



**NEW YORK STATE JOINT LEGISLATIVE BUDGET HEARING
ON TRANSPORTATION
FEBRUARY 15, 2022**

**TESTIMONY OF MICHAEL J. ELMENDORF II
PRESIDENT & CEO
ASSOCIATED GENERAL CONTRACTORS OF
NEW YORK STATE**

Senator Krueger, Assemblymember Weinstein and members of the Legislature, on behalf of the Associated General Contractors of New York State (AGC NYS), I thank you for holding this important public hearing to discuss the proposed fiscal year 2022-23 Executive Budget and transportation. AGC NYS is New York's leading statewide construction industry association, representing the breadth of the civil, heavy highway, public and private building industry that builds the majority of the State's public, private and commercial building and transportation infrastructure. We represent nearly 600 contractor, subcontractor and related firms and as an association have more than 80 years of experience working with public agencies and private developers to deliver quality projects that are the lifeblood of our communities. AGC NYS members perform the majority of the public and private transportation, building and environmental infrastructure work in every region of New York State. More than just builders, our members are proud stewards of New York's public and private built infrastructure.

Today's testimony will discuss the impacts of the Executive Budget proposal on the New York State Department of Transportation (NYSDOT) Capital Program on road and bridge conditions, as well as related Article VII legislative proposals.

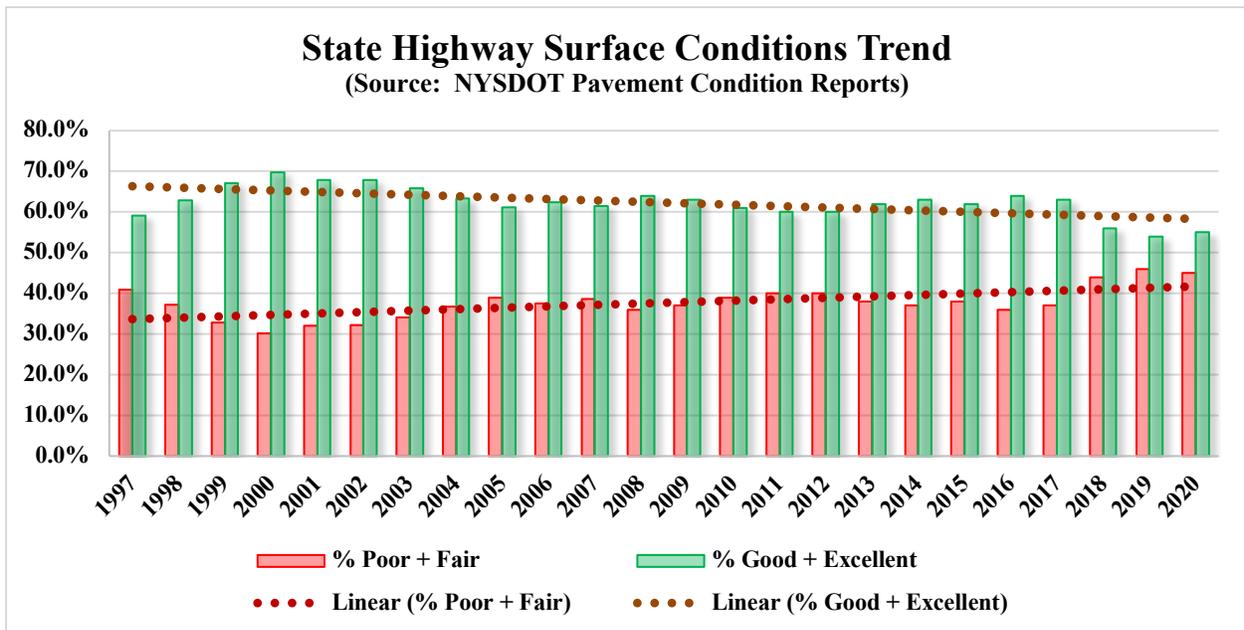
The Executive Budget proposes a new \$32.8 billion, five-year NYSDOT Capital Plan with a goal of improving the State's roads, bridges, airports, rail facilities, ports and other transit systems. The Capital Plan includes FY 2022-23 funding of \$578 million for the CHIPS and Marchiselli local highway and bridge programs; \$100 million for extreme winter recovery; \$100 million for the State Touring Routes program; \$45 million for freight and passenger rail; and \$27 million for aviation. The Capital Plan also commits \$150 million in local highway aid through the PAVE-NY program and includes an additional \$200 million to fund Operation Pave Our Potholes, a new state and local program that commits \$1 billion over the five-year plan. The Capital Plan also includes \$200 million to fund local bridge projects from the BRIDGE-NY program, part of a \$1 billion total commitment over the five-year plan.

