



AGC NYS Newsletter December 3, 2020

The Associated General Contractors
of New York State
10 Airline Drive, Suite 203
Albany, NY 12205
(518) 456-1134 | www.agcnys.org

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UPCOMING EVENTS

December

- 8-10 [2020 VIRTUAL Construction Industry Conference](#)
- 15 [Zoom Town Hall with Congressman-elect Ritchie Torres](#)

Industry News

Don't Miss Out! Register Today for the 2020 Construction Industry Conference

The 2020 Construction Industry Conference will be conducted as a virtual event from December 9-10. We're excited to bring our members and industry partners a dynamic two-day event through AccelEvents, with a full two-day trade show. Committee meetings will be hosted earlier in the week, sessions and expo will take place after and be available for replay after the event. Please take a look through the [schedule of events, sponsorship opportunities and exhibitor information](#) to see how you can best take advantage of this exciting virtual event. We look forward to updating you with more sessions—and seeing you, virtually next week! For registration, [click here](#).

Join us for an AGC NYS Zoom Town Hall with Congressman-Elect Ritchie Torres Tuesday, December 15, 10:00 a.m. | [REGISTER HERE](#)

Congressman-elect Torres will serve in the 15th Congressional District, representing parts of the Bronx. Ritchie Torres was elected to the New York City Council in November 2013 to represent the 15th Council District in the Central Bronx. As a City Council Member, Ritchie served as Chair of the Committee on Public Housing, which oversees the New York City Housing Authority, the largest provider of affordable housing in the country. Ritchie held the first City Council hearing in a public housing development, shining a spotlight on housing infrastructure ravaged by Superstorm Sandy; he held hearings exposing the lead poisoning of thousands of children; and, in 2018, he led an investigation into the heating crisis in public housing, uncovering that 335,000 residents were deprived of heat and hot water for an average of 48 hours.

As Chair of the Committee on Oversight and Investigations, Ritchie led a City Council investigation and held a hearing on the collapse of the NYC medallion market, which had become a breeding ground for deregulation, speculation, and predatory lending – policy concerns that lie at the very core of the Financial Services Committee. Council Member Torres became active in politics at an early age, first as a fellow in the inaugural class of the Coro NY Exploring Leadership Program, and then going on to work as the Housing Director for Council Member Jimmy Vacca before running for office in 2013. Ritchie Torres was raised by a single mother in public housing in the Bronx and at 25, he became the youngest elected official in New York City, and the first openly LGBT elected official from the Bronx.

This meeting requires Zoom, and [no phone dial-in will be available](#). Zoom is best used through the app on a computer or mobile device, and [can be downloaded here](#).

Government Affairs News

STATE NEWS

Update - Paid Sick Leave and Collective Bargaining

The Business Council of New York State (TBC) has provided an important update about New York's paid sick leave law and collective bargaining agreements. According to TBC, the Department of Labor does not intend to commence any enforcement action against collective bargaining agreements in effect prior to September 30, 2020 that do not meet the minimum requirements of the new paid sick leave law (§196-b of the Labor Law). The Department recognizes the inviolability of CBA's and it is not their intent to "upset" these agreements by requiring that they be reopened to address paid sick leave. In fact, even when these CBA's do expire, §196-b allows for the negotiation of "comparable" or even "different" paid sick leave benefits as long as certain conditions are met. The Department will be working internally to make sure this consistent message is communicated to all parties. AGC NYS is in regular communication with TBC about the implementation and regulatory process of paid sick leave law.

Governor Vetoes Legislation Reclassifying Class C Waterways as Streams

Governor Andrew Cuomo vetoed legislation (A.8349/S.5612-A), which was opposed by AGC NYS, to reclassify class C waterways as streams for the purpose of protection. The Governor's veto message cited fiscal constraints and lengthy permitting delays as reasons for not approving the bill.

