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Current Legal and Business Developments Affecting
the Design, Construction and Real Estate Industries

Quarterly Review

Interview with

Mysore L. Nagaraja, President, MTA Capital Construction

By Carol J. Patterson, Esq.

CJP: Thank you meeting with me today. What an exciting time this is for the MTA.

MLN: It certainly is. We are embarking on the largest system expansion the city has seen in several generations – the Second Avenue Subway, the East Side Access Project, the No. 7 Line Extension as well as two lower Manhattan recovery projects – South Ferry Terminal Station and the Fulton Street Transit Center. These projects represent nearly a \$14 billion investment in our region's public transportation network. By mid-2007, all of these projects will be under construction.

CJP: That's very impressive. Let's talk first about the Second Avenue Subway Project. I understand that this project will be accomplished in phases.

MLN: Yes. The finished project will span from 125th Street to Hanover Square and will cost \$16 billion. Between the federal government and the MTA, we agreed to approach the project in four phases. The first phase will span from 96th Street to 61st Street



Nagaraja

where we will tie into the existing Broadway line. During its first day of operation, this portion of the Second Avenue Subway will service approximately 200,000 customers. One-third of these customers will be new subway riders who previously chose other forms of transportation like buses or taxis.

CJP: I read an article in the New York Times about the impact of rising real estate costs on this project. How has phase one been affected?

MLN: The budget allocated for property acquisitions will remain an open-ended item. In 2002 and 2003, we sought appraisals for the properties and easements we needed to purchase. The total value of the appraisals at that time came to \$191 million. Today's value is \$254 million. According to the federal guidelines governing property acquisition,

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A New Trans-Hudson Rail

By Richard T. Anderson, President, New York Building Congress and
Philip K. Beachem, President, New Jersey Alliance for Action

It appears that the roads, bridges and tunnels we use every day have always been a part of our lives. Yet, while it might seem like we've always had the Lincoln Tunnel, George Washington Bridge, and the many commuter rail lines that connect our region, the fact is that previous generations had to think ahead and act boldly to build these assets. This laid the foundation for a thriving regional economy that has become the envy of the world.

We can no longer rely upon the achievements of those who came before us. Today's regional transportation system is congested and its ability to move people efficiently between jobs and their homes is eroding. Just as the previous generation contributed to our success, we now have to make an investment for our children and beyond. We must create transportation solutions that improve our mobility, grow the economy and also protect our environment. Only wise and farsighted planning can accomplish our necessary goals.

With the population in our region expected to grow by almost 3,000,000 people over the next 25 years, we cannot afford to wait for more trans-Hudson capacity. Job growth in New York City and in midtown Manhattan in particular is expected to increase tremendously over the coming decades, and pressure to cross the Hudson River could turn our regional roadways and river crossings into parking lots if we do not act now.

That's because today's commuter rail system connecting New York City and New Jersey, as well as Washington and Boston, relies on a 100-year-old, obsolete, two-track railroad and a congested Penn Station that strains from the movement of 150,000 NJ TRANSIT trips each day. Even as we predict significant regional growth, today's commuter rail system and its two track tunnel are already at capacity.

That is the reason that New Jersey Transit and The Port Authority of New York & New Jersey are working in partnership to advance a project that will break this trans-Hudson bottleneck. The Trans Hudson Express Tunnel (THE Tunnel), also known as the Access to the Region's Core Project (ARC), is a \$7.5 billion project that will add two new tracks under the Hudson and expand the capacity of Penn Station to the North under 34th Street.

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Mysore Nagaraja Interview

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you must obtain a final appraisal at the time of acquisition. This appraisal becomes the final settlement value. The courts support this process and we can finalize the sales and take possession of the property without impediment. With the exception of the increase in cost, the project is not affected.

CJP: What are the plans for the other phases of the subway?

MLN: The second phase will span from 96th Street to 125th Street. What's interesting about this section is that, in part, it already exists. Back in the late 60's/early 70's, the City began Second Avenue subway construction and dug two sections of tunnel from 99th Street to 105th Street and from 110th Street to 116th Street. These existing tunnels will have to be retrofitted to meet today's standards for tunnel construction but most of the digging is done. And, then, of course, there are stations to construct. The costs associated with station construction have dramatically increased in recent years predominantly due to additional code requirements pertaining to public safety. Phases three and four will span from 63rd Street to Houston Street and Houston Street to Hanover Square, respectively.

CJP: What is the projected completion date?

MLN: The projected completion year for phase one is 2013. If we continue to receive funding, the remaining segments can potentially be completed within 15 years from the completion of phase one.

CJP: Why was the segment spanning from 96th Street to 61st Street chosen for phase one?

