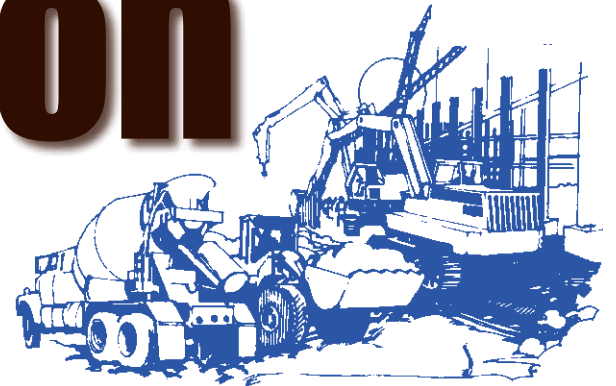




# Construction NEWS



Vol. 40 No. 3

MARCH 2024

\$1.50

## Senate Calls for \$100M to Fix Region 8 Roads

# NYS Senate, Assembly Hike Funding Levels In FY2025 Budget for Hudson Valley Roads

By JOHN JORDAN

TARRYTOWN—The advocacy efforts of the Hudson Valley region's construction industry, led by the Construction Industry Council of Westchester & Hudson Valley, Inc., and organized union labor, have prompted state lawmakers in both chambers to advance significant funding increases in the New York State Department of Transportation's 2024-2025 budget aimed at fixing deteriorating roads and bridges in the Lower Hudson Valley.

The New York State Senate released its "one-house" budget funding proposal on Mon., March 11, that included \$400 million in additional funding for the Mid-Hudson Valley transportation construction industry, which CIC and area construction trade unions swiftly applauded. Part of that advocacy effort included a rally by a coalition of construction contractors, union leaders and elected officials on Feb. 21 calling for more money in the state budget



## Rallying for Roads

The Hudson Valley has the most state and local lane miles of any NYSDOT region, but its roads are rated the worst in the state. A powerful coalition of contractors, organized labor and elected officials gathered in Elmsford recently, calling on the governor and state lawmakers to significantly increase allocations for Hudson Valley roads and bridges.

to address the poor condition of the area's state roadways, many damaged by cavernous-like potholes.

The State Assembly followed suit on Thurs., March 14, with the release of its budget plan. The annual scrum among the Senate, Assembly and the governor's office to pass a state budget by April 1 is

now officially underway.

The construction industry has employed a grass-roots online campaign targeting lawmakers who are being reminded that the seven-county area covered by Region 8 of the New York State Department of Transportation has had the worst road and bridge condi-

tions in New York State for more than a decade. It also noted that Region 8 has the most lane miles and the most bridges of any region, yet on average Region 8 ranks third in terms of funding. Region 8 includes 13 cities, 75 villages and 107 towns in Westchester, Ulster, Rockland, Please turn to page 18

# Region's Union Building Trades Leaders Map Out Major Project Pipeline for 2024

STAFF REPORT

TARRYTOWN—Attendees of the Hudson Valley Construction Industry Partnership convention late last month in Naples, FL attended a host of highly informative presentations and roundtable discussions on industry trends, safety and management initiatives, legislative priorities and economic and work flow prognostications.

One of the highlights of the convention that ran from Feb. 25-29 at the Ritz-Carlton, Naples, were presentations by leaders of the construction trades in the

lower and mid-Hudson Valley regions. The key takeaway from the presentations by Jeff Loughlin, president of the Building and Construction Trades Council of Westchester and Putnam Counties ("Westchester-Putnam Building and Construction Trades Council") and L. Todd Diorio, president of the Hudson Valley Building and Construction Trades Council, was that despite some economic headwinds, the pipeline of work in the region should keep the trades busy throughout this year.

The following are some of the highlights from Mr. Loughlin's

and Mr. Diorio's presentations. **Westchester-Putnam Building and Construction Trades Council**

Mr. Loughlin noted that in 2023 Building Trades President Eddie Doyle and Vice President Dario Boccarossa both retired from the Westchester -Putnam

Building and Construction Trades Council. He noted that both men were pivotal in the Westchester Putnam labor movement and fought aggressively to protect workers' rights and build better wages and lives for all tradesmen and women within the region.

During Mr. Doyle's presidency, the use of Project Labor Agreements (PLAs) exponentially increased on both private development and public works projects that secured work for tens of thousands of men and women members of organized labor.

More than \$10 billion of projects have been completed under PLAs in virtually every sector of the economy in the building trades jurisdiction. These included transportation and Please turn to page 10



## Florida Gathering

Leaders of the contracting community, organized labor and public officials gathered in Naples, FL for the annual Hudson Valley Construction Industry Partnership meeting last month. Among the 175 guests were, from left, Christine and Chris McCracken with Nancy and Jim Smith of Advance Testing, and Orange County District Attorney David Hoovler and his wife, Christa. See more pictures, page 11.

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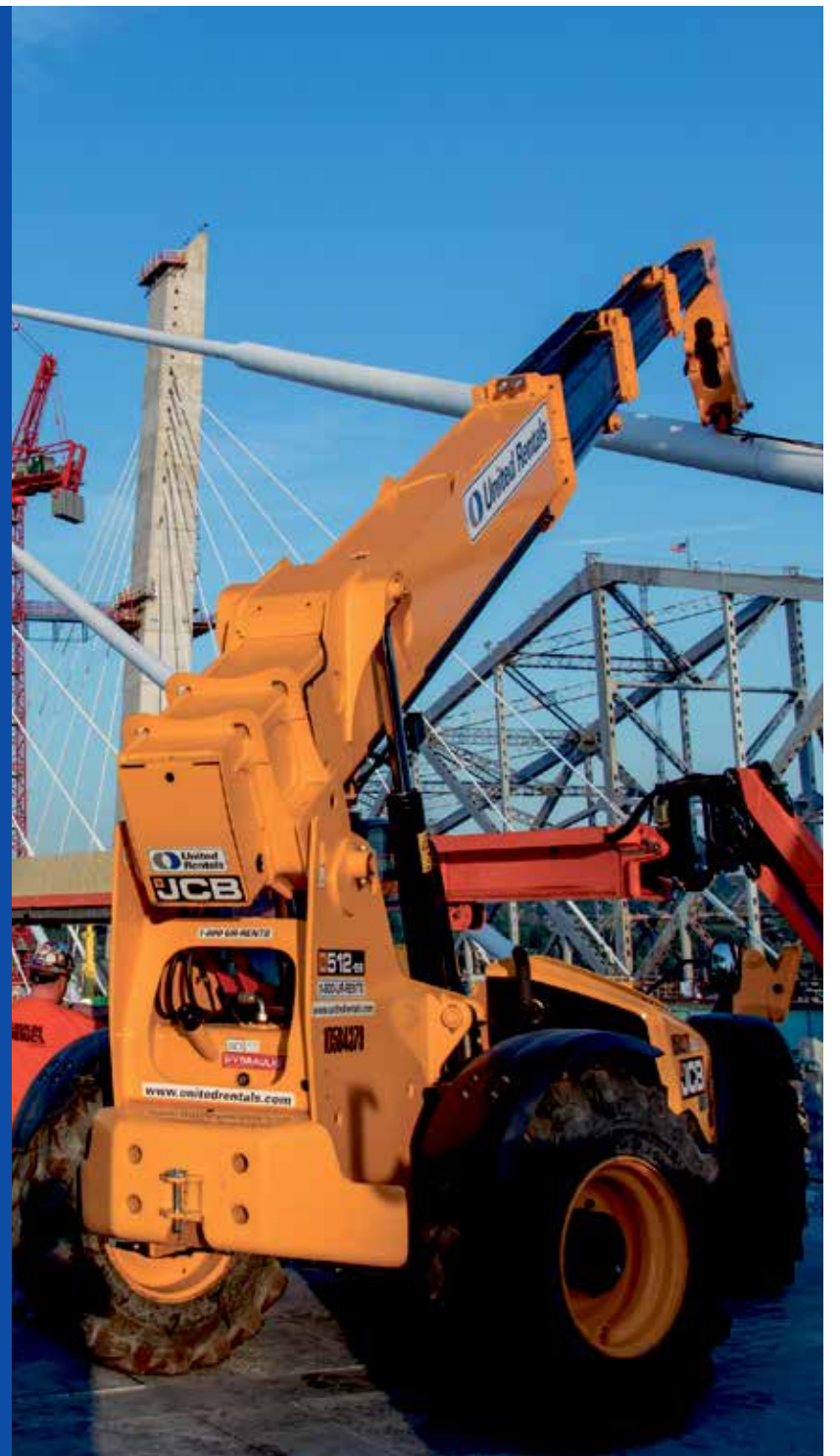


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# County Executive Latimer Signs Nearly \$53 Million Glen Island Bridge Bond Act

By JOHN JORDAN

WHITE PLAINS—In his Seventh State of the County address on March 14, Westchester County Executive George Latimer signed the \$52.8-million Glen Island Bridge construction Bond Act, which is among the most significant construction projects in Westchester County in the past decade.

