid roles for employees who fit the criteria, and either begin or expand the use of training, mentorship and education programs and resources.

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.

$18M Available in Water Grants

Continued from page 14

mentation of green practices, including green stormwater infrastructure, energy efficiency, water efficiency and environmental innovation.

Engineering Planning Grants help eligible communities afford and start the critical planning process so they can be better prepared to seek financing to help them complete their sewer infrastructure projects. Grants of up to $100,000 are available to develop an engineering report that identifies water quality problems and potential solutions. These grants have helped municipalities across the state complete 350 engineering reports since the program's inception in 2012.

Economic Outlook

Continued Strength, Robust Activity Belie Macro Concerns to Cause Market Uncertainty

By MICHAEL J. PATON

The macroeconomic environment is becoming increasingly complex for analysts to navigate. On one hand, the economic data still points to growing strength. According to a report by Cushman & Wakefield on the macro economy, consumer spending remains resilient despite deepening inflation; household balance sheets are in excellent shape; excess savings support is stimulating spending for many households; there is solid job growth; wages are growing and corporate profits remain strong. In the property sector, the current snapshot indicates similar momentum: leasing and renting fundamentals are strong in most commercial and residential sectors and improving in others.

On the other hand, there is no shortage of downside risks accumulating in 2022. The war in Ukraine, persistent labor shortages, supply chain issues and COVID-19 outbreaks in China and its associated lockdowns are all dynamics that are amplifying inflationary pressures in the U.S. and abroad. These dynamics have prompted the Federal Reserve's Federal Open Market Committee (FOMC) to tighten monetary policy aggressively. At the June FOMC meeting, the Fed voted to raise the federal funds rate by 75 basis points (bps), and they signaled that more rate hikes are coming, including additional 75-bps hikes.

The Fed also announced in May that it would move forward with quantitative tightening (i.e., it will begin to reduce its holdings of Treasury securities and mortgage-backed securities starting on June 1). Long-term interest rates have already moved sharply higher, with the 10-year Treasury yield currently hovering at about 2.9%.

The employment recovery has been strong throughout the nation. However, despite such a strong labor market recovery, demand for labor continues to outstrip supply. Open jobs reached a new record high in March of 11.5 million, with roughly two open jobs for each unemployed person. Such a demand-supply imbalance continues to push wages higher and a wage-price spiral is feared. The good news is that the strong labor market continues to pull workers back, including retirees.

Despite all these challenges, the U.S. economy is expected to power through and continue to expand. According to the Federal Reserve's latest economic projections released March 16, U.S. real Gross Domestic Product (GDP) is expected to grow by 2.8% in 2022—down from their December projection of 4.0%, but still solid, nevertheless. Most private-sector forecasters also put real GDP in a similar range of 2.5% to 3% growth for 2022. Thus, despite the growing downside risks, most baseline scenarios still expect the U.S. economy to continue to expand—and in general, when the economy is growing, so too is demand for most types of commercial and residential real estate space, although this would vary by market.

On the local side, total employment in Westchester County increased by 3.3% over the last 12 months, ending the first quarter of 2022 at about 461,000—adding 14,500 new jobs. Likewise, quarter-over-quarter total employment grew by 1.9%, with the addition of 8,550 jobs since year-end 2021.

On the local side, total employment in Westchester County increased by 3.3% over the last 12 months ending the first quarter of 2022 at about 461,000 adding 14,500 new jobs. Likewise, quarter-over-quarter total employment grew by 1.9%, with the addition of 8,550 jobs since year-end 2021. The unemployment rate is nearing a 15-year low, falling 270 basis points (bps) since the first quarter of 2021 to 3.5%. Compared with the national average unemployment rate of 3.6%, Westchester County's overall unemployment rate was 10 bps lower at the end of the first three months of 2022.

In property metrics, Westchester County started the year 2022 with 13,000 square feet of positive net absorption, primarily attributed to the removal of 1111 and 1129 Westchester Ave. in White Plains from available inventory. It was announced by New York Presbyterian Hospital that in the first quarter that these buildings would be converted into outpatient care facilities. According to JLL research, prior to the onset of the Covid-19 pandemic, macroeconomic factors were responsible for office buildings being redeveloped for mixed and residential use. As the pandemic has worn on, these factors have only been amplified and medical facilities have progressed into one of the primary drivers of demand. The removal of these properties, as said earlier, in conjunction with several tenant move-ins during the first quarter resulted in total vacancy falling a full percentage point from 22.8% at the conclusion of 2021.

