

# LICA'S Latest

BIWEEKLY E-GRAM THAT CONTAINS  
THE LATEST NEWS AND INFORMATION  
VITAL TO LICA'S MEMBERS

NOVEMBER 22, 2011

## LICA Member HASA Ready to Begin Construction on Route 110 Drainage Job in Halesite



After a year and a half of delays, the Route 110 Drainage and Roadway Improvement Project in Halesite is finally ready to start construction.

LICA member **HASA Construction, LLC** is performing the work that will provide drainage and roadway improvements on this major thoroughfare in the Halesite area. The project is said to reduce the frequency and magnitude of flooding conditions, address deficiencies of the roadway pavement and improve safety at key intersections between the Prime Avenue/Madison Street intersection and the Young's Hill Road intersection.

This section of NY Route 110 and a majority of the existing drainage system were originally constructed and installed in 1929. Since then only minor drainage improvements were made in the mid-1980s. The purpose of the project is to address persistent recurrence of flooding conditions along this portion of NY Route 110 as well as provide safety, operational, environmental, and pavement improvements while enhancing pedestrian movement and protecting the aesthetic and environmental character of the area.

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Highway & Infrastructure Professionals*

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## Strengthening our existing infrastructure

"Infrastructure does not need to be built new, but it does need to be updated and maintained. Our number one goal as a region should be to ensure the structural integrity of our area's roads, bridges and sewers," stated **LICA Chairman James Pratt, III of Pratt Brothers, Inc.** "LICA has advocated for this kind of project and we are relieved to see that after over a year of delays construction is finally getting started to repair this outdated drainage system."

Project specifications call for improved roadway pavement, new or repaired curb and sidewalk throughout the project area, improved striping and pedestrian crosswalks, upgraded roadside signage, improved sight distance at crossroads and driveways, new sidewalk/utility/snow storage strip, a continuous 2-way left turn lane option will be considered from Prime Avenue to Hill Place, and the installation of new roundabouts with raised medians at Creek Road and Mill Dam Road.

The **New York State Department of Transportation (NYSDOT)** awarded HASA Construction a \$17.9 million contract to commence this vital infrastructure improvement after winning a competitive bid. The project is scheduled for completion July 2013.



## Suffolk Forms Sewer Infrastructure Planning Committee

Sewers will never capture the public's imagination, but they remain the literal foundation our region's quality of life depends upon and permits new economic investment and job creation. Recognizing the need to improve and maintain Long Island's sewers, Suffolk County has formed a **Sewer Infrastructure Planning Committee** to enhance sewer capacity and thereby achieve many of the economic benefits created by a robust infrastructure system. The committee held its first session earlier this month.

The group plans to develop criteria and a rating system that will take a look at the economic and environmental benefits of potential sites for new sewer infrastructure. Once completed, the committee plans to use the new rating system to make advisory recommendations to the County Executive and the County Legislature as to which projects should receive funding from the assessment stabilization reserve surpluses.

## Planning professional seeks LICA's insight

**Suffolk County Planning Commissioner Sarah Lansdale**, chair of the sewer infrastructure committee, recently met with **LICA's Executive Director Marc Herbst** to discuss the committee's goals. Commissioner Lansdale displayed a keen understanding of the need to include the heavy construction industry's input on developing criteria for the Suffolk Sewer Infrastructure Program.

"Commissioner Lansdale is to be commended for taking a proactive role in preparing the necessary steps to ensure the future growth and prosperity of Suffolk County through needed infrastructure. LICA applauds her efforts and we thank her for seeking the advice and input from experts in the heavy construction industry," said Herbst.

The committee expects to hold several additional meetings before the end of the year and has asked the Long Island Contractors' Association to continue to provide feedback on behalf of the heavy construction trades.

## Construction Industry Employment Numbers Reveal Deteriorating State of Industry



In the last issue, LICA took an in-depth look at how state funding for construction has been in a steady decline, and the severe impact this has had on our transportation system. Often overlooked, however, is what lies behind these statistics; the men and women who build this system and depend on a robust construction industry for their livelihood. As funding for construction on the state and federal levels diminishes, the construction job market continues to deteriorate along with our infrastructure.

According to the **New York State Department of Labor**, construction has seen a sharp decline in employment in recent years and seems poised to get worse without the leadership of elected officials. Recently, employment in the Long Island construction industry dropped from 70,651 in

2008 to 58,743 in 2010, putting nearly 12,000 additional people out of work in just two years' time. This trend has continued into 2011, with average employment at just 52,221 in the first quarter.