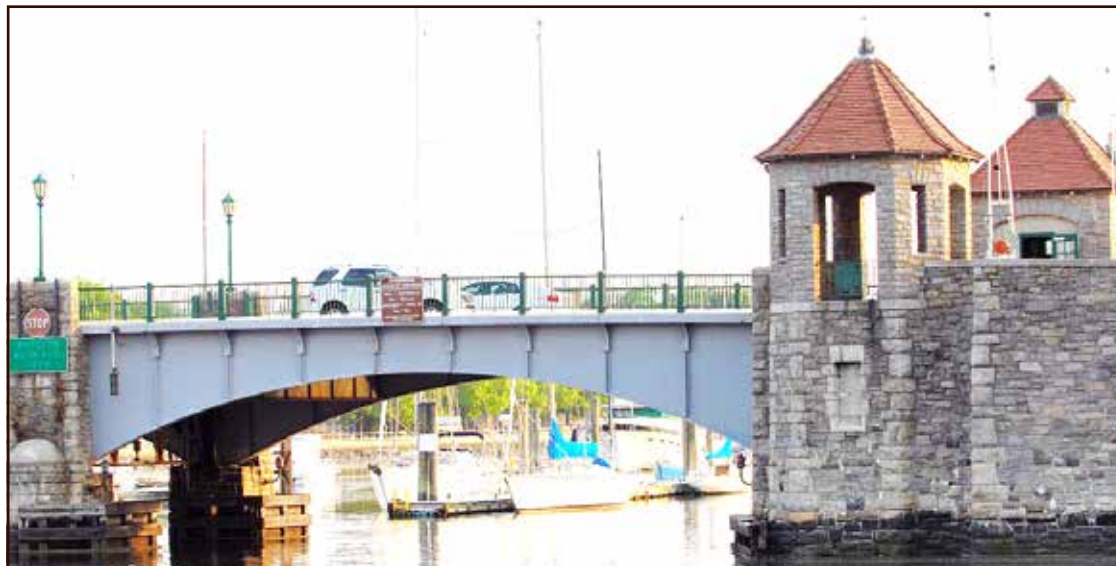
Mr. Latimer said of the project: “Here in Westchester we support infrastructure, always, and we vote and enact legislation to support it. We just don’t talk about it.”

He later added, “This project reflects the county’s dedication to addressing critical infrastructure needs. Additionally, the county has successfully finalized the Inter-Municipal Agreement between the county and the City of New Rochelle. Also, a notable aspect of the project is the incorporation of a Project Labor Agreement, showing our respect and commitment to fair pay for fair work.”

The Westchester County Department of Public Works posted a bid letting with a due date of April 10.

The Rehabilitation of Glen Island Approach Bridge over New Rochelle Harbor (BIN 3348880) contract has a bid estimate range of \$42 million to \$47 million.

The project description calls for work under the contract to consist of: “providing all labor, material and equipment required to erect a temporary bridge, work zone traffic control, temporary signals, temporary barriers and tie-in points. It includes the bridge rehabilitation work, which includes but is not limited to, removal and replacement of the existing bridge deck, sidewalks, floor beams, stringers, grid deck, bearings, barriers, fender system and railing. Steel strengthening repairs on the approach girders and concrete repairs on the plaza structure will be performed as will milling and replacement of the overlay at the plaza structure. The control house lower level, including restroom and kitchen facilities,



The Westchester County Department of Public Works has put out to bid the rehabilitation of the Glen Island Bridge in New Rochelle, NY. The bid on one of the most significant county capital projects in decades is due on April 10.

ties, will be reconfigured and the electrical components, including replacement submarine cable, warning/barrier gates, PLC cabinet, control desk, CCTV system, MCC,

MDP and generator will be upgraded. Additionally, the bascule span mechanical components, including span locks, auxiliary drive machinery, operating machinery, trun-

nions, dewatering system and centering devices will be upgraded. The project will also include construction of a new sanitary sewer line from the control house to Harbor Lane

and placement of new asphalt roadway surface, curbs, sidewalk and striping on at-grade approaches, as well as associated work for the project.”

The Westchester County Department of Public Works had scheduled a mandatory pre-bid inspection on Tuesday, March 19 at 10 a.m. at the Glen Island Bridge in New Rochelle.

In another significant contract letting, the Westchester County DPW has put out to bid phase two of the Michaelian Office Building Parking Garage rehabilitation project in White Plains that has a bid estimate range of between \$33 million to \$35 million. The bid due date on the project is April 3. A mandatory pre-bid inspection was scheduled on March 12 at the Martin Luther King, Jr. Boulevard Entrance Gate. The project will also be performed under a PLA.



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## GUEST VIEWPOINT

# Route 17 Upgrade Will Enhance Safety, Mobility, Create Meaningful Jobs to Boost the Economy

By DANIEL ORTEGA

When faced with challenges, leaders act. Problems require solutions, and if ignored, problems often become worse over time. A present-day case in point is Route 17, the major corridor in the Hudson Valley.

Efforts are underway to improve mobility on Route 17 in Orange and Sullivan counties by adding a third lane east and west, and making other necessary upgrades to convert the corridor to Interstate 86. Enhancing safety on Route 17 is of paramount importance, and we cannot afford further delays to this long-overdue project. It's time to set the record straight and move this critical project forward.

The New York State Depart-



ment of Transportation hosted two public information sessions on the Route 17 enhancement project in mid January. The NYSDOT has been very responsive to local concerns and has addressed considerations ranging from safety, the environment, quality-of-life and

projected financial costs.

The need for an additional travel lane has been confirmed by two separate NYSDOT studies and has bipartisan support at all levels of government. The project has long been supported by U.S. Sen. Chuck Schumer, and Gov. Kathy Hochul last year announced the start of an environmental review of Route 17—a key step forward to convert the corridor to Interstate 86. The launch of the study follows the inclusion of up to \$1 billion in the state budget to accelerate the conversion—funding for which our 17-Forward-86 Coalition had been advocating.

17-Forward-86 members are vocal proponents of this project. Yes, we are stakeholders—we live here, work here and travel on Route 17. The stakes are high. Why is this project so important? First and foremost is safety. An additional lane will improve mobility and provide critical access for first responders—police, fire and ambulance services. It will make the corridor safer for all of us traveling on it each and every day, whether to the office, or medical appointments, or to take our children to school or the baseball field.

An additional lane will also alleviate traffic, particularly on weekends, to our many tourist destinations. It will help local businesses that depend on deliveries and transports by allowing vehicles to move more efficiently, thus reducing traffic jams. Less traffic means less idling—and fewer emissions polluting our environment.

Widening Route 17 will not draw more traffic—it will facilitate the existing level moving through the area more expeditiously. It's common sense. In the fall of 2014, the New Jersey Turnpike opened its much anticipated newly-widened highway in central New Jersey. The region, similar to the Hudson Valley, had seen an increase in population and jobs amid expansions from companies in the logistics and distribution sectors. Similar to Route 17, the roadway had reached capacity resulting in a chronically congested 35-mile stretch. The turnpike expansion resulted in reduced

traffic and idling emissions, fewer accidents and fatalities, and renewed economic development opportunities.

**Widening Route 17 will not draw more traffic—it will facilitate the existing level moving through the area more expeditiously. It's common sense.**

If we build another lane, will more people come? The fact is, they're already here. Our region has seen a dramatic rise in population, fueled in part by the Covid-19 pandemic. Orange County has the fourth-fastest growing population in the state, increasing at a rate of more than 9% between 2010 and 2023. Census data shows Sullivan County as one of the fastest-growing counties in the state. Many residents commute on Route 17. Tourism is booming, as well. Some 6 million people visit Orange County alone each year—Legoland itself draws more than 1 million. The Sullivan Catskills draws upward of 4 million visitors. They travel along Route 17.

Route 17 reaches beyond Orange and Sullivan counties. It is a key transportation corridor in New York State and a primary link for commercial and non-commercial traffic between New York City, Northern New Jersey, Pennsylvania and regions within our state (Hudson Valley, Catskills and the Southern Tier). In addition to interstate transportation, Route 17 serves as an intrastate transportation corridor for commuters and the movement of goods and services. It also is the main corridor for students traveling to institutions of higher learning, such as Cornell, Syracuse, Binghamton, Rochester Institute of Technology, and all of the larger SUNY

schools in that region.

Investment in public transportation is an important part of the long-term sustainability for our region, and a one-seat ride into midtown Manhattan from Port Jervis or Middletown should be part of that plan. However, we also know vehicles—cars and trucks, electric or internal combustion—will continue to be part of our everyday lives. We cannot ignore facts.

