

FALL 2011

CROSS SECTION

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CROSS SECTION

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For Cross-Section Magazine advertising, circulation or editorial inquiries, contact Nancy Brown at: phone: 517-347-8336; fax, 517-347-8344; e-mail, nancybrown@mi-ita.com; or by mail at the following mailing address: MITA, P.O. Box 1640, Okemos, Mich., 48805-1640.
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MITA Staff

Mike Nystrom
Executive Vice President
mikenystrom@mi-ita.com

Rob Coppersmith
Vice President of Membership Services
roboppersmith@mi-ita.com

Glenn Bukoski, P.E.
Vice President of Engineering Services
glennbukoski@mi-ita.com

Lance Binoniemi
Vice President of Government Affairs
lancebinoniemi@mi-ita.com

Nancy Brown
Director of Communications
nancybrown@mi-ita.com

Patrick Brown
Director of Safety & Workforce Development
patrickbrown@mi-ita.com

Keith Ledbetter
Director of Legislative Affairs
keithledbetter@mi-ita.com

Doug Needham, P.E.
Director of Technical Services
douglasneedham@mi-ita.com

Nicole Cook
Outreach Coordinator
nicolecook@mi-ita.com

Danielle Coppersmith
Events Coordinator
daniellecoppersmith@mi-ita.com

Tiya Kunaiyi-Akpanah
Membership Services Coordinator
tiyakunaiyi@mi-ita.com

Anita Lindsay
Web/Data Coordinator
anitalindsay@mi-ita.com

Mary Moody
Accounting Coordinator
marymoody@mi-ita.com

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Grant Charlick, an apprentice program graduate out of Laborers Local 1076 and an employee of Skanska, USA, considers MLTAI and the Construction Craft Laborer apprenticeship program an important part of his professional growth.

Charlick stated, "Having passed a college calculus class I expected that there was very little MLTAI could teach me about math, but with their unique approach to teaching I learned how the mathematic principles I learned in college apply in the real world. College didn't teach me that. Also, the wide variety of subjects taught at MLTAI as well as the variety of experience I've gained as a result of working for a general contractor has prepared me to take advantage of advancement opportunities that could come my way in the future."

Michigan Laborers' Training and Apprenticeship Institute provides training to apprentices and journey persons alike. Our instructors have a wide range of field expertise to provide our members with top-notch training using cutting edge technology. Our state-of-the-art training facilities located in the cities of Wayne, Perry and Iron Mountain accommodate on average 2,500 members annually. Courses range from 2 hours to 120 hours in length and include environmental training, construction training, life skills courses as well as on-line courses.

Graduates reaching Journey worker status can be granted college credits at virtually all of Michigan's community colleges.

MLTAI and the Construction Craft Laborers apprenticeship program produce Laborers skilled in their field, dedicated and trained. When Grant was asked what it takes to be a successful Laborer he said, "You have to show up every day in the right state of mind, with a proper attitude and be dependable, punctual and trustworthy. You have to bring your "A" game every day".

Union wages and benefits are among the best in the nation. If great money and benefits are of interest to you, contact a Laborers Local Union in your area or contact Michigan Laborers Training and Apprenticeship Institute.



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Letters to MITA

Dear Mike:

We want to thank you and your staff for the hard days that seem to show little results from our elected officials. We can only pray and hope that some day the word compromise will show up as a bright light and make this a great state and country again.

Joe Dunigan
Dunigan Bros., Inc.

Dear Rob:

I had a great time at the outing yesterday. I thought it was an improvement over Fox Hills. Our two groups liked the format with playing the same hole. It made for some interesting bets.

David Cowper
Ajax Paving Industries, Inc.

Dear Doug:

I just wanted to thank you for today's meeting. Attending these meetings is something that I wanted to do since I was at Angelo Iafate in 2000. Hopefully in future meetings I will be able to offer some sound advice/criticism/other in order to make our industry that much better. Your work (and the work of others at MITA) is much appreciated.

Frank Kramarz
Stante/B&V Construction

Dear Doug:

Just a note to say thank you for your help with the issue we had with our bid. As you know, I did speak with the DEQ last Friday afternoon. Eric had indicated we were approved to do the work by DEQ and the city could move forward with the project. With so many different players working towards the goal of making sure Fonson was approved for this job, I am sure your help was important. Your knowledge of the right people to speak to in Lansing is invaluable. Thanks again to you Doug, and to our powerful association, MITA.

Rick Fons
Fonson, Inc.

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MITA Member Shares Advice with Contractors

By Jim Shea
P.K. Contracting, Inc.

We all know that highway funding is in a state of crisis and with what the U.S. Congress is currently planning the crisis may become a collapse. This situation has been predictable and expected for many years. Why it happened and who is to blame is not important. How to correct it is.

Term limits had been considered as a reason for the crisis except that the problem existed before term limits was introduced. Term limits changed the way lobbying is done but is not the problem that created the crisis.

Currently, it is hoped and possibly expected that Governor Snyder will solve the problem. Several influential contractors with close personal ties to Governor Snyder, notably Evan Weiner and Jamie Jacob, have done a masterful job in providing huge campaign support in the form of contractor dollars and advice. We are deeply indebted to both Evan and Jamie.

Additionally, I would like to express on behalf of my wife, Linda, and me our thanks to Evan and Jamie for setting up an exclusive meeting with Governor Snyder.

Prior to this meeting, Linda and I hosted a private dinner with a group of incumbent legislators and their spouses, both Senators and Representatives attended. At the dinner I asked each legislator, "If you had one piece of advice for the new governor what would it be?" In the minds of the legislators present it was clear that the Governor, House and Senate are equals and that the legislature cannot be run as if by a CEO. Legislators are covetous of their positions as we all are. It was clear that if the Governor was going to be successful, it would have to be a partnership, or cooperative effort, between the Senate, House and Governor.

I wrote those comments down and, keeping the legislator's identities to myself, read them to the Governor. He was pensive and noted that he will need 50% plus one vote in each chamber. My response to the Governor was that if our efforts can deliver just that one vote in a critical circumstance that all of our efforts, no matter how great, would be worthwhile. We appeared to be on the same page by recognizing that each member of the legislature must be considered as the critical key component to passing any bill.

In my mind, it was clear beyond any doubt that the Governor recognized that the legislature is essential for any governor's success in achieving his or her goals. This is a dramatic message. The legislature is critical to any successful agenda. We must think on this very seriously.

The order of importance of legislators is as follows; first, chairs of committees governing our interests, second, committee members of those committees and third, other members not on these specific committees. Take note that every legislator has one committee vote and one floor vote.

Remember, the governor needs that one vote over 50% when the bill comes to the floor of the House or the Senate. That vote can come from a member with no vested interest in our legislation. This makes it clear that every legislator is important to us.

Our task is obvious. We must not put all of our eggs in one basket.

We must develop and/or continue strong relationships with the Governor and each legislator.

We must work especially hard with those that do not support our positions. We must learn why they take their positions that are not in our best interests and work doggedly to convince them, through information and trust, that there is merit in changing their positions. We must be honest and forthright in all of our relationships. I know from experience that this type of positive interaction works. Keep in mind, while a legislator may not support us on a current issue, with a positive relationship, they may support us on another issue down the road.

We have many good things going for us. We have 300 member companies and 300 associate member companies represented by our trade organization, MITA. MITA has a staff large enough to keep a continual contact with each legislator and the Governor's office on a routine basis. They must keep these contacts alive and always be respectful of legislators no matter how high the frustration level.

An influential trade organization takes the overall lead in lobby activities concerning its members' interests. It serves as an umbrella under which the membership takes additional and aggressive interactions with their local legislators. It is also very beneficial when members develop relationships with legislators on their own. The greater the outreach by members to the legislature the better it is for everyone.

A successful association must work cooperatively with other associations, lobbyists, or even a single individual with a good idea. These interactions must be carried out with the greatest of respect. The association should be open to all ideas and give recognition to those who provide input. We must all realize that the best ideas come from people working together. There is strength in numbers. We have the numbers.

MITA is a member of the Michigan Transportation Team, MTT, which is an association of 49 groups representing over one million people. This is a huge outreach. Representative Mike Callton of Nashville recently reported that there are over 1,700 lobbyists in Lansing. This is a large reservoir of talent that must be tapped for assistance whenever possible.

MITA members have a PAC that should be increased significantly on an annual basis. Association members must be aware of PAC donations and advise MITA of any special circumstances that would require unanticipated additional donations from the PAC to their local legislator.

We should learn about our legislator's interests and let them know who we are on a personal level. This will lead to mutual understanding and respect.

Our collective membership of 600 contractors and related businesses represents a tremendous opportunity to lobby the legislature. If every member took it upon themselves to meet and get to know at least four legislators, that would be a minimum of 2,400 relationships.

Why four legislators? It would be natural to be involved with the representative and senator both in the district where you live and the district where your main office exists. For those with multiple offices the opportunity is even greater.

Continues on pg. 35

Member Project Profile

Hardman Construction, Inc. M-21 Bridge in Ada Township over the Grand River



From left to right, Greg Bussey, Hardman Construction job foreman; and Todd Schrader, Hardman Construction vice president, at the M-21 Ada Township Bridge Project near Grand Rapids.



Traffic was diverted to this two-lane temporary bridge in the spring of 2011. Four million pounds of steel were used for the temporary bridge, which includes vibration monitors. The old bridge was built in 1957 and needed to be replaced.

This \$1.28 million project began in October 2010 and is slated for completion by October 2012. The new bridge will include four lanes of traffic and a pedestrian/bicycle lane. The initial phase of the project required reducing traffic to one lane in each direction on the existing bridge, while preparations were made to construct a temporary bridge, immediately to the south of the existing bridge.



The crane is lifting steel sheeting for the M-21 Bridge. The project required numerous barges and tugs to facilitate the moving on the river. Some of the challenges proved to be the river access and numerous flooding events that occurred during the construction. The temporary bridge – 1,400 feet long – is one of the longest temporary bridges that has been constructed for an MDOT project.



Construction worker is aligning the vibratory hammer for driving the steel sheeting to grade. Eighteen subcontractors are part of the project, including MITA member firms. Subcontractors to Hardman Construction on this project are: Bee Steel, Give 'Em a Brake Safety, Martin J. Concrete, Inc., Concrete Cutting and Breaking Co., Kentwood Excavating, Inc., Dale Dukes & Sons, Inc., Rieth Riley Construction Co., Inc., Michigan Paving & Materials, Co., E.J. Chris Contracting, Opperman Grooving, Strain Electric Co., Twin Lakes Nursery, P.K. Contracting, Inc., Westshore Consulting, Fence Consultants, G2 Consulting Group, LLC, and Scodeller Construction, Inc.



Member Profile

Action Traffic Maintenance

Have you ever relied on a green and white highway sign to direct you to your destination while you are traveling through Michigan? Then you know almost all you need to know about Action Traffic Maintenance. Since 1982 they have been producing and installing highway signs in Michigan, Indiana and Ohio.

This year, the Flint-based company, owned by brothers Timothy (Mike) and Thomas (Tom) Peake, has been busy on many projects, including urban sign projects on I-696 in Detroit, I-75 in Oakland County, and rural signs on remote Drummond Island in northern Michigan. In addition to standard highway destination signs, Action Traffic works with Michigan Logos in Lansing on signs that direct travelers to popular locations, such as restaurants, and tourist spots. Michigan Logos sells signs, and Action Traffic produces and installs them. Over 2,300 of these signs dot the landscape of Michigan and Action Traffic is proud of it!

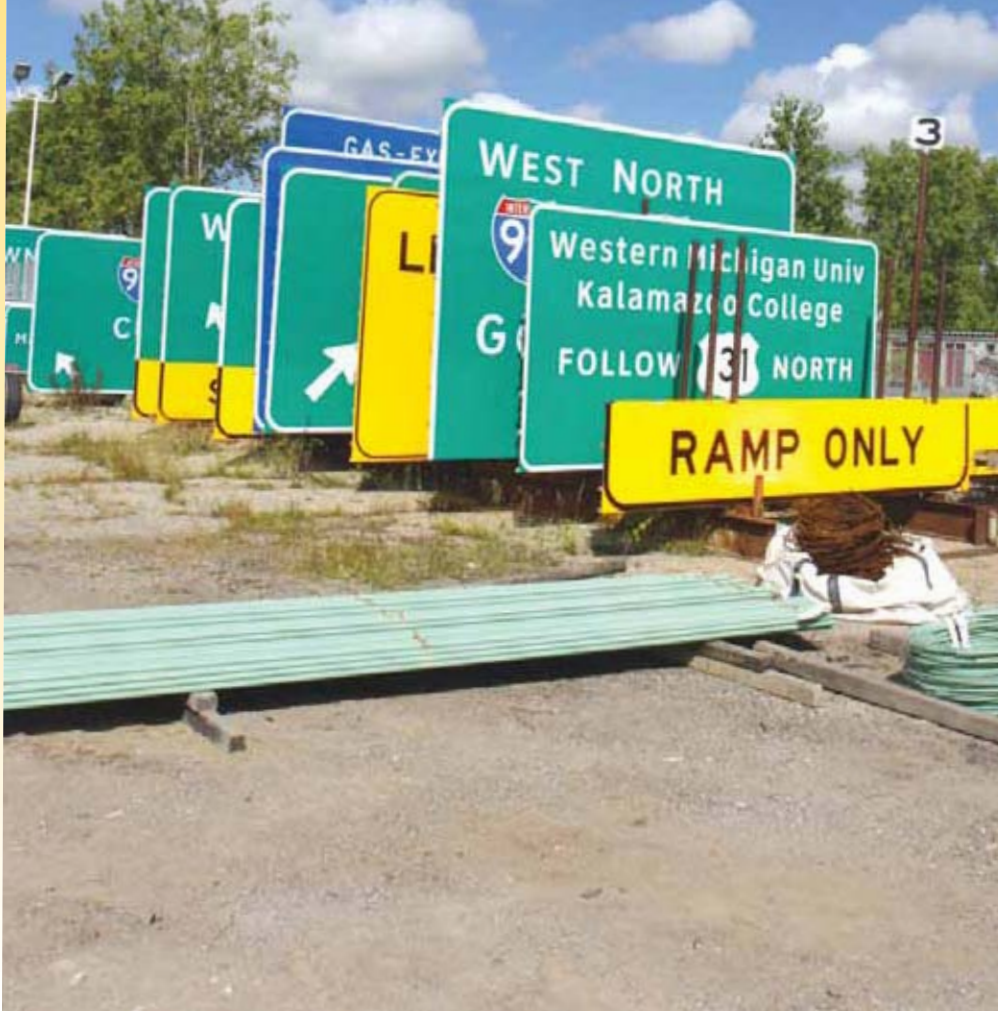
While they are not producing and installing signs, the brothers, who are both pilots, enjoy “bopping around” Michigan on their Piper Cherokee airplane. In addition, Mike is a diving instructor and has dived all over the world.