There are many positive elements to the proposed Capital Plan and Governor Hochul is to be commended for clearly placing infrastructure as a priority. In particular, we are pleased to see a fully funded, five-year NYSDOT Capital Program. The Governor continues and builds upon record funding levels for local governments through the CHIPS, Marchiselli PAVE-NY and BRIDGE-NY programs, as well as continuation of the new State Touring Routes program. We are pleased to see a new \$500M program, "Operation POP," dedicated to addressing the growing pothole issue. Poor pavement conditions have a direct impact on pothole creation, we hope to see this program used to address the underlying pavement problems in areas that CHIPS funds have not been able to reach. Particular thanks are due to Senator Tim Kennedy and Assemblyman Bill

Magnarelli, the respective Transportation Committee Chairs, for driving this historic local program growth in recent years. They have both proven to be ardent and effective advocates for improving our transportation infrastructure.

With that said, we do have some significant concerns about elements of the Executive’s NYSDOT Capital Plan Proposal and believe there is opportunity for the Legislature to improve upon it to reverse condition declines on the NYSDOT system and bring it into a state of good repair.

For context, despite some significant progress on funding for New York’s roads and bridges in recent years, NYSDOT’s own pavement condition reports show unprecedented decline in conditions:



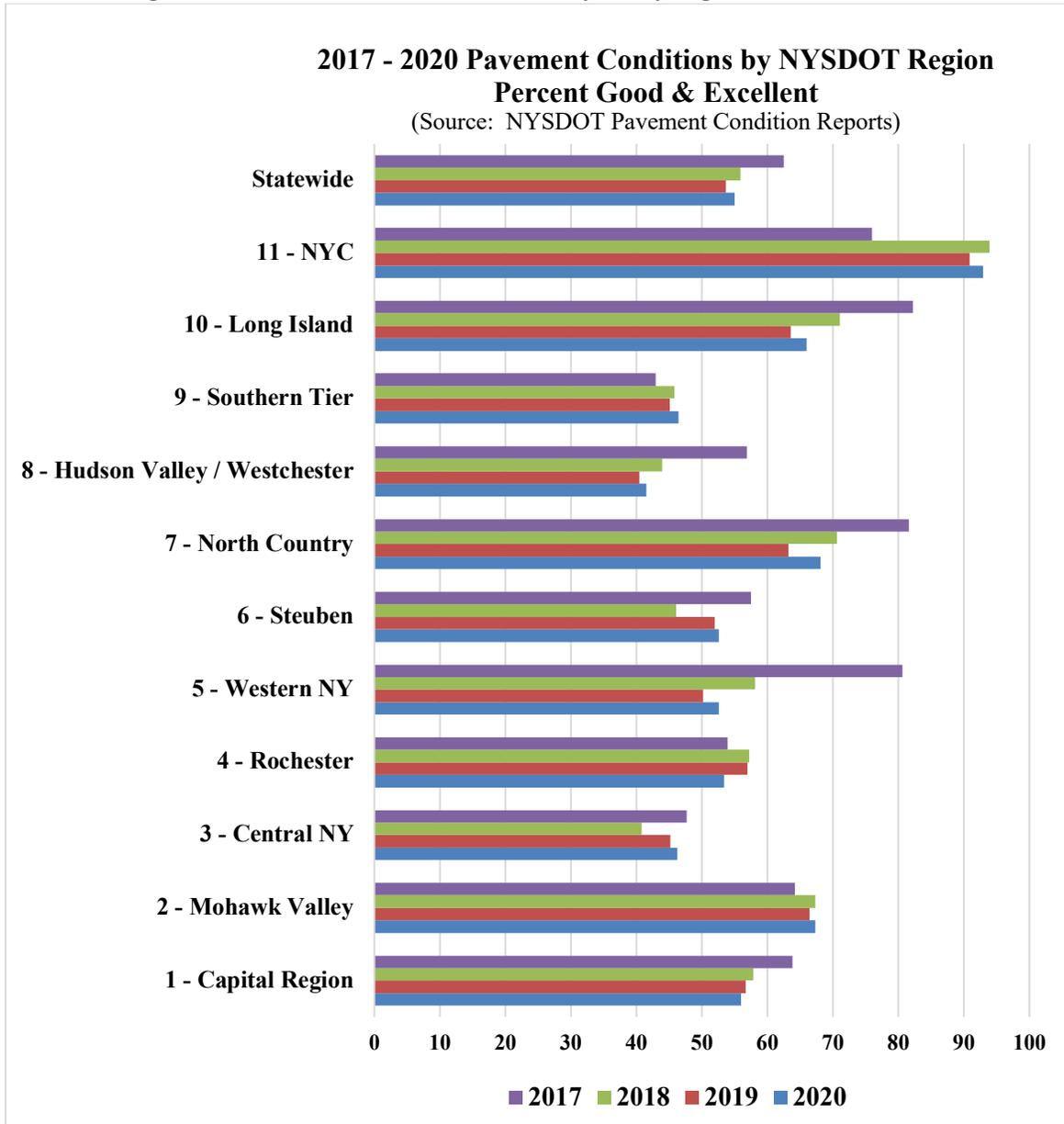
Poor road conditions impose a significant costs on the traveling public. A January 2022 report¹ issued by the national transportation research group TRIP indicated that poor pavement and bridge conditions in New York cost New York drivers \$28 billion—\$632 per driver—annually in