The Route 17 enhancement project also will go a long way toward the sustainability of our communities and local economies. Infrastructure upgrades are investments in our future. It has been proved—over the course of a century of American life and economic growth—that each \$1 billion invested in infrastructure yields thousands of direct

jobs and a multiplier of that in indirect jobs. The construction phase of the Route 17 project will create upward of 500 direct jobs, employing local labor. Contractors, suppliers and related industries will also benefit from an increased demand for materials and services. Consider the \$4-billion Gov. Mario M. Cuomo Bridge, which generated more than 6,600 living-wage jobs and tens of thousands of indirect jobs in the region.

The numbers speak for themselves. Our region is growing and we must ensure our infrastructure can safely handle the current and future capacity. Enhancing mobility on Route 17 is the responsible thing to do for our residents, visitors, environment and region.

*About the author: Daniel Ortega, the Community Affairs Chief for Engineers Labor-Employer Cooperative Local 825, is a founding member of 17-Forward-86, which is the broad-based coalition of industry, trade and civic representatives who share a common vision for expanding the capacity of Route 17 to ensure the safety and economic well-being of the Hudson Valley and Sullivan Catskills. To learn more, visit [www.17Forward86.org](http://www.17Forward86.org). The Construction Industry Council of Westchester & Hudson Valley, Inc., is a founding member of the 17-Forward-86 coalition.*

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## Attorney's Column

# GC's Exaggerated Mechanic's Lien Sinks Claim To Recover and Drowns its Subs in the Process

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

It's always a bad idea to exaggerate the amount of a mechanic's lien. While the exaggerating lienor may succeed in getting the attention of the owner or upstream contractor with such an action, the negative boomerang effects—such as having the lien declared void—greatly outweighs the shock value of a big number on the lien.

Counterproductive decisions by courts could include being prohibited any recovery on the contract, being forced to pay the costs and attorney's fees associated with the discharge of the exaggerated lien, and, most



cent case of *Borough Construction Group, LLC v Red Hook 160 LLC*, another bad boomerang effect is that the liens of innocent subcontractors can also be swept up and discharged along with the exaggerated lien.

### Background

In September 2016, Borough Construction Group and Red

lyn. The agreement was

an AIA A133-2019 form of contract, which provided that the price of the construction was determined on a cost-plus basis, with a guaranteed maximum price. The contract provided that the markup for subcontractor work was limited to 15% of the cost

of that subcontractor's work. Two years later, Borough alleged that it was owed more than \$2.5 million by the owner. Accordingly, Borough filed a mechanic's lien against the property. Several of Borough's subcontractors, also not paid, filed their own mechanic's liens against the property. The

**The general rule is that questions relating to the exaggeration of a mechanic's lien must await trial, but the court held that where the evidence of the exaggeration is "conclusive," it may be determined on a motion for summary judgment.**

importantly, being subject to an award of damages against the lienor in the amount of the exaggeration.

As demonstrated in the re-

Hook 160 entered into a contract for Borough to construct a mixed-use commercial/retail property with more than 70 units on Imlay Street in Brook-

subcontractors' liens themselves totaled nearly \$1 million. Borough ultimately sued to foreclose its mechanic's lien, and the lienor-subcontractors

**The owner provided evidence that the markup on the subcontractors' invoices was well above the permitted 15%—and by as much as 230%. There was also ample evidence of the submission of falsified manpower logs and exaggerated bills based on those falsified logs, and of the intentional performance of defective work for the purpose of permitting Borough to bill for the repair.**

filed appropriate counter- and cross-claims to foreclose their own mechanic's liens. The owner denied that any monies were owing, and asserted a counterclaim alleging that Borough's mechanic's lien was willfully exaggerated.

After five years of litigation—including 20 separate motions—the owner moved for summary judgment to dismiss Borough's complaint and mechanic's lien, the subcontractors' mechanic's liens, and, for summary judgment on its breach of contract, fraud and lien exaggeration counterclaims.

In support of that motion, the owner provided evidence that the markup on the subcontractors' invoices was well above the permitted 15%—and by as much as 230%. Also, after receiving permission to self-perform several scopes of work, which were to have been subcontracted, the owner argued Borough submitted false manpower logs to make it appear Borough had more workers on site than were actually there (and submitted bills accordingly) and performed defective work which was blamed on a prior contractor—thus enabling Borough to bill for the purported remedial work.

Borough opposed, citing to case law, which provides that questions relating to the willfulness of the exaggeration of a mechanic's lien generally must be resolved at trial. It argued there were numerous issues of fact which precluded summary judgment.

### Decision

The court granted the owner's motion and dismissed Borough's complaint in its entirety. In doing so, the court acknowledged that the general rule is that questions relating to the exaggeration of a mechanic's lien must await trial, but held that where the evidence of the exaggeration is "conclusive," it may be determined on a motion for summary judgment. Here, that conclusive evidence consisted of the contracts of one of Borough's subcontractors, and Borough's bills showing the invoices on those lump

sum contracts were marked up well in excess of the permitted 15%—and, as noted earlier, by as much as 230%. There was also ample evidence of the submission of falsified manpower logs and exaggerated bills based on those falsified logs, and of the intentional performance of defective work for the purpose of permitting Borough to bill for the repair.

In addition to dismissing Borough's complaint, the court dismissed Borough's mechanic's lien as well as the subcontractors' liens. In doing so, the court cited to well-settled law that no recovery can be had on an exaggerated mechanic's lien. As a result, there was no lien fund to which the subcontractors' liens could attach, and they had to be dismissed as well.

### Comment

Mechanic's liens are a powerful tool: they not only involve the upstream contractor who is not paying, they also attach to either the title of the property itself, or the public funds held by the municipal owner. Accordingly, in order to prevent abuse of this powerful tool, the State Legislature put in a safeguard in the form of an award against an exaggerating lienor of the attorney's fees incurred in discharging the exaggerated lien—together with the interest on monies deposited to discharge the exaggerated lien or the premium for any lien discharge bond—and an amount of money equal to the amount of the exaggeration itself.

Of course, these harsh penalties are in addition to barring recovery on the exaggerated lien or the underlying contract. Unfortunately for innocent subcontractors, the statutory language that "no recovery shall be had thereon" negates the existence of a lien fund, which is necessary because subcontractors' mechanic's liens are derivative of any amounts owing to the general contractor. Accordingly, if the general contractor is barred from recovery because it willfully exaggerated a mechanic's lien, there can be no lien fund, **Please turn to page 22**

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# Biden FY25 Budget Seeks Heavy Spending For DOT, Army Corps

WASHINGTON—Thanks to the funding levels that are part of the \$1.2 trillion IIJA, President Joe Biden’s budget proposal for fiscal year 2025 is sticking with highway spending transit obligation limits that are in the Bipartisan Infrastructure Law. Heavy infrastructure programs remain high on his list if you look at the funding requests for two key construction agencies, the U.S. Dept. of Transportation and U.S. Army Corps of Engineers.

For USDOT, the request adheres to the Infrastructure Investment and Jobs Act (IIJA) levels for the core highway and transit formula categories, including \$62.1 billion for the highway obligation limit and \$14.3 billion for transit formula funding. Both represent increases over amounts contained in the newly enacted 2024 appropriations measure—about 3% for highways and 2% for transit.

The Federal Transit Administration also would get \$2.4 billion for the Capital Investment Grants program, which funds new rail and bus rapid transit starts. That sum is about the same as the enacted 2024 level and is supplemented by \$1.6 billion from the IIJA.

FTA recommends dividing the roughly \$4 billion for the grants among 14 large projects. The largest award is \$700 million for the proposed Hudson Tunnel Project, the rail megaproject to link New York and New Jersey. Paul Skoutelas, American Public Transportation Association president and CEO, in a statement praised Biden’s budget for continuing the support for transit and passenger rail provided by the IIJA.

**New \$8-billion FAA Facilities Program:** At a DOT budget briefing, Deputy Secretary Polly Trottenberg highlighted a proposed new five-year, \$8-billion program to upgrade Federal Aviation Administration towers, other facilities and radar systems. The 2025 share of the envisioned program is \$1 billion.

# PSC Approves \$57.8M Rockland Power Line

ALBANY —The New York State Public Service Commission recently approved plans by Orange and Rockland Utilities, Inc.,



**Orange & Rockland**

for a new two-year electric system construction project, valued at \$57.8 million. It is designed to improve electric service reliability and system resiliency for approximately 45,000 utility customers by installing 5.5 miles of

new electric transmission cable underground in the southwest section of Clarkstown.

The project calls for a new 138 kilovolt (kV) underground transmission line, primarily within the public roadway rights-of-way for a total distance of approximately five-and-one-half miles between the Burns substation and the West Nyack Substation in the Town of Clarkstown, Rockland County.

“This new transmission project is good news for the region and its customers,” said PSC Chair Rory M. Christian. “It will help improve reliability and reduce the chances of power outages due to an over-stressed electric grid.”

