



Construction NEWS



Vol. 38 No. 11

NOVEMBER 2022

\$1.50



'Fair Share' Tax to Fund Education and Transportation

Dubbed the "Fair Share Amendment," a change to the Massachusetts state constitution was passed Nov. 8 and now creates an additional tax of 4% for household income above \$1 million. The new tax rate for the state's wealthiest residents will add an estimated \$1.3 billion annually for public education, roads and bridges, and public transit. See "Voters Weigh In On Transportation" page 4.

Voters Overwhelmingly Approve \$4.2B Environmental Bond Act

By JOHN JORDAN

TARRYTOWN—New York State voters marked their ballots on Election Day overwhelmingly in favor of the \$4.2 billion in bond financing to fund sorely-needed clean water, clean air and green construction projects.

The measure passed by a more than two-to-one margin, with 59.28% of cast ballots (3,416,894) in favor of Proposition 1, called The Clean Water, Clean Air, Green Jobs Bond Act. According to the New York State Board of Elections, some 28.70% (1,654,091) of the voters rejected the measure, with the remaining ballots cast on Election Day either blank or voided.

Construction industry organizations statewide banded with major environmental groups to support the legislation. New York Gov. Kathy Hochul advanced the measure by increasing the funding

cap by \$1.2 billion from the \$3 billion that was initially sought by former Gov. Andrew Cuomo under the "Restore Mother Nature Bond Act" in early 2020. (The vote on that proposed referendum was postponed

due to the economic uncertainty caused by the pandemic.) The Construction Industry Council of Westchester & Hudson Valley, Inc., and the Building

Mandate Shown for Clean Air, Clean Water, Green Mitigation

Contractors Association of Westchester & The Hudson Valley, Inc., are members of the "Vote Yes for Clean Water and Jobs Coalition."

Bond act proponents say that the bond financing, in addition to existing state funding for clean water, clean air and green projects, will generate thousands of construction jobs and multi-billions in investment. Earlier this year, a study authored by infrastructure consulting firm AECOM and Re-

Please turn to page 14

Building at Long-Shuttered Hospital Site Scheduled to Start in 2023

By JOHN JORDAN

PORTCHESTER, NY—It appears that plans to redevelop the long-shuttered United Hospital property off Route 1 in Port Chester can finally proceed to construction in 2023 after nearly two decades of false starts and community opposition that prevented shovels turning dirt on the venture.

Rose Associates and BedRock Real Estate Partners announced they recently secured final site plan approval from the Village of Port Chester to develop a 15.45-acre site that has been unused for 17 years. The property at 406 Boston Post Road, once home to United Hospital, will be completely

redeveloped into a mixed-use community comprised of a half-acre of open green space surrounded by multi-family housing, retail and restaurant spaces, a boutique hotel and assisted living senior housing.

"Port Chester is one of metropolitan New York's most exciting villages and we are thrilled to start work at this property that's been vacant and unused for far too long," said Amy Rose, president and CEO of Rose Associates. "In addition to hundreds of apartments, we'll be creating attractive amenities that will be accessed through a much-improved streetscape along Boston Post Road."

Located on Route 1 at the



A rendering of the planned development at the former United Hospital property in Port Chester.

intersection of I-95 and I-287, the property is within walking distance to the Metro North commuter rail station in Port Chester. There are a number of vacant buildings at the site, which Rose and BedRock will raze in a first step toward creating the new, mixed-use community.

Plans call for 775 multifamily rental apartments, 90 independent living apartments and 110 assisted- and memory-care units, a 120-key boutique hotel and more than 18,000 square feet of retail space. Rose Associates has not released any

estimated development cost for the project.

"It is incredibly exciting to reach this milestone and we are thankful to the village and their consultants for taking the time to work with us, examine our plans and provide their approval," said Michael Adamo, managing director of acquisitions at Rose Associates, which is currently developing two other multifamily properties in Westchester County. "We're excited to move forward with our plans and to create something that's beneficial to Port Chester and the region."

The developers received final site plan approval from the Village of Port Chester at the Board of Trustee's Oct. 17, 2022 meeting. Building abatement and demolition is scheduled to begin in early 2023. United Hospital shut its doors for good in 2005.

The property was acquired by Starwood Capital Group in 2006, which proposed a \$450-million redevelopment of the property. Starwood Capital had secured zoning approval for its redevelopment project in Port Chester, but never proceeded with construction.

Please turn to page 22

Inside

Next Gen	8
Photo Gallery	9
Obituary	11
Safety Watch	13
Financial Management	17
Building News	10 & 18
New York City Update	19
What's New & Who's News ..	21
Albany Update	22
Low Bids	22

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

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



ELMSFORD

VIRTUAL QUARRY™

DISPOSAL OF CLEAN ROCK, CONCRETE, ASPHALT



37
YEARS
Thalle Industries
1985 - 2022

Custom Blend Aggregate
Tracking Pad Stone
Select Granular Fill
Analytically Clean Fill
Recycled Sub-base

Manufactured Sand
Pipe Backfill Sand
Clean Recycled 3/4



50 S. Warehouse Ln
Elmsford, NY 10523

Thalle Industries'
ROCKSTAR SERVICE
keeps your project moving™

Joe Perrone 919 201-1111

jperrone@thalleindustries.com
thalleindustries.com

 **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.



New \$300 Million in State Grant Awards To Target Water Infrastructure Projects

ALBANY—New York State earlier this month announced nearly \$300 million is being awarded to communities through the Water Infrastructure Improvement Grant, Intermunicipal Grant, Green Innovation Grant, and Engineering Planning Grant programs to fund critical water infrastructure projects across New York State.

A host of Hudson Valley municipalities have been awarded significant grants for wastewater improvement projects.

The grants awarded by the New York State Environmental Facilities Corporation are part of the state's nation-leading commitment to modernize the state's aging water and sewer systems by providing the financial resources that municipalities need to undertake critical once-in-a-generation projects. These grants will support water infrastructure projects totaling more than \$1 billion that safeguard drinking water from the risk of toxic chemicals, increase community resilience to flooding, regionalize water systems, support local economies, and are critical to protecting public health and the environment. The grants are projected to save local taxpayers an estimated \$1 billion.

The announcement marks the second announcement of Water Infrastructure Improvement Grant (WIIA) awards this calendar year, bringing EFC's total state water infrastructure grant awards to nearly \$900 million in 2022. WIIA and IMG grants totaling \$600 million were announced in April.

Program awards included: Water Infrastructure Improvement (WIIA) and Intermunicipal Grants (IMG): 73 projects awarded \$279.3 million; Green Innovation Grant Program (GIGP): eight projects awarded \$15.8 million; and Engineering Planning Grants (EPG): 70 projects awarded \$3 million.

Grants totaling more than \$158 million were awarded to 22 clean water projects and 14 drinking water projects located in environmental justice communities under the WIIA program. More than half of WIIA/IMG funding this round has been awarded to environmental justice communities. More than \$115.5 million has been awarded to improve drinking water systems.

Examples of drinking water projects that were awarded grants include:

Six projects on Long Island have been awarded grants to construct treatment systems that treat emerging contaminants above the MCL. Long Island is almost entirely dependent on a sole-source aquifer and helping water providers protect this valuable and unique groundwater source is vital to ensuring millions of people in Nassau and Suffolk Counties have clean water to drink.

Two projects in the Mid-Hudson region also received these grants. Among the projects is the Village of Nyack in Rockland County, which was awarded \$2.7 million for PFAS/PFOA treatment at the water plant, including the construction of a granular activated carbon treatment system.

Among the Green Innovation Grant Program awardees in the Hudson Valley/New York City Region included: The City of Yonkers Saw Mill River Daylighting Phase 4, which was granted \$1 million and will use GIGP funds for Phase 4 of the Daylighting of the Saw Mill River.

The Town of Harrison has secured \$2.6 million for the Brentwood Brook Floodplain Restoration project. The Town of Harrison will use the funds to restore flood plains within an

Please turn to page 21




Among the state water grant recipients included Westchester County, which secured more than \$11.2 million for work at the Yonkers Joint Treatment Plant (pictured above) and at the Rye Lake Water Filtration Plant.



READY ON DAY 1



ELEC825 ensures that Local 825 Operating Engineers are the most highly skilled, most expertly trained and most credentialed heavy equipment operators.

@ELEC825
www.ELEC825.org

**ELEC825 is the labor management fund
of Operating Engineers Local 825**

PERSPECTIVE

Voters Weigh In On Transportation

TARRYTOWN, NY—During the Nov. 8 election, voters in states across the country had their say on various transportation-related initiatives with billions of dollars at stake. An enterprise that tracks transportation issues reviewed initiatives that were listed on statewide, county and local ballots across the nation.

Nationwide, 14 out of 19 measures to back public transit passed. More broadly, voters approved 88% of state and local proposals to boost or maintain spending on roads and other transportation infrastructure, according to the American Road & Transportation Builders Association (ARTBA). Those 380 approved ballot questions will generate \$19.6 billion in revenue in 18 states, the group said.

“A key takeaway from the results is that voters remain committed to investing their tax dollars in better streets, roads,

bridges and transit systems even in the face of record inflation and high gasoline prices that are straining household budgets,” said Carolyn Kramer Simons, the director of the group’s Transportation Investment Advocacy Center.

Texas approved the largest share of new money of any state, according to ARTBA. Most of the \$12.9 billion its voters approved supports special units of government that build roads and other infrastructure in new housing developments.

Ohio saw the greatest number of transportation measures pass, with residents approving 94% of the 122 before them. The proposals will raise about \$250 million, almost all of which is funded by property taxes and devoted to road improvements.

Josh Cohen, the executive director of the American Public Transportation Association’s Center for Transportation Ex-

cellence, said the overall direction was encouraging.

“For years, the public’s support for transit has been on a roll, and 2022 is no different,” he said. “Voters support transit at the ballot box because it can transform a community and create pathways to a more equitable and accessible future... While some of the larger measures suffered a setback, the results from the 2022 elections reflect a years-long trend toward greater investment.”

Here is a state-by-state breakdown in some notable initiatives and how they fared on ballots.

Arizona

Proposition 469: Pinal County – Would authorize a half-cent excise tax to fund a regional transportation plan. The tax is projected to raise \$1 billion over 20 years. Projects include a north-south freeway connecting U.S. 60 in Apache Junction with Interstate 10 near Eloy. An east-west corridor linking Maricopa and Casa Grande also is included.

FAILED

California

Proposition 30: Statewide

Whether to add a tax on the state’s wealthiest residents to address greenhouse gas emissions. Increasing the personal income tax above \$2 million by 1.75% was estimated to raise up to \$4.5 billion yearly. About 45% would have been used for rebates and other incentives for zero-emission vehicle purchases. Another 35% would have been applied for electric vehicle charging stations. Additionally, wildfire suppression and prevention programs would have collected another 20%.

FAILED

Measure C: Fresno County – Whether to renew the county’s half-cent transportation tax. The tax is estimated to raise \$6.8 billion over 30 years. The plan largely focused on addressing road and bridge work. Public transit would receive about one-third of the amount.

FAILED

Measure T: Madera County – Would extend a half-cent transportation tax until ended by voters. Over 30 years, the extension is estimated to raise \$866 million. Passage would result in 62.5% of funding being applied to community and neighborhood streets and roads. The county’s major routes, access and safety improvements program would get 25% of the funds. Transit, pedestrian projects, and clean air programs would claim the remainder.

FAILED TO WIN 2/3RD MAJORITY REQUIRED

Proposition L: City and County of San Francisco – Would continue a 0.5% local sales tax for transportation projects for another 30 years. The tax is estimated to raise \$100 million annually. The amount

is projected to increase to \$236 million annually by fiscal year 2052-53. If approved, the transportation authority would be authorized to issue up to \$1.19 billion in bonds that would be repaid with the proceeds of the tax. Funds would cover work to benefit transit, pedestrian projects, congestion reduction, and other improvements.

PASSED

Colorado

Denver voters appear to be on track to approve a measure to tax property owners to better maintain and expand the city’s sidewalk network, with



Denver voters approved a measure to tax property owners to better maintain and expand the city’s sidewalk network, with 53% of the electorate supporting it.