Location	VOC	Safety	Congestion	TOTAL
Albany-Schenectady-Troy	\$423	\$531	\$796	\$1,750
Binghamton	\$244	\$559	\$377	\$1,180
Buffalo-Niagara Falls	\$420	\$402	\$1,044	\$1,866
New York-Newark-Jersey City	\$759	\$326	\$2,107	\$3,192
Poughkeepsie-Newburgh-Middletown	\$513	\$668	\$658	\$1,839
Rochester	\$375	\$540	\$832	\$1,747
Syracuse	\$568	\$628	\$409	\$1,605
Utica	\$313	\$558	\$382	\$1,253
New York Statewide	\$7.7 Billion	\$4.6 Billion	\$15.4 Billion	\$28 Billion

¹ Source: 2022 TRIP Report - <https://tripnet.org/reports/new-york-transportation-by-the-numbers-january-2022/>

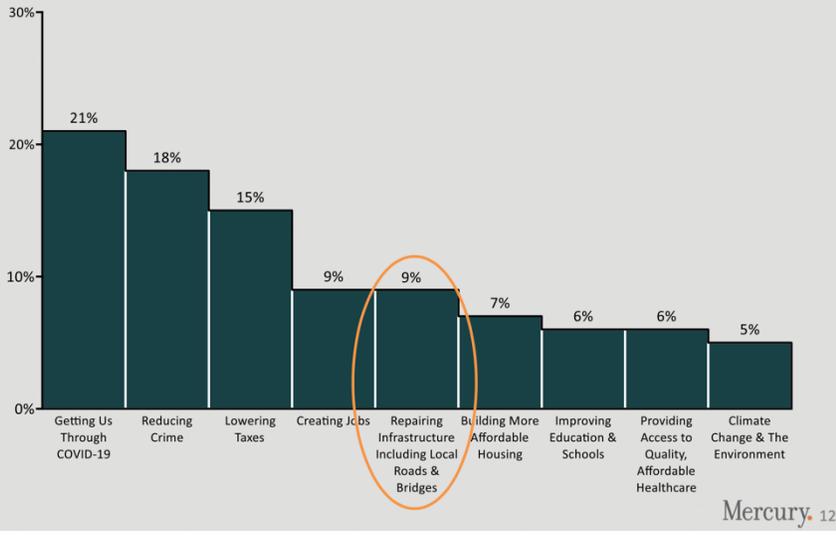
additional repairs, accelerated vehicle depreciation and increased fuel consumption and tire wear. The same report also indicated that 10% of New York bridges are rated in poor or structurally deficient condition, the 11th highest percentage in the nation, with 52% of them at least 50 years old.