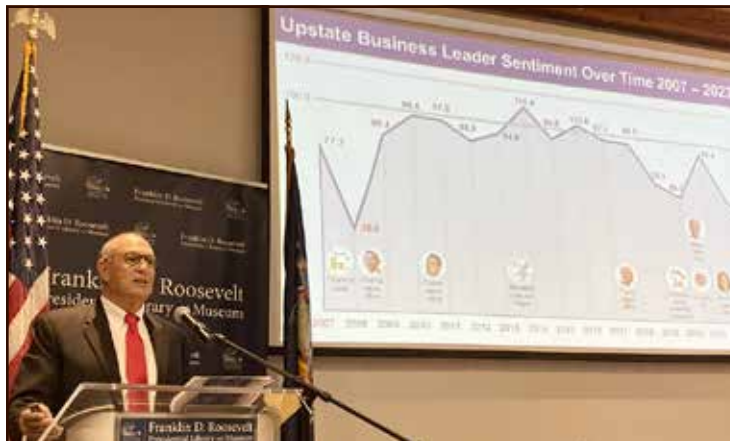
According to the proposal, the new power line is needed to relieve potential overloading of O&R’s existing 138 kV overhead Line 702 between its Burns and Oak Street substations. Recent summer studies indicate that the power flow on the existing line will exceed its capacity if an outage occurs on another 138 kV line serving the region. Additional anticipated loads from proposed data centers in the Orangetown area will increase the potential for overloading under the same contingency.

Once completed, the project will immediately alleviate loads on the existing line, improving the regional transmission network’s overall resiliency and power source reliability to southern Rockland County, while utilizing existing ROW without visual impacts.

The new transmission line will provide an additional source of electricity for southern Rockland County, where increasing business development is creating additional electric system demand. In addition, the new transmission line’s connection to a new transformer bank in West Nyack will improve electric service reliability, resiliency, and capacity for a large number of Clarkstown and Orangetown customers, Orange & Rockland Utilities stated.

# Despite Optimism for Select Sectors, CEO Confidence Index Hits Near Lows

HYDE PARK, NY—A survey released on March 5 by the Siena College Research Institute of more than 500 upstate business leaders showed optimism that several sectors of the economy—technology, education, tourism, medical and manufacturing—will prosper in the next three to five years. Also, a majority describe current business conditions in their local area as staying the same or getting better.



Siena College Research Institute Director Dr. Don Levy presented the findings at the HVEDC’s second annual CEO Survey Breakfast.

However, CEOs surveyed by the Siena College Research Institute also are wary of current adverse economic conditions, government regulation, rising supplier costs, healthcare costs and taxation. Those sentiments weighed on the Research Institute’s Business Leader Confidence Index, which recorded the second lowest score since the survey began 17 years ago, topping only the score recorded during the Great Recession of 2008.

The Siena College Research Institute’s Upstate New York Business Leader Survey was conducted in partnership with UHY, a prominent professional services firm, and the Hudson Valley Economic Development Corp. Research Institute Director Dr. Don Levy presented the findings at the HVEDC’s second annual CEO Survey Breakfast at the Franklin D. Roosevelt Presidential Library and Museum. The report detailed Hudson Valley and New York State economic trends and forecasts, as well as CEOs’ feedback on the vital issues influencing companies’ ability to compete in today’s economy.

Workforce recruitment and retention remain areas of concern for CEOs—and, as such, they are seeking solutions, the survey said. Only 29% of CEOs surveyed plan to increase

their workforce this year, vs. 33% a year ago. However, 80% of CEOs, two percentage points fewer than last year, say there is a deficiency of trained local workers. Three-quarters of the CEOs report difficulty filling open positions, with healthcare (89%), engineering/construction (92%) and manufacturing (79%) most acutely feeling the pinch.

One-third of respondents, vs. 38% last year, have difficulty retaining existing employees. In addition, CEOs said job applicants’ quality is lacking, particularly in technical skills, professionalism, initiative, work ethic, writing skills and being realistic on compensation.

CEOs also say headwinds continue to hinder business success. At least 50% of all CEOs cited these top challenges: adverse economic conditions, 58%, down from 65% last year; governmental regulation, 65%, up from 63% last year; rising supplier costs, 56%, down from 60% last year; healthcare costs, 58%, virtually unchanged and taxation, 57%, unchanged from last year.

The full report is available at: <https://scri.siena.edu/2024/03/05/siena-college-17th-annual-upstate-new-york-business-leader-survey/>.

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## Safety Watch

# Fall Protection Must Be Provided to All Employees Working at Heights Greater than Six Feet

By COSTAS CYPRUS, ESQ.

The Occupational Safety and Health Review Commission's decision in *Secretary of Labor v. Gate Precast Company* reaffirms the safety requirements for construction companies that have crews working at heights and the precautions and training they must undertake with both permanent and temporary employees.

Fall protection must be provided to all employees if it is foreseeable that during operations those employees will come close to any edges at heights of more than six feet. The fall protections are provided with either a guardrail system, safety net system or other fall arrest system.

This matter did not arise from an accident or injury but rather from a citation issued from an OSHA inspection. Gate Precast Company (Gate)



ance officer was conducting an inspection and observed Gate's foreman operating a fork-lift at ground level to lift a load of four-foot-wide precast concrete planks onto the roof. To assist with this operation, three Gate employees, one temporary employee and two permanent employees, helped guide the load into place as the other

ees were exposed to the violative condition by showing either "actual exposure or that access to the hazard was reasonably predictable."

To determine access, the Administrative Law Judge (ALJ) will look at not just that access to the hazardous condition is theoretically possible but that it could be reasonably predictable by "operational necessity" or inadvertently, which would place the employees in the zone of danger, which is the "area surrounding the violative condition that presents the danger to employees which the standard is intended to prevent."

The Occupational Safety and Health Review Commission agreed with the ALJ that the Secretary established exposure as to the one employee who assisted with forklift operations and was guiding the load of planks onto the roof. This employee was standing only about six feet from the unprotected edge and his attention was more focused on guiding the swinging load and keeping it stable, and points even looking up as the load was over his head.

The OSHRC agreed with the ALJ that it could be reasonably predictable that this employee

***The issue in this matter was whether the temporary employees were exposed to the violative condition by showing either "actual exposure or that access to the hazard was reasonably predictable."***

could have lost his balance, could have been knocked over by the swinging load of planks, or by inadvertently walking forward to the unprotected edge as his efforts were more focused on guiding the load. Therefore, even if this employee stayed behind the red tape he was still in the "zone of danger" of the unprotected edge. The distance from an unprotected edge is not the sole determinative factor to be considered but rather one of many factors in this "fact-intensive inquiry."

Other facts to be consid-

ered, can include the presence of tripping hazards such as debris or pipes, the size and weight of objects an employee was holding and the type of work which could make it reasonably foreseeable that an employee "could stagger...or stumble, placing him within the zone of danger." Here, taping off the area and providing an instruction to stay behind was deemed insufficient. Lastly, the Commission found Gate's argument that in looking at potential fall exposure, the temporary employee

based on his initial job task, was not reasonably predictable that he would be performing this job task of guiding the planks.

The Secretary argued that the performance of guiding loads fell within the temporary employee's role especially given that he was asked by other Gate's employees to assist when they were encountering problems securing the load, he was never told by the foreman not to engage in such activity, and that the unstable nature of the load, and its weight and size

Please turn to page 22

***The OSHRC agreed with the ALJ that it could be reasonably predictable that this employee could have lost his balance, could have been knocked over by the swinging load of planks, or by inadvertently walking forward to the unprotected edge as his efforts were more focused on guiding the load.***

manufactures and installs precast concrete structures and was a subcontractor in the construction of a six-story hotel in Texas. The issue in this matter was whether the temporary employees were exposed to the violative condition by showing either "actual exposure or that access to the hazard was reasonably predictable."

On May 4, 2015, Gate was intending to work on the uppermost floor or "roof" of a partially completed hotel. Gate had tied to and strung red tape between sticks wedged in gaps of the abutting precast planks of concrete, approximately six feet from the roof's edge. The edge of the roof was unprotected and was approximately 24 feet above the ground.

Prior to starting work for the day, Gate's foreman held a safety briefing to use personal fall arrest systems while working on the roof. However, two temporary employees (provided through an employment agency) arrived at the site after the safety briefing had been held. They were not provided with any fall protection equipment.

Gate's foreman instructed these two temporary employees to assist with laying grout and to perform clean-up tasks on the roof. The foreman also specifically told them to remain behind the red tape. OSHA's compli-

temporary employee worked in a different area of the roof.

Upon viewing these operations, the OSHA officer subsequently issued a citation to Gates for violating the safety provision § 1926.501(b)(1), which requires that "[e]ach employee on a walking/working surface (horizontal and vertical surface) with an unprotected side or edge which is six feet or more above a lower level...be protected from falling by the use of guardrail systems, safety net systems, or personal fall arrest systems."