Action Traffic was founded in Sterling Heights by Franklin and Pamela Dee Csrtter Peake, Mike and Tom’s father and step-mother. The couple are now retired and live up north. Other Peake family members involved in the business today include Mike’s son, Mike, a civil engineer and his daughter, Sophe, a marine biologist. In the past, Mike’s wife, Mary; and Neil Peake, his half-brother, worked for Action Traffic.

In the future, other Peake children might join the business. T.J., the son of Thom, just graduated from high school and attends Oakland University. Tom’s 16-year-old son, Tim, is still in high school. And way in the future, who knows, the now 1-year-old Callen, son of Mike’s daughter, Sophe, might come on board!

Mike is happy to be a long-time member of MITA, and credits his MITA membership with helping his company stay ahead of safety and utility locating issues that arise, especially during the sign installation phase, which is mainly performed as a prime contractor for MDOT.





ACTION TRAFFIC MAINTENANCE
 5182 South Saginaw Street
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 Phone: 800-531-2740
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CONTACT INFORMATION:

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Associate Member Profile

Ritchie Bros. Auctioneers

Ritchie Bros. Auctioneers, the world's largest auctioneer of unused and used heavy equipment and trucks, held 336 auctions and sold 310,000 items in 2010. In 2011, one of their successful auctions was held in Novi, Mich., to a packed outdoor crowd of serious buyers and browsers alike, including MITA members.

The June 28 auction for Jack Anglin Civil Contractors, and 30 other consigners who got in on the action, had gross auction sales of \$5.4 million. By all accounts it was a successful auction for the consigner, because of the quality and large selection of used equipment that was available for sale at the auction, according to Steve Gorman, territory manager for Ritchie Bros.

"We typically have two sales per year in Michigan," Gorman says, as he begins to rattle off successes. "Some notable sales that have generated over \$30 million in gross auction sales in Michigan since 2006 are: Waterland Trucking, Inc.; the former Holloway Company; B&V Land Balancer; and Lou Hayes Trucking."

You would think that in this economy the auction business would not be faced with many challenges. However, the challenge today is that the supply of equipment inventories available for auction is actually low, Gorman says. Ritchie Bros. grossed \$3.1 billion last year, more than their next 40 competitors combined.

So, what is their secret? Lots of answers to that! There are no reserve prices on the products they auction, because they are on a global platform, with average registered bidders of 1,500 per auction. The Ritchie Bros. website is among the top 67,000 most visited websites in the world; and, while that might not sound great, when you consider there are approximately 70 million websites in existence, the stats look pretty good. In addition, Ritchie Bros. is known for the transparency of the auction process. What does that mean? They hold only unreserved auctions, they do not allow buy backs from owners, and they have simple, straight forward contracts for their customers.

Ritchie Bros. is open-minded, too, in terms of how they set up a sale by offering customized contracts, and they run a tight ship at an auction. From the easy to see Ritchie trademark orange and white signage as you approach the auctions site; the neat as a pin orange and white trailer where you enter to register; and the carefully arranged equipment on display; you are lured into the auction excitement. The auction starts at one end of the yard and moves along to the other end after each item is auctioned. Friendly helps shuttle you throughout the site on golf carts, and there is a refreshment tent! And, lest we forget, Ritchie Bros. success is also assisted by their membership in MITA, says Gorman, (without prodding, we must add.)

"MITA contractors come to our sales, and will consign and establish a fair price on late model equipment, and the exposure and support we get from key influencers within the MITA membership is incredible," Gorman adds, as he rattles

From left to right MITA members: Richard Fons, Fonsen, Inc.; and Bill Theile, Alta Equipment Company.



off names of MITA members. (See photos of MITA members who attended the June 2011 auction below)

A MITA member since 1993, Ritchie Bros. is a frequent advertiser in MITA's Cross-Section Magazine, attends golf outings and the summer conference, and has a booth every year at the annual conference, Gorman adds proudly.



Next Auction:
February 14-18, 2012
Orlando, Fla.



MITA Member Jeff Goretski, left, of Goretski Construction Company, Inc.



MITA Member Anthony Rau, left, of Rauhorn Electric, Inc.

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Member of MITA since 1993



On the right is Steve Gorman, Ritchie Bros. territory manager, making his rounds during the June 28 auction in Novi, Mich.

Did You Know?

Did You Know: It's Time To Get Your Crew Connected!

Is your qualified person receiving the regularly published installments of the Tool Box Talks training sheets? Does the administrative staff know how to handle blue book rates or who to contact if they need to order blank employment applications or a set of jobsite posters? Are your estimating/project managers staying up to date with the ever-changing MDOT and federal regulations?

Take full advantage of your company's MITA membership and make sure your foremen, crew and administrative staff are receiving MITA e-bulletins. Those that sign up will stay informed on upcoming events, available material and training resources, news releases, specification and legal updates, etc. Access to this information means more efficient and timely office and jobsite operations.

E-Bulletin signups may be done online by visiting the MITA website. Alternatively, a list of signups may be emailed to Anita Lindsay, MITA's website/data coordinator, at anitalindsay@mi-ita.com.

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Executive Vice President



Mike Nystrom

Our Industry Needs Long-Term Fixes – Not Short-Term Political Gimmicks

Recently, President Obama rolled out another “Jobs Plan”, which includes some infrastructure spending. Although, we as an industry can certainly use the temporary infusion of infrastructure spending, these types of programs create a longer-term challenge for our industry. The President’s first “stimulus” program, the 2009 Recovery Act, was an \$825 billion program, which proposed that a significant amount of government spending was going into creating jobs in the construction industry through infrastructure spending. In fact, only about five percent or just over \$41 billion of that package actually went towards improving our U.S. infrastructure. The rest was spent on tax incentives and other social programs.

That first stimulus program and this most recent jobs plan do help to sustain jobs in our industry. However, the challenge is that there is a public perception that these programs are going to have far more impact than they actually do because of where the bulk of the money is ultimately spent.

MITA is involved with the American Road and Transportation Builders Association (ARTBA) in Washington D.C. Upon announcement of the president’s plan, ARTBA President and CEO, Pete Ruane, came out publicly in an editorial in the Washington Times publicly stating that the industry does not want another stimulus plan. I support that message wholeheartedly and have done so in several media interviews following the president’s announcement.

What our industry needs is long-term fixes both at the federal level with a fully funded federal highway program as well as a plan that looks well into the future at the state level.

There is no question

that our transportation network and our underground infrastructure throughout Michigan are in dire need of a significant infusion of investment. In talking with elected officials as we regularly do on behalf of the industry, there is nearly unanimous recognition of need. However, in the toxic environment of politics, finding significant long-term solutions that require additional government spending seems to be a near impossible task. Without long-term funding plans like a six-year federal highway program and regular appropriations to programs like the State Revolving Fund (SRF) for sewer improvements, businesses in our industry cannot plan for the future and make the capital expenditures needed to help stimulate our economy and keep a quality labor force employed.

Although we are looking at another six month extension in Washington D.C., with regard to reauthorization on transportation funding, we are hopeful that Congress will be able to come together and approve a six-year surface transportation bill that is robustly funded. Closer to home, we look forward to the governor’s October message on infrastructure with great anticipation that this proposal will be bold and long-term in its thinking. Ultimately, these two efforts can help to create jobs and lay the foundation for the economic turnaround that our state so desperately needs.

MITA staff will continue to work aggressively with those elected officials in both Washington and in Lansing to find the funding solutions necessary to get the job done.

If you have any questions regarding the MITA legislative activities, or would like to get more involved, please contact Mike Nystrom at mikenystrom@mi-ita.com, or call him at the MITA office 517-347-8336.

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The Road Ahead – Surviving or Thriving in Michigan

The title of this piece is also the tag line for this year's MITA Annual Conference to be held at the Soaring Eagle Casino, January 18 & 19, 2012 and the front half of "The Road Ahead" is also the tag line for the MITA State funding initiative. I feel the title adequately address the current state of our heavy construction industry or at least for the moment.

It is no secret our great state is rapidly approaching a turning point. Let's just pray our leadership has good GPS. Regardless of the outcome, the MITA Annual Conference will be the place to get the latest information on what lies ahead for our industry. As I write this, many of the elements of the event are starting to fall in place. AIS has agreed to host the DBE reception; Alta Equipment will also be hosting the President's Breakfast; and Michigan CAT will be providing the strolling lunch in the vendor area of entertainment hall. MITA greatly appreciates the continued support associate members willingly provide. It has been awesome to watch this industry event evolve into the biggest event of the year that MITA hosts. For the past several years the event has boasted an attendance of plus or minus a handful either side of 800. Many things attribute to this beside the late January date. Suppliers have recognized that event is full of attendees with purchasing power. Contractors have recognized that there is a good mix of contractors that perform a wide variety of work and many bidding/work relationships have been forged at the event. Last but not least are the breakout sessions that focus on the issues that impact your businesses.

This year we are proud to present the History Channel's Timothy Galarnyk, also known as Inspector America. His show demonstrates the struggles with capacity and funding concerning infrastructure in America. Timothy pulls no punches when he highlights these issues that we face and often

ignore as country. He was recently asked to address members of a presidential infrastructure task force, so the group could better understand the issues that we all face. I personally look forward to his presentation. It has been enlightening just speaking with him on the phone. Timothy will also be addressing our Future Leaders group in a private session the first morning of the conference.

Some of you may remember that we changed the format of the conference last year. Considering the amount of positive feedback MITA received regarding this issue, we have decided to keep the same time schedule for this conference. Attendees will want to arrive either Tuesday night or Wednesday morning depending on what your schedule will allow. The Utility Coordinating Conference, a sister event to the Annual Conference, will take place Wednesday morning during registration. The trade show will open at noon followed by our Keynote and various other speakers culminating the day with the DBE reception.

Day two will start with a Presidential Breakfast followed by breakout sessions, then back to Entertainment Hall for lunch and more main stage speakers. The event is then capped with the mother of all parties – the MITA annual industry party. No events are planned for Friday. Just sleep in and leave at your leisure.

I have said it time and time again, support those who support us! It is just that simple. The vendors and event sponsors are what make the Annual Conference possible. Please thank them for their continued patronage and support when you visit their booths or see their name on the rolling screen.

To contact Rob Coppersmith, e-mail him at roboppersmith@mi-ita.com or call the MITA office at 517-347-8336.



Rob Coppersmith

Vice President of Engineering Services



Glenn Bukoski, P.E.

Great News ... Ad Board Approval Process Changes

By law, *"the State Administrative Board has general supervisory control over the administrative activities of all state departments and agencies, including, but not limited to, the approval of contracts"*.

After years of frustration over this bureaucratic State Administrative Board (Ad Board) approval process that often delayed contract payments to deserving contractors for extra work or quantity overruns by months, and sometimes years, we are excited that MITA's persistent advocacy for change to the Ad Board process has finally paid off. At an August meeting, the Ad Board approved two resolutions that significantly change (in very positive ways) the processes required of all state departments to get Ad Board approval for contracts and contract

revisions on state construction and services contracts.

Resolution 2011-1 raises the Ad Board approval threshold for contracts to \$250,000, and for contract amendments to \$125,000. Under the previous resolution these thresholds were set at only \$25,000. This increase in the threshold for contract amendments requiring Ad Board approval should expedite the payment for contract revisions to contractors who build projects let and administered by various state departments such as the Department of Transportation (MDOT), Management and Budget, the Department of Environmental Quality, and the Department of Natural Resources.

Although we considered the changes



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invoked by Resolution 2011-1, as a significant “win” for the industry and the MITA members positively affected by it, the climate for even more change seemed right within certain state departments. With MITA’s encouragement, and in response to Governor Snyder’s call for new state department efficiencies, MDOT leadership stepped out boldly and “hit a home run” for the industry (contractors and MDOT alike) with the approval Resolution 2011-2.

Resolution 2011-2 removes the Ad Board contract and contract amendment approval controls specifically from the MDOT contracting procedures. This unprecedented removal of Ad Board supervisory control is predicated on MDOT’s implementation of internal procedures that will assure the proper expenditure of state and federal funds, and would be subject to financial and performance audits by the Office of Commission Audits.

As these Ad Board resolutions have immediate effect, MDOT is now allowed to internally approve, with some exceptions, contracts, and extra work and contract overruns so contractors can be paid for contract revisions in an expeditious and timely manner.

Although MDOT’s new internal procedures for processing and approving contract modifications have not been fully developed, approved, and published at the time of this writing, the following are the anticipated key elements of that process as they were presented and discussed with MITA by MDOT staff:

- Tiered approval based on cumulative “net” cost percentage increases of the contract award amount: up to 5% - TSC approval, 5%-10% - Region approval, greater than 10% - Central Office approval.
- 4 day goal for each approval signature
- Contractor and Engineer will agree on price or method

of payment prior to the starting the work included in a contract revision

- Contract modification will be written within 7 days of the start of work included in a contract revision
- If work is directed on force account basis a contract modification will be processed establishing a preliminary budget for the work

As an additional positive step for expediting payment to contractors for contract revisions, and consistent with their e-business expansion plans, MDOT anticipates they will implement “e-signature” functionality as a integral part of the contract modification approval process. MDOT is currently working with their Attorney General, the Office of Commission Audits, and the Federal Highway Administration to assure that all legal and security concerns can be addressed prior to the implementation of the e-signature functionality.