Deteriorating road conditions have afflicted nearly every region of the State:



From 2016 to 2020 fair and poor pavements have increased from 36% of the system to 45%, representing an additional 3,277 lane miles of roads are now in fair or poor condition. According to these reports 17,461 lane miles (45%) of the state’s roads are now in need of repair. For years, NYSDOT’s Capital Plan has been underfunded and these reports show the devastating impact it is having on the condition of the State’s roads.

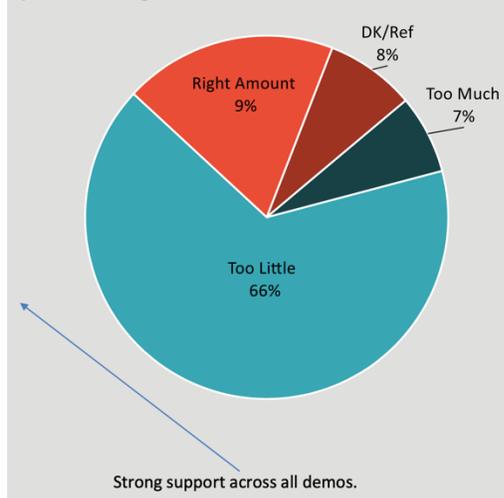
Q.4 Which of the following do you think is the most important issue facing New York State at this time?



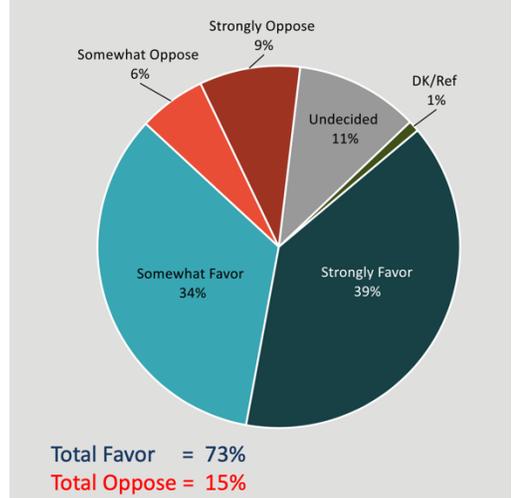
Perhaps unsurprisingly, as New Yorkers feel the impacts (quite literally in many cases) and bear the costs of aging and crumbling infrastructure, they are increasingly identifying it as a priority for policymakers. An independent poll² commissioned by Rebuild NY Now showed remarkably strong support for infrastructure. Among likely voters, repairing infrastructure ranked fourth as the most important issue facing New York, tying with job creation behind COVID, crime and taxes.

In the same poll, 66% of likely voters indicated they believed New York State currently spends too little on roads and bridges—and 73% favored increasing state funding for roads and bridges.

Q.8 In your opinion, does NYS currently spend too much money on infrastructure such as roads and bridges, spend too little money, or spend the right amount?



Q.12 Uninformed Ballot – Do you strongly favor, somewhat favor, somewhat oppose or strongly oppose increasing state funding for infrastructure such as local roads and bridges?