53% of the electorate supporting it. The advocacy group behind the “Denver Deserves Sidewalks” ballot initiative declared victory Sunday night after unofficial results showed the measure continuing to pull ahead. The measure will raise tens of millions of dollars every year for sidewalk construction and repairs. Ordinance 307, or “Denver Deserves Sidewalks,” would levy a new fee on property owners and shift sidewalk responsibility from property owners to the city.

Question 1C: Boulder County – Would extend for 15 years the 0.1% countywide sales and use tax to pay for transportation issues including maintaining and improving existing infrastructure. Most of the revenue – 55% – would be used for roadway safety. Specifically, money would be used for road shoulders, flood resilience and creek restoration, intersection safety, and mountain road repair.

PASSED

Florida

Question 1: Hernando County – Whether to authorize a one-half-cent sales tax for roads and recreation. The tax would raise about \$138 million over the next decade. Roads would have received the majority of revenue. About 80% would be used to relieve existing and future traffic congestion by expanding local roadways and improving intersections. The rest would be allotted to parks and recreation. Additionally, commercial development would be enhanced.

FAILED

Massachusetts

Question 1: Statewide – Dubbed the Fair Share

Amendment, the proposed amendment to the state constitution would create an additional tax of 4% for household income above \$1 million. The state already has a 5% flat-rate income tax. If approved by voters, the tax rate would increase to 9% for the state’s wealthiest residents. An estimated \$1.3 billion annually would be applied for public education, roads and bridges, and public transit.

PASSED

Michigan

Transit advocates scored a big victory in suburban Detroit



Construction NEWS



Vol. 38 No. 11

NOVEMBER 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. All rights reserved.

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

International Union of Operating Engineers Local 137



**JEFF LOUGHLIN
WAYNE HELLER
JAMES SASSO
JOHN MCGILL
JOE SCHNEIDER
DANIEL FENYO
MICHAEL MILLER**

**BUSINESS MANAGER
PRESIDENT
VICE PRESIDENT/BUS. AGENT
RECORDING CORR. SECRETARY
TREASURER
FINANCIAL SECRETARY
BUSINESS AGENT**

Executive Board

**John Belardi – Ronald Burgess – Rocco Miceli – Michael Miller
David Ryan - Rocco Sanseverino**

1360 Pleasantville Road Briarcliff Manor, NY 10510 (914)762-0600

Attorney's Column

An 'Agreement to Agree' Does Not Constitute An Enforceable Contract, Court Affirms

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

This column has often counseled that “if it’s not in writing, it didn’t happen.” While that is very simplified advice, the core lesson we seek to impart is that where an oral contract, or oral modification of a written contract, is permitted

to happen, the facts are often relegated to a “he said, she said” dispute. Unfortunately, such disputes must ultimately be resolved by a jury (which, needless to say, is an expensive



not find an enforceable agreement based on mere oral assertions, fragments of writings, or even handshakes.

Background

In mid- to late-2016, Permasteelisa North America and JDS Construction Group were in the process of negotiating for Permas-

teelisa to perform certain curtain wall and façade work on a construction project on DeKalb Avenue in Brooklyn, NY. Toward that end, the parties exchanged several propos-

als and discussed the scope of work and pricing. On March 30, 2017, JDS sent Permasteelisa a letter of award for the curtain

After discovery, JDS moved to dismiss the lawsuit and discharge the mechanic’s lien, citing the “agreement to agree” provision in the award, and noting Permasteelisa’s deposition testimony conceding that a written subcontract was never executed.

wall scope of work. In the letter, however, Permasteelisa included a provision stating that “The parties expect to finalize the Subcontract on the project no later than April 30, 2017. Notwithstanding this Letter of Award, this letter does not bind either party to the performance of any obligation, or confer any rights, upon either party unless and until the parties actually execute the Subcontract.” In anticipation of entering into a nearly \$50-million subcontract, Permasteelisa performed some preliminary work, which it claimed had a value of \$1.9 million. The parties continued to negotiate a subcontract, with the scope and pricing changing several times. Ultimately, however, the parties never executed the anticipated subcontract.

When Permasteelisa was not paid for its claimed work, it filed, and ultimately commenced a lawsuit to foreclose a mechanic’s lien. This lawsuit also included claims for breach of contract, for unjust enrichment, and to recover on an account stated. After discovery, JDS moved to dismiss the lawsuit and discharge the mechanic’s lien, citing the “agreement to agree” provision in the award, and noting Permasteelisa’s deposition testimony conceding that a written subcontract was never executed. Permasteelisa opposed, conceding that the anticipated contract was never executed, but proffering what it termed was a “handshake agreement” to perform in anticipation of the execution of the contract.

Decision

The motion court granted JDS’s motion. In doing so, it cited to well settled law that there is a “strong presumption against finding a binding and enforceable obligation” where a proposed agreement contains an “agreement to agree” provision, and noted that JDS did nothing to lead Permasteelisa to believe that a contract had been entered into. Similarly, as to the unjust enrichment claim, the court held that without Permasteelisa having consented to the performance of the work, unjust enrichment was unavailable.

The court also cited case

law holding that unjust enrichment “is not an appropriate remedy for recovery of the expenses of a failed negotiation.” Likewise, as to the account stated claim, such was similarly dismissed because such a claim “cannot be used to create liability where none otherwise exists.”

As to the mechanic’s lien, the court held that in the light of the dismissal of Permasteelisa’s other claims, the lien had to be discharged and the foreclosure claim dismissed. The court also addressed the willful exaggeration claim, holding that while the items which were the subject of the lien had no basis, they could not be said to have been willfully exaggerated as a matter of law sufficient for a summary disposition.

Comment

The first thing that comes to mind when one uses the term “oral contract” is a verbal conversation where one party says “do X for me, and I’ll pay you \$Y,” and the other party agrees. However, another form of oral contract is the oral agreement supported by some written evidence of its terms (which may even be an unsigned version of a contract). The problem with this type of oral contract, similar to the truly verbal agreement, is the he said, she said nature of the dispute as to what is included, and what is not included, in the oral agreement. While the one party will rely on the confirmatory writings (or even the unsigned agreement), the other will undoubtedly claim that the writing or writings are not complete, and there is more to the agreement than those writings (which, again, must be proven with he said, she said testimony).

As the *Permasteelisa* Court reminds us, one way to avoid this eventuality is to use an “agreement to agree” clause, which will preclude either party from relying on anything less complete than the fully negotiated, signed contract. Contractors and others who are parties to construction contracts would be well advised to consult with experienced construction counsel to determine what provisions can be put into these contracts

Please turn to page 22

The motion court granted JDS’s motion. In doing so, it cited to well-settled law that there is a “strong presumption against finding a binding and enforceable obligation” where a proposed agreement contains an “agreement to agree” provision, and noted that JDS did nothing to lead Permasteelisa to believe that a contract had been entered into.

process—even if you win).

To avoid this eventuality, when negotiating contracts, many parties include “agree-

ment to agree” provisions, which specifically negate the enforceability of anything other than a fully prepared and executed contract. As a court held in the recent case

of *Permasteelisa North America Corp. v JDS Construction Group, LLC*, when such a provision is present, courts will



Asset Management L.P.

Michael J. Paton
mpaton@tocqueville.com

212-698-0812

40 West 57th Street, 19th Floor
New York, New York 10019

Nearly \$61 Million in Bridge Projects Completed in Hudson Valley Region

ALBANY—The New York State Department of Transportation announced on Nov. 21 the completion of \$60.5 million in bridge upgrade projects to enhance safety and resiliency in the Hudson Valley.

In Orange County, a \$12.5-million project replaced one bridge and rehabilitated three others that carry Interstate 84 over the Monhagen Creek and McVeigh Road in the Town of Wawayanda. This project enhanced safety and improved travel conditions on this heavily traveled interstate that is vital for the east-west flow of people and commerce in the Hudson Valley and through the entire Northeast corridor. Michels Corp. of Brownsville, WI was the contractor working on the I-84/McVeigh Road project.

In Westchester, major construction is complete on a project that replaced the bridge carrying East Lincoln Avenue over the Hutchinson River Parkway and Hutchinson River, enhancing safety, mobility and resiliency along a heavily traveled corridor that links the Village of Pelham and City of Mount Vernon. The \$48-million bridge replacement project was part of a larger, \$115-million initiative to replace and renovate several bridges in Westchester County to improve travel and resiliency. Halmar International LLC of Nanuet, NY was the contractor working on the Westchester Bridge Bundle.

The project in Orange County will also provide new and improved access for hikers and bikers to the popular Heritage Trail. The project in lower Westchester was also designed to bring much-needed resiliency to a flood-prone area while also improving traffic flow and connectivity for area residents, the DOT noted.

The project in Orange County created a link between the northern and southern sections of the county's Heritage Trail, which runs underneath the McVeigh Road bridges and now provides area residents and visitors with expanded recreational opportunities along a continuous, nearly 19-mile multi-use path from Middletown to Harriman. The project, which began in the summer of 2020, replaced the existing four-span bridge that carried I-84 westbound over McVeigh Road and the Heritage Trail with a single-span, steel-girder bridge that features a concrete deck to reduce maintenance costs and wider shoulders to better accommodate emergency vehicles. Enhancements, including reconstructed approaches, surface improvements and new bridge barriers, were also made to three other bridges nearby. All four bridges were originally constructed in the 1960s.

As part of this project in Orange County, the New York State Department of Transportation also created a new section of

the Heritage Trail that linked previously unconnected sections of the multi-use path and improved access for pedestrians and bicyclists. The multi-use trail includes a wildlife sanctuary, historic landmarks, streams, meadows and communities that offer users a wide array of recreational activities. To keep with the aesthetics of the trail, NYSDOT landscape architects constructed a grassy slope that concealed old railroad ballast stone. To safeguard the environment, a stormwater treatment swale was constructed to treat roadway run off and prevent contaminants from entering the Monhagen Brook during rain events. A special soil retaining wall—known as a geocell wall—that encourages vegetation growth and stormwater seepage was also utilized to limit impacts to wetlands in the median of I-84.



The project by New York State DOT to replace and renovate bridges include the recent completion of the East Lincoln Avenue bridge that links the City of Mount Vernon and Village of Pelham in Westchester.

The project in Westchester County replaced two original structures, which were constructed in 1925, with a single, two-span bridge that features an additional three feet of clearance to help reduce collisions with over-height vehicles. The

project began in the summer of 2020 and included the replacement of the bridge's approach slabs, as well as a large culvert that carries the northbound Hutchinson River Parkway off-ramp over the Hutchinson River, which will improve water


flow and help reduce instances of flooding at this location.

Additionally, the Hutchinson River Parkway at East Lincoln Avenue was reconstructed to better withstand severe weather events. With new

Please turn to page 9

BRING IT ON

A New Era of Infrastructure Dawns



Local 825 Heavy Equipment Operators

More Experienced, Better Trained

BETTER BUILDING BEGINS HERE

WWW.IUOE825.ORG

GREG LALEEVE
IUOE General Vice President
Business Manager, Local 825

Ready Today — Ready Tomorrow



Next Gen Leaders



Profiles of the Industry's New Generation



Albert Rossi

AGE

24

ACHIEVEMENT & YEARS

Louis G. Nappi Scholarships 2017-2021

CURRENT EMPLOYMENT

Project Engineer
Pawling Engineered Products
Pawling, NY since September 2022

ON THE CHOICE OF PROFESSION

As a kid, I watched *Modern Marvels*. I liked learning how to build things; taking them apart and seeing how they worked.

BIGGEST CHALLENGES TO JOB

It is a little different from what I learned as a mechanical engineering major. Much of what we were taught in school was about the stresses on non-elastic material. Where I work now, the focus is on plastics and rubbers, so the calculations are very different. And the answers aren't on Google, and more often are found in a notebook here on a shelf.

EDUCATION

Manhattan College, Bronx, NY
B.S. – Mechanical Engineering, 2022

FAVORITE COURSE

Machine Design

INSPIRATION

Myth Busters

FAVORITE QUOTE

"A good plan executed violently now is better than a perfect one executed next week."
— Gen. George S. Patton

WORDS OF WISDOM

Take the time to invest in yourself.