You should also know that MITA continues to push for similar oversight changes in the State Transportation Commission (STC) approval process, which would improve the payment stream for contract revisions even further.

These changes in Ad Board oversight, the anticipated changes in STC oversight, and MDOT’s implementation of procedures aimed at expediting payments to contractors for contract revisions are welcome and great news for all contractors who work in the federal and state funded public works arena we hope you agree!

Stay tuned to future MITA bulletins and articles about the new MDOT contract revision approval procedures, as we will keep you informed of those details as they develop.

To contact Glenn Bukoski, P.E., e-mail him at glennbukoski@mi-ita.com or call 517-347-8336.

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Director of Safety & Workforce Development



Patrick Brown

SVEP: it's an Enforcement Program

Written by Rob Coppersmith; Researched by Pat Brown

No, SVEP is not the sound you hear when someone throws up, although they may be similar. If there was ever a time to make safety and compliance regarding company policy and work practices a top priority, it is now! In an effort to maintain the "as affective" clause, MIO-SHA has implemented the Severe Violator Enforcement Program (SVEP). This can be viewed in its entirety on the safety page of the MITA website; but, in short, it is a program that provides for an inordinate amount of attention from MIO-SHA for contractors that have continual problems with citations. Unfortunately, MITA feels that in many instances a case could be built against many of our members based on their current history. This is not to say we think any member has been egregious with their work activity, but the bar seems pretty low for landing in what we view as a very subjective program. Translation: if MIO-SHA or OSHA wants you in the SVEP, you could end up there. Also, you are put into the program before you have a chance at appeal. Meaning yet again guilty until proven innocent. SVEP citations even carry a special designation for the entire world to view while you work out your issues with either enforcement agency. Once you fully understand the scope of this program, the hair on the back of your neck should be standing. Our senses tell us that MIO-SHA is reluctant to jump on board with the Feds regarding this type of enforcement activity, however one member has already landed in the program and the tool so to speak will remain in the toolbox. OSHA simply won't allow MIO-SHA to stand neutral and not use the tool.

Michigan is a state run program that receives \$12.4 million in federal dollars to subsidize its enforcement efforts. Michigan has more safety compliance officers' then most if not all of the federal regional offices. Which, simply put, equals more inspections and a greater chance of making into a SVEP based on the criteria set forth in the document, a fact that has been regularly supported based on the number of complaint calls MITA has received concerning the frequency of inspections that members have experienced this summer. Instead of the normal one or two numerous members have reported five plus over the course of the construction season. Many of the additional inspections have not resulted in citations but have become bothersome nonetheless. The question then becomes, why don't we get rid of MIO-SHA?

MIO-SHA is charged with protecting all workers in Michigan, both public and private. OSHA is geared towards the private sector only. Over 530,000 public employees would not be protected if OSHA were to take over enforcement activity in Michigan. Michigan's lost workday injury rate (LWDI) has gone from 4.0 in 2000 to 1.1 in 2009 a staggering improvement. MIO-SHA contributes this improvement to the nearly \$13 million dollars it spends on voluntary consultation (at the employers request), safety training, safety videos, literature, and lab analysis for small businesses and public agencies. By comparison, OSHA will spend less than \$400,000 for on site consultation annually nor do they offer any other comparative services.

Annually, all divisions of MIO-SHA collect \$2-6 million dollars a year in penalties, which go directly to Michigan's general fund. In comparison and all things being equal, OSHA would collect \$2-6 million dollars in penalties from Michigan employers and deposit it in the U.S Treasury. Remember, however, that all things generally are not equal when it comes to penalty amounts. On average OSHA fines are significantly higher than MIO-SHA's.

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The upside to having a state program over a federally administered program is obvious: we, meaning all stakeholders can control the program outcomes to a certain extent. It would be difficult to have any influence with lawmakers in Washington D.C. at the same level. Additionally, MIOSHA currently offers training grants totaling nearly \$1 million annually to non-profit organizations, while OSHA offers no grant appropriations for training only operational dollars to fund inspections. We at MITA believe these efforts directly contribute to the reduced rate of injuries that have been observed over the last decade.

Depending on your perspective, the trade off comes in the area of rule making in Michigan. The Department of Licensing and Regulatory Affairs (LARA) has the final authority to approve or disapprove proposed rules (standards) which are formed by a variety of stakeholders from various trades and association representatives. On the other hand, OSHA staff writes rules, not the people that the rule will ultimately affect; there is a hearing process, but input is limited at best. The rub comes when Michigan contractors have to work outside of state lines. The challenge then becomes training employees on the nuances concerning the different rules and requirements. General contractors regularly ignore the fact that Michigan has different rules or phase in periods that may conflict with the other states they operate in; but, via contract, place Michigan contractors in awkward positions that require scrambling to find or obtain training that has yet to be enforced by MIOSHA. This ultimately begs the question: are we better off with one set of rules for all states? There are major advantages and disadvantages to both situations.

One of the major areas where contractors would feel an immediate pinch if OSHA policy ruled in Michigan would be the appeals process. Michigan currently has a three-step process that allows for interjection through every step to a degree. Regional OSHA offices carry out the appeals process for the feds, a process that is akin to playing black jack with a dealer who is looking at all the cards. Meaning you take the area directors deal or go to court. The Michigan appeals process has served to make MIOSHA safety officers and contractors better aware of the rules and help to form the interpretations of them.

The irony of all this is we all want the same thing, to keep workers safe and healthy. It has been proven time and time again that the benefits of a safe jobsite out weigh the risks. While MIOSHA and MITA are often at odds on interpretations and the probability or likelihood of injury as it pertains to citations, the fact is, MITA will continue to work closely with MIOSHA on every level to ensure not only MITA members, but all contractors are getting a fair shake. The reduction in loss work and fatal accidents speaks volumes. They mean the system is working for the benefit of all. To shake that up with the federal enforcement approach would do nothing but take our current progress in the wrong direction.

For more information regarding the Severe Violators Enforcement Program, and to view the Michigan OSHA and Federal OSHA comparison (completed by MIOSHA), visit the safety page of the MITA website at www.mi-ita.com.

If you have any questions, contact Patrick Brown at patrickbrown@mi-ita.com or call the MITA office at 517-347-8336.

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DBE Spotlight

Hart & Associates Construction LLC

www.hartandassociates.net

Company History

Hart & Associates Construction, LLC, is a women-owned, minority-owned construction company in Michigan that was started in 2009 by the husband and wife team, Fred & Tiffany Hart. Hart & Associates Construction performs a diverse range of construction services making use of flexible work schedules including nights and weekends. We pride ourselves in completing jobs that are on-budget and on-time. Hart & Associates Construction has been a MITA member since February 2011.

Company Services

Hart & Associates Construction has two company divisions: road construction and residential construction services. The road construction services include asphalt paving, pavement marking, parking lot maintenance, assembly site clean-up, demolition and excavation. Residential services include remediation, housing rehabilitation, demolition, trash-outs and new development.

Hart & Associates is a licensed contractor, a certified and prequalified MDOT DBE; a certified WCAA SBE; a certified WBE/MBE, EBE and FEP. Our current MDOT pre-qualifications include Cb for construction, and QJ1, QJ3, QJ16, QJ18, QW1, and QW2 for services.

We are a union contractor signatory with the International Union of Operating Engineers – Local 324.

Hart & Associates Construction is a pre-qualified vendor for Barton Malow Design/Construction Services, Johnson Controls, Walbridge Construction, and the Detroit Medical Center.

Recent Projects

Hart & Associates Construction has been selected for the MDOT DBE Mentor/Protégé Development Program. Cadillac Asphalt, LLC, and Michigan Paving & Materials Co., is the mentor to Hart & Associates (protégé) for a one-year timeframe.

Recent projects completed by and/or awarded to Hart & Associates Construction include: Oakland County Purchasing Division Parking Lot Maintenance; City of Plymouth Parking Lot Maintenance for 36th District Court, Public Library and the Housing Commission; Joshua Harvest Ministries Scattered-Site Housing Rehabilitation Program; and Mariners Inn Paving and Facility Improvements.

MITA Membership Benefits

MITA membership has helped Hart & Associates Construction with increased exposure to prime contractors, participation in leading industry-related training and resources, and provided opportunities for more involvement with political legislation and advocacy.

Tiffany L. Hart, Owner of Hart & Associates Construction is a member of the current class of the MITA Future Leaders and has been receiving invaluable industry-related training and opportunities through this experience.

Members of CAM and APAM also, Tiffany serves on the APAM Technical Review Committee.

Company Contact Information

Hart & Associates Construction, LLC is located at 18451 Livernois Avenue, 2nd Floor, Detroit, MI 48221. Contact Tiffany L. Hart and Fred D. Hart at 313-397-1721 or 313-932-3786, or visit our website at www.hartandassociates.net.

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General Rules for Safety at Work

Before you get started:

There are five basic safety tips that apply to the entire heavy construction industry. If you practice these five tips, you could make a difference.

- **KNOW YOUR JOB**
- **BE ALERT**
- **USE GOOD JUDGEMENT**
- **ALWAYS THINK SAFETY.**
- **EXPECT THE UNEXPECTED**

These Tool Box Talks have been designed to include all of the information your company should be able to include in a five minute session. MITA suggests that you document this activity with the sign-in sheet that has been provided and keep it on file for future reference.

Your employer is an equal opportunity employer and as such welcomes applications from qualified female and minority applicants.

1. Lifting

- Always use proper lifting methods; lifting with your knees
- Get help for heavy loads

2. Falls and falling objects

- Look before you step
- Keep all walk areas clear of tripping hazards
- Stay out from under loads
- Do not use unsafe ladders
- Install guardrails on scaffolding when exposed to falls over 6'

3. Openings

- Properly secure and mark openings (i.e. Manholes)
- Install guardrails
- Keep barricades in place

4. Protective gear

- Wear your hard hat when exposed to over head hazards or other potentially harmful contacts
- Protect your eyes with appropriate glasses or goggles
- Wear a class II reflective vest when working on or near the road

5. Housekeeping

- A clean job is a safe job
- Dispose of waste material properly
- Look for potential slips, trips and other fall hazards

6. Unsafe use of tools

- Remember that power tools are dangerous
- Keep guards in place
- Wear appropriate personal protective equipment
- Stop and unplug equipment to make adjustments
- If your not trained on a tool don't use it
- Make sure power cords are in good working condition

7. Unsafe tools and equipment

- Inspect tools and equipment regularly
- Report all defects to your supervisor
- Always use the right tool
- Always secure tools safely when not in use

8. Teamwork

- Plan all work with safety in mind
- Always be aware of and protect all workers on a jobsite

REMINDER — SAFETY CAN BE LEARNED.

Director of Legislative Affairs



Keith Ledbetter

Michigan Study Calls for \$650M in New Sewer Investment

Last year, MITA staff successfully worked to get state legislation passed that would immediately increase sewer investment and create an advisory committee to make recommendations for how to fund the state's long-term water and sewer system needs.

The Department of Environmental Quality initially set the 2011 fundable range for the State Revolving Fund at \$160 million. They increased the amount to \$210 million as a result of MITA's legislative success and raised the range to \$296 million in 2012. In addition to the immediate spending increases, the MDEQ established the State Water Pollution Control Revolving Fund Advisory Committee in January, as required under Public Act 231 of 2010. MITA staff participated in nine months of deliberations and are happy to report the findings.

Among some of the key recommendations

for creating a sustainable sewer network in Michigan, the committee recommended:

- Expeditiously utilizing the remaining \$650 million in Clean Water Bond funds approved by voters in 2002 over the next five years.
- Creating a separate state sewer loan program using the bond dollars that mirrors the SRF, but that is free from costly and unnecessary federal regulations. The state could use the existing State Water Quality Initiatives Fund (SWQIF) as a vehicle to avoid the burdensome federal mandates.
- Establishing a significant new grant program to help incentivize communities to make their long-term investments. The grants would help local units of government to establish asset management plans, stormwater utilities and the planning and design of sewer projects.



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- Beginning to make annual general fund contributions once again to the State Revolving Fund program.
- Lowering the interest rate for SRF loans if funds exceed available demand for any given year.
- Using bond dollars as necessary to ensure full match of available federal dollars.
- Creating a legal framework for communities to create stormwater utilities that is consistent with the Bolt vs. City of Lansing State Supreme Court decision.
- Streamlining the DEQ application process for the State Revolving Fund in the following ways:
 - Devising a new SRF pre-application process that allows potential applicants to gauge their likelihood of approval prior to incurring significant financial costs.
 - To the extent permitted by federal law, eliminating and streamlining requirements for providing information, creating alternative plans, formal public hearings and other time-intensive and costly requirements.
 - Evaluating and revising the Project Priority List scoring system.
 - Immediately forming a stakeholder work group to analyze existing application procedures and offer additional reform recommendations.

Now that the nearly year-long work group study has been completed and policy objectives identified, the next phase is to educate legislators, the Snyder administration and the general public about the staggering needs for underground infrastructure. MITA staff has been sharing the work group findings with the administration prior to completion of the report in hopes that the governor will include some of the recommendations in his October message.

As staff, we look forward to a busy year of working with lawmakers to overhaul and invest in Michigan's infrastructure.

To contact Keith Ledbetter, e-mail him at keithledbetter@mi-ita.com or call 517-347-8336.