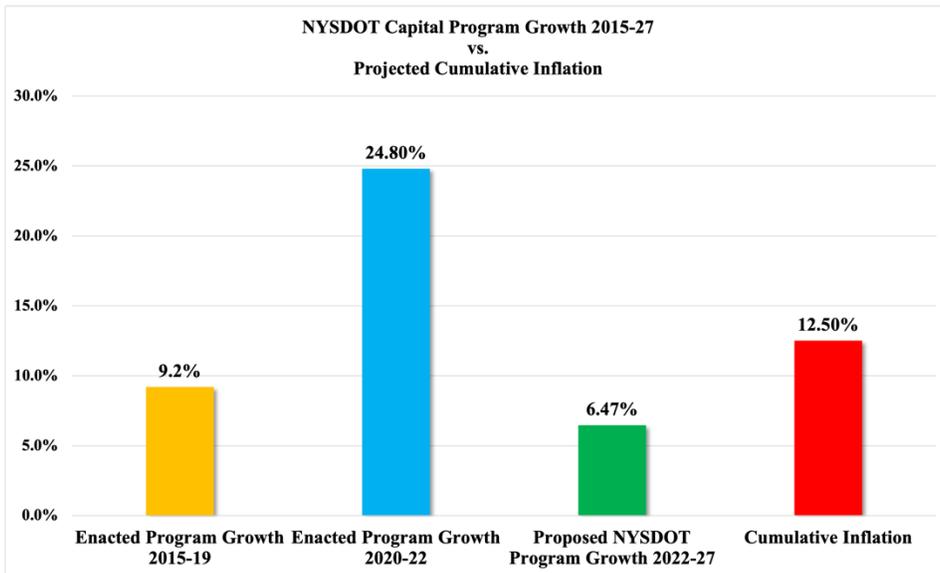
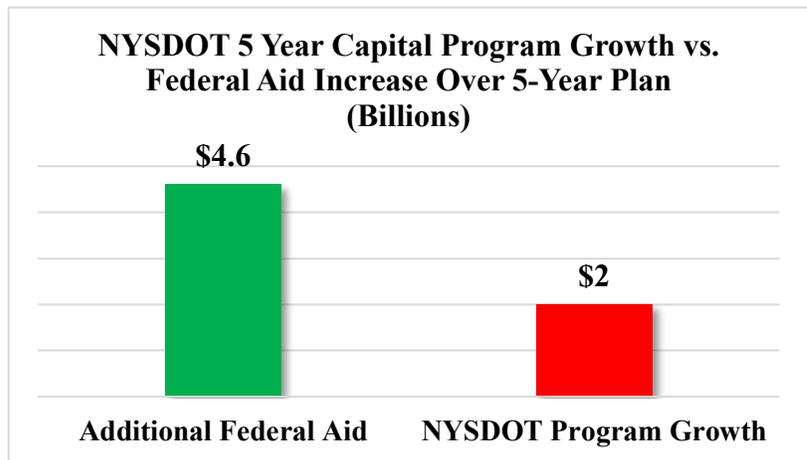


² Source: Mercury Rebuild NY Now Poll - <http://www.rebuildnynow.org/wp-content/uploads/2022/01/Rebuild-NY-January-2022-Survey.pdf>

This all comes at an historic moment for infrastructure in the wake of the passage of the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Bill. It was truly bipartisan, with Democrat and Republican members of our Congressional Delegation voting to enact this historic legislation. Senate Majority Leader Chuck Schumer and members of the Congressional Delegation delivered for New York in a big way. While the bill contains tens of billions for New York to fund everything from rail, broadband, airports and electric vehicle charging infrastructure, it also means a record increase in federal funding for New York’s roads and bridges. **In total, the bill means an additional \$4.6 billion for NYSDOT capital needs over the next five years—a remarkable 52% increase in funding.**

That creates what is truly a once in a generation opportunity for New York to bring our statewide network of roads and bridges into a state of good repair. Unfortunately, it seems it could be a missed opportunity for New York.

First, while federal aid to New York for roads and bridges increases by a record \$4.6 billion over the course of the five years of the Capital Plan, the proposed Capital Plan itself rather surprisingly grows by less than half that amount. *It would seem that the State has used the increased federal funding as an opportunity to reduce its own financial commitment to the Capital Plan—a decision clearly at odds with continued, unprecedented system declines.*



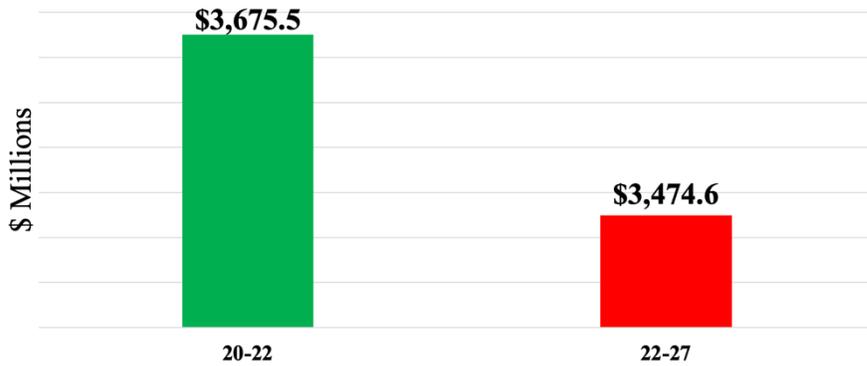
Growth of the proposed 2022-27 Capital Program is less than the rate of growth of the prior two enacted Capital Plans, enacted in times of essentially flat federal funding. Furthermore, when adjusting for cumulative inflation³ over the course of the capital program, it is clear that the relatively anemic

³ Source: Congressional Budget Office, July 2021 Economic and Budget Projections.

growth of the program—particularly in light of the historic increase in federal funding—is not growth at all, but rather will result in *less* real investment in roads and bridges.