The continued repositioning of office buildings, along with the lack of new construction, has emboldened landlords of Class A assets to raise asking rents. A good example of this trend occurred in the first quarter at White Plains Plaza. Argent Ventures acquired the two-building portfolio in January for $105 million and increased asking rents $2.00-per-square-foot signaling confidence in the White Plains Central Business District submarket. Upward pressure on Class-A rents (the most expensive) will continue, as tenants remain fixated on a flight to quality approach when determining future occupancy requirements.

The employment recovery has been strong throughout the nation. However, despite such a strong labor market recovery, demand for labor continues to outstrip supply. Open jobs reached a new record high in March of 11.5 million, with roughly two open jobs for each unemployed person.

The economic outlook is uncertain, particularly with international events in Europe and China affecting monetary and fiscal policy in unpredictable ways. Locally, although healthcare-leasing velocity was subdued in the first quarter, some economists expect that the expansion of the medical sector will continue to drive activity throughout 2022. Notably, Regeneron received preliminary approval of financial incentives from the Westchester IDA toward its $1.4-billion expansion of its Tarrytown headquarters.

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

DEC Permit Denial Upheld, Jeopardizing $500 Million Danskammer Energy Project

Continued from page 4

gas fired power plants will be denied regardless of the facts and circumstances. Rather, the DEC's denial was based on the individual circumstances of the application. Indeed, Section 7(2) mandates that the DEC consider not only the consistency of the application with the goals of the CLCPA, but also whether, if inconsistent, the grant of a permit is nonetheless justified, and its adverse affects can be mitigated."

The Middletown Times-Herald Record reports that the DEC officials praised Judge Onofry's decision and will "continue to review all relevant permit applications to ensure compliance with applicable law, including the requirements of the Climate Act."

Michelle Hook, a spokesperson for Danskammer, told CONSTRUCTION NEWS: "We are planning on filing a notice of appeal to preserve our rights and we are still considering next steps."

It should be noted that Danskammer's administrative appeal of the DEC decision rendered on Oct. 27, 2021 is still pending.

Back in November 2021 in announcing its appeal of the DEC ruling Danskammer Energy CEO Bill Reid said in a prepared statement: "Danskammer Energy disagrees with the NYSDEC's denial of our federal Title V Air Permit and we are appealing the decision to preserve our rights as part of the agency's administrative review process. We believe DEC is holding Danskammer to standards that don't even exist because the Climate Action Council has yet to issue guidance on what it means to be consistent with the state's new climate law.

He added, "Further—as pointed out by the New York Independent System Operator in its 2021-2030 Comprehensive Reliability Plan—as more weather-dependent and unpredictable wind and solar are used to supply our electricity, New York needs power options like a repowered Danskammer that can quickly step in to keep the lights on. For these reasons, DEC's decision to deny our Title V Air Permit was unjustified, and not in the best interests of New York residents or their future power needs."

The Danskammer project, while criticized by environmental groups such as Scenic Hudson, was supported by a host of business and building trades organizations in Orange County, including the Orange County Partnership, the New York State AFL-CIO and the Hudson Valley Building and Construction Trades Council based in Newburgh.


United Rentals®
Everything you need.
Plus equipment.
From safety/operator training and equipment management technologies,
to custom solutions engineered to meet specialized job requirements,
United Rentals offers much more than just the world's largest rental fleet.
It takes a lot to get the job done right. We're here to help.
UnitedRentals.com | 800.UR.RENTS
© 2017 United Rentals, Inc.


TILCON
A CRH COMPANY
STONE • ASPHALT • CONSTRUCTION • RECYCLING
Material Orders 1-855-659-1100
tnjorders@tilconny.com
Main Office 1-800-789-ROCK
www.tilconny.com

$4.2B Clean Water Bond Act

Continued from page 4

expanded version of the Restore Mother Nature Bond Act of 2020 (the 2020 Bond Act). The 2020 Bond Act made it through the state budget process after being included in former Governor Cuomo's executive budget proposal and was supposed to go to a public vote in November of 2020."

However, the combined economic impact of the global pandemic on New York State's budget would postpone the bond act for two years, in a more finely-tuned and more comprehensive plan. "Clean air, clean water, and access to nature are vital ingredients to public health and wellbeing," the institute noted. "Yet, many New Yorkers don't have safe water to drink, clean air to breathe or green space to enjoy. Low-income communities and communities of color face a disproportionate share of environmental harm due to historic and systemic racism and inequality. Recognizing these disproportionate impacts and risks, the Bond Act dedicates at least 35%-40% of funds to designated 'disadvantaged communities' to ensure that they are protected from the harms of climate change."