The Secretary (of Labor) must prove that the cited standard applies, employees were exposed to the violative condition, the employer knew or could have known of the violative condition with the exercise of reasonable diligence. Here, it was undisputed that the roof had unprotected edges of about 24 feet above ground level, neither of the temporary employees were provided with any personal fall arrest systems and that neither was instructed to, or actually utilized such system while conducting work on the roof and that Gate by via its foreman was aware of these conditions as the foreman had instructed the two employees to remain behind the red tape.

The issue in this matter was whether the temporary employ-



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## Region's Union Building Trades Leaders Map Out Major Project Pipeline for 2024

Continued from page 1

infrastructure construction projects such as the Gov. Mario M. Cuomo Bridge, major commercial developments, such as Ridge Hill Shopping Center in Yonkers, dozens of government buildings, such as the Federal Courthouse in White Plains, a host of senior housing facilities and medical centers along with education buildings for both public and private institutions—all built and completed under the PLA format.

Throughout his long career, Mr. Doyle also negotiated labor contracts throughout Westchester and Putnam counties with municipalities and hundreds of private employers. Given the many honors and awards he received from business, civic and charitable organizations—including an Industry Lifetime Achievement Award from the Construction Industry Council of Westchester & Hudson Valley, Inc.—Mr. Doyle is recognized as among the most influential and respected labor leaders in the region for more than half a century.

Mr. Boccarossa served as the Secretary Treasurer of the WPBTC for the last four decades and served with distinction. He was the Business Manager of Laborers Local 235 for 45 years where he modernized and solidified their funds. He is a 55-year member of his organization.

Mr. Loughlin related the building trades have updated their current PLAs with the

cooperation of all its local affiliates, NYS Building Trades and National Trades organizations. The Westchester-Putnam Building Trades standardized its Municipal and Private PLA templates. In addition, its Mu-

*The WPBTC has also held joint meetings to work with MGM, White Plains Hospital, Sarah Lawrence College and other area blue chip businesses to secure building work for both its members and contractors on their respective building projects.*

nicipal PLA was approved and adopted by Westchester and Putnam County governments, the City of Yonkers, White Plains and Village of Mount Kisco. In 2023 the WPBTC successfully negotiated more than 25 PLAs and is actively negotiating both public and private PLAs for 2024.

The WPBTC also engaged in partnerships to increase its membership and advance its initiatives in 2023. The council staged multiple joint events to help secure work for its quality and professional Union Contractors. It communicated on issues and lobbied with other associations to increase success and is working with the CIC/BCA and Northern BOCES to help recruit the industry's next generation of professional tradespeople.

The WPBTC has also held joint meetings to work with MGM, White Plains Hospital, Sarah Lawrence College and other area blue chip businesses to secure building work for both

its members and contractors on their respective building projects. The council's northern partner, the Construction Contractors Association, is active and contributes to labor events and helps with recruit-

ment and policy.

Mr. Loughlin said that the building trades have a number of key goals for 2024, including:

- Continue to work on IDA Reform and level the playing field for its contractors.
- Coordinate a Labor Calendar on all its websites.
- Build upon its outstanding Political Action outreach and work to get more true Building Trades labor candidates elected.
- Continue to support its associations and add more professional contractors to its base and strengthen their common bonds.
- Identify a charity that both the associations and the Trades can have a positive impact and improve lives within their community.
- Continue sharing across all its media platforms to bring awareness that its contractors and tradespeople are the best in the business and that the trades promote equality and diversity across the board.

### Hudson Valley Building and Construction Trades Council

Mr. Diorio noted the numerous partnerships the Hudson Valley Building Trades have with government and busi-

ness organizations, including the Orange County Partnership; Mid-Hudson Pattern for Progress; the Hudson Valley Construction Industry Partnership; Contractor Associations that include the CCA, CIC, NECA, MCA, Fabricator & Erector, SMACNA and others; the Hudson Valley Building & Construction Labor Management Alliance, the Sullivan County Partnership, BOCES and the 17-Forward-86 Coalition. Many Building Trades officers and members serve on the boards of many of these organizations.

Mr. Diorio said the HVBCTC secured a number of state legislative wins in 2023, including the "Roadway Excavation Quality Assurance Act" that requires Prevailing Wages when a permit is issued to cut or open a public street and the Wage Theft Bill that elevates the crime of wage theft to a felony.

On the local level, the building trades secured stronger

requirements, including apprenticeship thresholds on certain bridge construction projects (Local Law No. 5) in Ulster County. The law went into effect on Jan. 1, 2024. In addition, the HVBCTC is hoping to change this year the apprenticeship language in the City of Kingston back to regulations passed in 2022.

In terms of Project Labor Agreements, the building trades successfully negotiated revised PLA language with Ulster County. In addition, it finalized PLAs on the Orange County Medical Examiners project with Orange County Executive Neuhaus; Dutchess Stadium upgrades with former County Executive Marc Molinaro; Dietz Stadium improvements with City of Kingston Mayor Steve Noble; the Vails Gate Firehouse project with the Vails Gate Fire District; the O&W Station project with City of Middletown Mayor Joe Distefano; the Town of Newburgh Community Center project with Town of Newburgh Supervisor Gil Piaquadio and the Ulster County Operations Center with Ulster County Executive Jen Metzger.

Mr. Diorio added the growth industries in 2024 and beyond for the construction trades in the region include: Renewables (solar, battery and E.V.); Transmission (Clean Path); Infrastructure (Roads, Bridges, Etc.); Warehouses/ Distribution; School Construction, and a number of ongoing and planned projects at the U.S. Military Academy at West Point.

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# Construction NEWS PHOTO GALLERY



Gina Sullivan and Dan Ortega of Operating Engineers L.U.825/ELEC program



From left, Carlos Gonzalez and Anthony Ascencao of Laborers L.U. 60, Chris Cerone of Laborers L.U 17 (in background), TJ Smith and Frank Marchese Jr. of NYS Laborers Health and Safety, Jessica Marchese, Anthony Fresina of Laborers L.U. 190 and Lori Fresina, and Jay Fragoso of Laborers L.U. 60.



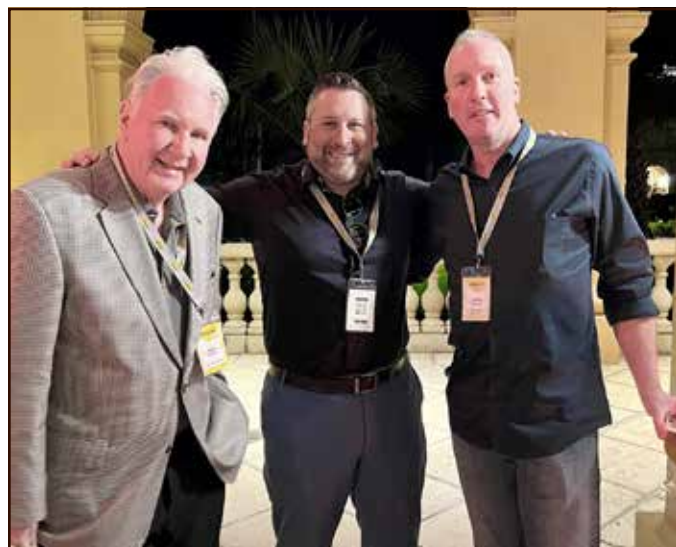
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From left, Fred Sciliano of LeChase Construction Services, Dominick Montesano of Montesano Brothers, Inc., Rocco Circosta of Peckham Materials Corp., Laura Greechan (wife of Westchester County Commissioner of Transportation and Public Works, not pictured), and Rosemary Circosta.



From left, Jack Frazier of American Global, Dan Depew of Holt Construction Corp., and Justin Darrow of Darlind Associates, Inc.



From left, Steve Reich of Laborers L.U. 754, Dom Diviesti of MDS Mechanical, Todd Diorio of Laborers L.U. 17, and Anthony Fresina Laborers L.U. 190.



From left, Louis Picani, Dominick Cassanelli, Jr., and Roger Toranto of Teamsters L.U. 456, Marra Intrusano, Jenifer Corrao of Schroder Investment Management, and Michael Martinez of Teamsters L.U. 456.



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*At the CIC we "Advocate, Educate and Influence" for a better and more healthy construction industry.*

# Yonkers IDA Helps Advance Teutonia Hall Project With \$17.5M Incentives for Riverfront Development

YONKERS, NY—The long-anticipated redevelopment of the Teutonia Hall site on Buena Vista Avenue here is primed to move forward following final approval of financial incentives from the Yonkers Industrial Development Agency last month. AMS Acquisitions, the developer, was approved on Feb. 29 for nearly \$17.5 million for the twin-tower project, which is on the Hudson River waterfront.

When fully completed, the \$458-million mixed-use residential complex will feature two luxury 41-story towers that will be built in two phases. Construction on the first phase is anticipated to begin this September, according to an announcement by the Yonkers IDA. It is one of the largest developments to come before the agency in recent years.