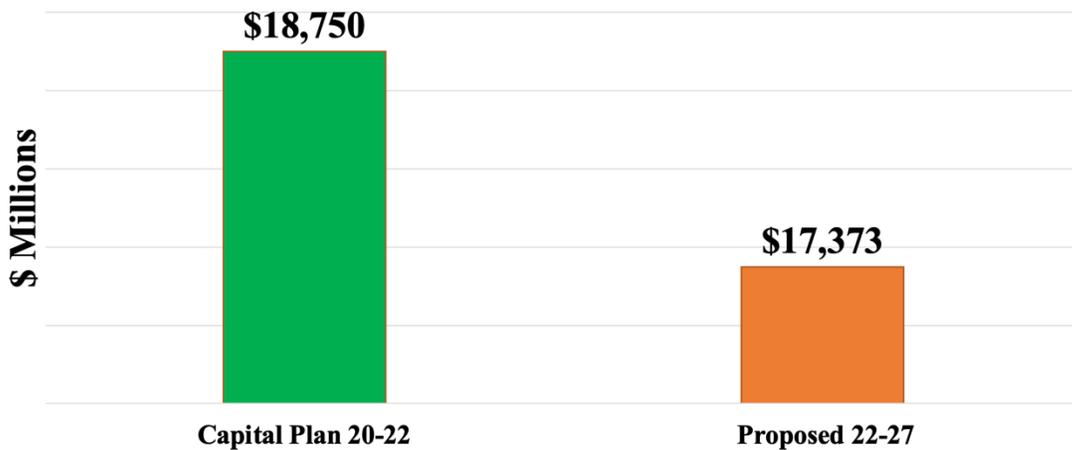
Perhaps most troubling of all, in proposed NYSDOT Capital Plan, average annual spending on NYSDOT system—the maintenance and construction on the statewide network of roads and bridges maintained directly by NYSDOT—is *lower* than was funded in this year’s pre-infrastructure bill budget and is lower over the course of the entire five-year plan than the current year’s funding level extrapolated out to five years.

NYSDOT State/Local Construction Per Year Average



* Includes Local Federal/State System Priority Projects

NYSDOT State/Local Construction 21-22 over Five-Years v. Exec. Budget Proposed Five-Years



While the overall Capital Plan grows slightly to what is a record \$32.8 billion, that growth is again less than half the amount of increased federal funding and is largely consumed by several large projects. These projects, which include I-81 in Syracuse, the Van Wyck Expressway in New York City and the Kensington Expressway in Western New York, are important and transformational projects and we commend the Executive Budget for advancing them. However, the needs and conditions of NYSDOT’s deteriorating statewide system of roads and bridges—where most of the traveling public spends their time and the goods we rely upon traverse—are not met by a handful of “mega” projects alone.

These big projects are exciting and are often completed with great fanfare—but not every member of this Committee, and, for that matter not every member of the Legislature, has a mega project in their district. However, every member of the Committee and every member of the Legislature has deteriorating roads and bridges in their district that are long overdue for repair or reconstruction. That is what the core DOT Capital Program addresses. Greater investment in the core NYSDOT Capital Plan is needed each year of this five-year plan to reverse the trend of unprecedented decline and bring the system back to a state of good repair.

Unfortunately, a smaller core NYSDOT Capital Plan—and an overall Capital Plan that grows by less than half the influx of increased federal funding and which is barely more than half the rate of cumulative inflation, fueled by unheard of material cost increases—is not a roadmap to a state of good repair. It is, rather, a guarantee of even worse conditions at the end of the five-year plan. That would be a shocking outcome for a Capital Plan that coincides with the most significant federal investment in transportation infrastructure since the Eisenhower Interstate System. It would be the very definition of a missed opportunity and it is incumbent upon the Legislature to make improvements to insure that does not happen.