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Legislative Update

BILLS AT A GLANCE

BILL	SUMMARY	POSITION	STATUS
SB 582	Amends the vehicle code to allow a lowboy trailer of 59 feet or less from the kingpin to rear axle to operate an MDOT over length permit.	Support.	Pending in Senate Transportation Committee.
HB 4131	Allows for the creation of a public-private partnership agreement and public transportation authority.	Support.	Referred to the Committee on Transportation.
HB 4224 - 4226	Repeals prevailing wage and fringe benefits on state projects.	Oppose.	Referred to the Committee on Oversight, Reform and Ethics.
HB 4262	Restricts the department from entering into a public-partnership agreement on certain roads.	Oppose.	Referred to the Committee on Transportation.
HB 4453	Requires road agencies to competitively bid public works construction projects.	Support.	Pending in House Oversight, Reforms and Ethics Committee.
HB 4287	Would not allow project labor agreements on public construction contracts.	Support.	Reported from the House with recommendation for referral to Committee on Commerce.
HB 4326	Amends the Administrative Procedure Act to provide that an agency shall not adopt rules more stringent than the applicable federal standard unless authorized to do so by statute.	Support.	Passed the House and referred to the Senate Committee on Economic Development.
HB 4521	Distribution of a portion of the sales tax into the Michigan Transportation Fund	Support	Referred to the Committee on Transportation.
HB 4526	Department of Transportation Budget.	Neutral however, continue to pursue additional and adequate road funding.	Passed the Senate; passed the House; presented to the Governor and assigned PA 63 of 2011.
HB 4694	Construction contracts with certain public agencies and specific bid specification requirements.	Support.	Referred to the Committee on Commerce.
HB 4747	Transportation; funds; disposition and use of revenues from fee increases; modify, and earmark into state trunkline fund.	Support.	Passed the House; Passed the Senate; Returned to the House.
HB 4790	Requirement for competitive bidding by county road commissions on certain projects involving townships.	Support.	Passed the House and referred to the Senate Committee on Transportation.
SB 14	Would repeal the Michigan Occupational Safety and Health Act (MIOSHA).	Oppose.	Referred to the Committee on Appropriations.
SB 66	Would establish a multinational bridge authority.	Support.	Referred to the Committee on Transportation.
SB 77	Would amend the Revised Judicature Act to establish a two-year statute of limitation on actions against architects and professional engineers and a three-year statute of limitations on actions against contractors.	Support.	Passed the Senate passed the House. Presented to the Governor and assigned PA 162 of 2011.
SB 95 - 97	Repeals prevailing wage and fringe benefits on state projects.	Oppose.	Referred to the Committee on Economic Development.
SB 118	Would amend the general sales tax act to include a person who sells precast concrete products in the definition of "materialperson".	Support the bill with an amendment that added, precast concrete products, or conduit or fittings products used in the collection, conveyance, or distribution of water or sewage.	Passed the Senate and the House. Presented to the Governor and assigned PA 71 of 2011.
SB 351	Provides for the re-distribution of sales tax on gas and diesel.	Support.	Referred to the Senate Committee on Transportation.
SB 401	Provides and modifies progress payments to contractors from the department.	Oppose as currently drafted.	Referred to the Senate Committee on Transportation.

Fundraisers



State Sen. Tom Casperson (R-Escanaba) (on the far right with name tag) is seen here talking about infrastructure issues at a fundraiser hosted by MITA. Casperson, who chairs both the Natural Resources and Transportation Committees in the state Senate, is critical to the industry's legislative success this year both with roads and sewer policy.

About 75 MITA members attended a recent fundraiser for State Rep. Paul Opsommer (R-DeWitt) in downtown Lansing. Opsommer has been a leader on transportation issues in the state House, currently serving as chairman of the House Transportation Committee. He will be a key player in the end-of year deliberations on road funding. Pictured here from left to right: State Rep. Paul Opsommer, Frank Powelson, Poco, Inc.; and Keith Rose, Rieth-Riley Construction Co., Inc.



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Director of Technical Services



Doug Needham, P.E.

DBE Good Faith Efforts Apply to MDEQ SRF/DWRF Funded Projects

It is common knowledge for contractors bidding on work in the MDOT arena to be familiar with the Disadvantaged Business Enterprise (DBE) rules and requirements. This is due to the fact that on federally funded road and bridge projects, MDOT establishes a requirement that DBE contractors be used for a certain percentage of the contracted work. If that requirement is not able to be satisfied, the prime contractor must be able to demonstrate that a Good Faith Effort was performed in an attempt to reach that goal.

One might assume that these DBE rules and regulations apply only to the MDOT arena, but that does not hold true. Projects financed through the MDEQ using State Revolving Funds (SRF), Drinking Water Revolving Fund (DWRF), or with funding provided by the Environmental Protection Agency (EPA) contain DBE requirements that vary slightly from those funded by federal highway funds. For MDEQ projects, a DBE goal is not established; however, bidders must make a Good Faith Effort in soliciting and using DBEs for any work that will be subcontracted.

Even though a DBE goal is not established on MDEQ projects, it is a requirement that prime contractors reach out to the DBE community and provide them the opportunity to bid and perform work on the project. In order to comply with the Good Faith Effort (GFE) requirements, the prime contractor must follow

these steps:

- Ensure that DBE's are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities; including placing DBE's on solicitation lists and soliciting DBE's whenever they are potential sources.
- Make information on forthcoming opportunities available to DBE's and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBE's in the competitive process. This includes, whenever possible, posting solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- Consider in the contracting process whether firms competing for large contracts could be subcontracted with DBE's. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBE's in the competitive process.
- Encourage contracting with a consortium of DBE's when a contract is too large for one DBE firm to handle individually.
- Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce.

In addition to the requirements listed above,



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MDEQ also requires a Good Faith Effort Worksheet be submitted at the time of bid. This worksheet, along with instructions to bidders for the completion of the GFE Worksheet, is found in the contract documents. The following guidance provided from MDEQ is useful when fulfilling the requirements of a GFE.

- A minimum of three DBE's must be contacted by a verifiable means of communication such as e-mail, letter, or fax for each area of work type to be subcontracted out. Copies of the solicitation letters/e-mails and fax confirmation sheets must be provided with the worksheet.
- If contact can not be achieved with three local DBE's, then the solicitations must be sent to DBE's outside of the local area (i.e. statewide).
- If the area of work is one where there are less than three DBE contractors, provide copies of printouts from the MDOT and Central Contractor Registration database to document DBE unavailability.
- The date of the DBE contact must be identified, as it is important to document that the DBE solicitation was made during the bidding period and that sufficient time was given for the DBE to return a quote.
- Each DBE firm's price quote must be identified if one was received or N/A entered on the worksheet if a quote was not received. Copies of all quotes must be submitted with the worksheet.
- If a quote was received, indicate if it was accepted or rejected. Justification for not accepting a quote and not using the DBE subcontractor must be provided.
- Posting solicitations for quotes/proposals from DBE's on the MITA website is required. Whenever possible, the solicitation needs to be posted for a minimum of 30 days. The solicitation needs to identify the project and the areas of work to be subcontracted out. A copy of the MITA DBE advertisement must be submitted with the worksheet.
- Under Other Efforts, please indicate additional steps you have

taken to obtain DBE contractors and provide the appropriate supporting documentation such as follow-up e-mails, faxes, or letters along with copies of announcements/posting in newspapers, trade publications, or minority media that target DBE firms.

It should be emphasized that to be compliant with the rules set forth for a Good Faith Effort, make sure to post your DBE solicitation a minimum of 30 calendar days prior to bid opening. As stated, the MITA MBE/WBE/DBE Solicitation website is a regular location to post subcontract solicitation work. Remember when posting a solicitation, make sure to identify the project and the type of work for which you are soliciting. A general statement, that "Company X is continuously soliciting DBE contractors to perform work on various projects throughout the state" is not deemed acceptable in the eyes of MDEQ, EPA, nor MDOT.

The MITA MBE/WBE/DBE Solicitation website has recently been redesigned and now has the option of providing copies of archived DBE advertisements to help build a Good Faith Efforts package. Remember that the solicitation of DBEs for subcontract work is only one part of the package. A Good Faith Effort package also includes, but is not limited to, fax confirmations sheets, copies of solicitation letters/e-mails, printouts of online solicitations, printouts of online search results, affidavits of publications in newspapers, etc.

MDEQ has informed MITA that an added focus will be placed on ensuring prime contractors have provided an adequate Good Faith Effort prior to award. So make sure to review current solicitation efforts and ensure you are in line with those required by MDEQ.

The MITA MBE/WBE/DBE Solicitation website is located at www.mi-ita.com/Engineering/MBEWBEBESolicitations.aspx

To contact Doug Needham, e-mail him at douglasneedham@mi-ita.com or call 517-347-8336.

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MITA Associate Member Case Study

T. Daniels Consulting, Inc.

How it Works Spectrum Equipment Service System includes three main components: Equipment Monitor, Field Master touch screen device and Fuel Controller. The Equipment Monitor, a small device attached to each piece of machinery, records a daily log of operating hours and idle hours and automatically relays that data to the Field Master. The Field Master - hand-carried or mounted in a fuel truck or service vehicle - uses a built-in cellular modem to relay equipment hours, fuel usage, maintenance and other data to Dexter + Chaney's Spectrum® Construction Software at the home office. The Fuel Controller captures gallons of fuel dispensed to each piece of equipment, which enables the company to track usage and reduce fuel theft.

Many heavy, highway and utility contractors face issues related to managing their heavy equipment. This can include collecting accurate data; tracking fuel usage and other information on equipment like meter readings used to determine when routine maintenance is required. Using manual processes to gather that data can be time consuming and inaccurate. Relying on inaccurate data can result in number of problems including; neglecting to service a piece of equipment that actually requires it, scheduling preventative maintenance that may not be needed, or simply not knowing what your equipment is costing you resulting in inaccurate job cost and estimates.

Two contractors who have discovered an effective method for managing their equipment is Baldwin Paving and Phillips & Jordan, Inc. Baldwin Paving, founded in 1979, has five plants and 24 crews. They specialize in providing the highest quality asphalt for commercial projects and have an established road division. Phillips & Jordan, Inc. has over a dozen offices throughout the United States. Their 62 years of construction expertise has earned the company a national reputation for tackling some of the toughest projects in land clearing, heavy civil construction and disaster recovery services. Both companies use Dexter + Chaney's Spectrum Equipment Service System™ (ESS) to gather accurate data from the field, allowing them to effectively manage costs associated with maintaining their heavy equipment. ESS delivers up-to-date equipment usage data for analysis.

According to Tim Ricketts of T. Daniels Consulting, a Dexter + Chaney Business Partner, "Automating the process of tracking every drop of fuel that goes into a piece of equipment, knowing if the equipment is running or idle and alerting you when service is required saves time and eliminates in-

accurate data collection. This ultimately affects the bottom line." In today's economy, contractors must have accurate data to save on unnecessary expenses; ESS captures that data.

As a result of implementing ESS, Phillips & Jordan now has accurate job costing. According to Steve Rasmussen of Phillips & Jordan, "Without accurate costs, contractors are unable to bid jobs with confidence, resulting in numbers that are too high to win, or too low to assure a profit." Spectrum® Equipment Service System™ puts an end to that dilemma. Dexter + Chaney's ESS allows a company to know their equipment costs and bid with greater accuracy than ever before.

With Spectrum's ESS, Baldwin Paving has also been able to eliminate hours of repetitive data entry into their equipment-management software each week. "Something I wish we would have done a long time ago," said John Friedel, Baldwin Paving's chief financial officer. "We've become more efficient in the manner that we cost those items back to a job, and there's no delay in the information. What used to take us a month to complete now takes us less than a couple hours." ESS makes capturing equipment hours on their fleet much easier with only a few touches to the ESS Field Master.

"Tracking equipment hours at Baldwin Paving is consistent as well as exact. "Because it's an automated system, nothing gets in the way of capturing those hours every day," Friedel noted. "Besides providing accurate hours for our costing, it also ensures that preventive maintenance is performed on time."

Spectrum® Construction Software is used by construction companies throughout the U.S., including heavy, highway and utility contractors like Baldwin Paving and Phillips & Jordan. Spectrum offers 30 fully integrated modules that handle project management, construction accounting, heavy equipment management, remote connectivity, data sharing, and more. Dexter + Chaney is represented locally by T. Daniels Consulting. To find out how Spectrum can help your bottom line, please visit www.dexterchaney.com or call 800-875-1400. You can also visit www.tdaniels.com or call (810) 629-0131. To watch a video on ESS please visit: <http://www.dexterchaney.com/mita>

As a result of implementing ESS, Phillips & Jordan now has accurate job costing. According to Steve Rasmussen of Phillips & Jordan, "Without accurate costs, contractors are unable to bid jobs with confidence, resulting in numbers that are too high to win, or too low to assure a profit."



The Field Master and Fuel Controller



The Equipment Monitor on Baldwin Paving Equipment

MITA Member Shares Advice with Contractors Continued from on pg. 11

Make it a point to meet face-to-face four times a year. Now we are talking about nearly 10,000 direct meetings. The meetings don't have to be long. Thirty minutes to an hour is plenty of time. Have at least one of those at your office or on a job site and give the legislator the opportunity to see what your business is all about. All in all it would be an investment of about sixteen hours of your time annually to be involved with the men and women who have direct impact on the amount of work you bid on every year.

Think of all the meetings you have with other contractors, equipment and material suppliers, accountants, insurance agents, lawyers, etc. Extending that group of important contacts to your legislators is a must. Many contractors already do this. If you don't, now would be a good time to start. You will see how such a small investment in time can develop friendships and understandings so vital to our industry. Your legislators will get to know and respect you and develop an interest in your problems. You will get to know and develop respect for them and the office they hold.

At these meetings, introduce your guest legislators to your employees and associates. Use straight talk and encourage everyone to be forthright and respectful during these meetings. Show your willingness to support your legislators in areas of mutual interest and be willing to advise them in areas where you disagree.

An important reason for individual meetings (non-trade association sponsored) is that not all members share the same ideas or have the same needs. It is important that these diverse opinions are encouraged and represented. This is how our democratic republic works. It is important to have healthy exchanges in order to strengthen our overall goals. From diversity comes new ideas and strength.

One of our goals is that we need to be considered as a grassroots organization. Grassroots representation is the strongest form of influence.

The most contentious issue we face among ourselves is the question of financial support for politicians. Each politician runs a business just as we do. Our businesses are supported by contract sales. A politician runs the business of getting elected which is funded by donations. We want to make sure we make a profit so we can stay in business whereas they want to be elected so they can continue to achieve their constituents' goals. The reality is that we both need income.

