



# Construction NEWS



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## No Recession Looming in Construction Despite Vexing Headwinds of Inflation, Labor Shortages

By JOHN JORDAN

TARRYTOWN—Armies of economic pundits appear mixed in their predictions about where the U.S. economy is going in 2024. Is it heading into recession or to a soft landing? But they're in lockstep that the construction sector will continue to be a beacon of profitability and job creation over the coming year. Look elsewhere if you're looking for a recession.

In a recently released quarterly survey conducted by the *Wall Street Journal*, business and academic economists lowered the probability of a recession within the next year, from 54% on average in July to a more optimistic 48%. That is the first time they have put the probability below 50% since the middle of last year.

While those figures cannot be characterized as anything but mixed, New York City/Hudson Valley construction industry executives are in agreement

that the construction and building sectors will continue to fare well in 2024, despite international, national and local headwinds, including the war in Gaza, high interest rates, inflation, a troubled housing market and labor shortages in many industries.

Gus Scacco, Chief Investment Officer and CEO of Goshen, NY-based Hudson Valley Investment Advisors, Inc., during a recent webinar, pointed to the construction sector as one reason why the nation will not enter a recession in 2024.

"We've been hearing about how we are going into a recession for over a year, and the data does not support that," Mr. Scacco said. "Here are the reasons why: construction, as well as consumer activity, is very strong; the GDP continues to power ahead; inflation is coming down substantially; interest rates are calming; supply-chain levels have normalized; housing prices have

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Port Authority Executive Director Rick Cotton noted that the massive \$19-billion project at JFK Airport to replace six old terminals with four much larger state-of-the-art terminals—along with overhauling the airport's road network—will contribute to the region's robust construction activity over the next four to five years. A new building is also planned, see page 21.

Photo courtesy/PORT AUTHORITY

## Latimer Proposes \$474M Capital Budget

By JOHN JORDAN

WHITE PLAINS—Westchester County Executive George Latimer and administration staff released on Oct. 17 a \$473.7-million proposed 2024 Capital Budget that is highlighted by significant road and bridge projects, millions of dollars in flood mitigation work, \$50 million for affordable housing property acquisition and infrastructure improvements as well as \$160 million earmarked for sewer, water and refuse districts in the county.

The 2024 capital budget, which is Mr. Latimer's sixth, also includes investments in electric vehicles and charging infrastructure, the continued rehabilitation of the Bronx River Parkway Rehabilitation and improvements to the

Westchester County Center and flood mitigation. The 2024 Capital Budget provides \$301.6 million in general county purpose spending.

"Westchester County's future is built on a foundation of progress, resilience and sustainability. Our 2024 Capital Budget, the sixth of its kind under our stewardship, paves the way for a brighter tomorrow," Mr. Latimer said. "With investments in affordable housing, electric vehicles and critical infrastructure, we are forging a path toward a more inclusive and environmentally conscious future."

When discussing the county's roads, Mr. Latimer said he wished he could make improvements to all county-owned and maintained roads, but noted



From left, Westchester County Executive George Latimer, Deputy County Executive Ken Jenkins, Budget Director Lawrence Soule and County Legislator Jewel Williams Johnson

that the 2024 budget involves the next phase of the county's road improvement efforts.

County Budget Director Lawrence Soule noted, "This capital budget continues the Latimer Administration's commitment of investing in critical infrastructure, creating additional units of affordable housing and promoting environmental sustainability."

Some of the highlights of the of the 2024 capital plan include: **Parkways / Bridges / Roads**

The most significant project to be funded in 2024 is the Bronx

River Parkway Rehabilitation Program, which will receive \$18.82 million towards the total project cost of nearly \$82 million. The 2024 capital monies will fund the rehabilitation on the Bronx River Parkway from the Bronx/Westchester Line to the Kensico Circle. The project will provide a life span of 15 years to 20 years on the asphalt roadway surface, county officials stated.

The county is proposing a total of \$19.1 million in road and bridge work in 2024, broken down as \$4.97 million in bridge

projects and \$14.14 million in road work.

The most significant bridge project involves \$3.5 million in funding for the replacement of the Tuckahoe Road Bridge over the Bronx River Parkway in Yonkers (total project cost: \$4.4 million).

The largest road project is at Old Mamaroneck Road in White Plains, which is to receive \$4 million in the 2024 capital budget.

Other notable road and bridge work included in the 2024 Capital Budget proposal are:

**Bridges:** NYS Route 22 over Armonk Rd, North Castle, \$1.046

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# Mixed-Use \$2.5-Billion Redevelopment Proposed for Galleria Mall in White Plains

By JOHN JORDAN

WHITE PLAINS—In what is clearly the most anticipated development proposal to hit the desks of city leaders in decades, Pacific Retail Capital Partners, The Cappelli Organization, SL Green Realty Corporation, and Aareal Bank, owners of The Galleria at White Plains, presented a \$2.5-billion redevelopment plan for the property to the White Plains Common Council on Sept. 28.

The ownership stated that the plan, if approved as submitted, would entail the largest conversion of an enclosed shopping mall into a mixed-use residential and retail use, along with open space, in the New York metro region.

The plan calls for the demolition of the 43-year-old shuttered Galleria at White Plains shopping mall and the development of seven residential towers of varying heights that would feature up to 3,200 apartments including 384 that would be designated as affordable in accordance with the City of White Plains Affordable Rental Housing Regulations. The submission to the City Council calls for a zone change of the property.

The buildings would combine state-of-the-art technology and building systems with amenity-based retail for the residential units including fitness, grocery, dining, professional and personal services. The District Galleria is being designed as a sustainable project, meeting the silver LEED standard of high-energy efficient building materials, the building ownership stated.

Nearly half of the project's footprint is designated as open space that would break down existing barriers and create a quarter mile-long green promenade complete with pet playgrounds, pocket parks and lush landscaping for community gatherings, outdoor events, public entertainment, and art.

The District Galleria would also feature a garden promenade designed to link the adjacent neighborhoods at eight different access points.

Anmarie Plenge, Executive Vice President of Design for PRCP, is the Master Architectural Designer of the project. Plenge brings more than 27 years of professional experience master planning large-scale mixed-use projects and is collaborating with world renowned architectural design and planning firm Gensler, along with Kimley Horn and Eric Rain Landscape Architecture to design the project.

"Experience driven mixed-use environments appeal to people's desire for connection and belonging. They are poised to be the key in reviving our communities' urban centers. The evolution of an enclosed mall to an open-air mixed-use development with the unified vision of The District Galleria is pivotal in evolving real estate for the next generation," said Najla Kayyem,



**The District Galleria plan would involve seven tower buildings and up to 3,200 apartment units, including 384 units designated as affordable.** Photo Credit/PACIFIC RETAIL DESIGN

Executive Vice President for Pacific Retail Capital Partners.

In 2022, Pacific Retail and Aareal Bank developed a joint venture partnership to undertake the redevelopment of the Galleria at White Plains site with

New York City-based SL Green Realty Corporation and the Cappelli Organization, which is headquartered in White Plains.

"As an urban renewal project that began more than 50 years ago, the reimagining of

this property is integral to the transformation of Downtown White Plains, which began in earnest over 20 years ago with City Center. The District Galleria will go a long way in making our local community more

enjoyable, desirable, sustainable, and resilient," said Chief Executive Officer/Founder of the Cappelli Organization, Louis Cappelli.

With the new plan submitted, what had been the two major shopping centers in Downtown White Plains—The Galleria White Plains and the White Plains Mall, will now be redeveloped into mixed-use developments that will add a significant amount of rental apartments to the downtown district. In addition to the 3,200 apartments to be built in the District Galleria, at full build-out the White Plains Mall project will feature four residential tower buildings that will total 860 rental units, including 78 affordable units, open space as well as approximately 84,000 square feet of retail space. Construction began on that \$650-million project in December 2022.



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# Lt. Gov. Delgado Touts Infrastructure Projects At CIC-BCA Fall Membership Meeting Oct. 12

TARRYTOWN, NY—In the 47-year history of the Construction Industry Council, there has never been a guest speaker at an annual membership meeting quite like the one last week—someone with a resume that lists experience as a U.S. congressman, a lieutenant governor, a Rhodes Scholar, a Harvard-trained lawyer and a hip-hop artist.

Yet, there he was, New York State Lt. Gov. Antonio Delgado, introducing himself to more than 100 members and guests of the trade association and leaders of organized labor at the CIC-BCA 2023 Fall Membership Meeting on Thurs., Oct. 12, at the Sleepy Hollow Hotel here in Westchester.

Prior to listing projects and programs that the Hochul administration is now working on, he introduced himself to the industry audience by explaining that his state roots run



**New York State Lt. Gov. Antonio Delgado spoke to some 100+ members and guests of the CIC and BCA trade association memberships, offering an optimistic outlook for the construction industry.**

Photo Credit/ED CODY

deep, having grown up in Schenectady, NY, where his parents worked for General Electric. He now lives in Rhinebeck with his wife and twin sons. His appointment by Gov. Kathy Hochul in May 2022 to serve as her second in command, followed

four years in Washington as the House Representative from New York's 19th Congressional District.

His run for Congress was a significant win, he explained, because of the natural and unnatural headwinds and diverse composition of the district. He was the first person of color to represent upstate New York in Congress. "It's the eighth most rural district in the Congress, with 5,000 family-owned farms," he explained. He also noted it is an election district that Donald Trump won two years earlier, in 2016, by seven percentage points.

Apparently, the bruising campaign for the congressional seat paid off. "My opponents showed me wearing a hoodie, made me out to be a thug." The Mr. Tough Guy image apparently plays well once you get to Congress because he arrived with helpful experience and grass-roots insights, and he acted quickly. He served as chairman of a House agriculture subcommittee as well as the House Transportation & Infrastructure and Small Business committees, the latter of which is in line with the more than 27,000 small business en-

terprises in the congressional district.

He pointed to his record of bipartisanship and accomplishment in the House, noting, "I delivered 18 bills that were signed into law—10 under Trump, eight under Biden."

When the pandemic hit, he was successful in securing federal support for frontline and essential workers and small businesses through essential loan repayment relief for small enterprises. His Direct Support for Communities Act delivered \$10.8 billion to New York State counties, cities, towns and villages for economic recovery.

He has a rare perspective as having been both a part of creating the \$1.2 trillion IIJA bipartisan infrastructure law and is now back at the state level where he directly sees the impact that law is having.

He pointed to the 800,000 good-paying jobs the law will create nationally as well as what's needed: lots of project work and programs. He said 80% of the roads are in disrepair, noting that old 19th century water systems made from wood, still in use today, can finally be replaced.

"New York is getting significant funding to repair our highways, our bridges, our transit, roads, water, broadband, clean drinking water," Mr. Delgado said. He noted there are 1,700 bridges and 7,000 miles of highway in poor condition that can finally be upgraded through the \$11 billion in federal aid apportioned for programs and \$2 billion in bridge replacement.

"Public transportation also benefitted mightily from this infrastructure bill, he added. "In 2021 New Yorkers were spending an extra 58% of their time commuting, and he pointed to a significant percentage of transit vehicles that were beyond their

useful life.

In a nod to the members of organized labor at the meeting, Lt. Gov. Delgado explained that the infrastructure bill has provisions that "expressly provide that Davis-Bacon labor standards apply to all construction projects receiving funding by the particular programs created by and through the law."

Pivoting into an area of unvarnished truth—harkening back to his days as a hip hop producer—he urged the audience to be vigilant in holding political leaders accountable for their pledges and their actions. He denounced leaders and those in positions of power who fan the flames of hate, and who are doing it for their own benefit to ascend in power. Those leaders are toxic, he said, causing pessimism and cynicism...and people start checking out."