MLN: Two reasons influenced our selection. First, this segment is the most economically beneficial. When completed in its entirety, the Second Avenue Subway will serve approximately 380,000 riders daily. The segment apportioned to phase one, as I mentioned previously, will attract 200,000 daily riders. The numbers speak for themselves. The other reason is a matter of logistics. North of this portion, tunnels already exist – tunnels that will ultimately be retrofitted as working tunnels during phase two of the project. But, in the interim, we intend to use those tunnels as the place from which to start train service for phase one operations.

CJP: How many people does the system serve a day?

MLN: Between the subway system and the commuter railroads – the Long Island Rail Road and Metro North – we move 8 million people on a week day. Almost one-third of all mass transit usage in this country is attributable to our operations.

CJP: To what extent will the people living or working near Second Avenue feel the impact of the construction?

MLN: The tunneling technology is so well developed that very little noise or vibration will be emitted. To ensure that levels are kept to a minimum, we will place vibration

reach to those who will be affected?

MLN: Naturally, there are concerns. And we are addressing each of those concerns, both individually and at community board meetings. If I could build this system elsewhere and ship it here, I would. But, of course, that is not possible. Overall, there is public support for the project in addition to support from the New York City Council, the Governor, Senators, Congressmen, Assemblymen, and so on. This project has been in the plan for over 60 years and, it's finally happening! It's very exciting.

“Between the subway system and the commuter railroads — the Long Island Rail Road and Metro North — we move 8 million people on a week day. Almost one-third of all mass transit usage in this country is attributable to our operations.”

monitors strategically throughout the vicinity. But there will be other inconveniences that are unavoidable. One of the first activities that will be scheduled will be the installation of the 300 ft. long tunnel boring machine. In order to install the machine, a rectangular hole, or open-cut, will be made from 96th Street to 92nd Street. The hole's width will span three traffic lanes. This same approach will be employed during the construction of the three new train stations. Essentially, from the start of construction through project completion in 2013, two to three Second Avenue traffic lanes will be out of service.

CJP: What will be the impact on Second Avenue traffic?

MLN: There is no doubt that the impact will be significant. We have consulted with the Department of Transportation (DOT) and new traffic patterns have been worked out to alleviate some of the anticipated congestion during the construction phase.

CJP: Please describe the local community reaction. Have you performed any sort of out-

CJP: What is the status of the LIRR East Side Access project? The funding is in place, correct?

MLN: Yes. This project will cost roughly \$6.3 billion. The federal government has given us \$2.6 billion and the State and the MTA will finance the balance. We have already awarded quite a few contracts, two of which are in the works. There is an open cut contract in Queens in Sunnyside Yard. This project is about 50% complete. And, a tunneling contract was awarded last year to bore from 63rd Street and Second Avenue to Grand Central. Two rail yards have been completed for this project. One is located near Yankee Stadium and is also operational, and, the other, is located in Sunnyside. Two billion dollars of the allocated budget has already been committed. So, this project is well underway.

CJP: Is it true that you've hired a foreign contractor to work on this project?

MLN: One of the joint venture partners, Dragados U.S., which has a Spanish parent company based out of Madrid, will bore the East Side Access tunnel and we're look-

ing at other international firms to perform some of the other work involved.

CJP: This is a challenging time to build in New York. There is so much construction going on that many of the resources are tapped out. Is the employment of international firms a necessary coping strategy?

MLN: Yes. I've been meeting with industry groups and leaders and have been strongly advocating for joint ventures with international firms. With what's going on downtown and the plans for the New Jersey tunnel combined with what we have scheduled, \$20-30 billion will be spent on construction over the next ten years. The local contractors alone do not have the capacity to handle this volume.

CJP: Is this Dragados' first U.S. project and have they been partnered with a domestic firm?

MLN: No, but here they are joint venturing with Judlau. We will be building another tunnel in association with the East Side Access project under the Sunnyside Yard. That contract will be awarded toward the end of this year. As you know, New York is a very unique construction community. This is why we encourage joint ventures.

CJP: Are labor shortages also a concern?

MLN: Labor shortages are a huge concern. We are encouraging the unions to increase their apprenticeships, train more people and accept skilled laborers from other states. In fact, the MTA has established a Blue Ribbon Panel to look at and analyze these and other issues. Any issue that could impede construction will be studied and recommendations will be made. The Panel will be comprised of contractors, labor union representatives and representatives from governmental entities. In addition to resource shortages, the panel will also be charged with evaluating bonding and insurance capacity issues. Traditionally, we have always required a 100% performance bond and the State has a requirement of a 100% payment bond. When you're talking billions of dollars in contracts, we will naturally encounter capacity problems. It's a very challenging environment and we will need to make changes, to be the client of choice for the contractors. That is the objective of this undertaking.

CJP: Tell me more about the MTA's procurement process.