The project, located at 4 Buena Vista Ave., will feature a total of 906 apartments, including 91 affordable units. The complex will include 2,900 square feet of active street-level

commercial use space and 907 parking spaces. The lower six stories of the buildings would comprise a podium, which would serve as a parking facility for residents with approximately 907 parking spaces.

In phase one of the development, project developer AMS Acquisitions will construct the first residential tower and two-thirds of the parking podium. The result will be 510 units along with amenity and support spaces, 544 parking spaces, and approximately 2,200 square feet of retail space.

In phase two of the development, AMS will construct the second residential tower and the remaining one-third of the parking podium. The result will be 396 units along with amenity and support spaces, 363 parking spaces, and approximately 700 square feet of retail space.

Completion of the first phase is expected by December 2027. Construction of Phase 2 is anticipated to start in December 2028 with completion in



A rendering of the \$458-million, multi-tower Teutonia Hall project near the Yonkers waterfront.

December 2031. The two phases of the project are estimated to create 1,100 construction jobs.

Project developer AMS Acquisitions was approved for \$12,924,830 in sales tax exemptions and \$4,549,646 in mortgage recording tax exemptions. The two phases of the project are estimated to create 1,100 construction jobs. According to a cost-benefit analysis, the project will create \$2.35 for every \$1.00 of incentives. The

developer is also requesting a 20-year PILOT.

AMS Acquisitions acquired the Teutonia Hall property in 2018 for \$18.3 million.

## Power Line Project Lands Preliminary Approval

The Yonkers IDA also granted preliminary approval of financial incentives for Champlain Hudson Power Express (CHPE) for the underwater installation of a 1,250MW electric transmission line along

4.3 miles of the Hudson River in Yonkers. The project cost is estimated at \$22.5 million.

The CHPE cable is bringing inexpensive hydropower from Quebec to New York City over a 339-mile route of which 60% is in waterways. Installation of the cable in the Hudson River in Yonkers is currently planned during the period of August-September 2025. CHPE is requesting a sales tax exemption of \$1,996,875.

# Orange County Advanced Manufacturing Project Secures New York State Shovel-Ready Grant

MONTGOMERY, NY—A proposed project to locate a multi-building advanced manufacturing complex at the Aden Brook Commerce Park here was one of seven winners of the Focused Attraction of Shovel-Ready Tracts New York (FASTNY) grant awards geared to providing funding for shovel-ready projects.

On March 1, New York Gov. Kathy Hochul announced that more than \$45 million had been awarded to improve seven upstate locations under the FASTNY program. In addition to the grant awards, the governor also proposed an additional \$100 million in the FY2025 Executive Budget to expand the FASTNY program and build on its success in preparing sites across the state for shovel readiness.

The Aden Brook Commerce Park, through the Orange County Industrial Development Agency and with the assistance of the Orange County Partnership, secured a \$462,500 FASTNY grant to help with the advancement of the SEQRA process and help to cover costs related to engineering and site design. The site, when developed, will target the advanced manufacturing industry sector, with a particular focus on life science, the semi-conductor supply chain, clean-tech, and value-added assembly. This site is approximately four miles from I-84, in an industrial corridor that includes Medline Industries, and is adjacent to the Orange County Airport.

"From the Hudson Valley to



An aerial of the Aden Brook Business Park site in Montgomery, NY.

the Southern Tier, these FASTNY investments are helping to unlock economic opportunity all across our state," Gov. Hochul said. "Businesses of the future are flocking to New York because of our top-notch workforce, our thoughtful incentives, and our turnkey, shovel-ready sites, and I am committed to working with the legislature to bring in even more 21<sup>st</sup> century employers and grow the jobs of tomorrow in our state."

The Aden Brook Commerce Park was the only proposed project in the Hudson Valley to secure the latest round of FASTNY funding. The development to be built on a 116-acre farm site, will feature multiple buildings in a variety of sizes tailored for advanced manufacturing uses such as

life sciences, microelectronics, and clean tech, according to an announcement by the Orange County Partnership.

"Winning the FASTNY Shovel-Ready Grant for Aden Brook Business Park marks an exciting moment for Orange County. This investment will unlock opportunities for advanced manufacturing and help us attract innovative companies. The impact will reverberate across the county, creating jobs, attracting cutting-edge industries, and solidifying Orange County's position as a hub for dynamic business development," said Maureen Halahan, President, and CEO of the Orange County Partnership.

Bill Fioravanti, Executive Director of the Orange County IDA, added, "The Orange Coun-

ty IDA is proud to have teamed up with the Orange County Partnership in submitting this grant application—these grant monies will help facilitate the development of our newest advanced manufacturing park, creating good-paying jobs and delivering tax revenue to the residents of Orange County."

"As Orange County Executive, economic development is one of my core priorities. I am excited by the potential to use this business park to recruit world-renowned companies to our community. This achievement is a testament to our commitment to progress, and I look forward to the positive transformation it brings to Orange County" said Steve Neuhaus, Orange County Executive.

Among the top five FASTNY grant award winners was

Oneida County, which received \$23.6 million for a proposed semiconductor campus at the Triangle Site, located at Griffiss International Airport in the City of Rome

The Broome County IDA secured \$11.3 million for a development site located at the former BAE site on Main St in Johnson City. The Chemung County IDA landed \$4 million for a project located on North Main St in Horseheads that will allow for upgrades including improvements to the existing rail, water, sewer, and stormwater infrastructure to support planned growth and development at the site. The site improvements will enable the construction of an anticipated 765,000 square feet of modern manufacturing, warehousing and logistics facilities.

A development in Niagara County was awarded \$3,258,450 for a project located at Niagara County Business Park on Junction Rd. in Cambria that will allow for site preparations and infrastructure improvements for an advanced manufacturing use on a 60-acre campus. Finally, a project at the Clinton County airport property in Plattsburgh was granted \$3 million for infrastructure improvements to allow for the development of 135 acres of land for manufacturing, light industrial processing, warehousing, and distribution users.

Since its inception, FASTNY has awarded more than \$175 million to 20 sites in every upstate region.

## Financial Management

# Keep Good Records on PPP Loan Forgiveness. Lookback on SBA Challenge is Up to 10 Years

By PHILLIP ROSS, CPA, CGMA, PARTNER

Many companies that have submitted documentation to the Small Business Association and that have had Paycheck Protection Program loans forgiven may think they are home free. Think again. The SBA has the right for up to 10 years from the time of forgiveness to audit the documentation and challenge some, if not all, of the forgiveness if it finds the documentation lacking.

The SBA is in the midst of auditing the documentation submitted by many companies and, in many cases, challenging the accuracy and completeness of their documentation. In these situations, the SBA will send a letter, via the intermediary



bank, to the company requesting additional documentation, challenging the accuracy of the calculations submitted, or otherwise challenging the forgiveness.

Companies must respond to these letters in a timely fashion. Failure to do so, or failure to satisfactorily address the questions raised by the SBA, will result in partial or full denial of the forgiveness. And depending upon the nature of the forgiveness denial, the company may be required to repay the full amount of the loan immediately.

In addition to having to repay the loan, denial of forgiveness can result in other headaches for the company. The loan forgiveness may have been used by the company's owners as a basis to deduct losses or to receive tax-free distributions.

In the event there were any ownership/equity transactions prior to the denial of forgiveness, the basis may have been included in the calculation of

*The SBA is in the midst of auditing the documentation submitted by many companies and, in many cases, challenging the accuracy and completeness of their documentation.*

gain on the sale. As a result, the denial of forgiveness may have significant adverse tax ramifications.

Denial of forgiveness will also reduce the company's equity on its financial statements and may necessitate a restatement of previously issued financial statements.

If your company receives one of these letters from the SBA, you should contact your financial consultant.

*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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# ON THE RECORD

The leading candidates for President – Joe Biden and Donald Trump – have vastly different records when it comes to policies that affect the jobs and wages of Operating Engineers. Take a look:

## JOE BIDEN



## DONALD TRUMP



### INFRASTRUCTURE

#### Passed the Bipartisan Infrastructure Act:

A \$1.5 trillion investment in highway, bridge, water, and broadband infrastructure – the largest in American history.

Proposed a \$200 billion bill:

Relied heavily on privatization. **No action taken.**

### JOBS & WAGES

**14.1 million jobs created:** 670,000 new construction jobs; Wage increases of 18% over three years for production and nonsupervisory workers.

**3.2 million jobs lost:** 515,000 new construction jobs; Wage increases of 12% over four years for production and nonsupervisory workers.

### DAVIS-BACON PREVAILING WAGE

#### Issued new rules to improve and modernize

**Davis-Bacon:** First improvements made in over 40 years; Expanded prevailing wage coverage to Energy Tax Credits.

#### Eliminated surveyors from prevailing wage coverage;

Repealed Davis-Bacon on Housing and Urban Development Program (RAD II).

### PROJECT LABOR AGREEMENTS

Issued Executive Order requiring PLAs on federal projects over \$35 million.