AGC NYS Joins Group Opposing Anti-Sand Mining Bill

In a letter to Governor Andrew Cuomo, contractors, labor, and business urged the veto of (A.10001/S.8026) regulates mining and the reclamation of mines within counties with a population of one million or more which draw their primary source of drinking water for a majority of county residents from a designated sole source aquifer. The letter stated, the New York Anti-Sand Mining Bill is bad for business and bad for New York. Essentially, this bill would: outlaw mining; halt construction; and put union jobs on hold. In these uncertain times, nobody should be putting a stop to construction jobs. [A copy of the letter is available here.](#)

Democrats Strengthen Super Majority in State Senate

Democrats strengthened their super majority in the state Senate with the declared victories of incumbent Pete Harckham (SD-40), and candidates Michelle Hinchey (SD-46), and John Mannion (SD-50). The victories give the Democrats a 43-20 super majority in the state Senate. The super majorities in the state Senate and Assembly allow for an override of a gubernatorial veto. A vetoed bill can become law if two-thirds of the members of each house vote to override the Governor's veto.

FEDERAL NEWS

AGC NYS Urges Congress to Fix PPP Tax Treatment of Loan Forgiveness

In letters to the New York State Congressional Delegation, AGC NYS urged the passage of legislation, before the end of the year, that includes a technical correction addressing the tax treatment of loan forgiveness under the Paycheck Protection Program (PPP). Included in the CARES Act was a provision stating that any portion of a PPP loan that qualified for loan forgiveness "shall be excluded from gross income" for tax purposes. This tax-free treatment of any forgiven loan amount was a key provision in the law and featured prominently in the debate leading up to and following the legislation's enactment. Despite this clear intent, the Internal Revenue Service (IRS) issued Notice 2020-32, which specified that "no deduction is allowed under the Internal Revenue Code...if the payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b) of the [CARES Act]." The effect of this ruling is to transform tax-free loan forgiveness into taxable income, raising the specter of a surprise tax increase of up to 37 percent on small businesses when they file their taxes for 2020. Additionally, the IRS recently issued Revenue Ruling 2020-27, stating that expenses funded through a PPP loan are not deductible for 2020 if "the taxpayer reasonably expects to receive forgiveness of the covered loan on the basis of the expenses it paid or accrued during the covered period, even if the taxpayer has not submitted an application for forgiveness of the covered loan by the end of such taxable year" [emphasis added]. The letter concluded with a call to action to Congress fix this senseless tax policy because it stands both the letter and spirit of the PPP on its head. [A sample copy of the letter is available here.](#)

AGC Alert: Keep Construction Essential

As COVID-19 cases spike throughout the country and states and localities impose new shutdowns on businesses, it is critical for you to remind your local, state, and federal officials how the construction industry has worked in a safe and essential manner. The message to send them is clear: continue treating the construction industry and the work it performs as essential. Taking action is easy. [Click here complete a form to submit the pre-written message as is or customize it with personal information on how this issue impacts you and your company.](#)

NEW YORK CITY NEWS

Comptroller Stringer Reports City Agency M/WBE Grades Declined or Remained Stagnant

New York City Comptroller Scott M. Stringer released the annual "Making the Grade: New York City Agency Report Card on M/WBEs" report, finding that M/WBEs continue to face structural inequities and barriers to opportunities as 80 percent of City agency grades measuring M/WBE spending and transparency either remained stagnant or declined since last year. The Comptroller announced that the City earned its second passing "C" grade after four consecutive years of "D+" grades. This year's report analyzed the acute impact of the COVID-19 pandemic and subsequent economic shutdown on New York City's M/WBE community, after 85 percent of M/WBEs reported in a July 2020 survey that they could not survive the next six months. [A copy of the report is available here.](#)

Education News

AGC Student Chapter, SUNY Delhi Looking for AGC Members to Host Internships

SUNY Delhi who has been turning out some of the top construction management students in the northeast is in search of a few AGC NYS member firms who would like to host some of their students for a 2021 Summer-Fall internship program this coming year (May/June-December). If the intern works out, many of the students will be finishing up their bachelors degree with this internship and graduating in December 2021.