Heavy construction has been hit particularly hard on Long Island, seeing a nearly 20% drop in employment between 2002 and 2010. Based on those first quarter numbers, 2011 employment figures are 30% lower in the heavy and civil sector over the same period.

LICA economists report that one new construction job has a ripple effect of creating three additional jobs throughout the economy. Just getting this industry back to 2008 levels could create 40,000 to 50,000 new jobs throughout the region. That would provide a significant infusion of dollars into a stagnating economy, spur tax receipts and aid Long Island's path to economic recovery.

LICA Executive Director Marc Herbst notes, "Despite these striking figures, our leaders continue to play politics with our industry. It's time to wake up and make the necessary investments that will sustain our infrastructure and put the men and women of the construction industry back to work. The actions of our elected officials in the year to come will be a litmus test closely watched by LICA and its members."

## Labor Agreement Announced by Ehrbar, Inc. & Operating Engineers Ends Two-Month Strike



LICA board member **Patrick Ahern, President of Edward Ehrbar, Inc.**, has announced that the **International Union of Operating Engineers Local 15C** has ratified a new three-year contract with the **New York Equipment Dealers**, ending a two-month-long strike by union members.

Mr. Ahern stated, "This agreement put behind us a trying time for the company, the union, our employees and our customers. This strike was an unprecedented event in our company's 111-year history. It corresponds with a period of almost unprecedented economic turmoil. (With the work stoppage behind us) the company and the union will now forge ahead, together, stronger than we were before the strike began."

Ahern observed, "It is now time to get back to what we do best."

## NYS's Highest Court Reaffirms Important Bid Protest Principles



Written by: **Henry L. Goldberg, Managing Partner, Goldberg & Connolly**

Public owners clearly do not have the same freedom as private owners in awarding contracts. They are required to award the contract only to the lowest responsive and responsible bidder. Increasingly, however, this basic rule is under attack, and public owners, through Request for Proposals (RFPs) and other devices, are seeking to exercise more discretion and "control" over the bidding process. Simply put, public owners are attempting to "privatize" the competitive bidding process to facilitate their ability to control with whom they deal. Fortunately, the Court of Appeals, New York's highest court, recently reaffirmed the basic legal principles of public bidding.

In a recent case, a township in New York had solicited bids from qualified contractors to provide refuse removal services. The bid proposal listed the town's requirements for prospective contractors, such as timely, quality service, safety training for employees, and easy access to back-up equipment. The town received three bids: Contractor A for \$1.2 million/year, Contractor B for \$1.5 million/year, and Contractor C (the incumbent) for \$1.7 million/year.

The town then conducted its post-bid due diligence. Already familiar with Contractor C, representatives of the town visited the facilities of both Contractor A and Contractor B. The town concluded that Contractor A, the low bidder by \$300,000.00, was a "responsible" bidder. The town's investigation, however, also concluded that Contractor B's "operations, cleanliness, professionalism, and process" exceeded that of Contractor A.

At the decisive Town Board meeting, the Town Supervisor correctly proposed a resolution to award the contract to Contractor A, the admittedly lowest responsible and responsive bidder. However, the Town Board defeated this resolution.

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One councilmember then proposed a resolution awarding the contract to Contractor B, which passed. Explaining his reasoning, the councilmember stated that Contractor B was the “lowest responsible bidder, when . . . consider[ing] all the . . . qualitative factors.”

After Contractor A formally protested the award in Court, another councilmember attempted to defend the Board’s decision by stating that: “[W]e chose a contractor that is more qualified, more ‘responsible and responsive,’ and who will provide a higher level of service. . . .” The councilmember also attempted to justify the award by referring to the allegedly compelling safety measures Contractor B routinely employed. However, though, none of these measures were set forth as requirements of the bid specifications.

The dispute ultimately reached the Court of Appeals. The Court reaffirmed the important, fundamental principle that public works contracts must be awarded to the lowest responsible and responsive bidder, not the “more” responsible bidder. As the Court of Appeals stated “[a]bsent a finding of lack of responsibility, there [was] no authority to support the Town Board’s rejection of [Contractor A’s] bid for one that is considered more responsible.” The Court also noted that assessing a bidder’s responsibility properly includes considering their skill, judgment, and integrity. However, the Court found no good reason for rejecting the bid of Contractor A, which was found responsible, as the denial was based on qualitative factors not part of the bid specifications.

### G&C commentary

For contractors who believe they are the lowest responsible bidder, but aren’t awarded the contract, all hope is not lost. However, time is of the essence in the context of the bid protest. It is important to stop the project from proceeding to award or mobilization. Such contractors would be best served by urgently seeking counsel who can help them assess their situation, and mobilize a formal protest quickly and competently. Protests are winnable.