"What upsets me, to be candid with you, are people who walk around and call themselves leaders in the name of public service and fail intentionally in this regard. If you're a leader, a political actor, or a public servant, this is your job. Otherwise, why are you here? Get out."

He concluded, "My plea to you is to really start sizing people up who call themselves leaders. Really size them up. Forget the left-right stuff. Just ask yourself, is this person the real deal, does this person actually give a damn? Does this person really care about me and my family or is he or she just blowing smoke.... We need to elevate the bar. It has become very easy to lie and get away with it. And not suffer the repercussions. Don't accept the BS. Don't accept it. Hold folks' feet to the fire. Hold my feet to the fire. Enough with the gamesmanship, enough with the nonsense. I'm with you, I care about you."

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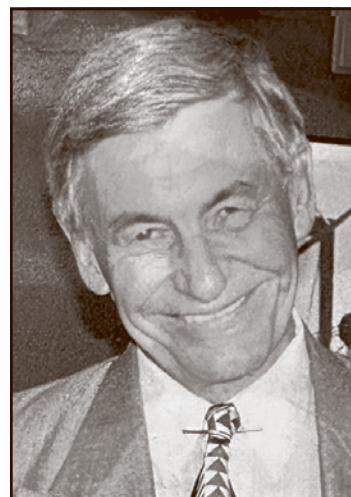
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## OBITUARY

### Harold Vogt Longtime Champion For Businesses in Westchester

BOCA RATON, FLA—Harold Vogt, the longtime leader of The County Chamber of Commerce (now operating as The Business Council of Westchester), died on Sept. 28 in Boca Raton, FL. He was 88.

The Business Council of Westchester announced Mr. Vogt's passing in an e-mail message to its membership on Oct. 5. Mr. Vogt served as president and CEO of several chambers of commerce, most notably 30 years at the former The County Chamber of Commerce until his retirement in 2000. Under his leadership, the organization expanded from the White Plains to The County Chamber of Commerce, serving more than 1,000 members. He was succeeded by



Marsha Gordon who has served as president and CEO of The Business Council of Westchester since March 2001.

For 10 years, Mr. Vogt hosted the popular WFAS-AM radio talk show "Business Talk" and he also co-published and served as Editor-in-Chief of *Westchester Commerce* magazine, the official publication of The County Chamber of Commerce.

CONSTRUCTION NEWS Managing Editor John Jordan, who served as Editor of *Westchester Commerce* magazine for

16 years, said, "For three decades, Harold Vogt was an unapologetic, passionate advocate for the business community of Westchester County.

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# Construction NEWS PHOTO GALLERY



From left, Fall Membership Sponsors Erin O'Grady and Marie Conte of M&T Bank.



From left, Corbin Falcon of Ben Ciccone, Inc., Jay Nannini of A&R Concrete Products, LLC, and Tim Rabbit of Ben Ciccone, Inc.

## CIC-BCA 2023 Fall Membership Meeting

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From left, Michael Keahon of Thalle Industries, Inc., and CIC Board member Brandon Ciccone of Ben Ciccone, Inc.



New York State Lt. Gov.  
Antonio Delgado

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From left, Jim Smith of Advance Testing Co., Inc., and CIC Board member Gary Metcalf of Peckham Materials Corp.



From left, Fall Membership Sponsors Chris Montesano, Cory Bitts, Nolan Kelly, Nick Longnotti with Chad Schaefer of H.O. Penn Machinery Co., Inc.



From left, Westchester & Putnam Building Trades officials Jeff Loughlin of Operating Engineers L.U. 137 and Dominick Cassanelli, Jr., of Teamsters L.U. 456 with CIC Board member Richard Lombardi of ECCO III Enterprises, Inc.



## Attorney's Column

# Court Clarifies that 'Scaffold Law' Claims Fail Where Worker was 'Sole Proximate Cause' of Injuries

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

We discussed last month how Sections 200, 240(1), and 241(6) of New York's Labor Law, which are commonly referred to as New York's "Scaffold Law," apply only to workers and not to third parties who may also be on the project site (such as a building inspector, in that case). While this holding can offer some relief to contractors and property owners, it is widely accepted that when the victim of the injury is, in fact, a worker, there is nothing much left to be done



minimally required to satisfy regulatory requirements (or someone's own moral compass) are futile. However, the logic behind the Scaffold Law is that the contractor and owner are responsible to deploy such safety measures "as

to prevent the accident. A trial court, in *Becker v Cornell University*, answers that question by reminding us that where the worker is the sole proximate cause of the injuries, no recovery can be had.

### Background

Lori Becker, a sheet metal worker since 2010, found herself installing architectural sheet metal on a roof dormer at Cornell University's Sage Hall in December 2019. While performing her work, her ladder, which she had set up, slipped and fell approximately six feet to a

*Accordingly, the question remains as to whether contractors and owners are liable where they could have done nothing else to prevent the accident. A trial court, in Becker v Cornell University, answers that question by reminding us that where the worker is the sole proximate cause of the injuries, no recovery can be had.*

Ms. Becker testified at her deposition that she had been trained on the proper use and securing of ladders, including OSHA-30 training. She also testified that she had used this same ladder each day while on this jobsite, but did not secure it on the day of her injury—although she had previously secured this ladder with a rope, screw and washer. Ropes, screws and washers of the type she used to secure the ladder were readily available on the job site. She did not secure the ladder at the time of her injury because the roof was complete and she did not want to make a hole. However, she acknowledged that she could have patched any hole that she made to secure the ladder. This failure to secure the ladder violated her employer's safety policy, which she acknowledges having received. The employer, Welliver McGuire, has a policy that stated unequivocally "all ladders must be tied off at or near the top of the ladder to prevent slippage."

The project superintendent confirmed that Welliver McGuire had a policy that required that ladders be secured, and that although he had seen Ms. Becker tie off the ladder on previous occasions, he had to instruct her to tie off the ladder before her accident, which she clearly did not do. As to Ms. Becker's rationale for not tying off the ladder—making a hole in the roof—the superintendent testified that the area where she should have placed the screw was going to be patched anyway, so a screw hole would not have been an issue.

After discovery, both parties moved for summary judgment. On the one hand, Ms. Becker argued that as the ladder fell, she met her burden on the motion. Conversely, Cornell argued that Ms. Becker's failure to tie off the ladder was the sole proximate cause of her accident.

### Decision

The court denied Ms. Becker's motion, and granted Cornell's motion for summary judgment, dismissing the complaint. In doing so, the court

acknowledged that generally a fall from a ladder, alone, is enough to establish a violation of the Scaffold Law. However, the court cited a previous Court of Appeals holding, rejecting the proposition that "every ladder injury leads ineluctably to liability under [the Scaffold Law]."

After doing so, the court, citing well-established case law holding that "Plaintiff will be considered the sole proximate cause of her injuries, and there will be no liability under the Labor Law, where the evidence establishes that 'plaintiff had adequate safety devices available; that [she] knew both that they were available and that [she] was expected to use them; that [she] chose for no good reason not to do so; and that had [she] not made that choice [she] would not have been injured,'" held that as the materials to tie off the ladder were readily available at the job site, and as Ms. Becker refused to use them although she had used them previously (which also served as an acknowledgement of the adequacy of these materials), she was the sole proximate cause of her injuries. As such, she could not recover under the Scaffold Law.

### Comment

It is no exaggeration to state that the Scaffold Law is viewed as the bane of New York's construction industry. Because of its absolute liability, the Scaffold Law does not permit the consideration of whether the plaintiff also had any comparative fault for his or her injuries, or how much effort the contractor put into safety, or otherwise preventing the accident in the first place. Rather, when arguing that the plaintiff was the sole proximate cause of the accident, the case law makes it clear that "sole" proximate cause means sole—i.e., that there can be no other device, etc., that would have provided greater protection than that which was available. Likewise, there is a similar volume of case law holding that simply failing to follow general safety instructions is not sufficient, and that the worker must refuse to use

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*After discovery, both parties moved for summary judgment. On the one hand, Ms. Becker argued that as the ladder fell, she met her burden on the motion. Conversely, Cornell argued that Ms. Becker's failure to tie off the ladder was the sole proximate cause of her accident.*

other than to pay the worker for the injuries suffered.

In that regard, many contractors and owners believe that deploying safety measures above and beyond what are

to give proper protection to a person so employed." Accordingly, the question remains as to whether contractors and owners are liable where they could have done nothing else

separate roof below, and then slid another 20 feet, taking Becker for a "sled ride." As a result of the fall, Ms. Becker sustained multiple fractures of her right leg.



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# Making a Career of It



## Joann Gentile

**Job Title:**

**Traffic Control Supervisor**

**Union Member:**

**Laborers Local 60**

**Employer:**

**ELQ Industries, New Rochelle, NY**

**Job Site Location:**

**Hutchinson River Parkway, Harrison, NY**

**Project Owner:**

**NYS Department of Transportation**

**J**oann Gentile finally found the pathway to her career one snowy night, around 2:00 am, when she queued up—along with 100 other hopeful applicants in a line that wrapped around the building—for the chance to enroll in Laborers Union Local 60’s apprentice training program in Brewster, NY.

“Of the hundred or so people on the line that night, they cut the list down to 10 people. From there only one woman got in,” she recalled, as she piloted a large ELQ-company utility vehicle onto the northbound entrance of the Hutchinson River Parkway in late September. “You’re looking at her.”

Following years of wandering

around in the dark from job to job, and about two months after writing her name on the Union application, Local 60 called. The moment she joined bright lights went on for her—and they’ve been shining ever since. “They said I was going to be a Laborer, not a flagger,” she said, a twist of fate in her favor that continues to pay big dividends.

As a woman working in a male-dominated industry like construction, she knew she would be put to the test and be required to excel at every task thrown at her—like lifting 80-pound bags of material. “It just comes with the territory,” she said, exhibiting a quiet confidence that comes when you’ve graduated at the top of your class from the school of hard knocks.

Back in the utility vehicle, we’re now entering ELQ’s highway traffic-zone construction site on the northbound side of the HRP in Harrison. She continued to tell nuggets of her life story spanning 52 years. She said she earned a GED, gave birth to a daughter and a son, and bounced from job to job, never finding the right fit in the workplace. She knew she had more to contribute and much more to achieve.

“I knew very little about the construction field when I started, but I had a great opportunity to learn in a training class environment. It was a tremendous help. I always wanted to be part of a team, part of a construction crew, in the Army or something like that.”

Her first job as a Laborer, she recalled, was working on a culvert project in Mamaroneck.



**Traffic Control Supervisor Joann Gentile on a DOT project in Westchester.**

Photo Credits/GEORGE DRAPEAU III

There she joined a crew and learned a lot. At that time, it was Jacinto “Jay” Fragoso, the recording secretary and field rep for L.U. 60, who sent her to the project, she recalled. Joann completed 300 training hours at Laborers L.U. 60 Training Center in Brewster on Saturdays.

“We definitely saw she had the stuff needed to be successful in the Union,” Mr. Fragoso said recently, certain that her enthusiasm and willingness to learn the trade would pay off.

With the job in Mamaroneck ending, Joann was sent in June 2015 to what she called the project of a lifetime, with Tappan Zee Constructors, LLC. There she worked through the final ribbon-cutting on the new Gov. Mario M. Cuomo Bridge, fulfilling 4,000 hours working in the field to earn her Journeyman certification.

Joann also received the

training and certification for her position now as Traffic Control Supervisor through Laborers L.U. 60’s training center. Meanwhile, her daughter, Toni, has also joined the Union to pursue her own career.