Many contractors believe that all contributions need to be large. Donating \$1,000, \$2,000, \$5,000 or more for a single event are numbers that scare most potential contractor donors. The truth is that a \$100 or \$250 can be adequate in most circumstances. What is needed is a good size group that participates in the "affordable range." Since we are 600 members strong with outreach to thousands of associated businesses and people we are a huge potential source of campaign funding.

Since February 14 I have made 15 campaign contributions in lesser amounts as follows; 1 at \$1,000, 1 at \$500, 1 at \$375, 4 at \$200, 2 at \$150, and 4 at \$100. Each event gave me the opportunity to speak in person or on the phone with a legislator. Each event had a good number of participants since the donation amounts were affordable. This gave more people the opportunity to also interact with the legislator. This is a financial support method I strongly recommend be implemented by contractors. We can attend each others events. You can attend and be seen at 10 events for as little as \$1,000.

There are circumstances where larger contributions are needed. We found this out during the last election. These types of fundraisers can be sponsored by individuals. However, in some circumstances it may serve the industry better if the trade organization takes the lead or partners with a close friend or associate of the legislator. There are also key people that need support to retire a large campaign debt. In these cases a \$500 contribution or more may be prudent.

The reality is that we are asking for billions for our industry. This is a huge amount and we need to be willing to go into our pockets to help ourselves stay in business. Business is business. In our business fundraising dollars are a necessary marketing expense. Could you imagine Ford or GM not advertising their products? On a side note, sometimes saving money can be very expensive.

Many legislators want to hear from voters in addition to stakeholders (contractors) concerning highway issues. I commissioned a poll by a professional polling company to determine if legislators' reports, which state that voters don't want to pay more for better roads, were correct. My poll supported what these legislators were saying. The majority of

Continues on pg. 39



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Who Can America Call When There is an Emergency?

The City of Minneapolis has made a huge infrastructure mistake

By Timothy G. Galarnyk

Host of the History Channel's *Inspector America* series & Keynote Speaker at MITA's 2012 Annual Conference

According to good old reliable Merriam-Webster, the definition of infrastructure is as follows:

- The underlying foundation or basic framework (as in a system or organization)
- The permanent installations required for military purposes
- The system of public works of a county, state or region; also: the resources (as personnel, buildings or equipment required for an activity)

Most have heard the word infrastructure associated with streets, roads and bridges, water and sewer, utilities, dams and levees, schools and public buildings. But two of the most critical pieces of infrastructure are fire departments and police departments. The firefighters and police officers, their vehicles, uniforms, equipment and personal protective safety gear are all pieces of infrastructure.

When a natural disaster strikes such as a flood, tornado, hurricane or severe storm, who do we call first? The Fire Department. When there is a car crash, an injury, a sickness or a fire, who do we call first? The Fire Department. When the cat is stuck up in a tree or when there is a gas leak or water in our basement, we call the Fire Department.

In 2008 over 360,000 full time paid fire fighters were responding to protect and serve the public – the people of America and the people of every nation in this world. Consider that in the USA, over 70 percent of all fire fighters are volunteers. From emergency medical training to fire fighting, rescue and public protection, the Fire Fighter is the life blood of society.

Firefighters require specialized training, practice and these men and women must be ready to respond immediately to conditions and situations that are dangerous, risky, sensitive, and forever changing. As one of our two most important pieces of infrastructure, the firefighter deserves the best equipment, vehicles, tools, training and the full support of our governments. The firefighter must be the first priority in government operations, budgets and in maintaining and looking after infrastructure.

All across America, fire fighters are being laid off due to budget cuts. Equipment for safety and rescue is getting outdated and worn out. Vehicles are exceeding their useful and dependable life expectancy. Personal protective clothing such as boots, turn-out jackets and self contained breathing apparatus (SCBA) are used, damaged and breaking down because they are being used in all sorts of unpredictable and unexpected conditions.

In Detroit, Mich., firefighter boots are being patched up with duct tape. In Chicago, the radio communications between firefighters and their units are so outdated and unreliable that two members of the department lost their lives in 2010. In San Francisco, more than half the city does not have the fire fighting water infrastructure to timely and adequately extinguish fires before they may consume large populated

neighborhoods.

Who are we going to call on in the event of a fire, a hurricane, an earthquake or a medical emergency if the firefighters of America are laid off and if the safety equipment will not protect the lives of those who are there to save our lives?

The City of Minneapolis, Minnesota announced on August 9, 2011 the need to lay off 10 full time firefighters due to budget cuts and fiscal restraints. This cut in on top of the 70 fire fighters cut from the city department since 2003. In 2003, the population of Minneapolis was 373,188 residents according to the U.S. Bureau of Census. In 2010 the residential population grew by 6,401 to 379,589 yet the number of firefighters dropped from 472 to 400. The current cut of 10 additional firefighters now brings the total number of protectors and rescuers to approximately 390. This is a statistical decrease of over 17 percent.

The residents of the City of Minneapolis are 17 percent more in risk of peril. The tourists, visitors, business people, sports fans and sports teams are faced with this risk too. What is wrong with this picture?

The City of Minneapolis roads and streets are in worse shape than they were three years ago. This is a decline of nearly 20 percent and getting going downhill fast. A major Mississippi River bridge in Minneapolis – the Plymouth Avenue Bridge built in 1983 was closed in October 2010 due to corrosion on structural cables. This bridge is only 28 years old. The 10th Avenue Bridge next to the new I-35W bridge (the old one collapsed in 2007 due to negligent maintenance practices) is crumbling and falling apart.

Who is running the city of Minneapolis? If the city of Minneapolis cannot prioritize its spending and budget to provide for the full fire and safety protection of the people who live and visit this city, then there is something really wrong with the city government and the city "leader" or "leaders".

If the city "leader" or "leaders" cannot find other city functions, departments and staffers to cut vs. the firefighters who we rely upon in the event we NEED their help and their talents, then perhaps we need change. Or perhaps I can come and within 5 days, I will find waste and not-so-vital services and functions to keep the 10 valuable firefighters on duty. We are only talking about approximately \$1 million from a budget spending of \$1.36 billion. I can tell you one thing for sure. The Minneapolis City Government will never let a civilian and an independent infrastructure expert into their castle to disrupt their tea cups.

The 2011 professional football season starts in just a few weeks. The Minnesota Vikings want a brand new football stadium and they want the State of Minnesota to foot the majority of the \$1 billion bill. If this stadium is built, it should be in Arden Hills, Minn., and not in the city of Minneapolis. Why, because the city cannot even provide for the health, safety and protection of its own residents, how can they provide for the

The author of this article, Timothy G. Galarnyk, host of The History Channel's Inspector America series

gency?

ake.

health, safety and protection of the sports fans and teams?

When critical infrastructure suffers and is mismanaged at the risk of the lives and safety of the government, this nation is in big, big trouble. Firefighters and the equipment, vehicles and tools they need to respond to aid the people are the very last budget item to cut. I can assure you that no one from the office of Minneapolis Mayor R.T. Rybak will rescue you from a burning home or respond to your family when a medical emergency strikes at any hour and anywhere in the City of Minneapolis.

Timothy G. Galarnyk is the Host of the History Channel Series titled "Inspector America". Galarnyk does not work for any government, contractor or engineering firm or for any infrastructure agency. He has no horse in this race and is entirely independent. If America's infrastructure continues to decline, crumble and collapse, his career of independently investigating these events will accelerate. Galarnyk is a infrastructure forensic investigator and expert with more than 35 years of actual infrastructure planning, inspection and construction experience. Galarnyk's mission is to alert the Citizens of America to wake up and see what is happening around them. The water, sewers, roads and bridges are in dire straits. The schools, fire departments and police services are being trimmed back and made to operate with dangerous surroundings and with inadequate equipment and facilities. Galarnyk is the CEO of the International

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ca series, is the keynote speaker for MITA's Annual Conference in January 2012.

On July 19, 2011, Michigan's Fair and Open Competition in Governmental Construction Act became law.

This new law prohibits Michigan governmental units (including public schools, community colleges and universities) from mandating project labor agreements (PLAs), Construction Unity Board (CUB) agreements, harmony agreements and any pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project. The Act also explicitly prohibits any discrimination on the basis of labor affiliation.

Any local ordinances, policies or contract documents in conflict with this new law are now nullified.

What does Michigan's Open Competition in Governmental Construction Act prohibit?

Any term that requires, prohibits, encourages, or discourages bidders, contractors, or subcontractors from entering into or adhering to agreements with a collective bargaining organization relating to a public construction project or other related construction projects; or any term that discriminates against bidders, contractors, or subcontractors based on their union affiliation.

Are government-mandated PLAs, CUB Agreements, Harmony Agreements, etc. prohibited?

Yes. Any union-only Project Labor Agreement (PLA), Construction Unity Board (CUB) Agreement, Harmony Agreement, Community Workforce Agreement or construction agreement that requires an agreement with a labor organization is illegal. Moreover, any term that can discriminate on the basis of labor affiliation (including a contract term that is unique to the unionized construction sector) is illegal.

The law took effect on July 19, 2011. Does the law affect contracts already in progress?

No. It only affects contracts executed after July 19, 2011. Moreover, no subcontract under a prime contract may include any prohibited term.

President Obama signed an executive order in 2009 authorizing the use of government-mandated PLAs on federal projects. Is a PLA permissible if federal dollars fund a state or local project?

No. President Obama's Executive Order simply authorizes government-mandated PLAs on Federal projects. But it does not authorize local or state government PLAs. A PLA would only be permissible and mandatory if it is required by the federal government on a federal project. Absent a federal government-mandated PLA, it is illegal to require one on an educational, state or local governmental project.

Does the law do more than ban governmental PLAs, Construction Unity Board (CUB) Agreements, Harmony Agreements, etc.?

Yes. Any discriminatory term unique to the unionized construction

sector is strictly prohibited in contracts. The law prohibits any contract term that "discriminates against bidders, contractors, or subcontractors based on the status as a party or nonparty to or the willingness or refusal to enter into, an agreement with a collective bargaining organization relating to the construction project or other related construction project...."

Does the new law only affect state governmental- or state-funded construction?

No. The law prohibits government-mandated (non-voluntary) union agreements at all levels of educational, state and local governmental construction, regardless of whether state, local or federal tax dollars are attached to a construction project. The law explicitly affects the State of Michigan, as well as any county, city, township, village, school district, intermediate school district, community college, university or governmental instrumentality construction.

May a construction manager, general contractor or other contracting entity require a PLA, CUB Agreement, Harmony Agreement, etc. for a publicly-owned construction project?

No. The law states that a construction manager or other contracting entity acting on behalf of a governmental unit shall not place any of the terms prohibited in the act into bid specifications, project agreements, or other controlling documents relating to a project. The act also applies to any other discriminatory term that reflects labor affiliation.

If adherence to a labor agreement or a labor organization is neither prohibited nor required, can it still be encouraged under law?

No. The law also says that such actions or requirements shall not be either "encouraged or discouraged."

Does the law affect state or local prevailing wage mandates?

The law says that it shall not interfere with state prevailing wage mandates, but it does not address local ordinances.

May a governmental entity base the awarding of a grant, abatement, tax credit or incentive for a construction project on the stipulation that a labor agreement be attached to that project?

No. The law prohibits such requirements or discrimination based upon labor status, or based upon the willingness or refusal to enter into an agreement with a labor organization. Moreover, a labor agreement may not be encouraged by a governmental entity in awarding any incentive.

What type of public construction is covered by the act?

State, local governmental and educational construction is covered by the new law. It applies to "any actual physical improvement to real property owned, or leased, directly or through a building authority, by a governmental unit, including, but not limited to, roads, bridges, runways, rails, or a building or structure along with the building's or structure's grounds, approaches, services and appurtenances.

MITA Member Shares Advice with Contractors

Continued from on pg. 35

voters, at this time, will not pay more for better roads.

The public has to be educated and induced to encourage their legislators to support greater investment in roads. This is something that has not been accomplished successfully by trade organizations or stakeholders collectively. Organizations with vested interests in infrastructure have put out press releases, sponsored billboards and organized orchestrated mass mailing letter and care writing campaigns with little measurable results. They are frustrated by these results. They need to ignore the frustrations. It is important to streamline and increase past efforts. Stakeholders and trade associations have to develop new ideas to get the message out to the public.

Additionally, we must find a way to partner with legislators in getting our message out to the public. This has not been done in any significant way. Some legislators have expressed an interest in this cooperative effort. It is likely that if we develop a strong collective relationship with a majority of legislators we will be able to change a public opinion.

There must be a fundamental change in the public's perception of how roads should be financed and the benefits of a good road system. Ways should be developed to increase public awareness and support. This may be a long-term project. However, a small annual increase in public support will over the long haul provide what's necessary. The key is to find new ways to do business with our state elected officials and stay the course.

I have learned that one individual can make a difference. My outreach is with over 70 legislators. I have found them to be dedicated and admirable people and count many as personal friends. They are approachable and look to individuals they know and respect first for information and guidance. Many of you also have similar close relationships. It is important to have many similar relationships developed by additional contractors.

In addition to personal relationship building, my wife Linda and I have done some things that are successfully creating public awareness and legislative support. First, contrary to past mass mailing initiatives, we instituted a "personalized" letter writing campaign. There was contractor participation in this program. Mike Maloure of C.A. Hull and Mike Mooney of Give-Em-A-Brake helped in a big way. We are also currently testing the possibility of engaging legislators in an expanded personalized writing program. MITA has agreed to carry on this personalized campaign.

Second, is my "Monthly Bulletin" where I answer a legislator's questions concerning a highway issue. This bulletin is distributed to each of the 70 legislators

with whom I have been fortunate enough to meet. The bulletin information helps them to understand specialized issues. By sharing these answers with their constituents they build voter support. Additional legislators have asked to be added to the list of recipients.

Third, is the "Students Reinventing Michigan" project. We are financing the inaugural year of the program and are hoping to keep the start up costs for this project at \$50,000. \$24,000 is for prize money with the first prize being \$12,000. This is an annual competition with a different topic each year. This year's topic is "How the Legislature Can Improve Michigan's Infrastructure with Public Support in These Challenging Times." The winners will present their program to a joint session of the Senate and House Transportation Committees. There is strong support for the "Students Reinventing Michigan" program in both the Senate and House.