GREATEST ACCOMPLISHMENT

So far? Graduating with a B.S. in Mechanical Engineering.

THE FUTURE

Now fresh out of school, I want to continue a career path that is fulfilling.

OUTSIDE INTERESTS

I'm a volunteer firefighter in Patterson, NY. It has been a big part of my life since I was 16.

—Alan Kennedy, Researcher and Writer

The Louis G. Nappi Labor-Management Scholarship Program was named in honor of CIC Chairman Emeritus Louis G. Nappi.

Since the inception of the Louis G. Nappi Construction Labor-Management Scholarship Fund in 2009, more than \$700,000 has been awarded to 73 students sharing in a total of 170 grants over the years. This financial support has made possible tuition aid for those attending some 50 colleges and universities throughout the United States.

"By awarding these scholarships, it is our vision—with labor and management united—to encourage the brightest students to consider and pursue careers in construction and engineering."
—Louis G. Nappi, 1920 – 2014

L.G.N. Scholarship Committee

William Mascetta
Scholarship Committee Chairman
Transit Construction Corp.

Anthony Ascencao
Heavy Construction Laborers L.U. 60

Phillip Benza
Arben Group LLC

Dean DiNatale
Pinnacle Associates, Ltd.

Edward Doyle
Building & Construction Trades Council
of Westchester & Putnam, Inc.

Jerry Keahon
Eastern Concrete Materials, Inc.

Jeffrey Loughlin
Operating Engineers L.U. 137

Ross J. Pepe
Matthew Pepe • Karen Zedda
Construction Industry Council
of Westchester & Hudson Valley, Inc.

Louis Picani
Teamsters L.U. 456

Thomas H. Welby, Esq., P.E.
Welby, Brady & Greenblatt, LLP

Construction NEWS

PHOTO GALLERY



Above and below, workers and community members at the East Lincoln Ave. Bridge project over the HRP this past summer.



Nearly \$61 Million in Bridge Projects Completed in Hudson Valley Region

Continued from page 7
traffic signals and bridge rail, this wider, pedestrian-friendly bridge links residents and businesses along East Lincoln Avenue for daily commerce, work and school. While construction was ongoing, a temporary bridge was in place adjacent to the new bridge structure to maintain the flow of traffic.

As part of the larger Lower Westchester Bridge Bundle, the State Depart-

ment of Transportation is also replacing two bridges on the Saw Mill River Parkway over the Saw Mill River in Pleasantville, and reinforcing the U.S. Route 1 bridge over the Mamaroneck River in Mamaroneck. These projects, which focus on drainage improvements and the reconstruction of roadways prone to flooding, will enhance safety and improve the region's resiliency during storm events.



While construction was ongoing, a temporary bridge was in place adjacent to the new bridge structure to maintain the flow of traffic.

DOT Bundles Bridge Projects In Westchester

Major construction is complete on a project that replaced the bridge carrying East Lincoln Avenue over the Hutchinson River Parkway and Hutchinson River. The \$48-million bridge replacement project was part of a larger, \$115-million initiative to replace and renovate several bridges in Westchester County. CIC-member Halmar International LLC of Nanuet, NY was the contractor on the project.



The bridge at East Lincoln Avenue was reconstructed to better withstand severe weather events and provides for safer pedestrian traffic.



Views of the southbound exit and entrance onto the Hutchinson River Parkway.

BUILDING NEWS

New Queens Soccer Stadium, Mixed With Housing Could be a Winning Plan

NEW YORK—New York City Mayor Eric Adams unveiled his administration’s vision for the next phase of the transformation of the Willets Point community in Queens on Nov. 16, bringing the first soccer-specific stadium to the city.

Through a new partnership with New York City Football Club (NYCFC) and Queens Development Group (QDG)—a joint venture of Related Companies and Sterling Equities—Willets Point will be anchored by 2,500 new affordable homes, the largest 100% affordable, new-construction housing project in New York City in 40 years, which will be constructed on an accelerated timeline.

Developed in close partnership with New York City Council member Francisco Moya, Queens Borough President



Conceptual renderings of redevelopment for Willets Point. CREDIT: S9 ARCHITECTURE

Donovan Richards and other community members, Mayor Adams’ plan will also bring New York City’s first soccer-specific stadium to Willets Point along with over 40,000 square feet of

public open space, a 250-key hotel and neighborhood-serving, ground-floor retail shops that will create good-paying jobs for community residents. The soccer stadium is projected to cost

\$780 million to build.

This historic plan will bring significant long-term economic opportunity to a community that has long been underserved. The entire project is expected to generate \$6.1 billion in economic impact over the next 30 years, creating 1,550 permanent jobs and 14,200 construction jobs. With the creation of a new soccer stadium, Willets Point will become the city’s premier sports hub, with the New York Mets’ Citi Field and U.S. Tennis Association Billie Jean King National Tennis Center both also within walking distance of the MTA’s Mets-Willets Point subway and LIRR station. More information on the project is available online.

“We have a once-in-a-generation opportunity to create a brand-new neighborhood, a Willets Point that offers real

opportunity for working people and all New Yorkers,” said Mayor Adams. “Our plan will deliver 2,500 affordable homes—New York City’s largest fully affordable housing project in decades. And with a fully privately financed soccer stadium, a hotel, and local retail, we will create not only homes but also quality jobs, \$6 billion in economic activity, and a true pathway to the middle class. This is what it means to build a ‘City of Yes.’”

After bringing New York City its first professional championship in a decade, NYCFC will finally now have a home stadium of their own. NYCFC plans to construct the privately financed, 25,000-seat soccer stadium with union labor, aiming to open it in 2027—following the highly anticipated 2026 FIFA World Cup™ that New York and New Jersey will help host.

The 2,500, 100-percent affordable homes will cover seven buildings—including one with 220 homes for low-income seniors—with construction on the first buildings set to begin in 2023, one year ahead of the original timeline. Additionally, QDG will participate in HireNYC, a city program that connects local residents to jobs. They will seek to achieve the highest standards of environmental sustainability through either LEED Gold U.S. Green Building Council certification or Enterprise Green Communities.

The Phase 2 plan builds on Phase 1 of the city’s development in the community, which includes the first 1,100 of the 2,500 total affordable homes as well as a new 650-seat standalone public school, new public open space, and significant infrastructure investment. QDG has undertaken significant remediation of the formerly contaminated soil on the Willets Point site, allowing construction of the first affordable homes to begin early.

“DEP is proud to be a part of the transformative vision that Mayor Adams has put forth for Willets Point,” said Chief Climate Officer and New York City Department of Environmental Protection (DEP) Commissioner Rohit T. Aggarwala. “We will be working with our project partners to build the sufficient water and sewer infrastructure needed to serve the new affordable housing, hotel, and soccer stadium. This historic development plan will create an exciting new future for the Queens community.”

The proposal was first presented in 2018 by the Willets Point Task Force, a group of Queens stakeholders represented by state and local elected officials; Community Boards 3, 4, and 7; economic development groups; community-based organizations; and local civic associations. Over four months, the task force identified community

Is your construction company benefiting from a reliable, effective advisor?



For nearly a century, we’ve worked closely with construction firms like yours, providing specialized guidance in many areas including tax-saving strategies, cash flow projections and financing, key employee retention and attraction, succession planning, and bonding.

When your financial future matters most, Anchin helps you meet your challenges and succeed with

VISION • INSIGHT • POSSIBILITIES



Phillip Ross, CPA, CGMA
Partner and Construction Leader
Phillip.Ross@anchin.com



Christopher Kelly, CPA
Construction Partner
Christopher.Kelly@anchin.com

Anchin
ACCOUNTANTS & ADVISORS



anchin.com/construction



Please turn to page 14



MONCKS CORNER, S.C.— Berkeley County joined state and community leaders this past August to break ground on the U.S. 176 Widening Project Phase 1, which widens the roadway from two to five lanes with raised medians and turn lanes and sidewalks on both sides. Initially, utilities will be relocated throughout the project limits to make room for roadway improvements. The project, estimated to cost approximately \$53 million, is being funded by the 2014 One Cent Sale Tax Referendum.

Voters Weigh in on Transportation

Continued from page 4

South Carolina

Question 1: Berkeley County – Would extend collection of a penny sales tax for transportation for another seven years. The tax is estimated to raise up to \$600 million for road widening and resurfacing, and other projects countywide. Projects include implementing the second phase of widening U.S. Highway 176 from two to four lanes.

PASSED

Question 1: Dorchester County—Whether to continue the collection of a penny sales tax for transportation work. Tax renewal is estimated to raise up to \$735 million over 15 years for highways, roads, streets, bridges, mass transit systems, and other transportation-related facilities. Projects include im-

provements to the Orangeburg Loop and U.S. Highway 78.

PASSED

**Texas
Proposition A:
Brazos County**

Whether to approve a \$100-million transportation bond for projects around Bryan and College Station. There are eight projects identified to aid roads and bridges. Approval authorizes an additional motor vehicle registration fee. Money would also come from the Bryan-College Station Metropolitan Planning Organization and the Texas Department of Transportation.

PASSED

Proposition A: Denton County—Would authorize general obligation bonds totaling \$650 million to be used over the next decade to construct, improve,

repair and maintain roads, bridges and highways. Included would be city, state and county streets, roads, highways and bridges.

PASSED

Proposition B: Harris County – Whether to tap bonds to pay for \$900 million in transportation work. The transportation bond includes \$400 million for road work. Another \$400 million would be allotted to improve street drainage around the county. Additionally, \$50 million will be directed to improve turn lanes, intersections and crosswalks. Multimodal transportation projects would receive \$50 million.

PASSED

Compiled by CIC, ARTBA and with research from Land Line Magazine, a trucking industry's source for information pertaining to state legislative affairs.

OBITUARY

Francesco Montesano
Longtime Construction Executive

Francesco Montesano of Harrison, NY, the founder of Montesano Brothers, Inc., of New Rochelle, NY and father of CIC Board Member Dominick Montesano, passed away on Oct. 1. He was 87.

Mr. Montesano was born in Centrache, Calabria, Italy on Nov. 20, 1934 to Dominick and Mary Montesano. He emigrated to the United States as a young man, worked hard and became the proprietor and founder of Montesano Brothers, Inc., which is now owned and operated by his four sons. Montesano Brothers is a vertically integrated construction company specializing in site development, underground utilities, heavy highway and water treatment facilities.

He was predeceased by his beloved wife Vitina Montesano (nee Casalnuovo) in 2015. They shared 55 wonderful years together.

Mr. Montesano is survived by his four sons, Dominick (Toniann), Vito (Jeannie), Frank (Esther) and Richard (Antoinette), 11 grandchildren—Christopher, Danielle, Karlie, Kyle, Collin, Cole, Chase, Frankie, Jake, Lucas and Isabella—and great-granddaughter, Madison. He is also survived by a brother, Raphael (Imma), and sister-in-law, Aurora Montesano. He was predeceased by a brother, Pasquale.

A Mass of Christian burial was celebrated at St. Gregory the Great Roman Catholic Church, followed by entombment at St. Mary's Cemetery. Donations in his memory may be made to St. Jude's Children's Research Hospital, www.stjude.org, or to a charity of your choice.



LOW BIDS Every Month in the
Construction NEWS





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

Regional Bid Alert

Sponsored by

WTR

WESTCHESTER TOOL RENTALS

wtrrentals.com • 914-592-2016

NYSDOT - Region 8

Bid Letting Date: Dec.1, 2022

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

Contract# D264887
PIN# 881451
FA Proj.# Y001-8814-513

Project Description: Orange, Ulster Cos., culvert repair/ replacements: five culverts at various locations.

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

Goals: DBE: 6.00%

Bid Letting Date: Dec.15, 2022

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

Contract# D264922
PIN# 823956
FA Proj.# Y001-8239-563

Project Description: Rockland Co., high-way-paving Rt. 9W and 340 in the Town of Orangetown and Village of Piermont.

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

Goals: DBE: 10.00%

Bid Letting Date: Dec.15, 2022

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

Contract# D264943
PIN# 881491
FA Proj.# Y240-8814-913

Project Description: Orange Co., ADA side-walks & ramps, various locations.