MLN: One of the biggest advantages that the MTA has is that we can negotiate procurements. Neither the City nor some state

agencies can do this. This is a big, big advantage. We can negotiate terms and conditions, means and methods and design changes. The negotiated procurement process affords us the ability to reach acceptable terms and move forward on our projects with greater speed than those agencies that do not have this flexibility.

CJP: Did you take that approach on Fulton Street as well?

MLN: Yes. In fact, the last proposal for the Transit Center itself was made public just a few months ago and that negotiated procurement is currently underway.

CJP: What about contract provisions? How much flexibility is the MTA willing to entertain?

MLN: We are now willing to negotiate provisions that were once considered nonnegotiable – from alternative dispute resolution provisions to no damage for delay provisions. In essence, we have adopted the private sector model. The MTA has come a long way.

CJP: The City has put new emphasis on environmentally-friendly, sustainable design. Does sustainability factor into the MTA's approach to new construction?

MLN: Sustainability has become the motto for everything we do here and I'm very proud of our efforts. When we started work on lower Manhattan, we insisted that all of our contractor's off-road vehicles use ultra-low sulfur diesel fuel. We started with stationary equipment, but now we have expanded this requirement to include even the material-bearing trucks such as concrete trucks. The Department of Environmental Protection (DEP) recently visited the Fulton Street site and video-taped our operations to use as an example of environmentally-friendly urban construction. They intend to distribute this video nationally. Even the demolition that our agency handles is handled responsibly. In fact, we call it "de-construction." We take buildings apart piece by piece to limit the circulation of dust and other particles. The very strict standards that we established are being adopted by the City and other agencies such as the Port Authority.

CJP: This is all very impressive and exciting. Thank you very much for your time and hospitality. I look forward to watching your projects evolve and become operational – their impact will be felt for decades to come. ■

Trans-Hudson Rail

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The last time a commuter rail connection was built under the Hudson River, William Howard Taft was the President of the United States and the Model T had just been introduced. Now it's our turn to build the critical infrastructure that will benefit our children and grandchildren. Now is the time to protect our economy, our environment, and our quality of life.

Through the leadership of Governor Corzine as well as Governor Spitzer, Mayor Bloomberg and members of the bi-state Congressional Delegation this project is moving forward quickly. The Port Authority of New York & New Jersey has committed \$2 billion for the project and the State of New Jersey has authorized an additional \$1.5 billion.

With this leadership and funding, the project has advanced into preliminary engineering. We can see the design and ultimate construction of a project that will define our generation and help further the economy. ■

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PlaNYC: A Bold Transportation Initiative for New York City

By Lori Samet Schwarz, Esq.

On April 22, 2007, Mayor Bloomberg unveiled his far reaching long-term plan for New York City, covering all phases of development through the year 2030. Purposely released just days after the Mayor's Earth Day speech, the plan emphasizes a "green" theme throughout 127 separate initiatives. However, what makes this plan somewhat different, at least as it relates to transportation and infrastructure, is that Mayor Bloomberg has included a strategy for funding these much needed improvements. Under his proposal, the City would commit large sums directly to the effort and develop a new agency to fund transportation and infrastructure projects.

Developed by the Mayor's Office of Long-Term Planning & Sustainability, "PlaNYC: A Greener, Greater New York" has been in development for many months. However, rather than relying solely on government-initiated research and development, the Bloomberg Administration convened a wide variety of experts, including scientists, academics, environmentalists, energy and planning experts, business leaders, and even ordinary citizens. A website was also created that received more than 5,000 hits, resulting in some 3,000 ideas for the Mayor's proposed plan. Incredibly ambitious on many fronts, PlaNYC has already created debate among politicians, special interest groups and ordinary citizens alike as many of the more controversial initiatives are considered.

In the opening page of the PlaNYC section devoted to transportation, the Bloomberg Administration pronounces that: "Transportation is the greatest single barrier to achieving our region's growth potential." PlaNYC identifies sixteen specific initiatives that address not only the concerns of residents of the five boroughs, but also suburban commuters in New York and New Jersey who battle lengthy commutes daily under less than ideal circumstances. The initiatives, which have been divided into six major themes, cover all forms of transportation, from roadways, bridges and tunnels to subway and commuter rail lines. They seek to streamline bus transportation and stops,

and encourages alternative commutation by ferries and bicycles. In short, there is something in the PlaNYC transportation initiatives to reassure who travels in and around New York City on a daily basis that Mayor Bloomberg has heard their complaints.

Of course, critics of the transportation initiatives have also started to come forward to be heard. While the media debate centers around the controversial congestion pricing plan, which has already found critics ranging from Wednesday matinee theater-goers to freight companies to Governor Corzine of New Jersey, other groups have also started to criticize the Mayor's plan. However, most of those complaints are from groups that do not believe that PlaNYC does enough to address the concerns of outlying areas of the boroughs that have long been neglected by City Hall. For example, while PlaNYC focuses on development of major new subway corridors (Second Avenue Subway) and commuter rail centers (East Side Access), meaningful expansion of rapid bus transportation is on a slow-moving path.