“Joining Laborers Local 60 changed my life; the Union took me in and got me back on my feet,” she said, eager to share her appreciation. “Now ELQ has made me a traffic control supervisor, and I feel a deep responsibility for all my boys on the jobsite. I love this company. It’s family. I also owe a lot to Joao Silva, a Laborer foreman at ELQ who has been a mentor and like a father to me. Working for ELQ now is an honor. Before I joined the union, I had nothing. Now I own three houses—the one I live in, one I rent and the one I hope to retire to someday in South Carolina.”

—BY GEORGE DRAPEAU III



**Joann Gentile and ELQ Laborer Project Foreman Joao Silva on the Hutchinson River Parkway in Harrison. Joann credits the Union’s apprenticeship training program with teaching her the skills she now has for her job.**



# Mount Pleasant Seeks Engineers to Study Ongoing Flooding and Pursue Grant Money

MOUNT PLEASANT, NY—In response to the recent flooding emergencies that continue to inundate sections of the Town of Mount Pleasant during significant storms, the Town Board is speaking to a local engineering firm to study the problem and propose mitigation actions that could include new public works construction.

Mount Pleasant Supervisor Carl Fulgenzi said in early October that the town is talking to the engineering firm, Kellard Sessions Consulting, which is based in Armonk, NY. In early October, the Town Board reviewed steps with John Kellard and Joseph Cermele, P.E., of the firm to consider solutions that will alleviate the water inundation in mainly low-lying areas of the town.

Mr. Kellard noted that over the past 50 years the town has undertaken four major studies that have identified the problem. Among the solutions was the replacement of four culverts in the town that was considered the most effective step.

"You've had enough studies done,

so all the information is there," Mr. Kellard said at a public hearing. "So it's a matter of money."

According to *THE EXAMINER* newspaper which first reported the story, the initial study, completed by Charles Sells in 1972, estimated the four culvert replacements would cost about \$300,000 at that time, Mr. Kellard said. There were subsequent studies completed on the town's behalf in 1977, 1994 and 2006, with the latter study estimating the cost at \$1.2 million, he explained.

The cost projections of the project in today's dollars would scale to between \$3 million and \$4 million.

"Flood-prone areas of Mount Pleasant, which have included portions of Hawthorne, have been inundated with greater frequency recently. On July 18, Supervisor Fulgenzi declared a state of emergency after a deluge hit the town. Some of the same locations that were underwater then, experienced additional flooding during the Sept. 29 storm," the newspaper reported.

The issue of money, specifically who pays for the solutions to prevent flooding, was raised. Mr. Cermele recommended the town retain a grant writer. He noted that there are funding sources available where municipalities can apply for money, namely through the Department of Environmental Conservation and the DEC's Environmental Facilities Corp. that will require grant applications written by someone with those skills, he explained.

Frustrated by the fact that previous studies had already identified a solution—but that former boards decided against moving forward with the plans when the cost was far lower—Mr. Fulgenzi stated that now the price is exponentially higher. "We're going to have to make these improvements wherever it's feasible," Mr. Fulgenzi said. "I understand that working with the state and the MTA is going to be a challenge, but they're all aware of this. It's not anything new to them."

Mr. Cermele added that, while the increasing frequency of heavy rains

may not be playing a role in the flooding, the intensity of rain into a compressed amount of time could be a problem. While mitigation has generally used the 100-year storm event, the recent 24-hour rainfall totals in town have not reached that threshold; however, the rain that does fall has been in shorter time periods, overwhelming drainage, and areas susceptible to flooding, he said.

The engineers indicated they will meet with Town Engineer David Smyth and come up with a game plan and report it back to the Town Board. They will also recommend professional grant writers that officials could consider retaining to help them pursue money.

Mr. Fulgenzi said going after grants is one of the board's top priorities.

"We've talked about it for too many years," Mr. Fulgenzi said. "Now we have to move forward and do something."

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## Attorney's Column

Continued from page 6

that which she was directed to use (and was available). Stated differently, the contractor and owner not only cannot have had any contribution to the happening of the accident—the accident had to have happened in spite of the efforts of the owner and the contractor. Clearly, this is a hard burden to meet, which is why victories on sole proximate cause arguments are rare (but not impossible). For this reason, contractors must document their safety plans and procedures, and communicate them to employees and job site contractors—and do so on an ongoing basis.

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



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## Economic Outlook

# Housing Prices Still Too High for Many Who Want to Call Hudson Valley Home

By MICHAEL PATON

Housing market activity remains particularly weak, which is being attributed to rising mortgage rates, elevated home prices and constrained housing inventory. According to *Forbes*, this combination of headwinds is stoking a housing affordability crisis, which is also being fueled by irksome high inflation and the looming uncertainty of more interest rate hikes ahead.

Mortgage rates accelerated in mid-July with the average fixed rate peaking at 7.23% during mid-August. This rate is the highest since March 2022, and it comes in the wake of Federal Reserve policymakers voting to raise the federal funds rate by 25 basis points at the committee's July meeting—the 11<sup>th</sup> rate increase since the Fed began its inflation battle in March 2022. Despite a Federal Reserve pause in June and September, the Fed has signaled that more



of 2023, member firms of the Hudson Gateway Association of Realtors were reporting that buying demand remained high, however, buyer confidence had been shaken by the banking crisis, high interest rates, inflation, and often-predicted economic downturn or recession. The results of the second quarter clearly showed that these headwinds remain a concern for homebuyers and home sellers here and across

family home median sale price was down by 4.4% to \$846,500, while the second quarter 2023 median sale price of a multi-family house in Westchester jumped 5.2% to \$746,850, according to HGAR. The condominium, median sale price increased by 5.6% to \$475,000 as compared to 12 months earlier. The co-op median sale price in Westchester decreased by 8.6% to \$185,000 in the second quarter of this year. In Rockland, Putnam, Sullivan and Orange, median sale prices increased for all property classes.

Single-family home prices are stabilizing.

- Putnam posted a 2.6% increase in the second quarter of this year to \$492,500;
- Rockland saw a 1.1% increase in the single-family home median price to \$652,000;
- Orange's single-family median was flat with just a 0.2% increase in the second quarter of 2023 to \$415,655;
- The Bronx posted single-family median declined of 2.9% to \$602,000;
- Sullivan County posted the largest increase at 7.7%, which pushed the median price

to \$280,000.

While economists vary in their outlooks for the future of home prices, the real estate

***In the Hudson Valley area, at the end of the second quarter of 2023, member firms of the Hudson Gateway Association of Realtors were reporting that buying demand remained high.***

research and analytics company Zillow forecasts that home prices will continue to rise, but at a slower pace. The rapid rise in home prices that we saw in recent years is likely to slow down in the next few years. However, home prices are still expected to rise, although at a more moderate pace. The supply of homes for sale is expected to increase. The lack of available homes for sale has been a major driver of rising home prices in recent years. As more homes are built

and added to the market, we can expect to see some relief from the supply shortage. Mortgage rates will also continue to rise if the Federal Reserve raises interest rates further. This policy has made it more expensive to borrow money, which has led to a decline in demand for homes. In the subsequent years, however, a reversal in this trend is projected as interest rates are anticipated to gradually moderate, potentially igniting a resurgence of demand in the housing market.

All things considered, the housing market should remain competitive. Even with rising interest rates and a growing supply of homes, the housing market is still expected to show positive growth during the next few years. This is due to a number of factors, including strong job growth, population growth and a limited supply of land.

*About the author: Michael J. Paton is a portfolio manager at Tocqueville Asset Management L.P. He can be reached at 212-698-0800 or by email at MPaton@tocqueville.com.*

***The lack of available homes for sale has been a major driver of rising home prices in recent years. However, as more homes are built and added to the market, we can expect to see some relief from the supply shortage.***

rate hikes may come.

Meanwhile, year-over-year existing monthly home sales sagged in July for the second consecutive month, slipping by 2.2% to a six-month low, with all four major U.S. regions posting year-over-year sales declines, according to the National Association of Realtors. Despite the high mortgage rates and home prices, the market remains as competitive as ever, thanks to demand levels surpassing the ongoing inventory crunch and homeowners who locked in low interest rates staying put. These and other factors perpetuate an affordability problem that continues to sideline aspiring homeowners.

In the Hudson Valley area, at the end of the second quarter

the nation.

Residential sales, which include single-family homes, condominiums, co-operatives and two- and four-family multi-family homes, decreased across the board in the second quarter of this year compared with the second quarter of 2022.

Westchester and Sullivan counties posted the largest sales volume declines at 26.8% and 26.9%, respectively;

Rockland County had a decrease in residential sales of 19%;

Putnam County saw a decrease of 19.5%;

Orange County posted a decrease of 19.7%;

Bronx County's home sales were 20.3% lower.

In Westchester, the single-

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# Wall Street's Profits Totaled \$13B in First Half of 2023

ALBANY—Wall Street's 2023 first half profits of \$13 billion were down 4.3% from the same period last year but tracked the industry's return to pre-pandemic levels of revenue after record profits in 2020 and 2021, according to State Comptroller Thomas P. DiNapoli's recently released annual report on the performance of New York City's securities industry.

"The securities industry's two years of record profits helped stabilize New York's economy in difficult times," DiNapoli said. "Since then, the industry has maintained profits consistent with pre-pandemic levels. But these are volatile times in America and globally, and Wall Street's relatively stable profits and employment levels could change quickly. Further declines could weaken New York's tax revenue from the securities industry and have repercussions for our state and city budgets."

Securities industry performance is traditionally measured by the pre-tax profits of the broker/dealer operations of New York Stock Exchange (NYSE) member firms. There are now 132 member firms, down from more than 200 in 2007, before the global financial crisis.



Market analysts expect that interest rates will remain elevated for some time, which could further increase borrowing costs and reduce market activity.

## Profits

In 2022, the city's securities industry profits of \$25.8 billion were a 55.8% drop from the previous year, but they were on par with pre-pandemic performance when annual profits averaged \$22.3 billion from 2015 to 2019. That trend continued through the first half of 2023. If the rate of decline in profits in the first half of 2023 holds steady for the rest of the year, annual profits could fall to \$24.7 billion, from \$25.8 billion in 2022. However, economic uncertainties could cause profits to decline even more in the second half.

As the Federal Reserve has tightened monetary policy to

fight inflation, the industry has seen a 46% decline in revenue from commissions and underwriting activities over the past two years, due to the higher cost of credit and a significant fall off in debt and equity issuances and mergers and acquisitions. Financial firms' interest expenses were seven times higher in 2022 than in 2021.

Market expectations are generally that interest rates will remain elevated for some time, which could further increase borrowing costs and reduce market activity. However, conditions could change rapidly given the uncertainties of the current geopolitical situ-

ation, the political turmoil in Washington and changes in inflation and employment, the DiNapoli report stated.

## Employment, Bonuses And Salaries

The 195,100 jobs in the city's securities industry, averaged through August 2023, are the most in the city in more than 20 years and reflect the hiring that took place as profits soared in 2021. The industry fared better than most during the pandemic, losing just 1.6% or 2,900 jobs in 2020, compared to 12.2% overall in the private sector. It remains to be seen if the industry will keep these positions as profits ebb.

Despite losing some of its industry jobs to other states, New York remains far and away the nation's largest employer in the securities industry. New York State was home to 207,500 securities industry jobs in 2022. By comparison, California had the second highest number of industry jobs at 97,100.

After two years of record highs, bonuses have declined alongside profits. In March, DiNapoli's office estimated the bonus pool for 2022 was \$33.7 billion, 21% smaller than the previous year. It estimated the average bonus for 2022

was 26% smaller at \$176,700 and in line with pre-pandemic levels. Bonuses account for an estimated 38% of securities industry wages, more than any other industry in the city.