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

Goals: DBE: 10.00%

NYSDOT - Region 9

Bid Letting Date: Dec.15, 2022

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

Contract# D264811
PIN# 9ADA20
FA Proj.# Y240-9ADA-203

Project Description: Broome, Chenango, Delaware, Otsego Cos., ADA improve-ments - various locations.

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

Goals: DBE: 2.00%

Bid Letting Date: Dec.15, 2022

New York State Department of Transportation
Contract Management

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

Contract# D264927
PIN# 9TBP23
FA Proj.# Y110-9TBP-233

Project Description: Chenango, Delaware, Otsego, Schoharie, Sullivan, Tioga Cos., bridge painting - six locations.

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

Goals: DBE: 6.00%

NYSDOT - Region 10

Bid Letting Date: Dec.15, 2022

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

Contract# D264859
PIN# 0DPM22
FA Proj.# Y230-0DPM-223

Project Description: Nassau, Suffolk Cos., 2023 pavement markings contract: various locations.

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

Goals: DBE: 3.00%

NYSDOT - Region 11

Bid Letting Date: Dec.15, 2022

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

Contract# D264916
PIN# XM2260

Project Description: Bronx Co., reconstruction of southbound Henry Hudson Parkway retaining walls.

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

Goals: MBE: 8.00%, WBE: 15.00%, SD-VOB: 2.00%

Bid Letting Date: Dec.15, 2022

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

Contract# D264931
PIN# XM2321

Project Description: Bronx, Kings, New York, Queens, Richmond Cos., where & when bridge steel repair throughout New York City.

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

Goals: MBE: 5.00%, WBE: 10.00%, SD-VOB: 0.00%

Bid Letting Date: Dec. 21, 2022

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

Contract# D264892
PIN# X73151
F.A. Proj.# Y001-X731-513

Project Description: Bronx Co., best value - bridge rehabilitation Bruckner Express-way (I-278) over Rosedale Avenue.

Bid Deposit: 5% of Bid (~ \$2,750,000.00)

Goals: DBE: 10.00%

New York State Dormitory Authority

Bid Due Date: Nov. 30, 2022

Title: City University of New York, Kings-borough Community College, Brooklyn, NY, Kibbee Library Curtain Walls and Roof Replacement & Associated Asbestos Abatement

Contract: CR13 General Construction

Project# 3463609999

Project Description: Sealed bids for the above work located at Kingsborough Com-munity College, 2001 Oriental Boulevard, Brooklyn, New York, 11235 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 en-velope, 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 de-livery jacket must be clearly marked on the outside "BID ENCLOSED" and "ATTEN-TION: 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, prevent-ing 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 re-quired to execute the PLA described in the Information for Bidders and included in the Contract Documents. See Section 18.0 of the Information for Bidders of the Contract Documents for additional information. All subcontractors of every tier will be required to agree to be bound by the PLA.

All individuals who plan to attend pre-bid meetings or bid openings in person will be required to complete and present a DAS-NY Visitor Covid-19 Screening Question-naire, 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 Meet-

ing" 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 at-tendance at bid openings.

Only those bids in the hands of DASNY, available to be read at 2:00 PM local time on November 30, 2022, will be consid-ered. 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 com-munications between DASNY personnel and a prospective bidder during the pro-curement process. Designated staff for this solicitation is: Sharda Del Rio, Project Man-ager, 2001 Oriental Boulevard, Arts and Sciences Building- Room S141, Brooklyn, New York 11235, 718-368-6508, sdelrio@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 informa-tion 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, October 19, 2022, at 10:00 AM at Room U-219, Kingsborough Com-munity College, 2001 Oriental Boulevard, Brooklyn, New York 11235. Contact Sharda Del Rio at 718-638-6508. All pro-spective bidders were 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. Prospec-tive bidders are further advised to review applicable sections of these General Con-ditions 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 CONDI-TIONS for CONSTRUCTION" dated June 17, 2021 that contain significant revisions from those documents previously con-tained in DASNY's Contract Documents. Prospective bidders are further advised to review applicable sections of these Gen-eral 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.

CONTRACTOR EQUIPMENT & SUPPLY

WTR

WESTCHESTER TOOL RENTALS

wtrrentals.com • 914-592-2016

11 Vreeland Ave., Elmsford, NY 10523

1075 Washington Street, Peekskill NY 10566 | 914-739-9000

Safety Watch

Ignoring Trench Safety Rules Lands Contractor Two OSHA Violations

By COSTAS CYPRUS, ESQ.

Construction companies must not only ensure they have a proper safety program in place, but that it is also adequately communicated and enforced by documented audits and consistent employee discipline, as shown in the matter, *Secretary of Labor v. J.D. Abrams, LP*.

In this matter, the Administrative Law Judge affirmed the citations arising from an employee working in a trench excavation, over five feet deep (without proper cave-in protection) and the use of ladder in that trench that did not extend the minimum requirement of three feet above the landing surface.

J.D. Abrams, LP performs highway construction projects with about 500 employees. On Dec. 3, 2019, Abrams was engaged in a large waterline installation project in Austin, TX. The installation supervisor (foreman) had worked for Abrams approximately two years, and worked in excavation for more than 30 years. He



sidewalk. One employee would use a ladder to descend into the trench. To prepare the base for a section of pipe, the excavator would then place that portion of pipe. The process would be repeated, and the ladder would be moved further down.

Two OSHA officers arrived at the site to observe the conditions, take photographs and measurements, along with employee statements. The trench was six feet wide and between 60 feet to 86 feet long. The trench depth was measured in three separate locations, and each

than five feet in depth—and an examination of the ground by a competent person provides that there is no indication for a potential cave-in. Here, employees were noted to have been working in a trench approximately 6'7" in depth, without shoring, a trench box or other adequate protective system.

Abrams was not successful arguing the depth of the trench was less than five feet by not including the bottom layer of solid rock and the top concrete/asphalt layer. The ALJ dismissed this argument given that the case law is clear that depth of a trench is measured from the base to the top, regardless of the various types of soil or other materials that it consists of. Moreover, the stability of the excavation is evaluated by the weakest material in the structure. Therefore, no exceptions applied, and an adequate protective system was needed and not provided.

Item 2 cited Abrams for failure to require a portable ladder extend at least three feet above the upper landing surface, exposing the employee to a fall hazard.

Here, the top of the ladder extended by 2'8", and it clearly did not comply with the requirements

This particular crew had worked on a section of trench that had been flooded on the previous day when a trench box crushed a section of pipe. No one was working inside the trench at that time and that portion had been repaired. On December 3, the foreman advised his crew that they would not use a trench box that day due to the prior day's issue.

of the cited standard. Given that it was also clearly known by the foreman, the Secretary proved its case for this violation.

Abrams asserted an unpre-

ventable employee misconduct defense as to both citation items and referred the ALJ to its extensive Safety Program. To prevail, on this defense, an employer must show that it "1) established work rules designed to prevent the violative conditions from occurring; (2) adequately communicated those rules to its employees; (3) took steps to discover violations of those rules; and, (4) effectively enforced the rules when violations were discovered." The ALJ found that Abrams met the first two criteria. Abrams had established adequate work rules that in effect mirrored OSHA's standards that were cited here, and they were effectively communicated to its employees.

Abrams' Safety Program included a 72-page employee safety manual available in English and Spanish, training, and Abrams employed area safety coordinators. Each employee was provided a copy of the manual during company orientation and received train-

Please turn to page 22

According to Abrams, employees who failed to follow their work rules were disciplined either by verbal warning, suspension or termination depending on the nature and severity of the violations. Here, the only offered examples of such discipline were that the Abrams' foreman and worker (in the trench) were suspended for a week without pay following the OSHA inspection.

was supervising a three-person crew on this project: one person operated the excavator; the second worked in the trench; and the third worked outside the trench. This particular crew had worked on a section of trench that had been flooded on the previous day when a trench box crushed a section of pipe. No one was working inside the trench at that time, and that portion had been repaired.

On Dec. 3, the foreman advised his crew that they would not use a trench box that day due to the prior day's issue. They began excavating the trench, which ran parallel to the road on one side and to the sidewalk on the other. About 18 inches of rock was excavated from the lower layer while the middle layer was determined to be Type B soil. The top layer consisted of about a foot of asphalt on the wall closer to the roadway and six inches of concrete and wire mesh material closer to the

was more than five feet (at 5'8" and 6'7"). The top of the ladder used to access and exit the bottom of the trench was 2'8" above the landing surface. The foreman at the site admitted that he knew that a trench over five feet in depth had either to be sloped back or protected with a trench box, but he had avoided its use to avoid the incident that occurred on the previous day. He also knew that the top of the ladder should extend three feet above the landing surface, and he had verified it at the beginning of work that day, but he did not continue checking as work progressed.

OSHA cited Abrams for two items.

Item 1 pertained to failure to properly protect workers from cave-ins during excavation, which specifically provides that adequate protective systems are required unless excavations are made entirely in stable rock or the excavation is less



MEDIATION & ARBITRATION



CONSTRUCTION LAW



EMPLOYMENT & LABOR LAW



REAL ESTATE & LAND DEVELOPMENT



Welby, Brady & Greenblatt, LLP



COMMERCIAL LAW

When Construction Problems Require Legal Solutions.

Knowledge & Knowhow

WB&G's comprehensive knowledge and insights into the intricacies of the construction and real estate industries are invaluable resources for companies, municipalities and business organizations seeking pragmatic and successful approaches to solve their legal challenges.

For more than thirty years, WB&G's commitment and dedication to provide exceptional legal service have infused the firm with the knowledge and knowhow to achieve practical and favorable results for its clients.



For more than 30 years WB&G is proud to serve the members of the Construction Industry Council of Westchester & Hudson Valley, Inc., and the Building Contractors Association of Westchester & The Mid-Hudson Region, Inc.

11 MARTINE AVENUE, 15TH FLOOR, WHITE PLAINS, NEW YORK 10606
PHONE: 914.428.2100 FAX: 914.428.2172 www.WBGLLP.com

NEW YORK | NEW JERSEY | CONNECTICUT | MANHATTAN

Voters Overwhelmingly Approve \$4.2B Environmental Bond Act

Continued from page 1
build by Design, an advocate for resilient infrastructure, found that the construction industry will reap tens of thousands of jobs and an overall economic impact of \$8.7 billion in direct and indirect project spending if the bond act was approved by voters.

The 2022 Clean Water, Clean Air, Green Jobs Bond Act is the largest bond measure approved by voters in New York history. The report found that the Environmental Bond Act would support 84,000 jobs in New York. The measure was also the largest bond initiative on November ballots nationwide.

“We built a diverse and engaged coalition of over 300 environmental organizations, unions and business groups that propelled this measure to success,” said Jessica Ottney Mahar, The Nature Conservancy’s New York Policy and Strategy Director, describing the coalition and its activities of distributing tens of thousands of palm cards, window signs and lawn signs, and firing up enthusiasm among New Yorkers. “We have delivered the first environmental bond act in a generation,” she added. (The previous statewide bond act passed 26 years ago in 1996 under then Gov. George Pataki.) “The coalition also funded a robust paid media operation that educated voters on both sides of the aisle on the importance of voting ‘Yes’ on the Clean Water, Clean Air and Green Jobs Environmental Bond Act,” Ms. Ottney Mahar added. “The passage of this measure will pay for projects that protect clean drinking water, tackle climate change and conserve natural resources while creating jobs and delivering environmental justice across New York State. Now we start the important work of implementation. Onward!”

John Cooney, Jr., executive director of the CIC, said that the “Vote Yes” campaign eventually included more than 200 organizations representing the environmental, open space, construction, organized labor and business associations across the state.

He listed some of the significant areas of need where funding for municipal, county and state projects will be available. Sewer and wastewater infrastructure upgrades are slated to receive \$650 million from the bond act.

“The funding authorization

lution in environmental justice communities.

According to the Nature Conservancy, under Restoration and Flood Risk Reduction, the lion’s share of the funding—up to \$650 million—will go for wetland stream, forest and wildlife

General Fund throughout the term of the state bonds. These projected payments are already accounted for in the state’s long-term financial plan; and therefore, taxpayers will not see an increase in their state taxes as a result of the environmental

grants that will be available to local governments and school districts. Electric school buses and electric vehicle charging infrastructure will receive support to match the growth in availability of these vehicles in upcoming years.