(1) Build and expand transportation infrastructure - A primary focus of PlaNYC is to increase capacity on key congested commuter routes that will otherwise be pressed beyond their capacity by 2030. Projects under this umbrella include the Second Avenue Subway which, after two previous failed starts due to lack of funding, is finally underway. While the initial phase will serve the Upper East Side of Manhattan, if completed as planned, the line will run from 125th Street to the southern tip of Manhattan. Also contemplated is a third track on the Long Island Rail Road ("LIRR") Main Line, which will enable the LIRR to run more trains and provide additional service to local stations in Queens. This additional track will also enable the LIRR to service the ever increasing number of "reverse commuters" - those who live in New York City and commute to jobs outside the City - which population has increased by 10% since 2000. Other projects include Access to the Region's Core (ARC), which will create a second Trans-

Hudson Express (THE) Tunnel for New Jersey Transit ("NJT"), doubling the number of trains that can run into Manhattan and eliminating the "two-zone" commute for many New Jersey residents by providing new direct service to Manhattan on certain lines. Also contemplated is a second dedicated Express Bus Lane to serve the many communities not on the NJT rail network.

Other projects include East Side Access for LIRR commuters and Metro North Service to Penn Station, which will both eliminate "two-zone" commutes for many suburban riders and increase the number of trains to under-served areas of Queens and the Bronx, most notably Co-op City and Hunts Point. Also contemplated is a feasibility study to determine how to best make use of the 5.1 mile Staten Island North Shore Alignment. This abandoned rail-line linking St. George and the Ferry Terminal could provide either rail or dedicated bus service, giving Staten Island its first rapid transit service in two generations.

(2) Improve existing transit service -

Another focus of the plan is improvement of bus service throughout the five boroughs. While New York City has the highest bus ridership in the United States, it also has the slowest buses, with speeds across the City decreasing by 4% between 2002 and 2006 alone. While the Bloomberg Administration highlights the nominal capital expenditures and quick start up of bus service (as compared with rail service), critics charge that the proposed bus service upgrades are not extensive enough.

Borrowing from a model in use in cities around the world, PlaNYC proposes implementation of a Bus Rapid Transit ("BRT") which "uses dedicated bus lanes, fewer stops, timesaving technologies, and additional efficiency measures to make bus travel fast, reliable and effective." The concept is to launch five BRT routes, one in each borough, over the next two years; however, a second BRT route in each borough is not likely to be fully implemented until 2014. These express-type buses will only stop every 10-15 blocks, and will include bus stops equipped with electronic message boards providing real-time updates on arrival times. Where possible, sidewalk extensions will be built to ease sidewalk pedestrian congestion and make for easier bus access. Also included in the bus initiatives will be the creation of or improvement to dedicated bus lines on the East River (Manhattan, Williamsburg and

Queensboro) Bridges to make them a more attractive option for commuters.

The plan also addresses the problems created by running buses directly under existing elevated subway platforms in Brooklyn, Queens and the Bronx. The combination of increased sidewalk congestion and columns supporting overhead structures serve to snarl both pedestrian and automotive traffic and create safety hazards as people step into the street to look for approaching buses. Although the methods for alleviating these conditions were not specified in PlaNYC, a total of 66 sites in these three boroughs are slated for remedial measures; however, they will not be completed for another 12 to 14 years.

(3) Promote other sustainable modes –

PlaNYC contemplates not only expanding existing ferry service, but contracting for a new privately-operated ferry system along the East River that will connect developing areas of Brooklyn and Queens with Midtown and Lower Manhattan. Also under consideration is a method by which commuters will be able to use MetroCards for both ferry service and connecting bus/subway service so as not to be penalized for using the ferries.

Further, PlaNYC includes a dramatic acceleration of the implementation of the City's 1,800-mile bike lane master plan to encourage this emission-free, low cost method of commutation. While cycling is estimated to have increased 75% from 2000 to 2006, still less than 1% of New Yorkers commute to work by bicycle. By providing a safe means of travel, the Bloomberg Administration hopes to see a dramatic increase in that figure. Also included is continuing implementation of the CITYRACKS program which will install an additional 1200 on-street bicycle racks over the next two years.

(4) Improve traffic flow by reducing congestion –

Perhaps the most controversial aspect of PlaNYC is the proposed implementation of congestion pricing, a system that would charge drivers a fee for entering the Manhattan commercial business district during peak hours. The Bloomberg Administration cites to studies in other countries to show how such a plan has reduced traffic both inside and outside the congestion zone. This has resulted in speeding bus service, decreasing delivery times and reducing greenhouse emissions, with no material economic impact on the economy. However, not all New Yorkers are con-

vinced. Since State legislation is required to enable the City to impose such a fee or to fine violators, implementation of congestion pricing, even as a pilot program, is far from assured.