The average pay for securities industry workers in New York City, including bonuses, was \$497,420 in 2022, which was the second highest on record after 2021's peak of \$516,520 (\$548,040 when adjusting for inflation). Employees in tech and information services industries have the second highest average salary in the city at \$272,410. The average salary in the securities industry in New York State was \$473,750, more than twice the average in the rest of the nation (\$225,620).

In the first half of 2023, NYSE member firms have increased their compensation expenses by 2.1% over the previous year, which is less than the rate of inflation. It is likely that the overall bonus pool for the year will be smaller than in 2022 as profits decline. Despite an expected decline in the overall average bonus for 2023, the changes will likely vary widely among the various finance subsectors.

CEO compensation has

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# Feds to Fund \$7.5B Credit Aid for Dam Projects

WASHINGTON—The U.S. Army Corps of Engineers reported on Sept. 20 that it is accepting applications for a new \$7.5-billion credit assistance program, the Corps Water Infrastructure Financing Program (CWIFP), for dam safety projects. By providing low-cost, long-term, flexible loans for dam safety projects, the CWIFP will accelerate non-federal investment in the nation's dam infrastructure.

The CWIFP has opened its inaugural 90-day application period at [www.usace.army.mil/CWIFP](http://www.usace.army.mil/CWIFP). The Notice of Funding Availability (NOFA) was posted in the Federal Register at <https://www.federalregister.gov/d/2023-20286>. The NOFA formally opens the program and provides

interested borrowers with instructions on the application process.

"Aging infrastructure causes significant challenges to all levels of government, in particular dam infrastructure. This program will have a huge impact on the nation's dam infrastructure and will help save local ratepayers and taxpayers by providing long-term, low-cost financing," said Lt. Gen. Scott A. Spellmon, U.S. Army Corps of Engineers commanding general.

"Today's posting of the Notice of Funding Availability for the Corps Water Infrastructure Financing Program provides a new and significant tool that can be used to keep the nation's infrastructure

resilient and dependable for multiple generations," said Michael Connor, the Assistant Secretary of the Army for Civil Works. "As we deal with unprecedented climate challenges that require robust and effective infrastructure, this new financing program will enable continued investment by our local communities in their infrastructure."

Key features of the CWIFP include:

- Long-term, low-cost credit assistance for water resource infrastructure projects (currently limited to dam safety projects that are non-federally owned, operated, and maintained).

- Funding of up to 49% of project costs, or up to 80% of project costs for projects

that serve economically disadvantaged communities.

- Augments other public or private funding and financing sources.

- Requires a dedicated source of repayment (i.e. state or local taxes, user fees, etc.).

- Available to projects or groups of projects with eligible costs in excess of \$20 million.

The program will provide approximately \$7.5 billion in total project financing and support up to \$15 billion of infrastructure investment nationwide. More information about the CWIFP, including how to apply, can be found at <https://www.usace.army.mil/CWIFP>.

## Latimer Proposes \$474M Capital Budget Continued from page 1

million in 2024 (\$17.5 million Total Project cost-TPC) and Westchester Ave over Mamaroneck River, White Plains, \$425,000 in 2024 (\$5.025 million TPC)

**Roads:** Murray Ave., Town of Mamaroneck, \$1.485 million in 2024; McLean Ave., Yonkers, \$575,000; South Ridge St., Rye Brook, \$1.7 million; Columbus Ave., Mount Pleasant, \$2.3 million; Seven Bridges Rd., New Castle, \$2.66 million; and Westchester Ave., White Plains/Harrison \$1.42 million in 2024 (\$12.2 million TPC).

Other significant facets of the capital plan include:

### Environmental Conservation/ Flood Mitigation

The county has allocated a total of \$49.2 million for flood mitigation, with the lion's share of the funding—\$18.2 million going to the Village of Mamaroneck to help fund the Mamaroneck and Sheldrake Rivers Army Corps of Engineers project, valued at approximately \$100 million, according to County Executive Latimer.

The capital budget includes an additional \$20 million for electric vehicle charging infrastructure at county and municipal locations plus \$5 million for the EV Partnership program with local municipalities.

In the environmental conservation sphere, the capital budget provides an additional \$20 million for electric vehicle charging infrastructure at county and municipal locations plus \$5 million for the EV Partnership program with local municipalities.

### Parks

Within the County Parks System, \$25 million has been allocated for improvements at the Westchester County Center in White Plains and \$6.93 million for the Bronx River Pathway. Additionally, \$2 million is in the budget for improvements at Hilltop Hanover Environmental Center in Yorktown Heights.

### Buildings

Of the \$21.8 million proposed for this budget line, the county has also earmarked \$8 million for improvements to the County Office Building in White Plains and \$3.9 million for infrastructure rehabilitation of its offices in Mount Vernon. In total, the county's Department of Public Works has proposed 10 projects for county building and parking facilities totaling \$47 million in capital funding.

### Housing

County Executive Latimer reported that the 2024 Capital Budget includes a combined \$50 million for land acquisition and infrastructure improvements to support the development of affordable housing within the county.

The county will also be receiving \$50 million in 2024

for the Affordable Housing Investment Fund to be funded with ARPA funds for further development of workforce housing within the county. Total spending related to affordable housing in 2024 will therefore be approximately \$100 million in county and federal funds.

### Refuse Disposal District

A total of \$12 million has

been added for the Blind Brook Waste Water Recovery Facility bio solids handling and \$17 million is included in the capital budget for the North Yonkers Sewer District pumping station rehabilitation. Also, another \$25 million is included for improvements to the Yonkers Joint Treatment Plant for odor control and HVAC upgrades

and \$20 million is included for the structural rehabilitation at the Ossining Water Resource Recovery Facility.

The Westchester County Board of Legislators will begin its review of the proposed Capital Budget and the proposed Operating Budget, and are expected to pass both budgets by the end of December 2023.



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## Better Building Begins Here



**GREG LALEVVE**  
Business Manager  
IUOE Local 825



# No Recession Looming in Construction Despite Vexing Headwinds

Continued from page 1

come down nationally, although not in the Northeast; wages, job openings and quit rates are trending lower, which provides more stability to employers; and small businesses are feeling a lot better.”

He added, “Unless there’s some sort of a shock, we’re not having a recession in the next six months, and we’re positively optimistic about the first half of 2024.”

The region’s construction sectors have been bolstered by significant federal funding, as well as state infrastructure and environmental financing. Particularly in the lower Hudson Valley, organized labor and union contractors have been frustrated by their lack of participation in the burgeoning multifamily residential construction sector in major Westchester cities, despite many of these projects securing either local or county Industrial Development tax incentives.

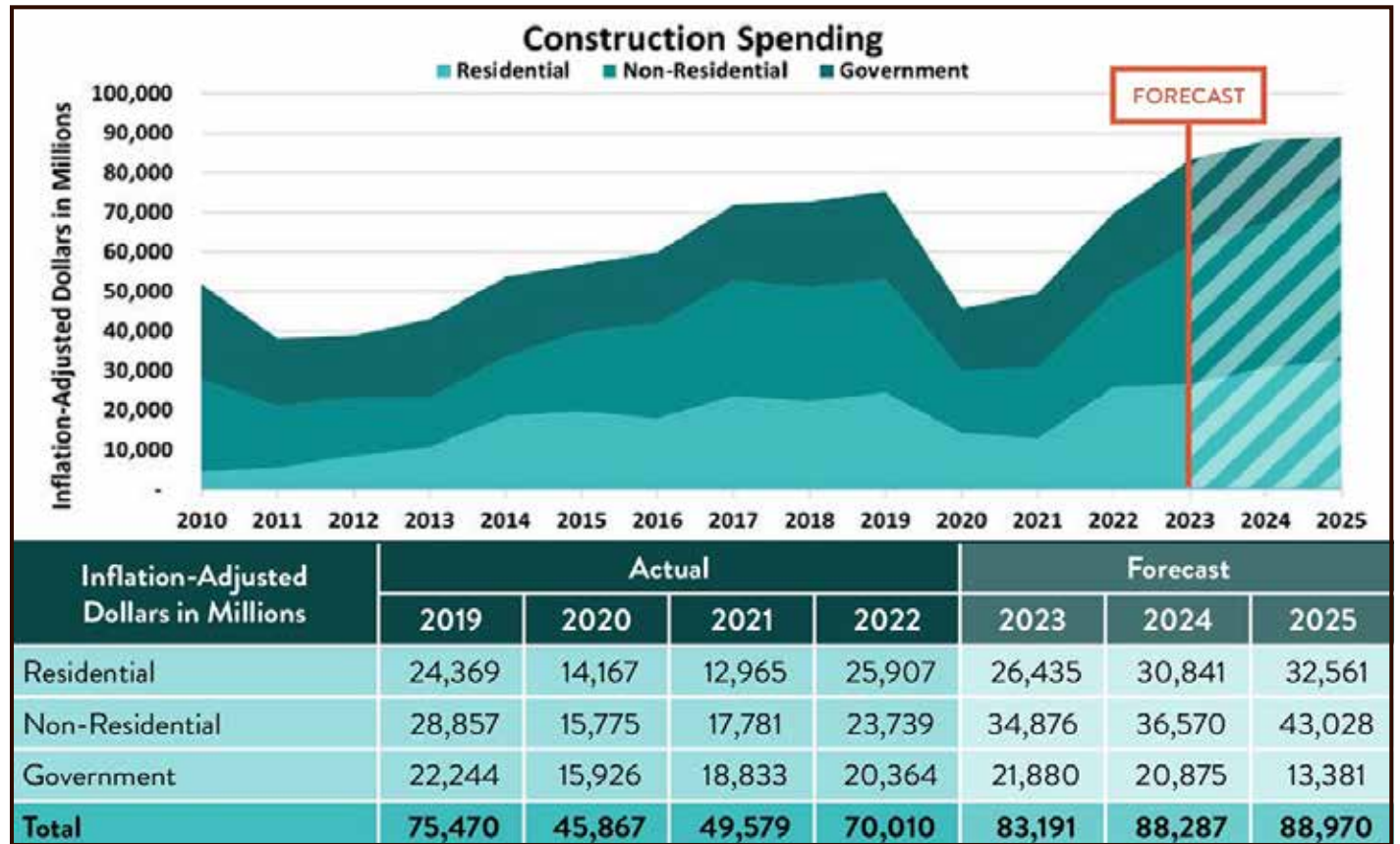
John T. Cooney Jr., Executive Director, Construction Industry Council of Westchester & Hudson Valley, Inc. and Alan Seidman, Executive Director, Construction Contractors Association of the Hudson Valley both noted that the construction industry has posted strong results in 2023 and prospects are good that 2024 will be a repeat. Mr. Cooney and Mr. Seidman were also panelists on the webinar sponsored by Orange Bank & Trust Co.

“The state of the construction industry can be described as robust, and its stimulus is essentially driven by immense growth in commercial and health care-focused development, increased federal investment such as the Infrastructure Investment and Jobs Act (IIJA), and municipal spending supported by the American Rescue Plan Act (ARPA),” said Mr. Cooney. “(Construction) companies have met this increased demand by investing in new and more productive equipment, but also by investing in workforce development for existing employees, and leading efforts to attract a new and more diverse workforce.”

Mr. Cooney noted that the attraction of new construction workers in the region has come from “a much larger and stronger move to diversity in the workforce.” He said the industry is drawing these new workers from other low-paying industries.

“Essentially for the construction industry, if the individual has the will our partners in labor and companies themselves can build the skills,” he said, for these low-skilled workers to begin a much better paying career in the construction industry.

Mr. Cooney concluded by saying that the region’s construction industry has



Source/NEW YORK BUILDING CONGRESS

a healthy backlog of work for the next four to five years. Some challenges going forward include high construction material costs, high inflation and bureaucracy that threatens to hold up projects from going out to bid.