Many census tracts in lower Westchester have already been identified as environmental justice areas. The bond act includes priority funding for neglected areas that have the greatest need to correct existing water and air-quality pollution.

The water-quality improvement category of the Bond Act will provide additional funding for the water quality improvements, such as the Water Infrastructure Improvement Act grant program, which was initiated in 2015. With the recent announcement of Water Infrastructure Improvement and Intermunicipal Grants (WIIA & IMG), Westchester projects have now been awarded over \$60 million in state grants from this program. The new bond act funding is expected to further reduce the cost local taxpayers must shoulder for these clean water projects.

The bond act also includes the creation of a new stormwater grant program. Flooding from Hurricane Ida in 2021 highlighted the need to rebuild or upgrade municipal stormwater systems. “State assistance is the only way to make these improvements affordable at the local level,” said New York Assemblyman Steve Otis (Rye). “Environmental bond acts have historically been passed every decade with the most recent propositions approved by voters in 1966, 1972, 1986 and 1996. The gap in years since 1996 underscored the need for new capital funding for environmental projects.”

Rep. Otis added, “Environmental bond act funds are not awarded all at once. They will be appropriated over a number of years. I know that there will be opportunities to combine these state funds with federal programs that support some of the same program categories included in the bond act.”

“From fixing roads, to replacing lead pipes, and expanding clean energy projects, the programs that stem from the Bond Act will create good jobs, strengthen local economies, and solidify all New Yorkers have access to healthy land, clean air, and drinking water.”

—Robert Wessels,

Executive Director, The General Contractors Association of New York

now allows municipalities across New York State to upgrade their wastewater infrastructure to protect any kind of outfall from getting into our clean water or storm water overflow,” Mr. Cooney said. Wastewater projects could include sewer line and sewer plant upgrades and the construction of new wastewater facilities.

Highlights of the Bond Act
Under the Bond Act, there will be four major funding buckets—\$1.5 billion is earmarked for Climate Change Mitigation; another \$1.1 billion is for Restoration and Flood Risk Reduction; \$650 million is for Open Space Land Conservation and Recreation and \$650 million is for Water Quality Improvement and Resilient Infrastructure. A total of \$300 million is unallocated, according to the Nature Conservancy.

Under Climate Change Mitigation, not less than \$400 million will be spent on Green Building Projects; not less than \$100 million on climate adaption and mitigation projects; not less than \$500 million for zero emission school buses and supporting infrastructure; not less than \$200 million for air and water pollution elimination in environmental justice communities and up to \$300 million for urban heat reduction, urban forestry projects and reducing or eliminating air or water pol-

lution in environmental justice communities. Other facets of this initiative include no less than \$100 million for coastal rehabilitation and shoreline restoration projects; no less than \$100 million for projects to reduce inland flooding and revitalize waterfronts and not more than \$250 million for voluntary buyout and restoration projects.

The Water Quality Improvement and Resilient Infrastructure component breakdown calls for no less than \$250 million for wastewater infrastructure repairs and upgrades; no less than \$250 million for municipal stormwater projects and up to \$200 million for other eligible projects.

The New York State Department of Environmental Conservation stated that the Bond Act authorizes the state to issue \$4.2 billion in general obligation bonds to finance projects that benefit the environment, including projects that help provide clean water, combat climate change, and modernize infrastructure. Debt service payments associated with the Bond Act will be paid for by the state’s

bond act moving forward. Lori Severino, a public information officer for the New York State DEC, said, “Competitive procurements and Requests for Proposals would need to be established or utilize existing program calls for projects later in Fiscal Year 2024. It is anticipated that the processes to initiate project identification and selection and allocation of funds will begin very soon.” In addition to the public sector and environmental groups, organized labor representatives also praised the Bond Act and hailed its passage.

Thomas A. Callahan, president of the NYS Conference of Operating Engineers said prior to Election Day, “New York has been operating on a century-old infrastructure for water and energy. A system that will simply not be able to handle the uncertainty of our changing environment and energy needs. The Bond Act will not only help us with retrofitting outdated systems and replacing dangerous leaking pipes, but it will also be a direct investment into New York’s communities, especially those that have been most disadvantaged by the state’s aging infrastructure and create good-paying jobs.”

Of special importance for downstate counties will be funding for flood resiliency projects, clean water and a variety of

New Queens Soccer Stadium, Mixed With Housing Could be a Winning Plan

Continued from page 10
priorities and produced recommendations for the city-owned land, including a scenario that reimaged the Special Willets Point District as a hub for a new soccer stadium with public facilities, programmed open space with active and passive uses, and new homes at a range of affordability levels.

The significant infrastructure investment for this project will include additional environmental cleanup—supplementing the ongoing remediation work—as well as installation of new storm and sanitary sewers, reconstruction of streets, and improvements to the existing streetscape. As with Phase 1, this next phase of the Willets Point transformation will need to go through the Uniform Land Use Review Procedure (ULURP) pro-

cess—including environmental review—and the New York City Public Design Commission. The ULURP process is expected to start by the end of 2023.

New York City Football Club was the 2021 Major League Soccer (MLS) Cup champions. Marty Edelman, vice chairman of the club, said NYCFC, “Our club has been investing in New York City for over a decade, and we are eager to invest these funds to help build a new community for our First Team, our dedicated fans, and our great city.”

A host of construction and organized labor organizations praised the Willets Point plan.

“Not only will a new soccer stadium at Willets Point become a cultural and economic hub for generations to come, but this project will also immediately benefit the lives of thousands of

hard-working New Yorkers with the good-paying union construction jobs it will create,” said Gary LaBarbera, president of the Building & Construction Trades Council of Greater New York.

“As our city continues to rebound from the economic challenges of COVID, this project will put union members to work while building a whole new, completely affordable community where our members can afford to live,” said Kyle Bragg, president, 32BJ SEIU. “The 2,500 units of affordable housing will be transformative for New York. Our members need good jobs, our members need housing, and our members are going to be excited to watch championship soccer right here in Queens. The Willets Point project has it all.”

“With thousands of union construction jobs, a new private-

ly funded stadium, new schools being built, and infrastructure projects, the Willets Point project will not only revitalize an important section of Queens, but it will also drive the long-term economic growth we need in New York City,” said Mike Prohaska, business manager, Mason Tenders District Council/Local 79.

“Our members are excited to be a vital part of creating a privately funded stadium, especially because it includes new schools and better infrastructure for Queens,” said Joseph Azzopardi, business manager and secretary-treasurer, District Council 9, International Union of Painters and Allied Trades. “As the city continues its recovery, it is important to make sure New York continues to build for the future, to build smart projects that create new,

good-paying jobs. We are ready to get to work and build something New York will be proud of for years to come.”

“The 20,000 strong New York City District Council of Carpenters is proud to support this visionary project that will create thousands of good-paying union jobs in New York City, in addition to historic investments in affordable housing, infrastructure, and education,” said Joseph Geiger, executive secretary-treasurer, New York City District Council of Carpenters. “The stadium and surrounding development will serve not only as a world-class economic and cultural attraction, but also as a reminder of Mayor Eric Adams and Council member Francisco Moya’s commitment to the smart policies needed to make New York City affordable for the middle class once again.”

You're In Good Company

It's time to advertise in the 2023 CIC/BCA Directory & Buyer's Guide

Grab the opportunity to advertise your product or service in the Construction Industry's "Yellow Pages."

Take advantage of being included in the handy and accessible reference guide used by industry decision makers every day.

For more information on how to reserve your ad space, contact Sharon Regan Masciovecchio:
sharon@cicnys.org or 914-631-6070



Advertising Deadline February 1, 2023



2023 DIRECTORY & BUYERS GUIDE



THE CONSTRUCTION INDUSTRY COUNCIL &
THE BUILDING CONTRACTORS ASSOCIATION



PUBLIC WORKS ROADS SEWERS BRIDGES TUNNELS
OFFICE REDEVELOPMENT SCHOOL CONSTRUCTION
UTILITIES & POWER PLANTS
CLEAN WATER WASTEWATER TREATMENT PLANTS

629 OLD WHITE PLAINS ROAD | TARRYTOWN, NY 10591-5035 | (914) 631-6070 | WWW.CICBCA.ORG

Laborers Local 235



**Skilled Laborers
Quality Workmanship
Safety & Dependability**

Dario Boccarossa
Business Manager/Secretary Treasurer

914-592-3020

Financial Management

Bright Spots that Contractors Can Set Their Sights On

By PHILLIP ROSS, CPA, CGMA, PARTNER

COVID presented its own problems impacting labor and supply chain issues, and now to say the least we are facing another round of unprecedented and anomalous economic conditions. Led by a war in Europe, we are looking at escalating prices on oil and other commodities, as well as facing unprecedented inflation and the most aggressive interest rate hikes since 2005.

Overall, the macroeconomic factors with the most direct impact on construction will continue to be rising costs for materials and labor. In addition, other factors that could affect the amount of construction spending are rising interest rates and the talk of a potential recession. Right-sizing may be a prudent approach should we



ing Congress estimates that construction spending will total \$270 billion for 2022 to 2024.

Another bright spot is that unemployment in the construction industry in New York fell to 4.3% from 6% a year ago in September, according to the Empire State Associated Builders and

Six million square feet of office space will come online by the end of 2022. Other highlights include five new skyscrapers with 10 million square feet of office space. The largest skyscraper planned will be at 66 Hudson Blvd. with 2.85 million square feet.

Growth in Infrastructure, Sustainability and Life Sciences

New developments in sustainability initiatives will also support ongoing and future work. One of the largest statewide impacts the construction industry may receive as a result of the midterm elections is New York State's authorization to issue \$4.2 billion in bonds to fund clean energy, resilience, wastewater treatment and other green and sustainability projects. Other notable expenditures include Manhattan as a life sciences hub, where NYCEDA is expected to spend \$240 million through 2026.

Additional significant sustainability and infrastructure projects include the BMCR (Brooklyn Bridge Montgomery

Coastal Resilience) project in observance of the 10-year an-

with Local Law 97 will continue to create additional opportunities for the construction industry.

However, projects have been delayed while waiting for the release of significant infrastructure funding that was legislated a year ago. While we continue to persevere and work through tough economic conditions and external factors abroad, construction opportunities will continue to present themselves. Historically construction firms are known for resiliency, toughness and proven to outlast delays. It's an industry that knows how

to overcome difficulties and hardships.

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.

New developments in sustainability initiatives will also support ongoing and future work. One of the largest statewide impacts the construction industry may receive as a result of the midterm elections is New York State's authorization to issue \$4.2 billion in bonds to fund clean energy, resilience, wastewater treatment and other green and sustainability projects.

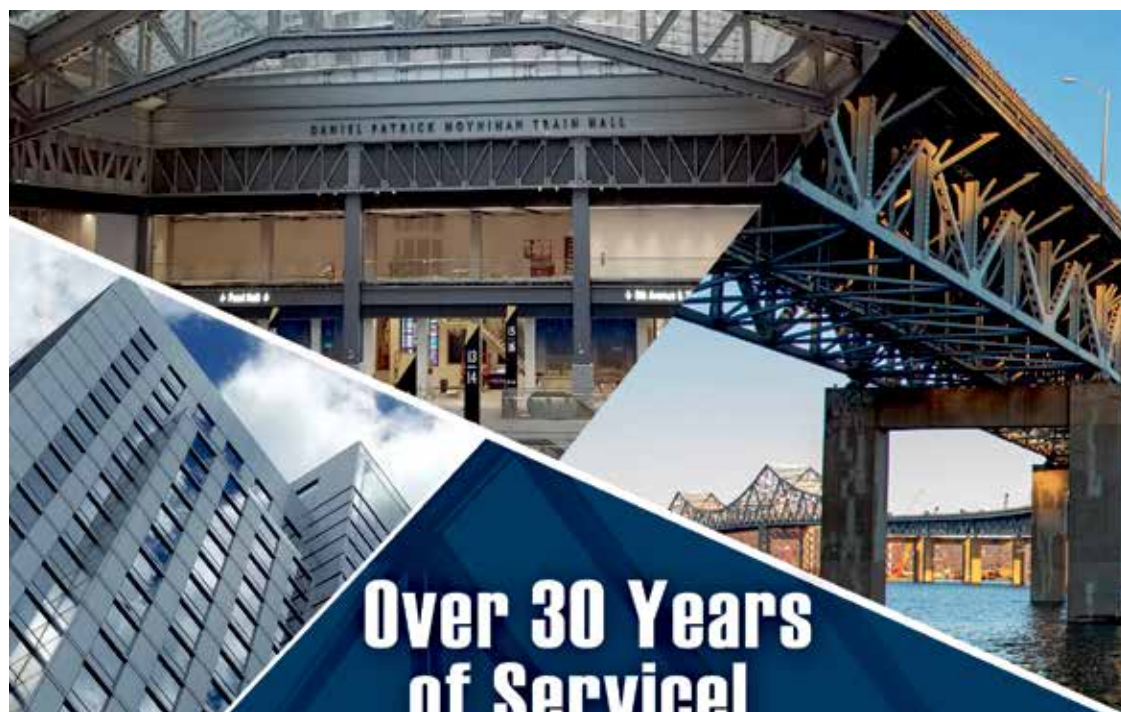
encounter sluggish activity and recessionary conditions over the next year.