If the Bond Act is passed, $1.5 billion will go toward mitigating the impacts of climate change and redressing environmental injustice through projects that increase the sustainability of buildings, increase energy efficiency, support zero-emission school buses, eliminate air and water pollution in environmental justice communities, reduce urban heat and more. These measures will help protect New York communities from harmful pollution while also addressing the ongoing threats of climate change.

States and local governments face up-front funding challenges to address existing risks in light of growing climate threats. And yet, proactive, pre-disaster investments are crucial to not only save lives, but save money. FEMA notes that every $1 invested before a disaster saves $6 in disaster recovery costs.

The Bond Act on the 2022 general election statewide ballot would provide voters with a once-in-a-generation opportunity to invest in reducing harmful carbon pollution and help protect New York communities from the impacts of climate change. New Yorkers cannot afford to miss this opportunity.

GEORGE DRAPEAU III, with industry and environmental agency reports.

LOW BIDS

Power Line Constructors, A. Servidone B. Anthony, Grace and Mohegan Associates Win NYS DOT Jobs

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

A. Servidone B. Anthony JV of Castleton, NY was the lowest of three bidders at $30,868,999.08 for cloverleaf interchange reconstruction and ADA improvements, NYS Route 17, Exit 105 and NYS Route 42, BIN 1013750, in the Town of Thompson and Village of Monticello in Sullivan County

Power Line Constructors Inc. of Clinton, NY was the lower of two bids at $574,113.00 for signal optimization, wireless vehicle detection system, NY Routes 9, 35 and 120 in the towns of Fishkill, Harrison, Poughkeepsie and Yorktown in Dutchess and Westchester counties.

Grace Industries, LLC of Melville, NY was the lowest of four bidders at $4,457,433.00 for mill and fill with other improvements to NY Routes 100, 120, 127 and 133 in the Village and Town of Harrison, Town of New Castle and City of White Plains in Westchester.

Mohegan Associates Inc. of Carmel, NY was the sole bidder at $1,980,637.00 for sign requirements contract downstate: Regions 8, 10 and 11 in the Bronx, Columbia, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens and Richmond counties.

Yonkers Contracting Lands Thruway Project

ALBANY—The New York State Thruway Authority reported that **Yonkers Contracting Company Inc**. of Yonkers, NY was the lower of two bids at $44,611,789.00 for Contract TANY 22-21 / D214875 - I-287/Route 17S Exit 15, MP 29.40 to north of Suffern N MP 38.70: 1R, two-course mill and inlay, drainage and safety improvements, and miscellaneous work in Rockland and Orange counties in accordance with the plans and specifications.

Clean Harbors to Manage Westchester DPW Hazardous Materials Facility

WHITE PLAINS—The Westchester County Department of Public Works announced recently that **Clean Harbors Environmental Services** of Norwell, MA was the lowest of three bidders at $2,617,400.00 for operation and maintenance of Household Hazardous Materials Recovery Facility (H-MRF), Valhalla, NY.

Gov. Kathy Hochul signed the bill into law at a press conference in New York City earlier this month.

Hotels to Housing Becomes Law

NEW YORK—On June 7, New York Gov. Kathy Hochul signed legislation (S.4937C/A.6262B) to create more flexible rules for converting underutilized hotel space into permanent housing. Gov. Hochul signed the bills with New York State Senator Brian Kavanagh, New York City Mayor Eric Adams, and housing and labor advocates at an event held at 633 Third Ave in Manhattan.

This new law creates the opportunity to address the affordability crisis head-on and convert empty, underutilized spaces into homes, the officials announced. State Assemblyman Steven Cymbrowitz (AD-45) and Sen. Kavanagh (SD-26) sponsored the bill which was termed "a first step to ensure that New Yorkers have a place to call home."

State Senator Kavanagh said, "Allowing conversion of underutilized hotel space into affordable permanent housing represents another critical step we are taking toward ending the crises of unaffordable housing, evictions, and homelessness that have gripped New York for far too long."

New York City Mayor Adams added, "This law cuts red tape and removes outdated rules so we can take advantage of this once-in-a-generation opportunity."

The new law authorizes Class B hotels that are located in or within 400 feet of districts that permit residential use and meet certain criteria to use their existing certificates of occupancy to operate as permanent residential spaces. The new bill further allows such hotels to provide permanent housing if they enter into an agreement with the city or if they receive state financing, through the Housing Our Neighbors with Dignity Act (HONDA).