“There is plenty of work to keep the construction sector active for the foreseeable future,” said Mr. Seidman when speaking of the Mid-Hudson region “There is a large state project starting in early 2024 in New Hampton, and also new development and improvements happening at West Point. Unfortunately, we are also seeing an exodus of businesses and people leaving New York, many citing high taxes and unfriendly regulatory environments, and we have to be mindful of those negative trends also impacting the economy.”

### Report: NYC Construction Spending to Reach \$83 Billion in 2023

The New York Building Congress released its “2023-2025 New York City Construction Outlook Report” on Oct. 18 where it projects that total construction spending in New York City will reach \$83 billion in 2023, up \$13 billion from last year, adjusting for inflation. The updated spending figure is projected to reach \$261 billion over a three-year period and is about 18% higher than pre-pandemic spending.

The report stated, “Spending in inflation-adjusted dollars is expected to reach \$261 billion (\$285 billion, in nominal dollars) over a three-year period, growing to \$88 billion in 2024 and then to \$89 billion in 2025. Compared to the pre-pandemic, three-year

period from 2017 to 2019, this reflects an inflation-adjusted increase of \$40 billion. Although high interest rates on construction starts and property mortgages are expected to somewhat depress property values through reduced demand, escalating material and labor costs—as well as ongoing supply chain issues—have significantly contributed to increased building costs and are not likely to deflate with more development.”

“Construction spending has always served as an indicator of a region’s economic health, and we’re proud to report continued growth and resilience, high levels of employment and billions of dollars in economic outputs across New York City,” said Carlo A. Scissura, President and CEO of the NY Building Congress.

He added, “Notably, residential construction has declined citywide due to the expiration of 421-a, high interest rates and outdated bureaucratic red tape. The Building Congress calls for policies to support housing production at all levels of affordability to combat our housing shortage and ensure New York is a functional and affordable place for all New Yorkers.”

Non-residential development continues to lead construction spending, totaling \$34.9 billion in 2023. In 2023, 6.65 million square feet of new office space will be completed. New office construction is expected to decline by a million square feet each year through 2025. Non-residential construction will likely be driven by manufacturing and educational projects and laboratories in New York City over the next several years, the report stated.

Over the next few years, government spending on infrastructure development is projected to dominate the market. In 2023, government construction spending will reach \$22 billion, up from \$20 billion in 2022. While funding decisions are still being made at the federal level for competitive grants from the Infrastructure Investment and Jobs Act (IIJA), formula funding is expected to reach New York City much more rapidly, according to the report.

The Metropolitan Transportation Authority is expected to invest \$30 billion within the five boroughs over the next three years, a 47% increase over pre-pandemic total spending between 2017 and 2019. The Port Authority of New York and New Jersey is expected to invest \$1.8 billion in New York

City capital projects in 2023, slightly down from almost \$2 billion in 2022. An additional \$1.6 billion in public works spending will be undertaken by various state and federal agencies in 2023, the New York Building Congress stated.

One of the few negatives for the construction industry in New York City was the impact of the 421a tax incentive’s expiration on new multifamily building projects. Residential development and rehabilitation accounts for 32% of construction spending in 2023, down from 37% in the previous year. Due to the expiration of 421-a, combined with high interest rates and significant bureaucratic hurdles, property owners and investors are expected to prioritize spending on maintaining, renovating, and upgrading existing residential properties over building new ones over the next few years, according to the report.

Another bright spot for the city’s construction sector is the fact that its workforce is almost back to pre-pandemic levels. The report noted that construction employment in 2023 is behind its pre-pandemic levels by 5%. However, the building industry is set to grow by almost 19,000 new jobs within three years. The Building Congress anticipates employment in the construction of buildings, heavy and civil engineering, and specialty trades to total 153,000 jobs in 2023, 160,000 in 2024 and 162,000 in 2025, when the industry is expected to finally bounce back to pre-pandemic employment levels.

A prominent construction industry executive also pointed out the industry’s resilience during the COVID pandemic and its promising future.

“While the commercial real estate development and construction industries in New York City are facing significant headwinds due to the economic climate, we remain bullish about the long-term growth and success of our industry,” said Ralph J. Esposito, Chair of the New York Building Congress and President of the Northeast and Mid-Atlantic Region at Suffolk. “The federal government’s heavy investment in infrastructure, along with resilient sectors such as healthcare, life sciences, manufacturing, data centers and transportation, will continue to create opportunities to develop and build incredible projects that will transform our city skyline and improve the quality of life for our citizens.”

Large NYBC Member Projects in Growing Non-Residential Sectors		
Sector	Project Name	Project Value
Hotels	740 8th Avenue Supertall	\$400,000,000
Amusement, Cultural, and Social	Frick Collection Museum (Additions/Alterations)	\$180,000,000
Education	SUNY FIT New Academic Building	\$113,551,000
Recreational, Restaurants, and Retail	Orchard Beach Pavilion Restoration/Redevelopment	\$87,600,000
Healthcare	Mount Sinai Center for Surgical Innovation	\$17,000,000
Manufacturing and High-Tech Laboratories	Made in NY Hub - 43rd St Manufacturing Building	\$15,257,369

Source/NEW YORK BUILDING CONGRESS



# NYCEDC Seeks RFP for Redevelopment Of Landmark Kingsbridge Armory Project

NEW YORK—The New York City Economic Development Corporation released a Request for Proposals (RFP) on Sept. 25 for a developer to lease, redevelop, and operate the Kingsbridge Armory, one of the largest armory buildings in the world and a landmarked structure that contains approximately 570,000 square feet of space.

The RFP follows the release of the “Together for Kingsbridge Vision Plan” and is backed by a combined \$200-million investment by New York City Mayor Adams and Gov. Kathy Hochul.

The Kingsbridge Armory RFP seeks to create a financially feasible, thriving, mixed-use development that:

- Strikes a balance between addressing the needs of the local community and creating an economic engine for the wider area;
- Activates the Armory and enhances its integration with the neighborhood, promoting more accessibility, transpar-



One of the few remaining armories in New York City, the Kingsbridge Armory, opened in 1917 and was used throughout the first half of the 20<sup>th</sup> century. Designated as a New York City Landmark in 1974, the Armory was listed on the New York State and the National Register of Historical Places in 1982. The Armory was transferred to the City of New York in 1996.

ency, and connection with the surrounding community;

- Serves diverse users, including those from different age groups, ethnic and cultural backgrounds, and income levels;
- Delivers a minimum of 25,000 square feet of space to be subleased to one or more

community-based organizations at discounted rates.

- Design the site to promote sustainability, energy efficiency, and carbon neutrality, while preserving the landmarked exterior.
- Responsibly develop the project by delivering a comprehensive hiring program

that supports communities and creates job opportunities, including for economically disadvantaged candidates.

- Generate returns to the city through lease rent, tax, and payment in lieu of tax (“PILOT”) revenue.

“The release of this RFP demonstrates that we are seri-

ous about the redevelopment of the Kingsbridge Armory and want this historic structure to, not only remain a symbol of resiliency, but become an economic engine for the Bronx,” said NYCEDC President & CEO Andrew Kimball. “In addition to economic development, we want the redeveloped armory to promote sustainability and serve diverse users in the Bronx.”

NYCEDC has launched sign-ups for community-based organizations (CBOs) and emerging developers to express their interest in being part of the Armory’s development. RFP respondents are encouraged to consider the involvement of CBOs and emerging developers when developing their proposals.

Responses to the RFP are due by 11:59 p.m. on Thursday, Jan. 18<sup>th</sup>, 2024. An optional information session will be held on Tues., Oct. 10, at 10:30 a.m. with more details available in the RFP.

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## Safety Watch

# Industrial Vehicle Accident Underscores Need for Robust Training, Safety Programs

By COSTAS CYPRUS, ESQ.

The recent decision in *Secretary of Labor v. Americold Logistics, LLC* reaffirms the need for construction companies to provide proper training and establish rules and regulations for their employees when using powered industrial vehicles (PIVs). Further, companies can better ensure employee safety by conducting routine, documented, monitoring of employee practices and performance, while also maintaining and enforcing their disciplinary programs.

This decision arose from a work-place incident in which an employee was severely injured while working in a large cold food storage facility in Georgia. Americold Logistic, LLC temporarily stores food products and performs various operations from its Savannah 2 facility. Each shift had four floor supervisors, and each supervisor was responsible for a team that consisted of PIV operators and laborers. Different types of PIVs were used at this facility including fork trucks that were used to load and unload product and move around the facility, and reach trucks that were used to stack



and remove products from the racking systems. Tractor trailers containing the food products would be unloaded at the loading dock with the use of the fork trucks. A PIV operator would then move food products into the blast freezer where they would be flash frozen. Once the food products were frozen, laborers would restack the products on pallets and PIV operators would then use the reach trucks to move them into freezers.

On July 7, 2022, an Americold employee who was driving a fork truck and making a turn, stuck out his foot and caught it between a bollard and the truck, injuring his ankle.

OSHA was notified of the accident and an OSHA Compliance Safety and Health Officer (“CSHO”) appeared on-site and conducted an investigation. During her investigation, the CSHO noted that she even had to step-out of the way from a PIV during her walk of the premises with management. She appeared again in September 2022 and observed similar conditions as in her earlier visit. She also interviewed the injured employee. The CSHO subsequently issued safety citations including permitting an untrained person to operate a PIV. The applicable safety standard required an employer to “ensure that each operator has successfully completed the training required by this paragraph” prior to being allowed to operate the vehicle.

To prove a violation, the Secretary of Labor (Secretary) must show by a preponderance of the evidence (i.e., that it was more likely than not) that (1) the cited standard applies, (2) there was failure to

comply with the cite standard, (3) employees had access to the violative condition, and (4) the

complete a vehicle inspection checklist before starting-up the vehicle, and if it failed the inspection, it would be taken out of service. The company also had installed software which required an employee to have an ID badge with the appropriate credentials, which they would have to swipe before starting the vehicle. The PIVs also had speed governors installed that limited the vehicle’s speed to five miles per hour.

Furthermore, floor supervisors were responsible for conducting three “behavior-based safety observations” per day, which included observing an employee conducting their work for 30 minutes, after which the floor supervisor would coach the employees on what was observed. Floor supervisors also had to conduct “coaching method observations”

***Americold’s disciplinary program included termination for serious safety rule violations. If a supervisor observed such behavior, they could request an employee’s immediate termination and the request would then be reviewed by a safety panel, which would determine the final outcome for the employee.***

cited employer either knew or should have known of the condition with the exercise of reasonable diligence.

Americold’s former floor supervisor Lamar Church testified as to Americold’s training procedures for PIV operators and explained that their training consisted of three parts. New operators would first be shown a 30-minute video created by the PIV manufacturer that addressed different operating and safety topics. The employees would then attend a class held by a supervisor who presented a 76-slide PowerPoint presenta-

tion on the vehicles’ operations and safety. The employees would then complete their training by receiving hands-on training and proficiency testing. Operators would also receive annual refresher training and recertifications, every three years.

However, if an operator was involved in an accident or was observed operating a PIV unsafely, they would be mandated to immediately take the refresher and recertification. Americold had procedures and rules in place for PIV use, which included instructing operators to slow down and sound their horn when approaching pedestrians (within the warehouse). An operator would also

***The evidence presented in fact showed that Americold had written rules prohibiting unauthorized use of PIVs, which included training provided to all employees.***

operate the PIV. The employee was exposed to the hazards associated with untrained use of a PIV and was in fact severely injured. The Administrative Law Judge (ALJ) found that Secretary had established the first three elements of the alleged violation. However, the record was unclear as to whether any supervisory employee had actual or constructive knowledge of the violation.