As proposed, passenger vehicles entering or leaving Manhattan below 86th Street during the business day (weekdays from 6 a.m. to 6 p.m.) would pay an \$8 daily fee. Trucks would pay \$21. Cars that drive only within the congestion zone would pay \$4 and

“According to PlaNYC, traffic within the Zone would decrease by 6.3% and speeds are projected to increase by 7.2%. It is also anticipated that traffic congestion in the outlying boroughs and, in particular those providing toll-free access to Manhattan, will decrease significantly.”

trucks would pay \$5.50. The fee would not apply to vehicles traveling on the FDR Drive, the West Side Highway or West Street. Also exempted from such a fee would be emergency vehicles, taxis and for-hire vehicles (radio cars), and vehicles with handicapped license plates. Cars paying a toll to enter Manhattan would only pay the difference between the daily fee and the toll to prevent congestion on free bridges. Movement around the outside of the zone would not be charged. Payment of the congestion fee would be accomplished through E-Z Pass, which is currently utilized by some 70% of New Yorker area drivers (and a large percentage of drivers up and down the East Coast). For those without an E-Z Pass, cameras on light poles would take pictures of license plates and various payment options would be available.

According to PlaNYC, traffic within the zone would decrease by 6.3% and speeds are projected to increase by 7.2%. It is also anticipated that traffic congestion in the outlying boroughs, particularly those providing toll-free access to Manhattan, will decrease significantly. The Bloomberg Administration anticipates that only 1.4% of travelers are expected to forego traveling into Manhattan because of congestion pricing. Commuters looking to avoid the fee will avail themselves of other improved mass

transit options. Of course, the real impetus behind congestion pricing is to provide a stream of funding for the other transit improvements outlined in the plan. As discussed in the last section of this article, every net dollar raised from the congestion fee would be earmarked for mass transit improvements. Based upon Bloomberg Administration projections, \$400 million in net revenues would be realized in the first year alone.

(5) Achieve a state of good repair on our roads and transit system –

Another key goal of PlaNYC is to bring all of the City's roads and transit systems into a state of good repair so as to avoid crippling delays to the system. In 1981, the MTA halted all expansion projects until the entire system could be brought into a state of good repair. Twenty-five years later, the MTA is still \$15 billion away from achieving that goal, of which

only \$5.5 billion has a dedicated funding source. The Bloomberg proposal for a Sustainable Mobility and Regional Transportation (SMART) Financing Authority, funded in part through congestion pricing, is designed to close that gap. As proposed by the Bloomberg Administration, the SMART Authority would provide the MTA with a one-time grant to cover the unfunded requirements to finally achieve a full state of good repair, plus future funding for maintenance.

A SMART grant paid out over 20 years would also be available to assist the City in reaching its goal of resurfacing 1,000 lane miles of road per year instead of the 800 miles that has been averaged over the last 15 years. With only 69.9% of City roads rated “good” or better, there is still much work to be done.

(6) Develop new funding sources – A centerpiece of PlaNYC is the creation of an independent regional financing authority to evaluate transit proposals and ensure a steady stream of funding for projects undertaken by transportation agencies. As currently projected, there is a combined budget gap of \$30.9 million for implementation of all proposed programming. The SMART Authority would rely both on dedicated

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PlaNYC: A Bold Initiative

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funding commitments from existing sources and tap new sources of revenue to avoid abandonment of projects mid-stream.

Based upon the premise that all regional transportation projects, even those solely within New York City, benefit both City and non-City residents, the Bloomberg Administration proposes a matching partnership between the City and the State. Subject to confirmation that the State will match these amounts, the City will commit \$220 million in annual payments starting in 2008, rising to \$275 million in 2012 and increasing at the growth rate of the City's personal income tax thereafter. Additional funds would also come from congestion pricing, with projected revenues of almost \$400 million in the first year of operation to over \$900 million by 2030.

The SMART Authority would not undertake any transportation projects of its own. Regional, State and City transportation agencies would apply for funding for specific projects to be evaluated by a board of directors comprised of representatives from around the region, with an equal number of members selected by the City and the State. A professional staff would assist in analyzing funding requests, independently assessing regional transportation needs and developing financing structures for selected projects. However, any project selected must meet the following criteria: (i) expand or improve infrastructure within the region and provide either a direct or indirect service to New York City; (ii) have already received all required legislative, local and environmental approvals to begin; and (iii) already have in place 50% of the required funding so that any SMART Fund dollars would be used to match existing funding. As with congestion pricing, State legislation would be required for the creation and empowerment of such a funding authority.