No PLAs used on federal projects during Trump's term. **No change in policy.**

### ENERGY DEVELOPMENT

**Most domestic oil and gas production in American history:** Most oil & gas produced on Federal lands equal to 3 million barrels per day; Approved biggest project in decades – the Willow Project in Alaska.

Average daily production from Federal lands equal to 2.75 million barrels per day; Failed to move the Willow Project out of litigation.

### LABOR LAW

Fired the anti-union General Counsel at National Labor Relations Board. Supports the PRO Act, comprehensive labor law reform bill endorsed by IUOE.

Appointed anti-union General Counsel to National Labor Relations Board. Expanded the definition of Independent Contractor, increasing cases of wage theft.

### APPRENTICESHIP & TRAINING

Eliminated the Industry-Recognized Apprenticeship Program (I-RAP), which would weaken training standards.

Created the Industry-Recognized Apprenticeship Program (I-RAP), weakening training standards.

### MINIMUM WAGE

Joe Biden supports increasing the Federal minimum wage to \$15/hour. He has required Federal contractors to pay at least \$15/hour to employees.

Donald Trump opposes increasing the minimum wage to \$15/hour.



**International Union of  
Operating Engineers**



For more information, please visit [www.iuoe.org/biden](http://www.iuoe.org/biden)





# Making a Career of It



## Joseph Szabo

*Journeyman – Carpenters Local Union 279*

**Age**  
36

**Recent Employers**  
WD Installations, Inc.

**Recent Projects**  
Lasdon Park main house, a historic Colonial-style home.  
Good Samaritan Hospital and MidHudson Regional Hospital.

**Positions & Job Titles**  
Project Manager/General Foreman/Finishing Carpenter

**Education, Training, Licenses/Certification**  
High School, 10-Hour OSHA, 30-Hour OSHA, 8-Hour Drug/Awareness, SST Training, 4-Hour Scaffold, Corian Solid Surface Certified.

**Favorite courses or subjects in school?**  
History, gym, power/energy, mechanics.

**Why this career choice?**  
I was born with a hammer and nails in my hands. My father owned a wood shop making custom cabinets and trim, serving the tri-state area before retiring after 30 years. After graduating high school, I started working for him full-time for more than 15 years. I joined the Carpenters Union in 2021.

**Biggest challenges in your work?**  
Bidding and estimating each job; creating a team of employees to help make the project a success—and everyone successful.

**What are the biggest surprises working in the trade?**  
The number of tools and equipment that can be involved for jobs and assignments. You can never stop learning to be a skilled Carpenter.

**Most memorable quote**  
“Trim, caulk and paint help make me the carpenter I ain’t.” Always be learning and improving skills.

**Any words of wisdom for a young person entering the field?**  
Make sure you love what you do every day—it will never feel like you’re always working. With carpentry you can never stop learning. There are always new buildings, new styles of houses, new tools, new materials and new ways of doing things.

**Greatest accomplishment you set for yourself?**  
Making it through my first year in business profitably and landing a job solely on my own skills and merits.

**Favorite interests or hobbies?**  
All types of sports and spending time with my family and friends.

**Family relationship to Carpentry/Building Trades?**  
It all began with my father when he opened a small wood shop in Peekskill, NY 30 years ago. The shop eventually expanded, and when I graduated high school, I already knew I wanted to work for him building and making all sorts of things.

**Personal Profile**  
Married to Stephanie, with two children, ages 7 and 3, and reside in Kingston, NY.

—Researched and written by Alan Kennedy

# NYS Senate, Assembly Hike Funding Levels in FY2025 Budget for Hudson Valley Roads

Continued from page 1  
Putnam, Orange, Dutchess and Columbia counties.

The coalition is pressing the need for the New York State budget for transportation be increased by \$400 million for core roads and bridges, and the aid to local highway departments raised by another \$250 million to offset the effects of inflation.

The New York State Senate "one-house" proposal raised the governor's recommendation of \$9.4 billion of capital spending by another \$1.2 billion to \$10.6 billion. Included in the funding increase is "\$400 million in additional support for core highway funding, for a total of \$3 billion. \$100 million of the additional support will go to Region 8 to compensate for past underfunding," the State Senate one-house proposal stated. In addition, the State Senate calls for another \$300 million increase to local road programs, including: \$160 million in additional

support for the Consolidated Local Highway Improvement Program (CHIPS), for a total of \$698.1 million; \$90 million in additional support for State

million to the New York State DOT core program—with some \$100 million of this increase earmarked specifically in NYSDOT Region 8 to com-

of increased costs caused by inflation," said CIC Executive Director John Cooney, Jr. "Further, the Senate proposal is a vital investment that spurs

conditions improvement that this vital boost of \$100 million in our transportation system will deliver."

Also, part of the New York State Senate's funding proposal for NYSDOT included provisions calling for \$20 million in funding for engineering costs of NYS Route 9A and \$28 million to support studies for the following: \$15 million for connecting the Cross Island Parkway to the Belt Parkway; \$10 million for higher-speed rail and \$3 million for a study on the creation of a Mid-Hudson Valley Transportation Authority.

The New York State Assembly in its "one-house" budget proposal also supports a \$400-million increase in the NYSDOT core program and a \$250-million increase in local capital aid, including: \$598.1 million for the Consolidated Highway Improvement Program (CHIPS), a restoration of \$60 million; \$210 million for the Pave NY program, an increase of \$60 million over the Executive proposal; \$150 million for Extreme Winter Recovery, an increase of \$50 million over the Executive proposal; and \$180 million for the State Touring Route program, an increase of \$80 million over the Executive proposal, including a restoration of \$40 million.

It should be noted that the State Assembly in its one-house proposal does not specifically earmark \$100 million in funding for Region 8.

Participating at the February "Rally for Roads" were officials and rank-and-file members of Teamsters Local 456, Laborers Local 60, Laborers Local 235, Operating Engineers Local 137, Operating Engineers Local 825, Laborers Local 754, Laborers Local 17, and Carpenters Local 279. Also attending the rally were State Senators Shelley Mayer, Peter Harckham, Rob Rolison, Bill Weber and James Skouffis and Assembly Members Mary Jane Shimsky, Matt Slater, Kenneth Zebrowski and Jonathan Jacobson. A representative of New York State Senate Majority Leader Andrea Stewart Cousins also attended the event.

A recently released report by TRIP, a Washington, DC-based national transportation research non-profit, found that 44% of major locally and state-maintained roads in the New York-Newark-Jersey City urban area are in poor condition and another 24% are in mediocre condition, costing the average motorist an additional \$880 each year in extra vehicle operating costs, including accelerated vehicle depreciation, additional repair costs, and increased fuel consumption and tire wear. Statewide, 25% of New York's major roads are in poor condition and 18% are in mediocre condition.

In the New York-Newark-Jersey City urban area, 6% of bridges are rated poor/structurally deficient, with significant

***"As citizens residing in and businesses operating in the Hudson Valley, we are entitled to the much-needed road and bridge conditions improvement that this vital boost of \$100 million in our transportation system will deliver."***

—John Cooney, Jr., CIC Executive Director

Touring Routes (STR) program, for a total of \$190 million and \$50 million in additional support for Extreme Winter Recovery (EWR) program, for a total of \$150 million.

Trade association leaders thanked New York State Senate Majority Leader Andrea Stewart-Cousins, Transportation Chair Senator Tim Kennedy and the Senate Majority Conference for including the proposed increase of \$400

million to the New York State DOT core program—

million to the New York State DOT core program—with some \$100 million of this increase earmarked specifically in NYSDOT Region 8 to com-

of increased costs caused by inflation," said CIC Executive Director John Cooney, Jr. "Further, the Senate proposal is a vital investment that spurs

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## Hike Funding Levels in FY2025 Budget

Continued from page 18 deterioration to the bridge deck, supports or other major components. In that region, 68% of the area's bridges were rated fair and only 26% of the metro area's total number of bridges (6,660) were rated good. Statewide, 9% of New York's bridges are rated poor/structurally deficient. In the Poughkeepsie-Newburgh-Middletown area, 14% of the region's bridges were rated poor or structurally deficient, with 61% rated fair and only 24% of the total 806 bridges were rated good.

Mr. Cooney said the TRIP report calculated that crumbling roads and potholes cost New York State drivers \$8.7 billion—an average of \$715 per driver—last year in repairs, fuel and wear and tear. In addition to the wear and tear on cars, the crumbling roads also pose a serious safety risk for drivers who swerve to avoid hitting potholes.

To illustrate how roads in Region 8 have deteriorated over the years, data released by the American Road & Transportation Builders Association showed in 2002 that 78% of Region 8 roads were in good to excellent condition. By 2021, that number dropped to 44%. Roads in fair to poor condition rose from 22% in 2002 to 56% in 2021.