SUNY Delhi prides itself on their hands on approach to learning where their students physically build in labs to reinforce their coursework. SUNY Delhi has an average class size of 50 students and requires an 800 hour Internship (traditionally during their Junior year) as part of our graduation requirements. The intent of the internship is for the students to experience multiple sides of the construction industry.

In order to ensure this, they require that they complete at least 100 hours in four of the following categories: field supervision, estimating & cost control, scheduling & planning, surveying / site layout, hands-on building experience, project engineering, documentation and procurement. The balance of the hours can be filled in any category.

If your company is looking for interns for the upcoming year, traditional start times are January and May, please reach out to the Internship Coordinator, Sarah Poole at poolesa@delhi.edu.

Online LEAN Construction Training Set for January 2021

A new round of LEAN Construction Education Training will be held online via zoom with instructor Colin Milberg. Lean Construction is based on the holistic pursuit of continuous improvements aimed at minimizing costs and maximizing value on a construction project: planning, design, construction, activation, operations, maintenance, salvaging, and recycling. The sessions will meet from 12pm to 3pm EST on Tuesdays and Thursdays beginning January 12, 2021. The course requires you to use a PC or Mac (no tablets or phones) with a webcam and mouse. [Click here for more details and a registration form.](#)

Building News

Have You Registered for the Virtual Construction Industry Conference?

A Note From Joe Hogan:

Dear AGC NYS Building Membership,

I am particularly excited about the programs we have put together that will be of particular interest to principals and management staff of Building GC's. Due to the virtual nature of this event, we were able to be particularly creative with the programs to cater to the interests of the Building Membership. In addition, this format will allow for you to take advantage of some great content without the same expense of time and money that comes with traveling to the event. While not optimal given the interactive capabilities of this format to network with speakers and other participant, you will even be able to watch the programs at a later date at your convenience.

Frankly, many of the programs would be worth the price of admission on their own. In combination, this event is a great value. For the full slate of programs, [click here](#).

Here are just a few of the programs I am particularly excited about:

- **Myriad Market Outlook Discussion** – This event is chocked full of programs on market issues – from FMI expertise to the AGC of America's Chief Economist: from the Current and Former Lieutenant Governors to a view from industry insiders (private colleges, K-12 Public Schools, manufacturing, affordable housing, healthcare, hospitality and retail food)
- **Project Financing** – We have assembled a great panel of IDA and Economic Development Professionals to discuss what every GC/CM needs to know about project financing.
- **Insurance and Bonding Market Outlooks** – We have two great panels of underwriters and insurance/surety professionals to provide an outlook of the respective markets, lessons learned from the last recession and what you need to know in order to plan for the future.
- **Design Assist and Design Delegation** – This is particularly geared to PM's to ensure they know the rules on both scenarios in order to protect their firm and ensure they can best serve their client and project at the same time.

I hope to see you at this event. I'm confident you'll be glad you signed up.

Highway News

Recent Engineering Issuances Posted by NYSDOT

EI 20-022 Guidance for Setting Service-Disabled Veteran Owned Business (SDVOB) Goals on Non-Federal-Aid Grant Contracts

Effective Date: November 4, 2020

Promulgates guidance on the setting of Service-Disabled Veteran-Owned Business (SDVOB) goal on Non-Federal-Aid consultant/construction and commodities contracts funded in whole or in part by New York State Department of Transportation grant funds.

EB 20-057 Local Projects Manual (LPM), Chapter 16, Federal and State Single Audit Requirements

Effective Date: November 10, 2020

Announces the availability of the revised LPM Chapter 16 Federal and State Single Audit Requirements.

EI 20-023 Revision to Standard Specification Section 402 - Hot Mix Asphalt (HMA) Pavements

Effective Date: January 1, 2021

Issues a clarification to the Standard Specifications Section 402 - Hot Mix Asphalt (HMA) Pavements

EB 20-058 Fuel, Asphalt & Steel Price Adjustments (December 2020)

Effective Date: December 1, 2020

Provides information to be used in computation of progress and final payments for the fuel, asphalt, and steel price adjustment pay items.