Public officials, for their part, can best avoid the problems described above by ensuring that their “Information for Bidders” packages are both accurate and complete. Inclusion in a municipality’s bid specifications is a legal prerequisite to the use of a particular qualification in determining the “responsibility” of a contractor.

As indicated, we are concerned by recent trends regarding public bidding practices. New York’s very clear bidding rules may be clouded, or even undermined, as more and more “creative” product delivery and project financing alternatives are tossed about in these difficult financial times. Where a particular procurement is organized as a P3 (public private partnership) or other RFP-type procurement, which varies from the foregoing well established rules of public bidding, the public will never be assured of the absence of “favoritism, corruption, political influence or improvidence.” It was from these very dangers that the tried and true rules of public bidding were originally designed to protect the taxpayers of New York State. Increased public owner “flexibility” will also deprive the contracting community of the valuable right to a fair and objective bidding process. With jobs increasingly dear in these critical times, we believe these rules designed to protect the “level playing field” for the contracting community, and the public from waste and fraud, are all the more essential, not less.

## LICA to Welcome the Holidays at Villa Lombardi's on December 14th



Come celebrate the Holiday Season with your construction industry friends and colleagues at LICA's 2011 Holiday Party!

The party will be held on **Wednesday, December 14th from 5:30 – 9:30 p.m.** at Villa Lombardi's in Holbrook. RSVPs are coming in fast and furious, which means a good time with good people.

If you have not yet responded, please [click here](#) for a copy of the invitation and response form. You can RSVP via email to **LICA Assistant to the Executive Director Josephine Magee** at [jmagee@licanys.org](mailto:jmagee@licanys.org) or fax the response form to 631-231-4291.

## Thanksgiving Holiday Schedules

Please [click here](#) to view the LICA and GCA holiday schedules.

### Save the Date for LICA's Safety Seminar

LICA's 2012 Annual Safety Seminar  
Friday, January 13th, 2012  
Sheraton Long Island  
8:00 a.m. – 2:00 p.m.



*Bid Results on next page*

## Bid Results

\*\*Numbers in red represent the winning bid \*\*Highlighted and bold companies represent LICA Members

Bid Date	Project Name	Owner	Contractor	Bid Amount	
11/2/11	West Neck Water District Water Main Replacement	Town Of Shelter Island	William A Anderson Plumbing & Heating Inc.	\$ 47,982	
			<b>Bancker Construction Corp.</b>	93,572	
			Roadwork Construction	99,995	
			Bensin Contracting Inc.	118,570	
11/3/11	Bergen Point WWTP Screening Room Odor Control General Contractor	County of Suffolk, Dept. of Public Works	RJ Industries Inc./RJI Mech	\$ 943,280	
			WHM Plumbing & Heating Contr. Inc.	1,083,902	
			<b>Posillico Civil Inc.</b>	1,453,000	
			Heritage Mechanical	2,048,000	
	Electrical			Mainline Electric Corp	\$ 153,400
				Bana Electric Corp.	159,000
				Northgate Electrical	176,000
				LEB Electric	186,000
				Cooper Power & Lighting Corp.	207,000
				<b>Hinck Electrical Contracting, Inc.</b>	211,850
	HVAC			WHM Plumbing & Heating Contr. Inc.	\$ 580,000
				Geo Tech Construction Corp.	979,000
Heritage Mechanical				1,073,000	
RJ Industries Inc./RJI Mech				1,287,430	
HVAC, Inc./Commercial Instrumentation Svc				1,390,000	
11/3/11	Construct Salt Shed	Town of Brookhaven, Purchasing Division	<b>J Anthony Enterprises</b>	\$ 440,000	
			LoDuca Associates Inc.	477,440	
			Carter-Melence	531,000	
			ALDCO Builders	627,000	
			Rockmore Contracting Corporation	786,000	
11/7/11	Chilled Water Pipe Replacement - SUNY Stony Brook	SUNY Stony Brook Research & Development Campus	All State Construction Inc.	\$ 3,491,603	
			Framan Mechanical	4,293,000	
			Ultimate Power Corp.	4,435,000	
			RJ Industries Inc./RJI Mech	4,748,400	
			VPH Mechanical	5,196,394	
			<b>Scalamandre Organization</b>	5,577,000	
			<b>Bove Industries</b>	5,795,000	
			Rocon Plumbing & Heating, Inc.	5,949,000	
			Boilermatic Welding Ind.	7,490,000	
11/7/11	Village Wide Road Improvements	Inc. Village of Old Field	Rosemar Construction	\$ 1,483,841	
			CAC Contracting Corp.	1,493,060	
			Roadwork Ahead, Inc.	1,524,750	
			ALAC Contracting Corp.	1,717,717	
			<b>Newborn Construction, Inc.</b>	1,787,000	
			<b>KPI/Kings Park Industries, Inc.</b>	1,789,125	
			<b>Intercounty Paving Associates, LLC</b>	1,827,042	
			<b>Posillico Civil, Inc.</b>	1,876,865	
			DeLalio South Fork Asphalt	1,919,919	
			<b>Pratt Brothers, Inc.</b>	1,941,941	
			Suffolk Asphalt Corporation	2,987,654	
			11/7/11	Eastport High School Site Electrical Repair	Eastport-South Manor Central School District
Relle Electric Corp.	78,900				
<b>Bancker Construction Corp.</b>	105,000				
11/9/11	Construct 6,000 SF Warehouse Bldg Addition - SCWA Operation Ctr	Suffolk County Water Authority	Gii Construction	\$ 1,072,200	
			Construction Consultants	1,111,450	
			<b>North Star Concrete Construction</b>	1,152,740	
			Irwin Contracting Inc.	1,153,850	
			S. J. Hoerning Construction	1,171,500	
			Racanelli Construction	1,173,590	
			LoDuca Associates Inc.	1,177,744	
			Frendolph Construction Corp	1,208,150	
			<b>J Anthony Enterprises</b>	1,211,290	
			Stalco Construction, Inc.	1,219,439	
			W. J. Northridge Construction Corp.	1,314,399	
			Ed Brody Contractors/EBC	1,388,200	
			Metro Group of LI Inc.	1,398,135	
			E & A Restoration	1,460,109	
			Jordan Panel System Corp.	1,753,484	
			Rockmore Contracting Corporation	2,121,000	
11/10/11	Wading River Ponds, Water - Water Quality Improvement	Town of Brookhaven, Purchasing Division	<b>Pratt Brothers, Inc.</b>	\$ 161,616	
			PSL Industries, Inc.	193,910	
			Terry Contracting	213,260	
			<b>Bimasco, Inc.</b>	219,200	
			Adjo Contracting Corp.	223,335	
			G & M Earth Moving, Inc.	235,615	
			D F Stone Contracting	239,650	
			ConStar	267,425	
			Fort Hill Ind., Inc.	356,700	