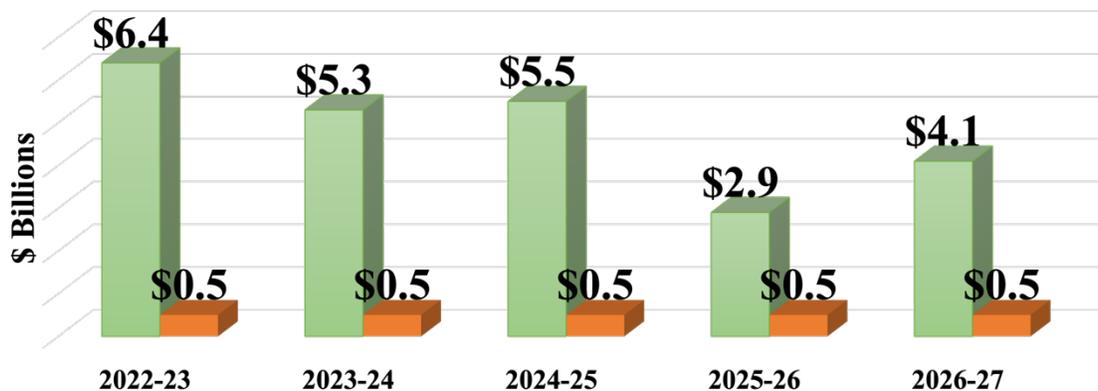
Fortunately, New York has the resources and chance to make the investments that will deliver on the promise of the infrastructure bill and rebuild roads and bridges across the whole of New York.

Based on NYSDOT’s needs—and using their own metrics for pavement treatment cycles and other needs and conditions-based analysis, we believe **an additional investment of \$2 billion per year of the proposed five-year NYSDOT Capital Plan is needed to bring the system to a state of good repair, primarily by growing the level of investment in core NYSDOT construction.**

We believe this growth is achievable for a variety of reasons:

- New York State has unprecedented out-year budget surpluses, thanks to better-than-expected tax revenues and significant amounts of additional federal aid.
- Capital expenses of this nature are appropriately bonded, meaning that the cash impact to the state financial plan is pennies on the dollar and would likely amount to approximately \$2.5 billion, or \$500 million a year, over the life of the five-year Capital Plan.
- We would again note that although federal funding for the program is increased by \$4.6 billion over this five-year period, the program grows by only \$2 billion, meaning the state took approximately \$2.5 billion in state funds out of the program going forward. Simply maintaining the current level of state commitment to the program can fund it to a level that will move New York’s roads and bridges to a state of good repair.

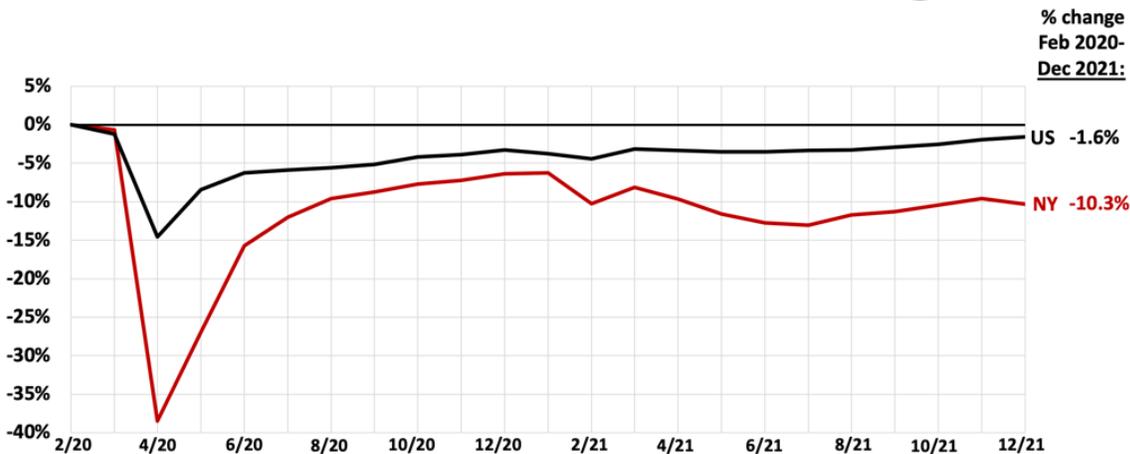
**NY Budget Surplus
vs.
Cash Necessary to Fund NYSDOT Capital Program Bonding for
State of Good Repair**



Beyond being sound policy for the maintenance of our infrastructure, making these investments now is also sound fiscal policy. Deferred maintenance and repair means more extensive treatment repair and construction will be needed later—and at a higher cost.