Highway Members – A Special Note Regarding This Year's Virtual Industry Conference.

While nothing can replace the in-person event AGCNYS has become known for, I must say the content we have lined up this year virtually, as well as the platform itself, are defiantly a close second! While moving virtual no doubts has its difficulties, there are many more opportunities to outweigh those. Be sure to take a [look at the whole agenda here](#) – but I wanted to note some interesting topics that have been added to help incorporate discussions within all aspects of your business:

FMI's Heavy/Highway Construction Outlook: Preparing for the "Post-Coronavirus" Market

In the midst of the significant turmoil of the last few months, most industry leaders remain reasonably confident in their outlook for 2020. However, many are equally uncertain about 2021 and 2022. This session will provide FMI's Outlook for heavy and highway construction markets considering the potential economic impacts from the Coronavirus. We'll present the key economic and market conditions that will likely shape these markets over the next several years and how you can act now to prepare for the post-coronavirus market.

How Contractors Will Need to Adapt to New York's Climate Leadership and Community Protection Act

New York State's Climate Leadership and Community Protection Act (Climate Act) is the among the most ambitious climate laws in the world and requires New York to reduce economy-wide greenhouse gas emissions 40 percent by 2030 and no less than 85 percent by 2050 from 1990 levels. Get the facts about the Climate Act from presenter Joseph Foskett, Director of Government Affairs, Business Council of NYS.

Trends in Policy and Equipment Technology Shaping the Future of Diesel and Construction Equipment

Demands on the construction sector are rapidly changing. From commercial facility projects to traditional roadbuilding and infrastructure jobs, all are subject to increasing scrutiny from stakeholders bringing new demands and increased pressures on public and private projects to factor in traditional environmental concerns and new environmental justice and climate considerations. These new pressures extend to the selection and use of machines and equipment and the fuels that power them. This session will explore fuel and technology trends in construction machines and equipment, including electrification, use of diesel and alternative and renewable fuels and more in the context of these new considerations.

NYSDOT Applications – A new Look of Approved Lists & Applications

Join as NYSDOT showcases 4 new/updated technology tools available at the department. Explore the new The Certified Business Enterprise Viewer provides an online, searchable tool to locate and view information about Disadvantaged Business Enterprises (DBEs), Minority-owned Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) certified to do business in New York State. It is a map-centric way to interact with the same data from the NYS M/WBE Directory of Certified Firms and the UCP DBE Directory. See the new Materials Supplier Viewer (MSV), also a map based viewer that shows the location and approval status of aggregate sources for asphalt and concrete, geotechnical stone fill and granular materials, asphalt plants, and concrete plants (including ready mix, central mix, precast and masonry plants). A review of the new 2020 Traffic Data Viewer for available Traffic Data, and get an overview of the new DOT Construction Automation.

PDH Update:

- The Design, Fabrication, and Delivery of Pier-55 / Little Island – Manhattan, NYC | 1 PDH
- NYSDOT Kew Gardens - Presents 4D & 5D | 1 PDH Pending
- NYSDOT's Use of Recycled Materials | 1.5 PDH
- Rehabilitation of Troy Seawall | 1 PDH Pending
- Farrington Road Emergency Temporary Bridge | 1 PDH Pending
- UHPC Overlays in New York State Part 1 | 1 PDH
- Precast UHPC Components for Bridges (UHPC Part 2) | 1 PDH
- Arthur Sheridan Pedestrian Bridge | 1 PDH

We greatly appreciate your support every year, and I do hope to see you all virtually next week!

Safety News

NOW OPEN: 31st Annual National AGC Safety Awards (NASA) Applications

The Associated General Contractors of America (AGC) announces its 31st Annual National AGC Safety Awards (NASA) Program. The deadline for submission of your Chapter entries to AGC is **February 15, 2021**. A Chapter must submit an entry on behalf of the AGC member company. Each chapter will be e-mailed an electronic application form on or before **January 6, 2021**. For more information, [click here](#).