Bid Results continued on next page

## Bid Results (Continued)

11/15/11	Plumbing Maintenance - Scheduled & Emergency Svc	Plainview Water District	Bensin Contracting, Inc.	\$ 42,240
	Jan. 1 - Dec. 31, 2012 - Total Base Bid		<b>Merrick Utility Associates, Inc.</b>	42,272
	Jan. 1 - Dec. 31, 2013 - Total Base Bid		<b>Merrick Utility Associates, Inc.</b>	\$ 47,768
			Bensin Contracting, Inc.	48,300
	Jan. 1 - Dec. 31, 2014 - Total Base Bid		<b>Merrick Utility Associates, Inc.</b>	\$ 54,328
			Bensin Contracting, Inc.	54,360
11/15/11	Iron Removal for Well No. 5-2	South Farmingdale Water District	Atlantic Wells, Inc.	\$ 168,775
			Philip Ross Industries, Inc.	178,000
			RJ Industries, Inc./RJI Mech	183,700
			Bensin Contracting, Inc.	183,800
			<b>Bancker Construction Corp.</b>	186,800
			<b>Merrick Utility Associates, Inc.</b>	223,175
11/17/11	Sign Installations Where & When Needed - Various Locations	New York State Department of Transportation	<b>United Fence &amp; Guard Rail</b>	\$ 2,779,587
			Chesterfield Associates	3,173,100
			ConStar	3,548,792
			<b>Mana Construction Group, LTD</b>	3,848,691
			DCA Construction	4,054,440
			<b>Village Dock, Inc.</b>	5,598,450
11/17/11	Bridge Cleaning @ Various Locations	New York State Department of Transportation	ConStar	\$ 565,656
			<b>Mana Construction Group, LTD</b>	608,920
			Public Utilities Maintenance, Inc.	662,896
			Triad Painting	715,170
			Dom's Tree Service/Lawn Maker	725,712
			Dandrows Painting, Inc.	774,176
			Limnes Corporation	839,400
			Anjac Enterprises, Inc.	891,488
			Marine Steel Painting Corporation	1,864,000
			De Angelo Bros., Inc.	2,444,444
			<b>Pratt Brothers, Inc.</b>	3,120,120
			<b>Village Dock, Inc.</b>	3,170,900