To conclude, consider that with term limits the Governor and members of the legislature are changing regularly. By implementing these recommendations we will provide the support that the current and future governors and legislators need.

Once these relationships are built they need to be continuously reinforced not just a fire drill every time a significant issue arises. Lastly, we need to realize the value in keeping the importance of infrastructure on the forefront in the minds of voters. We must commit significant dollars to a continuing advertising campaign.

This crisis is a wake-up call. We must work together to get out of this mess and make sure it never happens again.

Thank you for your time and interest.



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The New Prompt Payment Special Provision: Another MITA Success Story

Commencing with the MDOT September, 2011 letting, a new, improved version of the Prompt Payment Special Provision [03SP109 (A), 5-19-11] (PPSP) will go into effect on all federally funded MDOT projects. The new PPSP represents a dramatic improvement for both prime contractors and subcontractors in the application and enforcement of the federally required prompt payment regulations imposed upon MDOT projects.

How We Got Here...

The compelling need to come up with a revised PPSP arose from a variety of factors, all related to the reality of the actual downstream flow of funds on MDOT projects.

One of those factors involved the risks faced by contractors of paying the same bills twice. Many of the contractors reading this article have been to our seminars for implementing payment systems designed to control the flow of funds under construction contracts and avoid the risk of paying the same bills twice because of payment bond claims or construction liens (on private work projects). While the application of a good payment system applies equally to both public and private work, this article will focus exclusively on MDOT contracts.

For decades, the key component of any payment system has been assuring that downstream debt on the project is properly paid with funds flowing downstream from the Owner. Absent that assurance, higher-tier contractors faced the real risk of paying the same bills twice - - - first, to the lower-tier contractor who, in turn, did not properly pay its downstream project debt with the funds received and, a second time, to that lower-tier contractor's unpaid subcontractors and suppliers who pursued payment bond claims. For those of you who operate primarily as subcontractors on MDOT projects and are thinking to yourself that this situation applies only to prime contractors and not to you, think again. Any adequate subcontract will hold a subcontractor liable for payment bond claims resulting from non-payment of those in the chain of supply beneath that subcontractor. Consequently, assurance of proper payment all the way down the contractual chain is as important to a subcontractor, whether the subcontract is bonded or not, as it is to the prime contractor who furnished the payment bond to MDOT for the project.

This problem of paying the same bills twice is particularly problematic on MDOT contracts because of the antiquated statute governing payment bond claims on MDOT projects which does not require an "up front" Notice of Furnishing from all potential payment bond claimants below the first tier. The absence of a Notice of Furnishing requirement in the MDOT payment bond statute effectively allows the prime contractor to be kept in the dark as to the existence and identity of potential payment bond claimants furnishing labor, equipment or materials below the first tier level of subcontractors on the project.

The solution to the "paying twice problem," patterned after the proven procedures under the Michigan Construction Lien Act, MCL 570.1101 et seq, was simple and easily implemented - - - require Sworn Statements and Lien Waivers from all subcontract tiers verifying the existence and payment of downstream project debt as a condition of receiving payment on successive progress payment estimates, and as a condition to final payment. Those contractors paying attention to the fact that paying the same bills twice can easily consume the already too slim margin being earned on competitively bid infrastructure construction contracts implemented these procedures in their companies and built these procedures into the payment terms of their subcontracts and purchase orders. While not airtight, because no system ever is, the Sworn Statement and Lien Waiver procedure effectively controlled and mostly eliminated (absent fraudulent Sworn Statements or forged Lien Waivers) the problem of paying the same bills twice on MDOT projects. Problem solved.

Enter the second factor: Federal Regulation 49 CFR 26.29 which, as part of the regulations governing MDOT's DBE program, provided for the elimination of retainage on MDOT contracts and which imposed the Prompt Payment requirements on




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all MDOT projects funded in whole or in part with federal funds. The requirements of the federal regulation were implemented on MDOT contracts by the previous version of the Prompt Payment Special Provision [03SP109 (A), 11-18-08]. The critical components of the Prompt Payment Special Provision, which served as the genesis of the new PPSP, were: 1. The contractor was required to remit payment to the lower-tier contractor within 10 days of receiving payment from MDOT; 2. The contractor could only suspend payment or limit payment to the lower-tier contractor upon the written approval of the Engineer and, as enforced, that written approval had to be obtained before MDOT issued the payment to the contractor; and, violations of this requirement subjected the contractor to potential sanctions including, but not limited to withholding of estimates, reduction of prequalification and withdrawal of bidding privileges.

Enter the third factor: In response to the elimination of retainage on MDOT projects, contractors addressed the need for commercially practical ways to secure the performance of downstream contractors. Various alternatives were offered in subcontracts including cash deposits, letters of credit and subcontract performance and payment bonds. It came as no surprise that subcontract performance and payment bonds were of very limited utility since many of those working as subcontractors on MDOT projects were unable to obtain such bonding. The cash deposits and letters of credit were popular choices by many subcontractors selecting available options until the issuance of an FHWA letter ruling on July 25, 2007. The FHWA declared that only performance and payment bonds from subcontractors would be allowed as performance security under the Prompt Payment regulations and that if bonds were required from one subcontractor on a project, bonds must be required from all subcontractors on the project. Use of the other forms of performance security (cash deposits, letters of credit) was declared to be violations of the federal prompt payment regulations. So, with the FHWA letter ruling, the performance security situation became performance and payment bonds from subcontractors or nothing.

Finally, mix in the fourth factor of a few contractors alleged to have consistently and repeatedly violated the Prompt Payment requirements by withholding payment from subcontractors and suppliers to improperly supplement their own working capital, and then eventually defaulting entirely on those payments. The result was a record number of payment bond claims on MDOT projects which, in turn, resulted in renewed vigor in federal demands for strict enforcement of the federal prompt payment regulations.

All of these factors served to create a strict enforcement approach to the as-written Prompt Payment Special Provision requirements and resulted in contractors being placed in commercially absurd and commercially intolerable positions. For example, a contractor received notice of a payment bond claim from a supplier to a lower-tier contractor after that contractor had paid the lower-tier contractor. When the contractor withheld the following payment from the lower-tier contractor pending verification of payment to the supplier, MDOT, constrained by the express provisions of the Prompt Payment Special Provision and federal enforcement demands, nevertheless main-

tained that the contractor must release the current payment to the subcontractor. Another example involved a contractor that attempted to enforce the provisions of its subcontract by requiring sworn statements and lien waivers as a condition to remitting payment. MDOT advised that since the Prompt Payment Special Provision did not provide for Sworn Statements and Waivers, the contractor could not withhold payment due to the lower-tier contractors' failure or even refusal to provide Sworn Statements and Lien Waivers.

By then the typical MDOT contractor found itself in the unenviable position of:

- Being without security for unpaid lower-tier contractor project debt unless the contractor required bonds on all lower-tier contracts on the project and finding that many of its lower-tier contractors could not provide those bonds;
- Being unable to use commercially practical alternatives to payment and performance bonds with lower-tier contractors;
- Being unable to determine the existence and status of lower-tier project debt as a condition to releasing payment to lower-tier contractors;
- Being required to release payment to lower-tier contractors even in the face of verified unpaid lower-tier debt and the certainty of payment bond claims;
- Being faced with the very real prospect of paying the same bills twice on MDOT projects, over and over again; and
- Being faced with serious sanctions for simply enforcing long established, agreed upon contractual remedies.

MITA Takes Action...

In response to its members' expressed concerns, MITA advised MDOT that the industry simply could not continue to operate under the then-current provisions of the Prompt Payment Special Provision and the manner in which those provisions were being enforced. To its credit, MDOT listened and agreed to a joint initiative to openly discuss and address problems with the Prompt Payment Special Provision and its enforcement by MDOT. A core group of MDOT management staff consisting of Greg Johnson, Myron Freyerson, and Jill Mullins took the lead with other MDOT representatives to engage in a series of meetings with MITA to address the issues. MITA put together a task force consisting of MITA president Jim Kloote (J.E. Kloote Contracting), Tom Stover (Walter Toebe Construction), Bob Adcock (Angelo Iafrate Construction Company), and your authors, Glenn Bukoski and Jim Urban, to represent the industry. A series of lengthy meetings was conducted covering almost one year to craft a FHWA-approved revised PPSP which addressed the legitimate commercial concerns of MITA's members while at the same time enabling MDOT to enforce the PPSP in a manner consistent with the objectives of the underlying federal regulations.

The Result...

The new PPSP returns contractors to a reasonable and commercially level playing field in the context of administering the downstream flow of payments; preserves the long-accepted procedures for

Continues on pg. 44

limiting double payment exposure on MDOT projects and provides for the expeditious resolution of payment disputes on those projects. The new PPSP also recognizes the reality of the downstream flow of funds on MDOT projects and, at the same time, precludes a contractor from engaging in unscrupulous practices of supplementing its working capital by wrongfully withholding funds owed to lower-tier contractors and suppliers.

A comparative summary of the old and new Prompt Payment Special Provision is presented below.

The new PPSP addresses and resolves the problems created by the rigid enforcement of the old version of the Prompt Payment Special Provision while maintaining the regulatory objectives underlying the Special Provision. In doing so the new PPSP:

- restores the tools available to contractors at every tier to effectively administer the flow of downstream payments on MDOT
- contracts, and minimizes or eliminates the risk of paying the same bills twice;
- expressly recognizes that there may be legitimate contractual reasons to withhold payment and that exercising contractual rights should not result in administrative sanctions against contractors;
- prevents the wrongful “leveraging” of lower -tier contractor funds by upper-tier contractors because all disputed funds must be held by MDOT and not by the upper-tier contractor thus removing any incentive for an upper-tier contractor to assert anything other than legitimate reasons for withholding lower-tier payments;
- restores the right to utilize the dispute resolution procedures the parties agreed upon in their contracts; and
- distributes responsibility evenly across all tiers of the contract structure for prompt payment compliance.

SUBJECT	OLD SPECIAL PROVISION
Sworn Statement	Not recognized and not allowed to be a condition to release of payment
Waiver of Lien	Not recognized and not allowed to be a condition to release of payment
Conditioning release of payment upon receipt of Sworn Statement and Waiver(s) of Lien	Not recognized and not allowed to be a condition to release of payment
Proof of Payment by Prime Contractor	Not provided.
Withholding payment from lower-tier contractor	Contemplated but only upon written approval of Engineer prior to payment being released to Prime Contractor. The only expressly provided ground for withholding payment is concern over satisfactory completion of the work for which the payment is issued
Recognition of contractual basis to withhold payment	None
Non-payment complaints	Provides only for complaints by subcontractor against prime contractor. Written response to the complaint required within 7 days. Failure to respond may result in sanctions.
Decisions on Non-payment complaints	Not provided
Dispute resolution	Ambiguous requirement for arbitration or mediation. Results provided to the Engineer within 10 days of the decision. Negates remedies and dispute resolution options that may be specified in the parties’ contract. Unable to force any lower-tier party not contractually subject to arbitration or mediation requirements to participate. Mandatory inclusion of all dispute resolution documents in the project records.
Sanctions for violations	Provides only for sanctions against the Prime Contractor, which may include withholding payment estimates (not expressly limited to the project on which violations are alleged), reduction of prequalification ratings and withdrawal of bidding privileges
Incorporation of Prompt Payment Special Provision in lower-tier contracts	Required

As with any tool, the value resides in the use. All contractors working on MDOT contracts would be well advised to become familiar with the provisions of the new PPSP and assure that their standard contract forms contain the provisions necessary to avail themselves of the more reasonable requirements of the new PPSP. Contractors that implement those procedures and requirements through an effective system of Sworn Statements and Lien Waivers while administering payments under their MDOT contracts will benefit from reduced exposure to double payment, and every contractor and supplier in the MDOT contract structure will benefit from the assurance that contract funds promptly flow downstream to those entitled to payment.

The PPSP project has been a classic win-win for MITA and MDOT. Each group came to the table willing to objectively evaluate the competing viewpoints of government and industry, and to craft

a revised PPSP that addressed the legitimate concerns of both. The MDOT core management group of Greg Johnson, Myron Fryerson and Jill Mullins are certainly due a “tip of the hat” for a job well done in tackling this challenging task and for seeing it through to the final approval of FHWA. Equal thanks and a “job well done” tip of the hat to MITA Members Jim Kloote, Tom Stover and Bob Adcock for the many free hours dedicated to this one year effort.

Feel free to contact either of us with any questions you may have in connection with the application and use of the new PPSP.

Jim Urban
Butzel Long
Phone: 517-372-4385
urban@butzel.com

Glenn Bukoski, P.E.
MITA
Phone: 517-347-8336
glennbukoski@mi-ita.com

NEW PPSP

Specifically defined and recognized as a legitimate condition to release of payment. MDOT accepted form will be on the MITA website.

Specifically defined and recognized as a legitimate condition to release of payment. MDOT accepted form will be on the MITA website.

Specifically recognized and required as a condition for release of payment. 10 day payment period is dependent upon receipt of Sworn Statement and Lien Waiver(s).

Required to be submitted on MDOT Form 2124A by Prime Contractor to MDOT beginning with or prior to the Second Pay Estimate.

Authorized with written approval of Engineer. Notice must be given when reason to withhold payment is known. If payment has already been made by MDOT, a negative estimate will be processed so that withheld payments are held by MDOT and not the upper-tier contractor. Precludes wrongful leveraging of lower-tier funds.

Expressly recognized as basis to withhold payment. Examples recognized included breach of contract, failure to pay downstream debt, delays resulting in actual or potential liquidated damages assessments, defective work, and failure to provide required submittals.

Provides for complaints by any entity in the contractual structure, including complaints by Prime Contractors against lower-tier contractors. Written response required within 10 days. Failure to respond constitutes admission of the alleged violation.

Engineer must determine in writing if responding party has shown grounds for withholding payment. If yes, complaint proceeds to dispute resolution and pending dispute resolution, no negative action against alleged offending party.