Contractors Should Choose to Embrace Optimism

According to the New York Building Congress, construction spending over 2022 stands at \$86 billion, which is a 38% increase over 2021 figures. This represents a good measure of progress over the dire circumstances surrounding the pandemic and its aftermath. Going forward over the next few years, the New York Build-

Contractors. Overall, the New York State Building Congress estimates that employment for construction of buildings, heavy and civil engineering and specialty trades will total 139,000 in 2022 and increase to 143,000 over 2023.

Many of the new developments coming to New York City will be in office buildings and health care facilities, according to the Building Congress. These structures will be the focus of activity in lieu of more restaurants and retail projects.



Over 30 Years of Service!

- ▣ Site Planning & Design
- ▣ Geotechnical Engineering
- ▣ Environmental Engineering
- ▣ Surveying & Mapping
- ▣ Structural Analysis & Design
- ▣ Construction Management
- ▣ Special Inspections
- ▣ Laboratory Materials Testing

Tectonic
PRACTICAL SOLUTIONS. EXCEPTIONAL SERVICE.

Hudson Valley (Corporate):

70 Pleasant Hill Road
Mountainville, NY 10953

Metropolitan NYC:

118-35 Queens Boulevard, 10th Floor
Forest Hills, NY 11375

Tel: 800-829-6531

www.tectonicengineering.com

Run in good company.

The Construction Industry Council represents over 500 contractors, material and equipment suppliers, specialty and service firms who compete in the region's \$1.5 billion marketplace. From roads and bridges to utility, waste and water treatment systems, CIC-member companies and affiliated unions are dedicated to building and improving these public and private services. To make your company more successful in the construction industry, maybe it's time you run with us.

For Membership Information, Call:

George Drapeau III, Director of Membership Services

(914) 631-6070

Construction Industry Council of Westchester and Hudson Valley, Inc.
629 Old White Plains Road, Tarrytown, NY 10591

BUILDING NEWS

\$100-Million Movie Studio Project Proposed for Hudson River Village

By JOHN JORDAN

HASTINGS-ON-HUDSON, NY—The burgeoning movie and television production industry in the Hudson Valley could be getting larger as a major “green” television-movie studio project in this Hudson River community is under review.

An early step in the approval process occurred on Nov. 15 when executives with Atlanta-based Electric Owl Studios made a presentation before the Village’s Board of Trustees for a \$100-million television/movie studio project, which would be developed at the Graham Windham School property at 1 South Broadway.

The plan calls for Electric Owl Studios to purchase ap-



An aerial view of the Graham Windham campus in Hastings-on-Hudson that could be the site of a major “green” television-movie studio campus.

PHOTO COURTESY OF RM FRIEDLAND

proximately 20 acres of the 24-acre Graham Windham

School property. The school, which began operations in

Manhattan in 1806 and opened its Hastings campus in 1902,

will retain approximately four acres to continue to operate day programs on the Hastings property. Graham Windham closed its dormitory facilities due to COVID and put the property on the market for sale.

Graham Windham, which also has multiple locations in Manhattan, Brooklyn and the Bronx, is an intensive elementary, middle and high school (K-12), serving approximately 300 day-students referred by local school districts across the New York metropolitan area and operated by the Greenburgh-Graham Union Free School District.

No financial terms of the transaction were disclosed for the 20 acres, which is in contract.

John Barrett, managing director investment sales for RM Friedland, is marketing the property on behalf of Graham Windham. Henri Kessler of Marcus & Millichap is representing Electric Owl Studios in the transaction. When contacted by CONSTRUCTION NEWS this month, Mr. Barrett declined the opportunity to comment on the development proposal and property sale.

Electric Owl Co-Founders Michael Hahn and Dan Rosenfelt, along with Ben Ruswick of Michael Maltzan Architecture and William Null of the law firm Cuddy & Feder LLP, detailed the firm’s plan for the property at the Board of Trustees session on Nov. 15. The plan calls for the takeover of the Graham Windham administration building and the construction of six studio buildings totaling approximately 20,000 sq. ft. each. Full build-out would total approximately 300,000 sq. ft.

Mr. Hahn said the project will include many “green” features, including solar green roofs and green border walls. He said Electric Owl’s intent is to transform the Hastings property into the “greenest studio in the world.” Electric Owl is currently constructing a \$60-million television-movie studio in Atlanta that is certified LEED Gold. Mr. Hahn said he is hopeful the Hastings development can achieve a higher LEED designation.

In an interview with CONSTRUCTION NEWS, Mr. Hahn said that the buildings would be leased to major production studios such as Netflix and Amazon. The property is currently zoned R-20 for residential use. As such, Hastings-on-Hudson Mayor Nicola Armacost said that Electric Owl will be required to file for a change in zoning.

The project would generate up to \$3 million annually in tax revenues for the Village. Please turn to page 22



See our Entire Line! Call for Catalogs Including:

- ★ Trench Boxes ★
- ★ Rock Boxes ★
- ★ Hydraulic Shoring ★
- ★ Aluminum Trench Boxes ★
- ★ Portable Safety Guard Rails ★
- ★ Road Plates ★
- ★ Hydraulic Shoring ★
- ★ Slip-Not® Ladder Retention System ★

- We can provide you with the world's largest or smallest trench box or shoring system.
- Get high production numbers while keeping your workers safe.
- We will show you how with our on-site supervision.
- Contact us for the world's very best shoring.
- We will deliver on time.

FACTORY DIRECT

Sales • Rentals • Service • Repairs
Trade-ins • Recertification

Factory & Corporate Office:
207 Lake Street (Route 32)
Newburgh, NY, 12550
1.845.562.4477

New England Area
238 E Cherry Street
Shrewsbury, MA 01545
1.508.842.2822

MidAtlantic Area:
506 Pulaski Highway
Joppa, MD 21085
1.443.313.3461

Or Phone us Toll Free from anywhere:
1-800-407-4674
www.americanshoring.com
E-Mail us at: sales@americanshoring.com



NEW YORK CITY UPDATE

Ten Years After Superstorm Sandy

NY Building Congress Releases Ambitious Resiliency Agenda

NEW YORK—Following the 10-year anniversary of Superstorm Sandy decimating New York infrastructure on an unimaginable scale, the New York Building Congress released a policy agenda that calls for immediate action on projects that will provide the city future resiliency not only against climate change itself, but specifically against the most extreme weather events.

“No one who lived through Superstorm Sandy will ever forget seeing entire neighborhoods of our city literally in ruins in the aftermath of its arrival to the NY/NJ region on Oct. 30, 2012. Never again can we allow ourselves to be caught unaware like that,” said Carlo A. Scisura, president and CEO, New York Building Congress. “The steps our current and previous administrations have taken are bold and necessary, but we can never stop thinking ahead. We can never assume that we’ve done enough. To that end, the Building Congress is proud of the proposals we put forth today as the next in a continuing process of fortifying our city. At the same time, we aim to make it more accessible and equitable to all.”

He added, “These proposals do not represent the sum of what we believe is possible—or necessary—but we look forward to working with elected officials to keep this conversation around resiliency open, 24/7/365—just like our great city.”

“When New Yorkers suffered the devastation of Superstorm Sandy, our members and the entire real estate and building industries came together in support of our local communities,” said Ralph J. Esposito, president, chair, New York Building Congress and president, Northeast and Mid-Atlantic Region at Suffolk. “Today, we can see the results of those efforts in new boardwalks, rebuilt roadways and seawalls, and subway tunnels. We helped rebuild this great city. But our work is far from complete. The Building Congress will continue to work closely with our communities to raise our level of competitiveness by advocating for more housing, strengthening businesses and improving infrastructure to position us for success in the next ten years and beyond.”

The agenda has received the support from the New York League of Conservation Voters, Building and Construction Trades Council of Greater New York and ACEC New York.

The Building Congress’ top priorities for city, state and federal government initiatives around a greener, stronger New York, include:

New York City

- Urge the Mayor’s Office of Climate & Environmental Justice to unveil a new strategic plan for climate adaptation in New York City by the end of 2022.

In accordance with LL 122 (2021), the Mayor’s Office of Climate & Environmental Justice is supposed to release a new strategic plan by the end of this year. The plan will evaluate the relative impacts of New York City’s climate hazards, evaluate, and incorporate the latest findings of climate science and lay out and build support on a climate adaptation strategy to be implemented from 2022 to 2050.



The Brooklyn Battery Tunnel flooding in the aftermath of Superstorm Sandy.

- Effectively utilize state and federal funding sources to support resiliency projects.

According to a recently re-

leased City Comptroller report, New York City still has \$4 billion in unspent federal grants appropriated for Sandy recovery

and resiliency—a portion of which will be lost if not spent by 2025. The Building Congress urges the city to prioritize these projects and protect the billions of dollars in critical infrastructure and real estate that is still at risk in the 100-year flood plain.

This includes laying out the local share of funding that projects such as: the Brooklyn Bridge-Montgomery Coastal Resilience, Seaport Coastal Resilience, The Battery Coastal Resilience and the Battery Park City Resilience projects (South, North & West).

- Commit funding to parks, green infrastructure and other creative solutions that relieve

Please turn to page 20

Protecting Your Priorities®
since 1969

Levitt-Fuirst has grown to become one of the largest independent insurance agencies in the tri-state region specializing in the construction and real estate industries. We understand the unique insurance-related service expectations of these industries.

Our 75-person staff includes a special team of skilled professionals dedicated to being the one-stop shop for all your insurance and bonding needs. We established and continue to manage Safety Group 458, a Workers Compensation safety group that can save your company up to 45% on Workers Comp premiums.

To learn more about how Levitt-Fuirst can help meet your insurance needs, please call **914-457-4200** or email info@levittfuirst.com.

Group Discounts: Up to 45% off Workers Comp Insurance premiums

Complete Insurance & Bonding Solutions: Liability, property, auto, equipment, workers comp and bonding

The “Independent Agent” Difference: Our client relationships span generations

Insurance Certificates: Fast and accurate delivery and 24/7 access to get you on the job ASAP

Boutique Insurance Services: Customized insurance and bonding programs to fit your company’s unique needs

levittfuirst.com
914-457-4200

SAFETY GROUP
ENDORSED BY

BIRI The Builders Institute
The Building & Realty Institute
of Westchester & the Mid-Hudson Region

NY Building Congress Releases Ambitious Resiliency Agenda

Continued from page 19
pressure on our aging sewer and drainage systems.

Expanding greenspace not only improves the quality of life for New Yorkers but can play an important role in resiliency efforts. Investing in green infrastructure can help manage stormwater on a regular basis. The Building Congress encourages the Adams administration to commit 1% of the city's budget to the Department of Parks and Recreation, with a focus on increasing green space in our most vulnerable communities.

- It is also calling on New York City to design and construct (or expand on an existing one) a major new park in every borough over the next decade. This effort should specifically focus on historically underrepresented areas, low-income communities and "park deserts."

New York State

- Expedite major resiliency infrastructure projects.