The injured employee did not testify at the hearing, and the Secretary only presented the CSHO’s account of her interview with the employee without documentation, in which she recalled that another PIV driver badged-

Please turn to page 18



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## ALBANY UPDATE

## Business Council of NYS Sounds Alarm On Impacts of State's Energy Policies

ALBANY—The Business Council of New York State announced recently the first of several state-wide information campaigns designed to educate New York voters on the impacts of significant legislation approved by state lawmakers. The campaigns will highlight and assess policy decisions that, regardless of intention, could adversely impact New York State's private sector businesses and the millions of New Yorkers they employ.



**Heather Mulligan, President & CEO, The Business Council of New York State**

The first campaign will focus on the transition toward clean energy sources and renewables, the Business Council of New York State said. Business groups representing thousands of companies from Niagara to Montauk are joining in the efforts to urge Albany lawmakers to create and implement smarter and better business policies. Among the business organizations that have voiced concerns over the state's energy policies are The Business Council of Westchester, The Rockland Business Association and the Partnership for New York City.

Some energy transition policy decisions will have unintended consequences as the state tries to cross the bridge to clean energy resources and renewable development. As the state moves to implement the "Climate Leadership and Community Protection Act," or

CLCPA, policy decisions are being made that could have significant unintended consequences, Business Council officials stated, including:

- Higher energy prices whose impacts would ripple through the state's economy;
- Reduced reliability of the state's energy grid that would affect homes, institutions and businesses;
- Adverse impacts on the state's overall economic climate that may discourage new investments and job growth.

"New York is at a crossroads," said Heather Mulligan, president & CEO of the Business Council of New York State. "We are a worldwide leader in environmental initiatives and green energy policies, and we must and will continue to be the leader. But we must also look at the policies and determine what is feasible, what is affordable, and what is best for the future of the State. That is what this campaign is all about, and this will be a campaign with supporters from across the spectrum from almost every industry and from communities across the state. Let's be clear: it is essential to push a green economy. It is also essential to make sure we can reach our environmental and clean energy goals without severely damaging New York's families and businesses as well as jeopardizing the reliability of New York's energy infrastructure."

## State Adopts First-in-the-Nation 'Buy Clean Concrete' Mandate

ALBANY—New York State announced on Sept. 19 the adoption of mandatory rules establishing emissions limits on concrete used in state-funded public building and transportation projects, reaffirming the state's commitment to environmental sustainability and reducing greenhouse gas emissions in government operations.

The guidelines also support the "Leading by Example" Executive Order 22, under which state agencies are required to collect New York-specific data from common construction materials, including concrete, which will be used to set lower limits on greenhouse gas emissions from concrete, starting in 2027.

"Adopting Buy Clean Concrete guidelines marks a monumental step in our journey towards a more sustainable and eco-friendly New York State," Gov. Kathy Hochul said. "By setting mandatory emissions limits on concrete used in state-funded projects, we're not just leading by example but creating a tangible roadmap for reducing greenhouse gas emissions across the board."

Embodied carbon refers to

the greenhouse gas emissions associated with the full lifecycle of concrete—from the extraction of raw materials and transportation to installation and disposal. Data on a construction material or product's lifecycle-related environmental impact is available through a report called an Environmental Product Declaration and enables comparison of environmental impacts across concrete mixes. New York's Buy Clean Concrete guidelines are the first to implement greenhouse gas emission limits covering all state agency projects.

Starting Jan. 1, 2025, EPDs must be submitted for all concrete mixes used in qualifying state construction projects and must demonstrate that they achieve an environmental impact below the limits set by New York State. These EPDs will provide transparency and a more robust accounting of a concrete mix's greenhouse gas emissions and enable state agencies and other stakeholders to make more informed choices in reducing emissions. The state is working towards providing concrete producers with the technical assistance they need

**Please turn to page 20**



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## Financial Management

# AI Likely to Advance Construction Productivity In Design, Bidding, Performance, Management

By PHILLIP ROSS, CPA, CGMA, PARTNER

Artificial Intelligence (AI) in construction has the potential to enable the industry to overcome some of the unprecedented obstacles we have faced in recent years. COVID-related issues as well as the unpredictable macro-environment have all contributed to some of the toughest times the construction industry has ever faced. Today, however, the use of AI and other innovations in construction have the potential to enable the industry to leap ahead and overcome challenges by allowing contractors and others to move through various stages of the construction process efficiently.

This includes the initial design, bidding for projects, coming up with better financing terms, as well as actual construction and asset management throughout a project's timetable. For example, imagine AI models that can track and evaluate progress so that schedule risks are identified early on and factored into the budgeting while being proactively addressed ahead of time before a problem occurs.

The size of AI in construction



reached \$22 billion in 2022 and is expected to grow at 20% of the compounded annual growth rate through 2023 based on improved efficiency and productivity through optimization of project scheduling, resource allocation, and task management, leading to shorter timelines and reduced costs.

AI is essentially training a machine to mimic human thinking. Unlike humans, AI can process large amounts of data, with the end goal of recognizing patterns and ultimately making smarter decisions that a human could not do alone by manual processes. Machine learning, a subset of AI, becomes better

at understanding and providing insights as it is exposed to more and more data. Over time, AI can enhance various critical stages of a construction project so that new efficiencies will be discovered to overcome challenges and delays of the past when the construction industry relied on human input alone.

**Design Process**—AI will improve better design of buildings and their construction all along the way. Building information modeling (BIM) involves creating and managing information throughout all phases of a construction project. By layering more information, design models can be trained so that AI will provide increasingly insightful and extraordinary insights into the entire life cycle of the project. As a result, initial cost estimates, project time completions, and various teams will be more accurately informed. "Generative" AI design also has great potential to generate design options, analyze site conditions and optimize the building layout.

**Pre-Construction Estimates and Take-Off**—By using AI, estimates will be more accurate and timelier in the beginning phases of the con-

*Imagine AI models that can track and evaluate progress so that schedule risks are identified early on and factored into the budgeting while being proactively addressed ahead of time before a problem occurs.*

struction process. During the pre-construction phase, AI has the potential to estimate square footage so that contractors can make accurate estimates at a faster rate, rather than taking weeks at a time. When applied to the takeoff phase, AI has the potential to expedite the general contractor's ability to come up with price estimates on materials. Better and more accurate estimates in the "take-off" from a list of materials are crucial to keeping the project within budget.

**Bidding and Permits**—AI can simultaneously analyze historical data, current trends, and project requirements—in this way, subcontractor proposals and cost estimates can be optimized. AI tools analyze building codes, zoning regulation and environmental requirements to eliminate obstacles.

**Construction**—AI can track and identify scheduling and project risks early on. By layering more information, models

by as much as 50% through real-time analysis of data. Today, AI can facilitate a contractor's ability to better plan for the distribution of labor across jobs.

**Safety**—AI solutions can be used to identify, monitor, and prioritize safety and risks on the job site. Construction sites can be hazardous, and by using AI, risk can be identified early on to prepare safety briefings ahead of time when elevated threats are proactively detected for those on the construction site.

Artificial intelligence is invaluable in providing insights and a point of view that otherwise may not be seen with the human element alone. Today, as new technologies for AI in construction are coming rapidly into the marketplace, we now have the potential to move our industry forward with giant leaps. Overall, AI has the potential to revolutionize the construction industry by mak-

*Over time, AI can enhance various critical stages of a construction project so that new efficiencies will be discovered to overcome challenges and delays of the past when the construction industry relied on human input alone.*

become trained so that AI will eventually provide increasingly insightful and extraordinary insights into the construction process so that cost estimates, project time completions, and other operations will be more accurately informed.

**Labor**—A 2017 McKinsey report says that construction firms could boost productivity

ing it more efficient, more innovative, and more cost-effective.

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

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WASHINGTON UPDATE

# FHWA Opens Applications for Nearly \$10 Billion for Large Bridge Projects

WASHINGTON - The U.S. Department of Transportation's Federal Highway Administration opened applications on Sept. 29 for nearly \$10 billion in funding for fiscal years 2023-2026 through the competitive Bridge Investment Program's "Large Bridge Project" category, which funds projects larger than \$100 million.

The Bridge Investment Program was established by the President's Bipartisan Infrastructure Law, which makes the single largest dedicated investment in bridges since the construction of the Interstate highway system: a total of \$40 billion over five years to help ensure that some of the nation's most important bridges remain safe and operational, meet current and future traveler needs, support local economies, strengthen our supply chains, and create good-paying jobs across the country. In Fiscal Year 2022, the Bridge Investment Program invested \$2.4 billion in the planning and construction of 37 bridge projects in 29 states across the country.

"Bridges are more than steel and concrete—they connect



U.S. Transportation Secretary Pete Buttigieg

communities, move vital goods, and make it easier to go about our daily lives," said U.S. Transportation Secretary Pete Buttigieg. "These grants will help communities across the country modernize their bridges, and make it easier for everyone to move quickly, reliably, and safely to their destinations."

Key updates to the Bridge Investment Program, Large Bridge Project competitive grants include:

- Accepting applications for FY2023-FY2026, creating the opportunity for applicants to compete for funding for all four fiscal years with a single application.
- Updated merit criteria to provide more direction to applicants, as well as an updated "smart application" template that FHWA highly encourages applicants to use to assist applicants in filling out the application.
- A new Benefit Cost Analysis tool to assist applicants in completing required project analysis.
- An optional initial eligibility screening to provide applicants whose submission is determined to be incomplete or ineligible the opportunity to submit an amended application.

## Safety Watch

Continued from page 14 through the PIV's system permitting this employee to use it. She also was told that a supervisor overrode the system after this employee failed the safety questions. However, the record contained no evidence corroborating the injured employee's statement as provided through the CSHO. Further, the ALJ found the CSHO's account that unnamed employees informed her that supervisors had observed unauthorized employees using PIVs, as unconvincing. Therefore, the Secretary failed to establish that Americold had actual knowledge of the violative condition.

The ALJ's Decision then looked at whether Americold should have known or been aware of this violative condition. The evidence presented in fact showed that Americold had written rules prohibiting unauthorized use of PIVs, which included training provided to all employees. They also had controls in place requiring ID badges showing training and certification to operate the machine and employees had to perform a safety inspection prior to even starting the PIV. Although Americold conceded that an authorized employee's card could be used by an unauthorized employee, Americold was unaware of any similar instances and Secretary had not shown any evidence of this practice. Americold also had two forms of routine, documented, monitoring of employee safety and performance as well as a disciplinary program for which it established it had terminated three of its employees, months prior to the accident for PIV violations. Under these circumstances the Secretary failed to meet its burden and the Citation was vacated.

*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.*



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# Regional Bid Alert

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## NYS DOT - Region 8

### Bid Letting Date: Oct. 26, 2023

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

Contract# D265100  
PIN# 803403

Project Description: Westchester Co., pavement rehabilitation, NY RTE 128, Town of North Castle.

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

Goals: MBE: 7.00%, WBE: 10.00%, SDVOB: 6.00%

## NYS DOT - Region 9

### Bid Letting Date: Oct. 26, 2023

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

Contract# D265120  
PIN# 9WW023

Project Description: Broome, Chenango, Delaware, Otsego, Schoharie, Sullivan, Tioga counties., highway - emergency response where & when - various locations.

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

Goals: MBE: 5.00%, WBE: 10.00%, SDVOB: 0.00%

### Bid Letting Date: Oct. 26, 2023

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

Contract# D265121  
PIN# 9WWS23

Project Description: Broome, Chenango, Delaware, Otsego, Schoharie, Sullivan, Tioga counties., bridge emergency response where & when, various locations.