Assemblywoman Shimsky said simply, "Our roads are terrible," noting that New York State was recently ranked 46<sup>th</sup> in road conditions according to the Reason Foundation. She said the funding request is part of a long-term effort to have the state and Region 8 catch up and improve road conditions. "This is a safety issue even for people who do not drive," she said. "Good roads and bridges are for everyone."

State Senator Harckham echoed Assemblywoman Shimsky's comments about how Region 8's transportation needs have been underfunded by the state. "The disinvestment in New York's infrastructure has got to stop." He added that both the \$400 million in increased funding to be earmarked for state roads and the additional \$250 million for local governments to fund ongoing maintenance and upgrades to municipal roads are sorely needed.

State Sen. Mayer said, "For years, I have been pressing for increased state funding for roads and bridges in our community. Sadly, this year is no different. The governor's proposed budget simply fails to meet the needs of our district and puts us even further behind in keeping roads and bridges in a state of good repair. Regularly, I hear complaints from residents about roads in need of paving and potholes that are craters, complaints that reflect a growing sense that our region is being underserved compared to the need. As the Hudson Valley faces increasingly severe storms, our roads require even more attention."

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**WHAT'S NEW & WHO'S NEWS**

# Skanska's US Building Operations Elevates Commitment to Sustainability

NEW YORK—Skanska has restructured its Sustainability Team in its U.S. building operations to better serve client and company goals, the construction company announced on March 4. Co-led by Steve Clem and Myrrh Caplan, who together bring decades of experience, this dedicated team will elevate the operations focus on sustainability to better serve its customers and projects.

“Steve and Myrrh are central to our commitment to sustainability,” said Project Planning Executive V.P. Steve Stouthamer of Skanska USA Building. “As senior vice presidents, they’ll leverage Skanska’s global and domestic initiatives to promote and implement sustainable construction practices and foster resilience within the communities

where we operate. By harnessing their collective expertise, we can make significant strides toward our decarbonization goals while continuing to set the bar for sustainable industry practices.”

Since joining Skanska as a Project Manager in 2005, Ms. Caplan has helped shape Skanska’s national approach to sustainable building. She established the company’s first national Green Construction program and chaired Skanska’s first National Green Council. Throughout the past decade, she has managed multiple initiatives including carbon lifecycle analysis and efforts that benefit clients and the industry. Ms. Caplan leads Skanska’s National Sustainability Team, made up of consultants and advisors.

She was named a 2022 LEED Fellow



**Steve Clem and Myrrh Caplan**

by the U.S. Green Building Council (USGBC), one of 20 professionals from around the world recognized for their work in advancing green building practices. To date, Ms. Caplan has advised on nearly 300 certified projects and projects seeking LEED, Living Building Challenge, WELL, Envision, and other certifications.

Mr. Clem joined Skanska as a project

engineer in 1997 and over the years, established himself as one of Skanska’s staunchest sustainability leaders. In his role, Mr. Clem is responsible for setting and achieving Skanska’s decarbonization goals in the United States and works with construction teams to identify sustainable procurement solutions for clients including the use of mass timber. His efforts to reduce the industry’s embodied carbon began more than 15 years ago and he has been influencing procurement with the Embodied Carbon in Construction Calculator (EC3 Tool) since Skanska co-created and launched the tool in 2019. He has also authored multiple cost studies that demystify the adoption of environmentally preferable construction strategies.

# NYSDOT Opens Modernized Service Area Along Hutchinson Parkway in Westchester

WHITE PLAINS—New York State Department of Transportation Commissioner Marie Therese Dominguez announced on March 8 the opening of a fully renovated and modernized service area along the Hutchinson River Parkway in Westchester County.

The upgraded Mamaroneck River service area, located between Exit 13 (Mamaroneck Avenue) and Exit 14 (North Street) in the City of White Plains, offers travelers an expanded convenience store, additional restrooms and

extra parking to help make their journeys along this vital commuter route more pleasurable. Charging stations for electric vehicles are also being installed to help advance New York’s nation-leading clean energy goals.

Renovations to the site, which began in 2022, expanded the convenience store from 1,785 square feet to 3,150 square feet and retained the building’s architectural features, which reflect the historic nature of the Hutchinson River Parkway. Exterior stones from the origi-



The fully renovated service area located between Exit 13 (Mamaroneck Avenue) and Exit 14 (North Street) in the City of White Plains on the Hutchinson River Parkway.

nal structure were recycled and used in the renovation. The customer experience was also improved with people flow, new check-out facilities—including six self-checkout ki-

osks—and a patio area outside with picnic tables. Expanded restroom facilities consist of two six-person restrooms and a separate family restroom.

Energy efficient solar panels

were installed along with heat pumps, which deliver far more energy than they consume, and a generator was installed to power the service area in the event of power loss. Fuel storage and dispensing equipment were also modernized and designed to accommodate future alternative fuels. The installation of electric vehicle charging stations, including three EV fast chargers, is nearing completion.

Additionally, parking facilities were increased from 18 to 51 parking spots.

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## LOW BIDS

### Argenio Brothers, Morano Brothers Win Multiple NYSDOT Project Bids

ALBANY—The New York State Department of Transportation recently announced the selection of 11 apparent low bidders for work in the Hudson Valley/New York City regions.

**Constar Inc.** of Central Islip, NY was the lowest of four bidders at \$1,460,575. for crack and joint sealing on various federally eligible locations in the Bronx, Brooklyn, Manhattan and Queens.

**H&L Contracting LLC** of Hauppauge, NY was the lowest of five bidders at \$16,281,226. for pavement preservation (asphalt)—various locations in the Bronx, Kings and Queens counties.

**E-J Electric Installation Co.** of Long Island City, NY was the lower of two bids at \$9,899,357.49 for ITS field network system maintenance and support—where and when in various counties in the Bronx, Kings, New York, Queens and Richmond counties.

**Elderlee Inc.** of Oaks Corners, NY was the lowest of three bidders at \$12,659,277.50 for guide rail replacements at various locations in Rockland County.

**Argenio Brothers Inc.** of New Windsor, NY was the lowest of five bidders at \$5,925,925.00 for pavement resurfacing—Route 44 in the towns of Pleasant Valley and Washington in Dutchess County.

**American Field Services Inc.** of Nanuet, NY was the lowest of three bidders at \$649,937.60 for biennial mowing—Palisades Interstate Parkway/Route 6 at various locations in Orange and Rockland counties.

**El Sol Enterprises** of Maspeth, NY was the lowest of five bidders at \$23,835,000.00 for highway operation of HOV lane on Gowanus Expressway and Prospect Expressway in Brooklyn.

**Argenio Brothers Inc.** of New Windsor, NY was the lowest of 11 bidders at \$11,414,414.00 for intersection improvements at Route 376 at the Hooker Avenue intersection in the Town of Poughkeepsie in Dutchess County.

**DeFoe Corp.** of Mount Vernon, NY was the lowest of five bidders at \$9,602,522.25 for safety & operational improvements on the Jackie Robinson Parkway in Brooklyn.

**Morano Brothers Corp.** of Croton-on-Hudson, NY was the lower of two bids at \$10,995,000. for highway improvements at Route 45 Street improvements in the Town of Ramapo and Village of Spring Valley in Rockland County.

**Morano Brothers Corp.** of Croton-on-Hudson, NY was the lower of two bids at \$6,501,412.50 for pavement on Route 35 paving in the towns of Bedford and Lewisboro in Westchester County.

### LeChase Lands DPW Building Renovation

WHITE PLAINS, NY—The Westchester County Department of Public Works recently reported that **LeChase Construction Services, LLC** of Armonk, NY was the lowest of six bidders at \$9,045,367.00 for low rise building renovations and HVAC improvements, Phase II, at 110 Dr. Martin Luther King, Jr. Boulevard in White Plains.

### Safety Watch Continued from page 14

required more than two workers to stabilize and guide. The commission agreed with the ALJ in finding it was in fact reasonably predictable that he would be performing this task, and the citation was affirmed.

*About the author: Costas Cyprus*

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

### Attorney's Column

**Continued from page 6**  
and innocent subcontractors' mechanic's liens fall like so many dominoes.

While many exaggerating lienors avail themselves of the shock value of an exaggerated lien while later trying to avoid the ramifications, the case of Borough Construction is a reminder that innocent subcontractors can also get unwittingly caught up in such a scheme.

If a subcontractor believes that it may be in a position similar to that of Borough's subcontractors and their upstream contractor's recovery is somehow endangered, they should consult with experienced construction counsel to

determine what remedies may be available to salvage their right to payment. Regardless, contractors must keep in mind that exaggerating a mechanic's lien can come back around and bite you bad.

*About the authors: Thomas H. Welby, Esq., P.E., who serves as General Counsel to the Construction Industry Council of Westchester & Hudson Valley, Inc., and the Building Contractors Association, is a co-founder and senior counsel to Welby, Brady & Greenblatt, LLP headquartered in White Plains, NY. Gregory J. Spaun, Esq., General Counsel to the Queens and Bronx Building Association, is a partner with the firm.*

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