While many of the PlaNYC transportation initiatives are already underway, cooperation between, and a sustained commitment by, the City and State will be required to bring Mayor Bloomberg's vision to fruition. ■

See "At press time" on back page.

ULI New York Transportation Transformed Panel

By Tara B. Mulrooney, Esq.

On March 9, 2007, the Urban Land Institute of New York presented "Transportation Transformed: Innovations in the Tapestry of Urban Transit" which featured a distinguished panel discussing four transit-related projects in the New York metropolitan area. The panel was moderated by Carol J. Patterson, Esq. In her introduction and overview of the panel, Ms. Patterson explained how the transportation scene in the metropolitan New York area will be dramatically altered over the next few years as various infrastructure initiatives and public transit programs are developed. The four projects presented by the panelists are examples of these initiatives, and each project offers a unique solution to New York City's congested transportation system. The projects discussed were the renovation and repositioning of the High Line, an elevated freight rail line that runs for twenty two blocks from 34th Street to Gansevoort Street on Manhattan's West Side; the New York Water Taxi, an innovative small scale transportation company linking waterfront neighborhoods, parks and cultural attractions in New York Harbor; the Trans-Hudson Express (THE) Tunnel consisting of a new two-track rail tunnel into Pennsylvania Station and a new passenger station at 34th Street; and vision42, a project which seeks to clear 42nd Street of auto traffic and install a rail line with sixteen rail stations between the Hudson and East Rivers.

I. The High Line.

The first speaker, Joshua Davis, founded Friends of the High Line with Robert Hammond in 1999 when the 1.5 mile-long elevated railroad structure was under threat of demolition. The mission of Friends of the High Line was to save the structure and create a public promenade to be enjoyed by residents of and visitors to New York City. The High Line runs through some of the City's most dynamic neighborhoods from the Gansevoort Market Historic District up through West Chelsea, Hell's Kitchen and, ultimately, the Hudson Yards.

Mr. Davis provided a brief history of the High Line explaining that it was built in the 1930's during a time when these neighborhoods were dominated by industrial and transportation uses. Today, many of the old warehouses and factories have been converted into art galleries, retail space, design studios, restaurants, museums and residences. The project's new recreational purpose will compliment the new composition of these neighborhoods. The High Line was in active use for approximately 30 years, until parts of it were torn down in the 1960s when the rise of interstate trucking led to a decline in rail traffic. In 1980, trains stopped running on the northern end of the highline and were rerouted to accommodate the construction of the Jacob Javits Convention Center. In the mid-1980's, a group of private property owners who purchased land under the High Line began lobbying for the demolition of the entire structure. Friends of the High Line was formed to advocate the preservation of the High Line and its reuse as open public space. Friends of the High Line saw the restoration of the High Line as an irreplaceable opportunity to provide an open land resource with an historical significance and that would become an economic generator. Friends of the High Line developed a "Rails to Trails" Program that allowed for the unused rails to be converted into 15,000 miles of trails to be open to the public.

Although former Mayor Guiliani signed papers in 2001 committing the City to demolish the structure, an Article 78 lawsuit by Friends of the High Line saved the structure from ruin. In response to the challenge, the State Supreme Court ruled that the plans to demolish the High Line were undertaken in violation of proper procedure. Following this threat of demolition, with the support of the new Bloomberg administration, on July 10, 2003 New York City Council Speaker Gifford Miller announced the City's commitment to funding \$15.75 million to the High Line Project. The preservation of the High Line, now owned by the City of New York under

the jurisdiction of the Parks Department, was underway.

In 2004, the Design Team for the High Line Project was selected, which includes Diller Scofidio & Renfro as architect and Field Operations as the landscape architect. The preliminary design materials created by the design team under the direction of Friends of the High Line includes a “planking” system of long thin cement planks which allows plant growth through the pathways. Seating is also a component of the planking system as the design team created “peel up” benches along the pathways in intimate alcoves and flexible gathering spaces. The landscape design is another important element of the High Line as perennial plantings will create an environment that is reflective of the self-seeded meadows atop the High Line today. Lighting is another important component of the project. Based on night visits to the High Line, a concept was developed which includes low level lights at waist level and below. There will also be lighting underneath the structure to illuminate the streets and sidewalks. The design includes access points every two blocks with stairs and elevators up to the High Line.

The High Line is currently in the Site Preparation Phase, which consists of rail removal, abatement and painting, concrete and steel repair, drainage and pigeon mitigation. The first section of the High Line is scheduled to open in 2008. This section spans nearly nine blocks from Gansevoort Street up to 20th Street and comprises nearly fifty percent (50%) of the Line. The High Line is encouraging the development of innovative projects all around it and has been used as a marketing tool for new developments in the area. Currently, there are about 30 projects in various stages of development in the areas surrounding the High Line. Some of these high profile projects include Andre Balazs’ Standard Hotel; Diane Von Furstenberg’s flagship store and studio; The Related Companies’ new project, the Caledonia; and Interactive Corp.’s headquarters designed by Frank Gehry. When completed, the High Line will be a truly unique elevated space that will greatly enhance and unite the West Side neighborhoods it encompasses.