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

Goals: MBE: 5.00%, WBE: 10.00%, SDVOB: 0.00%

### Bid Letting Date: Nov. 9, 2023

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

Contract# D265116  
PIN# 9TGD24

Project Description: Broome, Chenango, Tioga counties, highway - guiderail rehab and improvements - various locations.

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

Goals: DBE: 2.00%

### Bid Letting Date: Nov. 9, 2023

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

Contract# D265118  
PIN# 904353

Project Description: Broome Co., bridge deck rehabilitation overlay - three Rt.11 locations, Town of Chenango.

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

Goals: DBE: 6.00%

## NYS DOT - Region 10

### Bid Letting Date: Nov. 9, 2023

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

Contract# D265112  
PIN# 081058  
F.A. Proj. # Y001-0810-583

Project Description: Nassau, Suffolk counties, maintenance: drainage - various locations.

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

Goals: DBE: 10.00%

### Bid Letting Date: Nov. 9, 2023

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

Contract# D265106  
PIN# 081044  
F.A. Proj. # Y001-0810-443

Project Description: Suffolk Co., bridge maintenance & repairs, Great Neck Road over NY27 and Robert Moses Causeway over Ocean Parkway, Towns of Babylon & Islip.

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

Goals: DBE: 9.00%

### Bid Letting Date: Nov. 9, 2023

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

Contract# D265109  
PIN# 081001  
F.A. Proj. # YS30-0810-013

Project Description: Suffolk Co., highway safety improvements - NYS Rtes. 25, 25A and 114, Towns of Riverhead, East Hampton, and Southold.

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

Goals: DBE: 10.00%

## Westchester County DPW

### Bid Due Date: Oct. 25, 2023

Contract: 20-516 (\$100.)

Title: Dam Rehabilitation, Ward Pound Ridge Reservation, Towns of Pound Ridge and Lewisboro, NY

Description: The work under this contract consists of providing all necessary labor, material and equipment required for the replacement of an existing vehicular bridge and pedestrian bridges, site modifications, and tree/shrub removal at the Park's Main Office site. This project also includes the replacement of an existing pedestrian bridge, site modifications, and tree/shrub removal at the Michigan Road Dam site. In addition, there will be replacement of an existing culvert, site grading, stone barbeque rehabilitation, and tree/shrub removal at the Kimberly Bridge Picnic Area site.

Bid Estimate Range: \$1.2 million to \$1.4 million

Pre-Bid Inspection: Scheduled for 10:00 a.m., Oct. 10, 2023; meeting at the Ward Pound Ridge Park Main Office.

Contact: Esther Rivas, 914-995-5584

## New York State Dormitory Authority

### Bid Due Date: Oct. 24, 2023

Title: Herbert H. Lehman College, Shuster Hall, Fine Arts Building, and Entry Link Façade Restoration and Associated HAZMAT Removal

Contract: CR79 General Construction

Project# 3253809999

Sealed bids for the above work located at Lehman College, 2900 and 2910 Goulden Ave., Bronx, NY, 10468 will be received by DASNY at its office located at 515 Broadway, Albany, NY 12207. Each bid must be identified, on the outside of the envelope, with the name and address of the

bidder and designated a bid for the Project titled above. When a sealed bid is placed inside another delivery jacket, the bid delivery jacket must be clearly marked on the outside "BID ENCLOSED" and "ATTENTION: CONSTRUCTION CONTRACTS - JAMIE CHRISTENSEN." DASNY will not be responsible for receipt of bids which do not comply with these instructions.

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

All individuals who plan to attend pre-bid meetings or bid openings in person will be required to present government-issued picture identification to building security officials and obtain a visitors pass prior to attending the bid opening.

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

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

Only those bids in the hands of DASNY, available to be read at 2:00 PM local time on Tuesday, October 24, 2023 will be considered. Bids shall be publicly opened and read aloud. Bid results can be viewed at DASNY's website; <http://www.dasny.org>.

In accordance with State Finance Law § 139-j and § 139-k, this solicitation includes and imposes certain restrictions on communications between DASNY personnel and a prospective bidder during the procurement process. Designated staff for this solicitation is: Christopher Wuest, Sr. Project Manager, 250 Bedford Park Boulevard West, T3 Building Room 124, Bronx, NY, 10468, 646-773-0081, [cwuest@dasny.org](mailto:cwuest@dasny.org) (the Owner's Representative) and DASNY at [ccontracts@dasny.org](mailto:ccontracts@dasny.org). Contacts made to other DASNY personnel regarding this procurement may disqualify the prospective bidder and affect future procurements with governmental entities in the State of New York. For more information pursuant to this law, refer to DASNY's website; <http://www.dasny.org> or the OGS website; <http://www.ogs.state.ny.us>.

A Pre-Bid Meeting was scheduled on Friday, Sept. 22, 2023, at 1:00 PM at 2900 Goulden Ave. Contact Chris Wuest at 646-773-0081. All prospective bidders are strongly encouraged to attend.

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

### Bid Due Date: Oct. 24, 2023

Title: City University of New York, Herbert H. Lehman College, Davis Hall and Gillet Hall Roof Cover Replacement and Asbestos Abatement

Contract: CR20 General Construction

Project# 3578109999

Sealed bids for the above work located at Lehman College,

2850 and 2920 Goulden Ave., Bronx, NY, 10468 will be received by DASNY at its office located at 515 Broadway, Albany, NY, 12207. Each bid must be identified, on the outside of the envelope, with the name and address of the bidder and designated a bid for the Project titled above. When a sealed bid is placed inside another delivery jacket, the bid delivery jacket must be clearly marked on the outside "BID ENCLOSED" and "ATTENTION: CONSTRUCTION CONTRACTS - JAMIE CHRISTENSEN." DASNY will not be responsible for receipt of bids which do not comply with these instructions.

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All individuals who plan to attend pre-bid meetings or bid openings in person will be required to present government-issued picture identification to building security officials at Gate 5 and obtain a visitors pass prior to attending the bid opening.

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

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

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A Pre-Bid Meeting was scheduled on Friday, Sept. 22, 2023, at 10:00 AM at 2850 Goulden Ave., Bronx, NY, 10468. Contact Chris Wuest at 646-773-0081. All prospective bidders are strongly encouraged to attend.

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

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

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## ALBANY UPDATE

## All Spent Nuclear Fuel at Indian Point Moved to Safer, Secure Dry Cask Storage

ALBANY—The New York State Department of Public Service and the Indian Point Closure Task Force announced on Oct. 16 that the owner and operator of the decommissioning Indian Point nuclear power plant in the Village of Buchanan has transferred all spent nuclear fuel to dry cask storage.

State officials noted that the announcement marks important progress for the community and the state since dry cask storage is a safer, more secure storage practice, making New York the first state to accomplish such a prompt shift and remedy.

“The successful transfer of spent fuel to dry cask storage is a tremendous accomplishment



All 3,998 spent fuel assemblies are now contained within 127 reinforced concrete and steel casks on the Indian Point site's independent spent fuel storage installations.

by the skilled men and women working to decommission Indian Point,” said Tom Congdon, chair of the Indian Point Closure Task Force. “Meanwhile, New York’s oversight over the decommissioning of Indian Point continues unabated. New York’s regulatory agencies, and the Indian Point Decommissioning

Oversight Board, remain laser-focused on the safe, prompt, and thorough decommissioning of Indian Point.”

The heightened risks posed by Indian Point’s long-standing practice of storing spent nuclear fuel in densely packed spent fuel cooling pools have been of concern to New York

State, contributing to the state’s opposition to the relicensing of Indian Point more than 15 years ago, the state’s successful effort to permanently close the facility in 2021, and the state’s insistence that the federal Nuclear Regulatory Commission (NRC) oppose Holtec’s waivers for its Post-Defueled Emergency Plan

(PDEP) until all spent nuclear fuel was out of densely packed spent fuel pools.

To mitigate the risks of fires in the spent fuel pools and release of radiation during a severe accident, and to avoid a decades-long process afforded by the federal government’s decommissioning regulations, New York State required all spent nuclear fuel at Indian Point to be safely transferred out of the spent fuel pools and into dry cask storage on an accelerated timeline. In fewer than 30 months since those requirements were imposed, all 3,998 spent fuel assemblies are now contained within 127 reinforced concrete and steel casks on the site’s independent spent fuel storage installations.

## Environmental Facilities Corp. Approves \$234M For Water Infrastructure Projects Across NY

ALBANY—The New York State Environmental Facilities Corporation Board of Directors announced on Oct. 5 it had approved \$234.5 million in financial assistance for water infrastructure improvement projects across New York State.

The board’s approval authorizes municipal access to more than \$226.8 million in low-cost short-term financing and previously announced grants to get shovels in the ground for critical water and sewer infrastructure projects, including flood mitigation measures that protect critical

clean water systems from high water events.

“By investing in our state’s water infrastructure, we are laying the foundation for regional growth and prosperity while protecting our natural resources,” Gov. Kathy Hochul said. “This financial assistance helps ensure that cost will not be a barrier as communities across the state continue to modernize treatment systems with vital infrastructure upgrades, helping usher in a healthier, more resilient future for New York.”

The board also took action to help ensure continued, long-

term affordability of three existing projects, approving long-term financing totaling more than \$7.7 million to municipalities to provide savings on debt service for these projects.

Of the projects approved for funding today, the Board approved \$148 million for a clean water resiliency project that will support the city of Long Beach’s long-term recovery from devastation caused by Hurricane Sandy in 2012. This critical project will safeguard the city’s wastewater treatment systems with flood

mitigation measures, convert the city’s water pollution control plant into a pump station and connect it with Nassau County’s South Shore Reclamation Facility. Together with the ongoing Bay Park Conveyance Project, the city’s undertaking will improve water quality of the Western Bays and Reynolds Channel. EFC is prefinancing the project to provide the city with the up-front capital needed to get the project constructed. These funds will be reimbursed by federal disaster grant programs.

The board’s approvals in-

clude financings through the Clean Water State Revolving Fund and Drinking Water State Revolving Fund, and grants already announced pursuant to the Water Infrastructure Improvement and Intermunicipal Grant programs.

The Clean Water projects financed by the Board’s vote include \$5.5 million in short-term interest-free financing for the Village of Rhinebeck in Dutchess County for the planning, design and construction of upgrades to the village’s wastewater treatment and collection system.

## State Providing \$165 Million in Funding For Sustainable Transportation Projects

ALBANY—New York Gov. Kathy Hochul announced on Sept. 29 that \$165 million in new funding is available to support community-based investments designed to strengthen the cultural, aesthetic, and environmental aspects of local and regional transportation systems while promoting safety and mobility.

The funding is available for projects that create new and enhance existing bicycle and pedestrian facilities, improve access to public transportation, create safe routes to schools, convert

abandoned railway corridors to pedestrian trails, and help reduce congestion and greenhouse gas emissions from the transportation sector. In addition, these funds may be used by municipalities to support activities that meet the requirements of the Clean Air Act and the Americans with Disabilities Act.

These funds, made available to the state through the Federal Highway Administration (FHWA) and administered by the New York State Department of Transportation (NYSDOT), are provided through the Transportation

Alternatives Program (TAP), the Congestion Mitigation and Air Quality Improvement Program (CMAQ), and the Carbon Reduction Program (CRP).

The following entities are eligible for funding: Local Governments (Counties, Towns, Cities, and Villages); Regional Transportation Authorities; Transit Agencies; Natural Resources or Public Land Agencies (NYS Department of Environmental Conservation, NYS Parks, Recreation and Historic Preservation, local fish and game or wildlife agencies); Tribal Governments; Local or Regional Gov-

ernmental Transportation or Recreational Trail Entities and New York State Department of Transportation (for CMAQ only).