Clear direction for attempt to agree on mediation or arbitration. If mediation or arbitration selected, it must be completed within 60 days. If no agreement to arbitrate or mediate within 10 days, complaining party must initiate the dispute resolution procedure specified in the parties' contract within 30 days of Engineer's verification of complaint. Results of the dispute resolution process are provided to engineer and payment is released in accordance with the result of the dispute resolution. Engineer election to include or not include dispute resolution records in the project records.

Provides for sanctions against any contractor of any tier and includes withholding estimates on projects where violations are confirmed, reduction of prequalification ratings, and suspension of bidding privileges.

Required

MDOT Recognized for Detroit, Grand Rapids Highway Projects

The Michigan Department of Transportation (MDOT) has won recognition at the regional level, twice over, in the America's Top Transportation Awards competition jointly sponsored by the American Association of State Highway and Transportation Officials (AASHTO), the American Automobile Association and the U.S. Chamber of Commerce.

"This is the approach we like to take to all transportation projects," said State Transportation Director Kirk T. Steudle. "We are committed to delivering projects on time, on budget and with innovative management for our customers – the residents and businesses of Michigan."

MDOT was honored as the winner in the On Time, Medium Project category for the Fix on I-196 project in Grand Rapids. This project involved the widening and reconstruction of a busy 2-mile segment of the I-196 (Gerald R. Ford Freeway) through the heart of downtown Grand Rapids. The \$40 million project included adding a through-lane in each direction, new weave/merge lanes in each direction connecting the interchanges of Fuller, College and Ottawa avenues, a wider highway and five new bridges between the Grand River and Fuller Avenue. MDOT partnered with the city of Grand Rapids,

the Grand Rapids Area Chamber of Commerce, Spectrum Health and the Grand Valley Metro Council to implement a comprehensive public communications plan, utilizing an innovative video animation and made wide use of local media and social media to gain support and keep stakeholders updated. The freeway was closed to through traffic on April 12, 2010, to facilitate expedited construction and reopened to all lanes of traffic by the required Nov. 15, 2010, deadline.

MDOT also took top honors for the I-75 Ambassador Bridge Gateway Project in the Innovative Management, Large Project category. The main contract, Contract 4, was the single largest contract in MDOT history at \$170 million, and spanned from 2007 to 2010. The project included the reconstruction of 1.5 miles of I-75, 1 mile of I-196, the reconstruction or renovation of 18 ramps, 25 bridges and three miles of retaining walls. It also involved the construction of Michigan's first cable stayed bridge, the utilization of high occupancy vehicle lanes on detour routes, and the application of innovative approaches to maintain access during construction of the busiest international border crossing in North America.

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Where Has Your MITA Hat Been Lately?

Employees from Pro-Tec Equipment and Lowe Construction went on a fishing trip on Lake Michigan near Ludington this summer. One of them, Joshua Thorne from Pro-Tec, was wise enough to wear his MITA hat, so therefore we are publishing this photo! From left to right the crew members are Carl Leonard, Rick Lowe, Joshua Thorne, Josh Brown and Rusty Lowe. Crouched in the front row is Jeff Yeager.



MITA Announces New Vice President of Government Affairs

Lance Binoniemi has been named vice president of government affairs for the Michigan Infrastructure and Transportation Association (MITA).

The former executive director for the Michigan Licensed Beverage Association (MLBA) will provide oversight and leadership for MITA's lobbying efforts on behalf of the heavy construction industry in Michigan.

"Lance brings a high level of experience and passion to our already solid legislative team, which includes Keith Ledbetter, our director of legislative affairs," said Mike Nystrom, MITA's executive vice president. "We are thrilled to have Lance on board to further advance our interests before the state Legislature and in Washington D.C."

Binoniemi successfully managed the MLBA for the last three years. In addition, he served as executive vice president of the association's National Hospitality Institute, where he coordinated nationwide

server training programs in several other states. Prior to being named as the executive director, Binoniemi also served as the MLBA government affairs director since 2004.

His professional experience also includes serving as a legislative assistant for state Representative Clark Bisbee, and office manager/district liaison for state Senator Shirley Johnson. He holds a bachelor's degree in political economy from Michigan State University and lives in East Lansing.



Lance Binoniemi

MITA represents a broad spectrum of highway construction companies and suppliers that help build a better Michigan infrastructure from the bottom up. It has been a leading voice in efforts to secure adequate transportation funding at the federal and state levels. For more information, visit www.mi-ita.com or www.drivemi.org.

Member Outreach Spotlight

There are many ways to communicate with your elected officials, but one of the most effective, to foster a genuine and lasting relationship with those individuals who effect change and make policies for the State of Michigan, is to meet with them in-person.

A meeting in their Lansing office or within their legislative district is a good start, but by taking it one step further, it is possible to make a more meaningful and lasting impression. Mondays and Fridays most legislators are running between meetings with constituents and other interested parties within their districts, logging many hours and miles in their vehicle and Tuesdays, Wednesdays, and Thursdays they are busy in session, at work-group and caucus meeting, constituent meetings and discussing policy issues with colleagues.

Like most individuals with families, work commitments and responsibilities, the time they have to slow down, relax and enjoy a peaceful evening are very limited. Keeping this in mind, that "one step further" approach to meeting with your elected official and developing a reciprocal relationship built on trust and respect could be as simple as scheduling an evening dinner with your local senator or representative and inviting his or her spouse to join them for an evening out at a nice local restaurant.

Dinner may seem simple, but in this environment, you have provided him or her an opportunity to spend time with their spouse, while enjoying a nice dining experience, and given yourself a solid two hours of undivided and uninterrupted time, which gives all of you an opportunity to learn about each other, discuss pressing topics and bond over similar experiences.

If you are interested in scheduling a dinner with your local senator or representative, please contact Nicole Cook, MITA outreach coordinator, at (517) 347-8336 or via email at nicolecook@mi-ita.com and she can take care of all of the details for you.

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Going Green!



AIS Construction Equipment Corporation is proud of its partnership with MITA and the other heavy equipment distributors in Michigan. Via a grant that MITA manages, AIS has been able to repower numerous pieces of construction equipment. Upgrading the equipment from an unregulated status (meaning higher carbon output) to higher tier levels that reduce emissions creates greener jobsites. AIS will continue to educate customers on the benefits of new technology as part of an overall effort to make construction site as environmentally friendly as possible.

AIS recently unveiled new environmentally friendly equipment at a Michigan State University jobsite this summer. MITA Member Sandborn Construction used a new Komatsu Hybrid (HR 215 LC); and, with the help of KOMTRAX, Komatsu's GPS based monitoring system, the company was able to document a fuel savings of at least 25 percent. That translates to a reduction of up to 20 pounds of carbon emissions per hour. In addition, with an electric generator fueling part of the operation, the machinery produces less noise than standard equipment does.

Craig Williams, a spokesperson for AIS, was quoted in a Michigan State University website as saying that the new technology is a "win-win for everyone."

"Contractors save fuel, customers have lower production costs," Williams said, "and the 25-percent droop in fuel usage means less emissions and a healthier environment."

The MSU job was chosen to highlight the new machine, in part due to the university's push for green technology. According to Brent Sandborn, owner of Sandborn Construction, the university is already documenting the carbon footprint of all contractors who do work for the university. Renee Sandborn, owner of Sandborn, said this is the first time they tried out the new Komatsu Hybrid but it won't be the last.

For more information on the equipment, contact AIS Construction Equipment at 517-321-8000, or visit www.komatsuamerica.com/hybrid-opportunity.html.



Renee and Brent Sandborn, owners of Sandborn Construction, were pleased with the performance of a Komatsu Hybrid Excavator, which was used June 15 to dig footings for the addition of the Life Science building at Michigan State University. It is AIS Construction Equipment Corporation's first piece of construction equipment to use hybrid technology to help reduce emissions.

Sandborn Construction Project Highlights

Project Name:

Michigan State University Life Science Building
Addition No. 1, C Wing

Construction Manager:

Granger Construction Co.

Subcontractors:

Sandborn Construction: Site Work & Utilities

Grand River Construction: Concrete walls and slabs

Fessler & Bowman: Site Concrete

John E Green: Mechanical

Superior Electric: Electrical

Spartan Asphalt: Asphalt Paving

Boettcher Mason: Masonry

Valley Steel: Steel

Project Start Date: May 8, 2011

Project Completion Date: August 6, 2012

Project Description:

Sandborn Construction excavated 17,000 cyd of dirt off site for the basement and 5,000 cyd for sand backfill for the basement. The project included a 225 lf 18' deep sanitary sewer and 300 lf 16' deep storm sewer. Sandborn Construction also installed the largest storm water separation system on the Michigan State University campus, which uses the ADS bay saver 10K system, plus the installation of 2 - 12' diameter precast structures. They were installed 27 ft. deep and weighed 48,000 pounds for the heaviest pieces, which will store the dirt, leaves and oils once the water is filtered out.





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Member Voice

From time to time we ask MITA members to comment on issues of importance to the industry. Some of the answers are published here.

This time the question was: In what areas do you see more risk being shifted to the contracting community?

Contractors appear to be taking on tight schedules which reduces the time for design. The result is that for some projects the design is overlapping with construction resulting in overly conservative design, inability to evaluate or eliminating options, redesign, rework and often these costs cannot be fully recovered.

David Hohmeyer
Soil & Structures

Contractors and suppliers alike are at far greater risk due to MDOT's (PWL) Spec. Until testing catches up with the standards already in place, we will all suffer for the sub standard testing that takes place everyday in the field!

Jim Vaughn
Modern Concrete

Field engineering. As design firms cut back on staff, the plans become more like pictures. Details are left to field personnel, and too often the contractor is told to make it work. If there is a problem, it becomes the contractor's problem.

Jim Zalud
The Isabella Corporation

Risk is being shifted in the area of aggregates and mix designs. Specifications are getting much tighter and engineering judgement at the project level has become non-existent leaving the contractor little or no wiggle room and holding all the risk when it comes to their performance.

Anonymous

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Member News

Ace Asphalt Paving

The 89-year-old mother-in-law of Mark Marshall, from Ace Asphalt Paving, wrote the following wonderful poem about Michigan's Roads.

The road crew is hurting
That's a fact
Help put food on their table
Clothes on their back
Our tourists visit from May to November
Putting lots of money in our coffer
Good roads should be
The least to offer
They say Michigan scenery
Is one of the best
You have to admit
Our roads are a mess.
On all of your good judgment
They put their trust
Sign any good measure
Make that a must

It's your duty
Please don't shirk
Time to put all our workers
Back to work
They depend on you
And so do I
You people can do it
If you really try
Please, make our roads safe
A pleasure to drive
Keep all your travelers
Safe and alive
The repair on my car
Takes most of my check
My car already looks
A total wreck
It's not safe to drive
It very far anymore
Lucky it gets me
To the store
I promised my kids
I wouldn't drive very often
I think their afraid
I'll end up in a coffin.

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Caterpillar Chairman comes to Detroit

Caterpillar Chairman and Chief Executive Officer Doug Oberhelman got up close and personal with the employees, President and CEO of the Adamo Group on August 11, 2011.

This was the Caterpillar Chairman's first visit to the Adamo Group, whose name is synonymous with demolition and environmental abatement and whose contributions have improved demolition operations and continue to set new standards today.

Doug recognized Adamo's



commitment to the advancement and growth of the demolition industry by being the first company to acquire the APEX 70 in July 2011 as well as other equipment from Caterpillar through Michigan CAT, the dealer in the Detroit area.

John and Richard praised Caterpillar and Michigan CAT for their integrity and commitment to customer satisfaction. The Adamo fleet of Caterpillar equipment and products is a testament to a long and satisfied relationship.

After meeting and visiting with the employees at Adamo's headquarters, Doug was taken to the very active Martin Luther King Jr. Senior High School demolition site on Lafayette Street in Detroit to view his company's equipment in action.

He was first greeted by Adamo's long serving Superintendent of 30 years Daniel Stewart. John and Richard were thrilled to show and explain the staging and application of the demolition equipment on site, and they even introduced Doug to the equipment operators. He spoke with each of



Doug visited Adamo's headquarters in Detroit where he met and visited with Adamo's dedicated employees and was impressed by their equipment yard and maintenance facility. During the visit Chief Executive Officer John Adamo Jr. (right) and President Richard Adamo (left) presented Doug with a framed photo of the Ford Auditorium demolition project featuring the APEX 70 in action.



Continues on pg.54

Member News

Continued from pg. 53

the operators and expressed his appreciation for getting their feedback about the handling and operation of the Cat equipment.

Caterpillar and the local Michigan CAT dealer's integrity, customer relations and products are why Adamo uses Caterpillar equipment exclusively.

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Argus Group is pleased to announce that Aaron Jacob and Scott Smith have joined Larry Smith, Brian McEvoy, Dan Maser, Jim Tunison, and Jay Fitzgerald as investors and equity partners in the Argus Group of companies. The group of companies includes Argus-Hazco, Argus Health & Safety Ltd., and Seelaus Instrument Company.

The promotion recognizes their contributions, achievements and service; their sense of integrity and responsibility; and their dedication. Each has willingly accepted a number of challenging assignments, consistently improved their skills, served customers and suppliers, and fulfilled the goals of the company.

Aaron Jacob started in the Argus Supply warehouse in 1992; moved into outside sales in 1993; managed several territories; opened a company office in Elmhurst, Ill., and most recently advanced to national sales manager.

Scott Smith began his career in 1993 as a bench technician with ASC Professionals after obtaining his degree in electronics engineering from ITT Technical Institute. He has supervised technicians in the Chesterfield, Mich., lab, served as rental manager and inside sales/customer service manager. His current assignment is national manager for services including inside sales, customer service, repair and field service.

Alfred Benesch & Company

www.benesch.com

Alfred Benesch & Company has announced the addition of Monica Uribe-Montes, P.E., to its Michigan Division team. Uribe-Montes brings more than 12 years of engineering expertise in signing, traffic signal design and inspection, as well



Monica Uribe-Montes, P.E.

as traffic signal optimization to the firm. As project manager, she will lead these efforts for the division, and will also play a key role in roadway design projects.