II. The New York Water Taxi

The second panelist was Thomas Fox, President and CEO of New York Water Taxi. Mr. Fox started New York Water Taxi in 2002 and now its distinctive yellow taxi

boats serve 11 stations, providing over one million passengers an exceptional sight seeing experience, as well as a fun and safe commute.

With the building of the bridges and tunnels into Manhattan, there was a shift away from the waterways as a means of transportation and a life support of the City. In 2002, the New York Water Taxi opened for business as the first waterborne transport services in over 50 years. The concept was to make use of the City’s underutilized waterways and open this resource to all New Yorkers. Initially, the service stopped at Fulton Street Landing in Brooklyn and went on to Wall Street/South Street Seaport, Battery Park, the World Financial Center, Chelsea Piers and West 44th Street. To launch the new service, the New York Water Taxi provided free service during its inaugural week.

The docks for the New York Water Taxi are small and handicapped accessible. At just 50 by 100 feet, the docks cover very little of the water and can be connected to any pier. Portable kiosks that can be rolled off the boats are used to sell tickets to the water taxis. By its fifth anniversary, New York Water Taxi had expanded from three vessels to nine and introduced a second series of water taxis with increased capacity, comfortable seating and full service bars. The New York Water Taxi has expanded its business by partnering with local developers. An example is extending free service to new condominium owners and potential buyers in a Schaffer Developers project in Brooklyn. Similar agreements have been reached with Fairway in Redhook and Ikea in the Erie Basin.

New York Water Taxi also has a strong educational and recreational component, providing tours of New York Harbor and the Statue of Liberty, as well as private cruises. The company has developed its own beach in Long Island City, using 400 tons of sand and setting up picnic tables, a volleyball net and a snack bar as a way to promote the company and bring people out to the waterfront. Another unique function of the New York Water Taxi is its role in emergency preparedness, as it provides for police and fire egress out of Manhattan in an emergency when streets and traffic are congested.

Currently, the New York Water Taxi has 11 stops, 9 vessels and served over 1 million passengers last year alone. Mr. Fox discussed his plans to continue the expansion of the New York Water Taxi and is working

to add stops at Governor’s Island and the Atlantic Basin, as well as expanding services along the East River. Mr. Fox emphasized the importance of working waterfronts and stressed that the development of safe, fast and convenient water transportation relates directly to the success of new development along the waterways.

III. Trans-Hudson Express (“THE”) Tunnel

Alan Weinberg, Director of Outreach and Coordination of THE Tunnel Project, described the Project which as consisting of a new two-track rail tunnel into Pennsylvania Station and a new passenger station at 34th Street. Mr. Weinberg provided a brief history of New Jersey Transit, explaining that it was created almost three decades ago from seven bankrupt freight railroads and dozens of bankrupt bus companies, all of which were inefficient, disconnected, undercapitalized and unreliable. New Jersey Transit recognized the value of these abandoned assets and began to invest and capitalize on their economic potential. In the past 28 years there has been a tremendous growth in population in New Jersey adding enormous pressure to the roads, highways, bridges and tunnels providing access into and out of Manhattan. In fact, annual commuter rail trips into New York’s Pennsylvania Station have doubled in the past 10 years from 18 million passengers in 1996 to 40 million passengers in 2006. Amazingly, there is only one track in and one track out of the Northeast Corridor of Pennsylvania Station. THE Tunnel Project seeks to remedy the current bottleneck between Newark and New York, doubling the tracks and the train capacity across the Hudson River.

In addition, to breaking the bottleneck and doubling the rail capacity into Pennsylvania Station, other benefits of THE Tunnel Project include improved environmental smart planning initiatives and economic benefits. Mr. Weinberg described a system in crisis, explaining that all approaches from West of the Hudson into Manhattan are currently clogged. This includes the bus system which, with over 675 buses, has no room for expansion. Smart Growth planning has been initiated to encourage development around train stations and town centers in an effort to reduce auto travel on overcrowded and congested roadways, bridges and tunnels, which will in turn improve air quality. With the increased rail capacity, THE Tunnel aims to attract drivers and bus passengers to the railways. Mr.

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Weinberg estimated that the Project could eliminate 35,000 daily trans-Hudson automobile trips into Manhattan and 968,000 daily vehicle miles traveled. In addition to the Smart Growth benefits, THE Tunnel will have significant economic benefits for the New York metropolitan area. It is estimated the project will create 6,000 new construction jobs, add \$10 billion in gross regional product, add \$4 billion in real personal income and result in 44,000 new permanent jobs.