In addition, the following organizations are eligible only in partnership with the entities listed above: Metropolitan Planning Organizations (serves an urbanized area with a population of 200,000 or fewer), School Districts and Non-Governmental Organizations.

Projects will be selected through a competitive solicitation process and rated based on established criteria that includes public benefit, air

quality improvements, cost-effectiveness, and partnerships. Projects must be related to the surface transportation system and provide full access to the public. The TAP-CMAQ-CRP project awards will amount to no less than \$500,000 and no more than \$5 million for any single project. NYSDOT will provide up to 80% of the total eligible project costs with a minimum 20% match provided by the project sponsor. Eligible project costs may include planning, design/engineering services, right-of-way acquisition, construction and construction inspection.

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Construction NEWS**

## State Adopts First-in-the-Nation ‘Buy Clean Concrete’ Mandate

Continued from page 16

The Buy Clean Concrete guidelines apply to state agency contracts exceeding \$1 million that involve the use of more than 50 cubic yards of concrete, or Department of Transportation contracts exceeding \$3 million that include at least 200 cubic yards of con-

crete. The guidelines include exceptions for emergency projects and those requiring high-strength or quick-cure concrete and do not apply to state authorities.

Following Gov. Hochul’s signing of State Finance Law §136-d, which called for these guidelines to be developed, the Office of General Services

partnered with the New York State Energy Research and Development Authority and convened a stakeholder and expert group to gain valuable insight and assistance in the production of guidelines for the use and innovation of low embodied carbon concrete in New York State construction projects.



# Dutchess County Justice & Transition Center to Open \$20M Under Budget

POUGHKEEPSIE NY—Dutchess County Executive William F.X. O’Neil joined Dutchess County Sheriff Kirk Imperati in announcing on Oct. 10 that the new Dutchess County Justice & Transition Center will open more than \$20 million under budget later this year and is expected to significantly reduce annual operational costs compared to the former facility.

Sheriff Imperati said, “This new facility enhances the safety and dignity of both those who are incarcerated and our correctional team who work here. It is the result of the hard work of many people coming together to address long-standing problems. I am grateful to my predecessor Sheriff Adrian ‘Butch’ Anderson, as well as former County Executive Marc Molinaro and so many others for making the Dutchess County Justice & Transition Center a reality.”

The new DCJTC will meet the county’s needs for years to come. The 161,987-square-foot facility features a larger state-of-the-art medical infirmary including a women’s medical unit with enhanced medical and mental health services; expansive classroom and programming areas; professional, industrial kitchen and laundry; and improved staff areas. The design incorporates substantially more natural light than the current facility and is fully climate-controlled, creating a better environment for both incarcerated individuals and the correctional officers charged with their care.

Dutchess County Executive O’Neil said, “The Dutchess County Justice & Transition Center is a testament to persistence—a legacy project. Dutchess County government has again demonstrated exceptional collaboration, multi-faceted expertise and a fierce determination to overcome challenges and implement solutions. There are so many aspects to this project—unique, progressive design; restorative justice strategy; careful budgeting and financial modelling and tracking; a highly complex construction plan and the ever-changing environment for criminal justice law; public engagement and the economic impacts on construction costs and material and labor availability – and now we stand at the finish line, ready to open this building and serve as a statewide leader for restorative justice.”

The project has been overseen by Dutchess County Public



The construction of the new Dutchess County Justice & Transition Center was performed under a Project Labor Agreement.

Works Commissioner Robert Balkind and County Public Works staff. Additionally, a transition team was appointed by Sheriff Imperati to provide input and guidance throughout the design and construction process and plan for the successful transition between the old and new facility. Key project contractors included LaBella Associates, Architect; Pike Construction Companies, General Contractor; Turner Construction Company, Construction Manager; and Black Creek Integrated Systems Corporation, Security System and Controls Contractor. Ricci Greene Associates served as Dutchess County’s owner representative throughout the project.

The project was undertaken with a Project Labor Agreement with the Hudson Valley Building and Construction Trades Council, the group said.

The contemporary design employs the innovative direct supervision strategy used nationally for inmate management, and housing unit design that minimizes the need to move people from place-to-place within the facility, minimizing risk and reducing the number of required correctional officers. Compared to 12 housing units with a separate recreational area in the old building, the new 328-bed facility features six housing units, each with its own recreational area, including one female unit and units specifically designed for the RESTART program. Enhanced security features, additional cameras and improved sight lines also add to the facility’s efficiency and help provide a safer, more appropriate workplace for the county’s valued Corrections team. These staffing and operational efficiencies will result in lower annual operating costs compared to the

old facility, in addition to the savings the county has already reaped from reducing housing out costs and staff attrition.

Following years of developing the design, size and scope

of the DCJTC, in partnership with leading experts in criminal justice and social work and with extensive community engagement, including evaluation of multiple site options,

including the former Hudson River Psychiatric Center in the Town of Poughkeepsie; in March 2016, the Dutchess County Legislature, in a bipartisan vote, approved \$192.2 million for the design and construction of the new facility – planned, at the time, for a capacity of up to 569 beds. The project planned for the demolition of most of the existing jail facility, except for the section built in 1995, which would be renovated and incorporated within the new building design. The plan required the original Sheriff’s Office building be demolished to make room on site. The new 56,000-square-foot Law Enforcement Center, with enhanced design efficiency and greater public access, was built at the site of the former Taylor Manufacturing building on Parker Avenue and was opened in 2019.

## P.A. to House Construction Activity Under New Support Facility at JFK

NEW YORK--The Port Authority of New York and New Jersey announced on Sept. 27 that operations have started at a new construction support facility at JFK Airport in an effort to expedite construction activities and reduce truck traffic in the area.

Queens Borough President Donovan Richards observed that the \$19 billion redevelopment of Kennedy Airport is a historic investment in the region’s economy, the aviation industry and

the millions of travelers who use the airport each year.

“Creating a construction support facility that enables us to eliminate hundreds of thousands of diesel-powered trucks from traveling across local streets is proof of the Port Authority’s commitment to our goal of reaching net-zero greenhouse gas emissions agency-wide by 2050,” Port Authority Executive Director Rick Cotton said.

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### Special Report Next Month

In the November Edition of  
**Construction NEWS**

### New York, IJA & The Road Ahead

*Pavement & Bridge Conditions  
In New York State, Mid-Hudson Region*

Josh Hurwitz, PhD., ARTBA



## LOW BIDS

### ELQ, Mohegan Associates Win NYSDOT Region 8 Projects

ALBANY—The New York State Department of Transportation recently announced the selection of two apparent low bidders for project work in the Hudson Valley region.

ELQ Industries Inc. of New Rochelle, NY was the lowest of four bidders at \$6,339,156 for highway—where & when—emergency high-

way repairs at various locations in Columbia, Dutchess, Orange, Putnam, Rockland, Ulster and Westchester counties.

Mohegan Associates Inc. of Carmel, NY was the lowest of five bidders at \$1,686,927.60 for guiderail replacements—I-84 in the towns of Montgomery and Wallkill in Orange County.

### Yaboo Fence Lands Westchester DPW Work

WHITE PLAINS—The Westchester County Department of Public Works recently announced the selection of Yaboo Fence Company, Inc., of West Nyack, NY as the

lowest of 11 bidders at \$609,046. for fencing and site work at the Hilltop Hanover Farm and Environmental Center in the Town of Yorktown, NY.

### Harold Vogt Continued from page 4

Always a gentleman, he was a leader that many in politics and business relied on. My deepest condolences to his wife Toni and family."

In his unique style, Mr. Vogt penned an article in the July/August 1998 edition of *Westchester Commerce* magazine where he explained The County Chamber's position on the environment and its impact on orderly growth.

"The County Chamber is as concerned as anyone with the preservation of Westchester's environment," Mr. Vogt wrote. "What may make the Chamber different, is that it is willing to speak out, brutally, if necessary, to achieve that objective in a rational and productive way that will not arbitrarily or capriciously sacrifice the county's orderly growth and the economic well-being of its citizens. If that is viewed as insensitive, self-serving, greedy ruthless, tyrannical, dispassionate or worse, we are guilty, but comfortable with our conviction."

Mr. Vogt was frequently interviewed by and appeared in numerous media outlets throughout his impressive 50-year career. He gave generously of his time and talent and advised many entrepreneurs and small business owners. He also helped pave the way for the expansion of numerous global

corporations into Westchester County.

"Harold had a passionate dedication to community and community service," The Business Council stated. He served on several boards of directors, including Blue Cross/Blue Shield of New York, Westchester Junior Achievement and Westchester Community College. After his retirement he continued in service positions, including as the president of the boards for St. Tropez at Boca Country Club and Boca Golf & Tennis Country Club.

He was born in Clifton, NJ, the son of Harriet and J. Ernest Vogt. He received his B.S. and Master's degrees from Montclair State College, and held an organizational business management certification from Notre Dame.

He is survived by his loving wife, Toni, and his three children, Jenifer, Lynn and Glen. His son, Greg, predeceased him.

A private memorial service will be held in Boca Raton, FL. For those who wish to honor Vogt's memory, donations may be made to the American Red Cross/Ukraine Relief, P.O. Box 37839, Boone, Iowa 50037-0839. Condolences to the family can be sent to: Vogt Family, 21755 Arriba Real, Apt 29C, Boca Raton, FL 33433.

### Wall Street's Profits Totaled \$13B in First Half of 2023

Continued from page 10  
soared meanwhile, despite declines in profits and average salaries this year and last year, but the jump is likely fueled by incentive packages from high profits during the pandemic. CEOs at New York financial firms took home 328 times the median of all company employees in 2022. In 2021, CEO compensation was 261 times more than the median of all employees at their firms.

#### Tax Contributions

DiNapoli's report estimates Wall Street was responsible for \$5.4 billion in city tax collections during its Fiscal Year (CFY) 2023, down 16% from its record high of \$6.4 billion in 2022. The majority of the \$5.4 billion (74%) came in personal income tax collections, which accounted for 23% of the city's total personal income tax collections. However, the industry's overall share of city tax revenue declined from 9.3% in CFY 2022 to 7.5% in CFY 2023, although it was still higher than its pre-pandemic levels. DiNapoli's report estimates that tax revenue from Wall St. could decline further in CFY 2024 to levels seen in the five years prior to CFY 2021, when it averaged \$2.7 billion a year and 6.7% of total tax collections.

In addition to personal income tax collections, the securities industry contributes to city property-related tax revenues as the largest segment of financial services

office space tenants in the city. The financial services sector is estimated to occupy approximately 30% of all office space in the city and tends toward the higher-value Class A properties. The office sector accounts for over one-fifth of overall property tax revenues, which are forecast to be \$32.6 billion in FY 2024. If the move to hybrid work or cost cutting maneuvers causes financial firms to reduce their office footprints, it could impact city tax revenues significantly.

New York State relies more heavily than the city on tax collections from Wall St. because of its greater dependence on personal income taxes. The industry accounted for \$28.8 billion (27.4%) of all tax collections in State Fiscal Year (SFY) 2023, which ended March 31, 2023. About 89% of this came through personal income taxes.

#### Economic Contributions

In 2021, the most recent year for which county-level data is available, the securities industry was responsible for 16.4% of New York City's and 7.3% of the state's total gross product. The industry has contributed less over time; it was responsible for 18% of all economic activity in 2012. Data for 2022 will likely show a decline in its economic contribution to pre-pandemic levels (14.5% in NYC in 2019), reflecting the drop in firms' profitability, the report stated.

## REGISTRATION OPEN

# 2024

## ANNUAL CIC / NYS DOT REGION 8 SAFETY SEMINAR

Tuesday, January 16, 2024

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