Many infrastructure projects that promote environmental justice and protect New Yorkers have been tied up in bureaucratic processes. New York State must remove such

roadblocks, including exempting certain resiliency projects from SEQRA/CEQR review, and expanding New York City's access to alternative project delivery methods to speed up construction of these projects.

- Establish a permanent Office of Flood Prevention and Mitigation.

Portions of the state's flood mitigation and prevention programs live within various state agencies and commissions. The Building Congress supports legislation such as S7581/A9190, which would establish a permanent Office of Flooding Prevention and Mitigation. This would better streamline recovery efforts and allow for better coordination between the state and local governments on these resiliency projects.

- Legalize and regulate Accessory Dwelling Units (ADUs).

Following Hurricane Ida in September 2021, 11 New Yorkers lost their lives in illegal basement apartments. The Building Congress encourages the state to work with local leaders to create local ADU laws. This includes regulating these apartments to ensure they are safe from the threats of extreme

weather.

The Federal Government

- The organization urges the US Army Corps of Engineers in coordination with its state and city partners to fully fund and break ground on Alternative 3B, or the selected plan as a result of the NY & NJ Harbor & Tributaries Focus Area Feasibility Study (HATS).

- All projects that receive funding through the IIJA should consider the impacts of climate change, and be designed to prioritize green space and resiliency, with an eye toward the next 100-year flood. Ensuring that any new infrastructure built can withstand unforeseen natural disasters is just as important as retrofitting current roads, tunnels and bridges, the Building Congress stated.

"With authority comes responsibility, and as we mark the 10 years since Superstorm Sandy—New York City's great wake-up call—there is no more important task for our elected officials than to ensure that we are prepared for the next natural disaster," said Julie Tighe, president of the New York League of Conservation Voters. "That means planning,

and it also means pulling out all the stops to mitigate damage where we can and streamline recovery efforts so we can rebuild smartly and rapidly. That's exactly what this agenda from the New York Building Congress calls for and the New York League of Conservation Voters commends them for their leadership on this issue."

"On this 10-year anniversary of the devastation brought by Hurricane Sandy, it's evident now more than ever that continued focus must be put on investing in projects that fortify our city's infrastructure while creating thousands of good-paying jobs in the process," said Gary LaBarbera, president of the Building and Construction Trades Council of Greater New York. "We thank the New York Building Congress for providing these recommended solutions that not only boost resiliency to climate change and ensure we're prepared for the next superstorm, but also promote initiatives that provide New York's hard-working people with sustainable middle class career paths. We look forward to continuing our efforts to support these projects that

harden our city from natural disasters and improve the lives of all New Yorkers."

"As we ponder the 10th anniversary of Sandy, we pause to reflect on all we have learned in the aftermath of such a disaster," said John Evers, President and CEO of ACEC New York. "As problem solvers, the engineering community has made it a priority to design for, and be prepared in case of, new threats from nature such as Sandy. We join with our construction industry colleagues in pausing to remember Sandy and its impact, and then focusing intently to design, build and strengthen New York's infrastructure and buildings now and into the future. We join the Building Congress in reassuring the public that through study and recommendations brought forth, we are ready to help protect against such an impact again on New Yorkers."

The New York Building Congress is a broad-based membership association celebrating its 101st year that is committed to promoting the growth and success of the construction industry in New York City and its environs.

Galleria at White Plains Redevelopment Taking Shape with New Partners

WHITE PLAINS—The long-promised redevelopment plan for The Galleria at White Plains, which was the focal point of the urban renewal of the downtown district in the late 1970s and early 1980s, is taking shape.

The owner of the 870,000-sq-ft, four-level retail property—Pacific Retail Capital Partners and Aareal Bank—announced Nov. 3 it was bringing on new joint venture partners—SL Green Realty Corp. of New York City and the Cappelli Organization of White Plains to "explore mixed uses" and "rebalance the mix of uses" for the property that has fallen on hard times. Two of the chief anchors—Macy's and Sears have both shuttered stores there. Pacific Retail Capital Partners is headquartered in El Segundo, CA, and Aareal Bank is based in Wiesbaden, Germany.

Both Macy's and Sears closed anchor stores at the Galleria at White Plains in the first quarter of 2021. Pacific Retail Capital officials said it plans to close a portion of the mall early next year in connection with its redevelopment plans that many observers believe will be tilted

heavily toward residential use.

"This is one of the most exciting mixed-use development sites in the New York Metro area," said Steve Plenge, chief executive officer of PRCP. "We have worked over the past few years to acquire the Macy's fee interest at the site, along with the leasehold interest of the former Sears. Working with our new partners, we will reimagine the site as a vibrant mixed-use project that will be centered on residential development and amenity-based retail."

No financial terms of the joint venture partnership were released. Macy's sold its White Plains store to Pacific Retail Capital in 2019 for \$27 million, according to the *Journal News*. In its announcement, Pacific Retail Capital stated that with its new partners it "is dedicated to creating a unique and strategic vision through master planning efforts and cutting-edge design for the Galleria at White Plains to transform it for the next generation."

—John Jordan



Plans for the redevelopment of the Galleria at White Plains will likely involve the demolition of the existing mall. Definitive plans have yet to be filed with the City of White Plains, but a massive mixed-use project is expected to be proposed.

Advertising in

Construction
NEWS

Doesn't Cost!
It Pays!

Call 914-631-6070
for information.

Careers for Building a Better World

HUDSON VALLEY CONSTRUCTION CAREER DAY

March 31, 2023

Students will participate in hands-on activities, supervised by professionals that introduce them to the vast career opportunities and unlimited potential for advancement within the construction industry.

Sponsor the 23rd Annual Career Day. For information on sponsorship & how to get involved contact Sharon Regan Masciovecchio: sharon@cicnys.org, 914-631-6070

Construction Industry Council - Building Contractors Association
629 White Plains Road, Tarrytown, NY - 914-631-6070 cicbca.org

WHAT'S NEW & WHO'S NEWS

Grassi Adds Fox to Real Estate Practice

NEW YORK—Evan Fox, CPA, JD, LLM, has joined Grassi as a Tax Partner in the firm's Real Estate Practice, the firm announced on Nov. 14.

His expertise covers a wide range of real estate funds and transactions, including 1031 planning, financial analysis for acquisitions/sales, joint ventures, UPREIT formation, mergers, spin-offs, reorganizations, and financings, for a wide array of clients such as leading real estate owners, operators, investors, institutional funds, REITs, and developers. Mr. Fox has served clients with a broad scope of operations, including residential, commercial, retail, hospitality, mixed use, industrial and infrastructure. Fox also has experience in the affordable housing sector. He recently has been involved in structuring and consulting clients on the implementation of Qualified Opportunity Funds.

Mr. Fox has nearly 15 years of experience working across various industries including real estate, insurance, manufacturing, law firms, technology companies, and investment management. Most recently, he was a Tax Leader at a national accounting firm, and previously, a principal at a leading midsize firm based in New York.

Mr. Fox is a Certified Public



Evan Fox, CPA, JD, LLM

Accountant and is licensed in New York State as an Attorney. He obtained his Juris Doctor from Brooklyn Law School, Master of Laws from New York University School of Law, and Bachelor of Science in Economics from the University of Michigan. In 2020, *New York Real Estate Journal* recognized Fox as "One to Watch."

Grassi, is the 57th largest accounting firm in the nation and is a leading provider of advisory, tax and accounting services to businesses and individuals. The firm maintains offices in New York, Jericho, Ronkonkoma and White Plains, NY; Park Ridge, NJ; Needham, MA; and Palm Beach, FL.

New \$300 Million in State Grant Awards To Target Water Infrastructure Projects

Continued from page 3

existing town park. This project will provide additional storage during wet weather events to alleviate flooding and help to improve the water quality of the Brentwood Brook.

New York City's Department of Environmental Protection will receive \$3 million in funding for the Southeast Queens Green Streets project that will transform multiple streets into green streets in Jamaica Queens. The city will retrofit the medians with bioretention and stormwater street trees to help reduce localized flooding and combined sewer overflows.

EFC has awarded more than \$39.4 million to Mid-Hudson municipalities in WIAA and IMG grants. The investment is projected to save Mid-Hudson localities an estimated \$172.3 million.

List of Mid-Hudson Project Awards

- **Dutchess County** WWA, Greenfields Water Interconnection Project, Dutchess County, **\$4,550,086.**
- **Village of Nyack**, PFAS/PFOA Treatment at the Nyack Water Plan, Rockland County, **\$2,777,394.**
- **Village of Pawling**, Phase II - Lower Baxter Wellfield De-

velopment and Construction, Dutchess County, **\$1,280,400.**

- **City of Peekskill**, Sewer and Pump Station Improvements Project, Westchester County, **\$1,075,000.**
- **Village of Port Chester**, Sanitary Sewer Rehabilitation Westchester County, **\$4,012,713.**
- **City of Port Jervis**, Port Jervis WIIA 2022, Orange County, **\$4,562,500.**
- **Town of Poughkeepsie**, Design and Construction of the Hudson Heritage Sewer District, Dutchess County, **\$1,521,568.**
- **Village of South Blooming Grove**, Water System Improvement Project, Orange County, **\$4,702,657.**
- **Town of Thompson**, Emerald Green WWTP Upgrade & Expansion Project, Sullivan County, **\$3,363,899.**
- **Town of Thompson**, Sackett Lake Sewer District Collection System Improvement Project, Sullivan County, **\$421,281.**
- **Westchester County**, Yonkers Joint TP - Odor Control and HVAC Upgrades, Westchester County, **\$6,203,611.**
- **Westchester Joint Water Works**, Rye Lake Water Filtration Plant, Westchester County, **\$5,000,000.**

New Rochelle Names Kathleen Gill City Manager, to Succeed Strome

NEW ROCHELLE, NY—The New Rochelle City Council named Kathleen Gill to serve as New Rochelle's next City Manager. Ms. Gill will take office on Jan. 1, 2023, following the retirement at the end of this year of long-serving City Manager Chuck Strome. The council's selection completes a nationwide recruitment process that included interviews with multiple candidates.

Ms. Gil's appointment was announced by the City of New Rochelle on Nov. 29.

Ms. Gill steps up in her new role with a lengthy track record of service to the City of New Rochelle where she has been involved in many aspects of municipal administration, according to the City. She joined city government in 1995 as assistant corporation counsel, involved in the challenges of planning and real estate development matters. She was promoted the following year to deputy corporation counsel, a position she held until she became corporation counsel in 2009. In 2015 she was named chief of staff, and was promoted in 2022 to the position of deputy city manager—the role she currently holds.

During her varied career, she has also served as General Counsel to Iona College (now University) and in private legal practice.

"I have known Kathleen for 27 years and have been consistently impressed by her intellect, energy and determination to get things done," New Rochelle Mayor Noam Bramson said in a statement. "She has been a valuable asset to



Kathleen Gill

the city government, with progressively larger responsibilities, and an unmatched depth and breadth of knowledge about municipal challenges and opportunities. For these reasons, Kathleen is well-positioned to extend New Rochelle's positive progress on multiple fronts. I look forward to working with her to ensure that the coming year—her first as City Manager and my last as Mayor—is successful, both for her new leadership team and for our community as a whole."

Ms. Gill holds a Juris Doctor degree from Pace University Law School, a Master of Science in Urban Planning and Environmental Science from Rensselaer Polytechnic University, and a Bachelor of Arts in Government from Skidmore College.



The Williamsburg Bridge

Skanska USA Awarded \$167 Million Williamsburg Bridge Rehab Project

NEW YORK—Skanska USA, a leading global construction and development firm, announced on Nov. 7 it had been awarded a contract by the New York City Department of Transportation to carry out the \$167-million rehabilitation of the Williamsburg Bridge, providing needed improvements and replacement of aging components across the structure.

The project will significantly improve transportation flow across one of the major crossings of the East River, connecting Brooklyn to Manhattan.

"We're thrilled to be providing infrastructure improvements to one of New York City's vital East River crossings, which serves thousands of commuters each day, to and from Manhattan and Brooklyn," said Bill Matre, senior vice president and general manager for Skanska USA Civil.