THE Tunnel is underway and gaining momentum. The Preliminary Engineering Contract and Construction Management Contract have been awarded. The Project will be run by New Jersey Transit with the help of the Port Authority, which has committed \$2 billion to the project. Mr. Weinberg expressed a spirit of cooperation between New York, New Jersey and the rest of the region with respect to THE Tunnel. New Jersey Governor John Corzine has committed \$500 million to the project and New York Governor Eliot Spitzer and Mayor Mike Bloomberg have publicly expressed their support of THE Tunnel. THE Tunnel has a budget of \$7.4 billion in project costs, with funding from New Jersey, and the Port Authority of New York and New Jersey, and federal sources. The project is scheduled to begin the Engineering Phase in 2008 and break ground in 2009, with completion of THE Tunnel expected in 2016.

IV. vision42

The final speaker, Roxanne Warren, Chair of the Institute for Rational Urban Mobility, presented vision42, a plan to clear Manhattan's 42nd Street of auto traffic and install a light rail line in its place. The purpose of this project is to create a 42nd Street that is welcoming to pedestrians with more pedestrian space, greenery, amenities and faster travel from river to river. By implementing a two and a half-mile low floor light rail line, vision42 would cut travel time across 42nd Street while allowing space for outdoor restaurants, cafes and other public amenities.

Currently, sixty percent of street space on 42nd Street is allocated for motorists, leaving little room for the heavy pedestrian traffic on the block. Cross-town bus transit on 42nd Street is extremely slow and there is a recognized need for better cross-town circulation. The proposed

plan is for pairs of light rail stops at each typical 800-foot area. This would result in 12 pairs of stops along 42nd Street, plus two pairs at each of the far eastern and western ends along the rivers. The rail trains would function almost as a floating street line and would have low floors, making them easily accessible for strollers and wheel chairs. Trains would have shorter boarding times than buses and would arrive every two minutes. The light rail would be different from the number 7 subway line in that it would provide a different type of service and reach new, waterfront developments and ferry lines. Being above-ground, it will also be more convenient than the number 7 subway line, which is 80 feet below grade. Ms. Warren described how the rail line model has been used in many European cities, such as Rome's Piazza Navona and Vienna's Graben, as well as in approximately 30 United States cities including Houston and San Francisco.

Ms. Warren explained that in 2004 and 2005, grants from the New York Community Trust enabled the vision42 team to commission technical studies of a proposal for auto-free light rail transport on 42nd Street. The purpose of these studies was to analyze and address the economic and traffic implications of the proposal, as well as to estimate costs and examine construction phasing techniques. In terms of the economic implications, a key finding of the study was that increased access and travel time savings from the rail line will lead to greater value of existing commercial and residential real buildings. In fact, the studies project a \$3.5 billion increase in commercial property values along the 42nd Street corridor. As a result of these increases in property value, annual increases in City and State taxes would be sufficient to finance construction of the project in less than two years. Further, the studies revealed anticipated benefits to retail, restaurants, hotels and theaters due to the increased access from pedestrian volume which would increase an average of 35%. Restaurants could add outdoor cafes, theaters could set up outdoor kiosks and hotels could include landscaping that would enhance their appeal. These benefits to local businesses would increase employment and workers' earnings by an estimated 34%. The studies also analyzed the proposal's impact on traffic conditions from 37th Street to 47th Street, river to river, including but not limited to, delivery and access, traffic shrinkage and elasticity, cost impacts of traffic shifts, taxi access to Grand Central and parking issues. Overall,

the studies revealed that issues of traffic diversion would be quite manageable. Traffic would be diverted to other cross-town streets and mitigation measures such as changes in signal time, reallocation of street space and parking restrictions could be implemented. In terms of access, it was revealed that most large offices have deliveries on 41st and 43rd Streets and small shops could reserve curb space at adjacent avenues.

With respect to cost studies and construction phasing, vision42 is estimated to cost anywhere between \$360 million to \$500 million, depending on the choice of propulsion system and the amount of disruption to utilities caused by the construction. Utility relocation would be a dominant cost of the project. The construction would be in three phases and could be accomplished in two years if there is minimum utility disruption. Upon completion, vision42 will bring the greenery of park areas to midtown Manhattan and provide a unique pedestrian space that will provide cleaner air and numerous public amenities. ■

At press time: After a battle with the Legislature, Governor Spitzer finally signed a bill that creates a 17-member commission to study different plans for reducing traffic congestion in New York City, including the Mayor's proposal. The bill also authorizes Mayor Bloomberg to apply for federal financing for his plan. However, congestion pricing is not a certainty; the legislature would still have to approve any future commission recommendation.