The National AGC Safety Awards (NASA) program has been an ongoing effort since 1991 to offer AGC members an opportunity to evaluate their safety record. The NASA compares an AGC member's safety record with other AGC members according to the member size and construction type. Additionally, the NASA provides a great opportunity for members who have excellent safety records to compete for nationally recognized awards. For the application, [click here](#).

AGC NYS's Safety Committee Meeting Recap

The AGC NYS Safety Committee held their winter meeting on December 1, 2020. Over Forty-Five people attended the meeting representing member firms from across the State of New York. A round table discussion was held as members shared their experiences from 2020. The members provided great insight as to action items the committee should be considering as we move into 2021. The success of the safety committee is contingent on participation of the members and input from the group.

The AGC NYS safety committee is headed up by the highway chair, Diana Gang from Harrison Burrows Bridge Constructors Inc. and by the building chair Eric Coburn from Sano Rubin Construction Services, LLC. The safety committee provides an avenue for your company to access a wealth of information. AGC NYS is fortunate to have a group of safety professionals that are well seasoned. Not only are they leaders in their field, they are willing to share their experiences with the group and are quick to provide solutions that worked for them. The committee provides a network that is invaluable. It is safe to say that these meetings shed light on issues that can benefit all that attend.

All members are encouraged to participate in these meetings and if you are not involved, you are missing out. The safety committee is actively engaged in tracking proposed and final standards and providing comments to the Docket Office. As a result of the meeting held on December 1, 2020, a task force is being assembled to address issues related to speeding in work zones and the upward trend of the public harassing construction workers. This task force will compile information so that a push can be made to address these issues so meaningful change can occur to protect construction employees.

It is difficult to stay on top of all aspects of safety risk management. Being a safety professional, you need to surround yourself with good people. The AGC safety committee affords you that opportunity. Plainly put, there is a wealth of knowledge and experience present at these meetings. Do not pass on the opportunity to get to know this great group of folks. If your company would like to discuss details regarding the safety committee contact Jim Redmond at 585-370-1853 or Dennis Kiefer at 518-376-8221. To be added to the safety committee email distribution list contact [Bryanna Kiselauskas](#) at 518-456-1134.

2020 NYCDOT Holiday Construction Embargo

A special Holiday Construction Embargo shall be in effect from 6AM to 11:59PM starting Tuesday, November 24, 2020 through Sunday, December 27, 2020. As a result, all routine work shall be suspended during the embargo period unless approval for the work is granted by the New York City Department of Transportation's (NYCDOT) Office of Construction Mitigation and Coordination (OCMC). Such suspension shall not apply to emergency work for which an emergency number is obtained by the permittee pursuant to the provisions of section 2-11 of NYCDOT's Highway Rules.

It shall be a violation of NYCDOT's Highway Rules to perform any work on the street during this embargo period without the prior approval of OCMC or the receipt of an emergency number. NYCDOT will strictly enforce this embargo and violators are subject to penalties. A map of the affected locations is available on NYCDOT's [website here](#). This policy supersedes any and all previously issued policies regarding NYCDOT's Holiday Construction Embargo.



Congratulations to the Recipients of the 2020 AGC NYS Chapter Safety Award

The AGC NYS Safety Excellence Award recognizes and honors AGC NYS Members for having and implementing outstanding safety programs. This year, winning firms will be honored with their awards during the 2020 Virtual Construction Industry Conference. These firms demonstrated excellent safety programs that meet the stringent minimum criteria, criteria which exceed industry standards, and also demonstrate excellent safety practices in the field. Congratulations to:

Andron Construction Corp.
BBL Construction Services, LLC
Bette Cring, LLC
Charles A. Gaetano Construction Corp.
EW Howell Company, LLC
Hueber-Breuer Construction Co., Inc.
Lehigh Construction Group, Inc.
Turner Construction Company
Wainschaf Associates, Inc