The rehabilitation includes structural steel repairs throughout the bridge superstructure, inclusive of floor beam repairs, a transit hanger retrofit and temporary jacking system, gusset plate repairs, truss bottom chord repairs, top and bottom lateral bracing strengthening, overhead truss diagonal replacements, intermediate towers repairs and transit stringer repairs.

Additionally, the project includes the replacement of modular joints at the anchorages and approach piers and bearing rehabilitation at approach piers, a full replacement of the bridge fire standpipe system and the replacement of the existing bridge asphalt overlay system.

The project commenced in October 2022 and is expected to reach final completion in December 2025.

Advertising in **Construction NEWS** *Doesn't Cost! It Pays!*
Call Sharon at 914-631-6070 for information.

LOW BIDS

Nassau Rental, Argenio Brothers, Rover Win NYS DOT Projects

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

Nassau Rental & Supply Corp. of Astoria, NY was the lowest of four bidders at \$7,729,331. for bridge washing contract at various bridges in the Bronx, Kings, New York, Queens and Richmond counties.

Argenio Brothers Inc. of New Windsor, NY was the lowest of four bidders at \$1,052,052. for landscape improvements contract at various locations in Dutchess, Orange, Rockland, Ulster and Westchester counties.

Rover Contracting Inc. of Highland, NY was the lowest of eight bidders at \$5,842,400. for bridge painting at various locations in Dutchess, Orange, Rockland and Westchester counties.

Restani Construction Lands New England Thruway Job

ALBANY—The New York State Thruway Authority reported **Restani Construction Corp.** of Astoria, NY was the lowest of three bidders at \$61,788,018.25 for resurfacing a portion of the

New England Thruway from milepost NE 0.0 to milepost NE 4.0 NB and SB, including the rehabilitation of 13 bridges, in the Bronx and Westchester counties.

Green Mountain, Mace Contracting Secure Westchester DPW Work

WHITE PLAINS, NY—The Westchester County Department of Public Works recently announced the selection of two apparent low bidders for work at county facilities.

Green Mountain Pipeline Services Inc. of Bethel, VT was the lowest of four bidders at \$8,810,752. for Phase II—sewer system reha-

bilitation, various sanitary sewer districts in Westchester County.

Mace Contracting Corp. of New Rochelle, NY was the lowest of five bidders at \$4,617,000. for Tarrytown pump station rehabilitation—Phase II of the Saw Mill Sewer District in Tarrytown, NY.

ALBANY UPDATE

Thruway Begins \$5.2M Pavement Improvement Project in Ulster

ALBANY—The New York State Thruway Authority announced recently the start of a \$5.2-million pavement improvement project on the New York State Thruway (I-87) in Ulster County. The work will cover nearly 10 lane miles near exit 18 (New Paltz - Poughkeepsie - NY Route 299), a corridor in New Paltz traveled on average by more than 40,000 vehicles daily.

“Pavement improvements strengthen our infrastructure and continue our commitment to providing a safe and reliable riding experience for the thousands of motorists who travel this Hudson Valley stretch every day,” Thruway Authority Executive Director Matthew J. Driscoll said. “The Thruway system is supported by user fees and our priority is to smartly reinvest our toll revenue in projects to ensure that we have a roadway that is built to last.”

The project includes rebuilding the pave-

ment by performing full-depth repairs followed by mill and inlay operations to a two-inch depth on a more than two-mile stretch (between milepost 74.1 to milepost 76.5), both northbound and southbound, and adding new reflective line striping. The project will begin with full-depth pavement repairs, meaning crews will remove and replace the most deteriorated portions of the roadway down to its subbase. The repairs improve the new roadway’s structural integrity. Crews will also address less stressed areas of the roadway by grinding down the asphalt and filling in any ruts to level off the roadway surface. The installation of the asphalt overlay, the last step in providing a smoother ride for motorists, will occur next construction season.

DA Collins Construction of Wilton, NY is the project contractor. All work is expected to be completed by the summer of 2023.

Building at Long-Shuttered Hospital Site Scheduled to Start in 2023

Continued from page 1

tion. The firm sold the site to partners Rose Associates and BedRock Real Estate Partners of New York City on June 28, 2019. No financial details of the transaction were disclosed.

The original estimated \$450-million Starwood Capital Group plan called for 90,000 square-feet of street-level shops and restaurants, an approximately 135-room hotel, 217,000 square-feet of office space, 500 residential units designed for young professionals, 230 units of age-restricted senior residential, on-site parking and nearly an acre of publicly accessible open space.

In the past year, Rose Associates has seen its number of units under management increase to more than 21,000.

The company is no stranger to Westchester County, currently building the \$203-million 440 Hamilton Ave. mixed-use project in White Plains, and the \$177-million multifamily residential project at 57 Alexander St. in Yonkers and 8 Court Square in Long Island City.

In addition, Rose recently reported that it is assisting Global Holdings with the development of One West 60th St. and redeveloping 301 East 94th St. with Marmara Group in New York City.

Founded in 1925, Rose Associates is a New York City-based developer, owner and operator of premium residential properties. The firm oversees more than 26,000 units across New York, with approximately \$2 billion in projects under develop-

Safety Watch

ing. The manual is organized into 25 safety topics, including excavations, fall protection, stairways and ladders. The manual specifically set forth that no one should enter into an unprotected trench with a depth greater than five feet, unless protected by a trench box, or the sides of the trench are sloped back. Ladders must be set-up with side rails extending a minimum of 36 inches above the landing. Abrams also employs four safety coordinators who are dedicated to safety, training, auditing of worksites for safety compliance and investigating incidents. The foreman had received excavation training about four or five times during his tenure, as well as interactive training.

Meanwhile, Abrams conducts every Monday a 30-minute safety meeting for its staff at every active project where attendance is documented by the signing the Supervisor’s Safety Training Report attendance sheet. Moreover, each day a foreman has a five-to-10-minute meeting with the crew to go over the work plan and necessary safety measures.

However, Abrams failed to prove that it took steps to detect violations to its safety rules, and it did not ensure enforcement and consistent discipline. According to its policies, Abrams’ safety coordinator was required to audit each project at least once per month. If any safety violations are found, the project’s superintendent would be notified so that violations are corrected

Continued from page 13

immediately. Each month, the safety coordinators should report the results of their audits to their management team that would include safety issues and their remediation. However, no documentation of the audits or reports were submitted. The fact that no safety coordinator came to the project on the prior day, as a result of the crushed pipe flooding in the trench, suggested that the safety coordinators did not consistently respond to near misses.

According to Abrams, employees who failed to follow their work rules were disciplined either by verbal warning, suspension or termination depending on the nature and severity of the violations. Here, the only offered examples of such discipline were that the Abrams’ foreman and worker (in the trench) were suspended for a week without pay following the OSHA inspection. Such post-inspection discipline alone is not sufficient, and no further evidence was submitted of any discipline or enforcement action as a result of its discovery of violations at a worksite.

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

Attorney’s Column

Continued from page 6

to clarify parties’ desires as to what is to be enforceable (and other subjects) so that courts do not ultimately err in setting forth what the parties may, or may not, have intended.

About the author: Thomas H. Welby, an attorney and licensed professional engineer, is General Counsel to the Construction In-

dustry 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 metropolitan region. Gregory J. Spaun, General Counsel to the Queens and Bronx Building Association and an attorney and partner with the firm, co-authors this series with Mr. Welby.

\$100-Million Movie Studio Project Proposed for Hudson River Village

Continued from page 18

of Hastings, Mr. Hahn noted. The firm is not seeking any tax abatements in connection with the project.

Mayor Armacost said that the Board of Trustee’s initial view of the project is favorable, but she suggested that Electric Owl meet with key stakeholders from the community so that it can address any issues they have. If a zone change is secured, the applicant would then have to seek site plan approval from the village before construction could begin.

Mr. Hahn said that Electric Owl, which has already secured some financial commitments for the Hastings studio project, would like to close on the purchase of the property and begin construction in 2023.

In September 2021, Electric

Owl sold its studios on a former General Motors site in the Atlanta suburb of Doraville, GA for \$27.5 million, according to a report in the *Atlanta Journal Constitution*. Electric Owl has commenced construction on its new studio project in Atlanta that will total 320,000 square feet. Those facilities should be open and operational in May 2023, Mr. Hahn said.

Electric Owl had considered properties in Brooklyn and elsewhere in the Hudson Valley. Mr. Hahn said, “But, at the end of the day, we love this town. We love Hastings-on-Hudson.”

If the project is approved by the village, it will join a host of movie-studio ventures in the Hudson Valley, most notably the 500,000 sq.-ft. Lions Gate Studios in Yonkers.



BUILT BETTER	BUILT SAFER	BUILT UNION
---------------------	--------------------	--------------------

Eastern New York Laborers District Council:

Samuel Fresina, Business Manager

LOCAL 17, NEWBURGH, L. Todd Diorio, Business Manager

LOCAL 60, WESTCHESTER, Anthony Ascencao, Business Manager

LOCAL 157, SCHENECTADY, Ian Joshua Shaul, Business Manager

LOCAL 190, ALBANY, Anthony Fresina, Business Manager

LOCAL 235, WESTCHESTER, Dario Boccarossa, Business Manager

LOCAL 754, ROCKLAND COUNTY, Stephen Reich, Business Manager

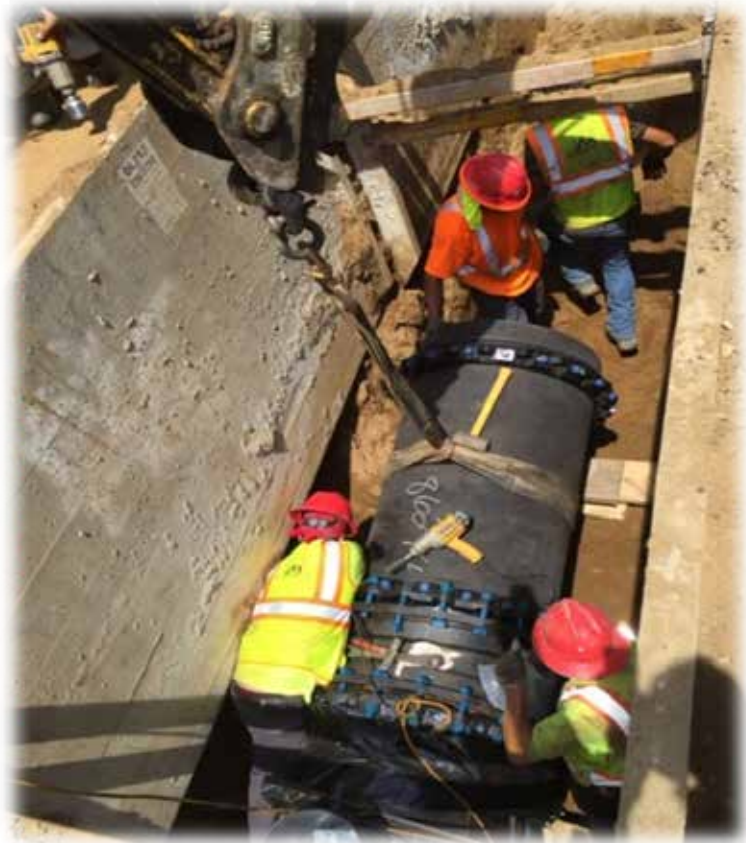
The NYS Laborers offer:

- ✓ Quality workmanship
- ✓ Faster completion of projects
- ✓ State-of-the-art skills training
- ✓ OSHA-approved safety programs
- ✓ Certified environmental and hazardous waste workers
- ✓ Established member benefit programs
- ✓ Productive alliances



668 WEMPLE ROAD, Glenmont, New York 12077
PHONE: (518) 462-9350 | FAX: (518) 462-9359

Laborers’ International Union of North America, Local 60



- Anthony Ascencao.....Business Manager
- Frank Bisignano..... President / Training Director
- Carlos Gonzalez..... Vice President / Training Instructor
- Michael MoreiraSecretary Treasurer / Field Representative
- Jacinto FragosoRecording Secretary / Field Representative
- Andrew Ferraro..... Executive Board Member / Training Instructor
- Joseph Scipioni Executive Board Member

140 Broadway, Hawthorne, NY 10532
914-769-0300 • www.liunalocal60.com