US & NY Construction Employment

Cumulative change, Feb 2020-Dec 2021, seasonally adjusted



4 | Source: BLS

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It is also sound economic policy. Investing in infrastructure is a proven job creator—it not only creates direct, good paying, prevailing wage jobs, but helps support the broader economy. According to the national transportation research group TRIP, “The design, construction and maintenance of transportation infrastructure in New York supports approximately 319,000 full-time jobs across all sectors of the state economy. Approximately 3.5 million full-time jobs in New York in key industries like tourism, retail sales, agriculture and manufacturing are completely dependent on the state’s transportation network.”⁴ A key purpose of the infrastructure bill is

⁴ https://tripnet.org/wp-content/uploads/2020/04/TRIP_Fact_Sheet_NY.pdf

economic stimulus and job creation. After all, it is called the Infrastructure Investment and *Jobs* Act. And New York’s construction industry could use those jobs. According to the Bureau of Labor Statistics, New York still has not recovered to pre-pandemic construction employment levels.

Further, investing in our roads and bridges builds a foundation for a stronger future and aligns with other key priorities of the Hochul Administration and Legislature. For instance, as New York forges ahead as a national leader in clean energy, with an aggressive push toward zero emissions vehicles (ZEVs), our roads and bridges need to be ready and up to the task. More electric cars, buses and trucks on the road mean heavier vehicles—sometimes much heavier—and more wear and tear on pavements and bridges. Pavements already in increasingly poor condition as we see across the state will not fare well under the weight of these vehicles.

Washington has given us the resources and a generational chance to rebuild our infrastructure, reversing decades of decline, bringing our roads and bridges to a state of good repair and creating and supporting tens of thousands of jobs in the process. We cannot miss that opportunity. Governor Hochul has put forth what is in many ways a positive plan to get there, but investment needs to grow in repairing and rebuilding the core NYSDOT network of roads and bridges to reverse the trend of condition decline and bring the system to a state of good repair. The Legislature has the opportunity to do just that in this budget.

Article VII

AGC NYS strongly supports Part A (the Highway Safety SLOW Act) of the Transportation, Economic Development and Environmental Conservation bill. Worker safety is of the utmost concern for general contractors. AGC NYS applauds the efforts of Governor Hochul, Commissioner Dominguez and Transportation Chairs Kennedy and Magnarelli for their efforts to improve worker safety. AGC NYS supports the work zone safety camera demonstration program enacted last year. Building on that success, the Highway Safety SLOW Act increases penalties related to highway worker and user safety and would serve as a significant deterrent by providing law enforcement and prosecutors the additional tools needed in pursuing and punishing offenders. It would also serve to mitigate commercial vehicle use on parkways and associated bridge strikes. The New York State Department of Transportation estimates that there are approximately 150 vehicle bridge hits every year in the State. The related congestion, towing and cleanup and required incident personnel associated with these bridge hits results in an estimated total cost of \$30 million per year.

Conclusion

I would also like to take this opportunity to commend both Governor Hochul and her Administration and the Legislature for important steps taking to increase transparency regarding NYSDOT system conditions and Capital Plan delivery. Governor Hochul’s Administration has proven to be much more transparent and has provided a level of detail on system conditions that was previously elusive at best. The Legislature has done their part as well, notably last year enacting S.199B/A.4010B, sponsored by Senator Kaplan and Assemblyman Thiele, which requires NYSDOT to submit an annual bridge and pavement condition report to the Legislature.

Such information is critical as the Legislature, industry and public assess the level of funding necessary to maintain our infrastructure and the impact of capital programs on system conditions, particularly as we embark upon what should be an historic period of rebuilding fueled by the infrastructure bill. We were pleased Governor Hochul signed this important law.

Thank you for the opportunity to testify at today's public hearing. We look forward to further review of the Executive Budget and Legislative Budget Resolutions, as well as engaging our elected officials to ensure that a budget that meets New York's transportation infrastructure needs and drives our economic recovery is enacted.

MICHAEL J. ELMENDORF II, PRESIDENT & CEO
ASSOCIATED GENERAL CONTRACTORS OF NEW YORK STATE
10 AIRLINE DRIVE, SUITE 203
ALBANY, NEW YORK 12205
(518-456-1134)
MELMENDORF@AGCNYS.ORG