Uribe-Montes has led numerous projects for MDOT, local municipalities, counties and townships across Michigan, including the City of Kalamazoo, Kalamazoo County, Oakland County, Ingham County and more.

In addition to her career duties, she is an active member of Women in Transportation Engineering, an international organization dedicated to the professional advancement of women in transportation.

Alfred Benesch & Company specializes in providing quality civil, structural, geotechnical and environmental engineering services to clients in transportation and infrastructure development. Since 1946, the firm has successfully completed thousands of design and engineering projects throughout the United States and is consistently ranked among the top 500 consulting engineering firms in the country by Engineering News Record. Benesch employs more than 350 professional and support personnel including engineers, construction managers, planners, designers and scientists. Headquartered in Chicago, Ill., the company operates 15 locations in nine states, including: Michigan, Illinois, Wisconsin, Pennsylvania, Nebraska, Kansas, Iowa, Colorado and Ohio.

Champagne & Marx MS Bike Team

Here is news told to us by Anne K. Coursey, vice president of Champagne & Marx Excavating, Inc., in Saginaw.

"Tis the season for biking in Michigan. Last year, Sue Markusic and I rode 100 miles on a cold, windy Saturday in September. After that nine-hour bike ride, I thought I'd never take the bike out of the garage again. Then along comes Tom Marx, and he asked Sue and I to form a new bike team, the Champagne & Marx MS Bike Team. Now in his 74th year, Tom has a road course bike, helmet, gloves and those stupid biker shorts. He is riding

100 miles with the newly formed Champagne & Marx MS Bike Team.

Last year, many generous people helped raise money for the National MS Society. Some of you utilized the convenient, easy to use online fundraising tool on my personal page and giving an online gift. Many of you wrote checks payable to the National MS Society and mailed the checks to our office at 1445 Liberty Rd., Saginaw, Mich., 48604. Please consider donating to the National MS Society this year."

Cordes Excavating Has Been Sold

Cordes Excavating and Northern Aggregates has been sold to Elmer's in Traverse City, according to Cordes Excavating's Ken Cordes.

"It is time to slow down and this is the only way to do it," he said. "All 50 of our people will still be employed and that was our top priority. Our customers can expect the same service as in the past. I will be around during the transition. Thanks to all for your support during the past 35 years."

G2 Consulting Group www.g2consultinggroup.com

Three college interns from southeast Michigan worked this summer in the Troy office of the engineering firm G2 Consulting Group. The interns, who worked in G2's construction services

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Member News

Continued from pg. 55

engineering group, include:

Molly Fitzpatrick of Bloomfield Hills, Mich., who recently received a bachelor's degree in civil engineering from Michigan State University;

James Mazur of Port Huron, Mich., a recent graduate of Lawrence Technological University with a bachelor's degree in civil engineering; and

Daniel Rhoton of Warren, Mich., who is pursuing a bachelor's degree in civil engineering from the University of Detroit Mercy.

G2 Consulting Group is a full-service engineering firm serving Fortune 500 companies, major utilities, property owners, government agencies and leading architectural, engineering and construction firms across the United States. Based in Troy, Mich., G2 also has offices in Brighton, Mich., and suburban Chicago, Ill.

Hubbell, Roth & Clark, Inc., Announces Promotion and New Hires www.hrc-engr.com

Nancy Faught, P.E., associate, has been promoted to vice president/partner and member of the board of directors for Hubbell, Roth & Clark, Inc. (HRC). She joined HRC in 1987 and for the past 10 years has served as manager and technical director of HRC's civil/road design department. Most recently she became manager of HRC's traffic engineering department. Faught has over 24 years of project management and road design experience for state and federally funded projects with construc-



Nancy Faught

tion project.

Faught holds a bachelor's degree in civil engineering from Michigan State University. She is a member of the American Society of Civil Engineers, the American Public Works Association and the Transportation Research Board.

Trevor Wagenmaker, P.E., who was named mid-Michigan process manager for Hubbell, Roth and Clark (HRC), brings significant expertise to HRC's

tion costs totaling more than \$31 million in recent years.

Notable projects include the I-696 Franklin Road entrance and exit ramps in the City of Southfield, the City of Howell Multi-Year Road and Infrastructure Project, the Road Commission for Oakland County Relocation of Williams Lake Road, the University of Michigan Central Campus Transit Center, and the city of Ann Arbor West Stadium Boulevard Reconstruc-



Trevor Wagenmaker

Delhi and Howell office locations, further strengthening HRC's presence in the Mid-Michigan area.

He joins HRC with 21 years of professional experience in the following areas: design of municipal water and wastewater treatment facilities, elevated and ground water storage facilities, combined sewer overflow facilities, sanitary, storm and water utility systems as well as roads, bridges and dams.

Wagenmaker is a registered professional engineer in Michigan, and has a bachelor's degree in civil engineering from the University of Michigan. He is a member of the American Water Works Association and the Water Environment Federation.

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Mark Balon, P.E.

Mark Balon, P.E., has joined HRC as director of the payment and facilities management program.

Balon has over 22 years of professional experience with commercial, retail, municipal, healthcare and industrial projects. He has worked as an owner's representative, facility manager, engineer, and project manager to operate, plan design and construct over 3,000 facility projects across the United

States. This work includes the use of various forms of evaluation/testing technologies and development of detailed databases. The programs have included the evaluation of pavement systems, roofing systems, building energy envelopes, HVAC and lighting to develop and implement cost-effective corrective measures.

Most recently, Balon was a program manager providing

services to a large national retail corporation where he evaluated and renovated over 300 commercial facilities in 37 states. He administered complete pavement management programs in excess of \$30 million for these facilities as well as pavement programs for over 20 universities, retail malls, municipalities and school districts. These programs developed optimal facility operations with minimal expenses to leverage facility resources, and plan for capital and expense repairs, resulting in measurable cost savings.

For over 95 years, HRC has been providing consulting engineering and architectural services to commercial, municipal, industrial and private clients throughout Michigan and nationally. As a full service, multi-disciplined firm, HRC is comprised of over 140 civil, mechanical, electrical, site lighting, building systems, structural, construction, and material testing engineers and architects, with support staff. HRC is an Engineering News Record Top 500 Design Firm whose work has been recognized by numerous prestigious industry awards. HRC has offices in Bloomfield Hills, Grand Rapids, Howell, Detroit, Mt. Clemens, and Delhi, Mich., and Florida.

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McDowell & Associates www.mcdowasc.com

McDowell & Associates of Ferndale, Mich., is pleased to announce the promotion of John H. Lamb, III, P.E., to manager of geotechnical engineering and hydrogeological services. His new role will include business development and planning for the divisions as well as peer review and department oversight. John has been working with McDowell & Associates for 22 years as a senior geotechnical/environmental engineer.



John Lamb

Michigan CAT www.michigancat.com

Michigan CAT is pleased to announce a new dealer agreement that names Michigan CAT as the exclusive

authorized distributor of Exodus wheeled material handlers in Michigan's lower peninsula. In providing and supporting this product for the scrap and recycling industries, the dealer feels it is meeting a high-demand niche for the Exodus product throughout its territory.

The agreement fulfills a need for both organizations, as Michigan CAT was seeking purpose-built machines for industrial customers and Exodus desired a dealer who could provide best-in-class product support and enjoyed decades of experience in servicing the scrap and recycling industries.

Terry Erickson, Michigan CAT's sales manager, views this agreement as an excellent opportunity for customers to enjoy greater productivity and profitability within a market segment that remains a vital component of Michigan's recovery.

"As we compared our capabilities in product as well as support," Erickson said, "I think both parties quickly realized that this would be a winning combination. Exodus sees a dealer with unmatched competitive advantages in this territory – from experience with the scrap/recycling industry to our statewide shop footprint and our field service capability. For our part, we get to offer a unique machine with excellent capabilities manufactured here in the United States."

Erickson's sales force is excited to have this machine in their arsenal. Unique features and benefits of the Exodus machine include:

- Ground level cab entry and ease of transport without removing the stick or catwalks.
- As a purpose-built machine, traditional engineering constraints were limited. This allows for the design to start from scratch and focus on longevity and flexibility.
- An electronic monitoring system providing alerts, preventative maintenance reminders and optimized updates on safety conditions via position sensors of the stick, etc.
- Machine utilizes proven parts and common components for ease of logistical support.
- A strong warranty of two years or 4,000 hours. Support from the manufacturer is provided by the engineers who built it, and customers have access to the experts when specing and getting support.

Exodus currently fields a model in the 100,000 pound class with a larger 125,000 pound offering coming later in 2011. Michigan CAT had their first machine introduced to dealer staff in August. For more information, visit www.exodusmachinesinc.com.

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Rain for Rent

www.rainforrent.com

On June 10, 2011, Rain for Rent was contacted by the City of Omaha, Neb., to respond to major flooding problems along the Missouri River. Chris Claeys, regional sales manager for the midwest region, met his sales representative in Omaha the next day, and they reviewed several problem areas with the city through the weekend.

After presenting proposals Monday morning, Rain for Rent was awarded a contract to begin bypass operations for Omaha's entire combined sewer overflow into the Missouri River. Flows could be as high as 1,000 million gallons per day during a heavy rain event.

Rain for Rent immediately mobilized two engineers and a project manager to the site via corporate jet to begin the design and installation of the system.

"By July 12, Rain for Rent had completed installation of the largest flow high volume bypass system in North American history, (we believe)," Claeys said, "with a peak capacity of 550 million gallons per day. Rain for Rent remained onsite to provide system operation and oversight."

Spalding DeDecker Associates, Inc.

www.sda-eng.com

Spalding DeDecker Associates, Inc., (SDA) was recently named the city engineer for the City of Rochester Hills.

Continues on pg.60

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As a business located within Rochester Hills, SDA is proud to announce the city as a new client. As one of the new engineers, SDA will supplement city engineering staff with infrastructure study and design, as well as construction contract administration and inspection.

SDA's professionals have expertise in planning, studies and investigations, funding, infrastructure design, construction engineering, contract administration, water resources management, surveying, transportation, and facilities management for municipalities.

The city of Rochester Hills is approximately 32.2 square miles and surrounds the city of Rochester on its northern, western and southern borders. The infrastructure of Rochester Hills consists of sanitary sewers, watermain, local roads, major roads, storm sewers, and non-motorized pathways and trails.

Established in 1954, Spalding DeDecker Associates, Inc., is an employee-owned and ISO certified consulting engineering and surveying firm specializing in infrastructure, land development and surveying. With regional offices in Detroit and Rochester Hills, and field offices in Cleveland, Livonia, Monroe and Trenton, SDA offers a diverse set of skills to clients who seek solutions to construct and maintain their infrastructure. The firm offers municipal engineering, construction engineering, forensic engineering, transportation engineering, land development, landscape architectural, pavement management and land surveying services.

Testing Engineers & Consultants, Inc.

TEC, a woman-owned business, provides client support from property acquisition through construction, renovation and restoration.



Katherine Banicki

Expertise includes environmental assessment, consulting and training; geotechnical and facilities engineering and consulting; construction materials testing; indoor air quality; asbestos, lead and mold management services. TEC has offices in Troy, Ann Arbor and Detroit.

Katherine Banicki, FESD, president of Testing Engineers & Consultants, Inc., (TEC) was recently inducted into the Engineering Society of Detroit

(ESD) College of Fellows. She joins over 150 industry professionals in the fellowship.

ESD fellows are inducted by invitation from the board of

directors for outstanding and extraordinary qualifications and experience in their professions. The areas in which nominees are evaluated are: technical achievement; professional achievement; ESD service and leadership; and professional society service and leaderships, as indicated by honors and awards, publications and patents, academic service and leadership, and community service and leadership.

Banicki began her career 45 years ago when she and her husband John Banicki, P.E., FESD, founded TEC in 1966. As the leader of a woman-owned firm, she has faced many challenges and has emerged strong and well respected by her peers. A firm believer in community service, she is involved in numerous youth, civic, religious and professional organizations. Throughout her tenure as president, she has received many awards and honors for her role as a community and industry leader. She has received ESD's Outstanding Leadership Award (2004), and the Michigan Society of Professional Engineers (MSPE) President's Citation (2001), among many others.

Her philanthropic endeavors include participation in the NAWIS Block Kids – a national building program for grades 1-6, member of Oakland University's "College of Education Creating the Future" Committee and the university's advisory board. She is also a former board of trustee for William Beaumont Foundation, which raises funds for hospital projects, such as Children's Miracle Network and cancer research. Banicki supports many local non-profit organizations as well as numerous college scholarship funds that encourage pursuit of the engineering profession.

New Hires at TEC

William J. West, P.E. has joined TEC's staff as construction services department manager in Troy and Ann Arbor. Formerly of Shleede-Hampton Associates, he has 18 years experience in the engineering consulting industry providing quantitative solutions to a wide range of construction related and environmental projects.

Bruce Bartlett, RRC, RRO, an accredited roof consulting professional with 30 years experience, has joined TEC's staff as senior roof consultant. His experience in managing major roofing projects for national clients will complement TEC's strategic plan for growth.



William J. West, P.E.



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Partner News

ACEC of Michigan Elects New President and Board of Directors

The American Council of Engineering Companies of Michigan (ACEC/M) has announced Kirk A. Branson, P.E., of Parsons Brinckerhoff-Michigan (Lansing) as its 2011-2012 president.

Branson received his bachelor's degree in civil engineering from Michigan State University, and his master's of science degree in management from Aquinas College in Grand Rapids. After 33 years of service, he retired from the state of Michigan and began his second career at Parsons Brinckerhoff in 2005 as their project manager for QA/QC Oversight.

He has been active in ACEC/Michigan and has served on several committees before being elected to the board of directors in July 2006. Kirk is proudly married to his high school sweetheart, April, and has three children and eight grandchildren.

2011-2012 ACEC/M Officers:

President: Kirk Branson, P.E., –

Parsons Brinckerhoff Mich., Lansing

President-Elect: Keith Swaffar, P.E., –

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Steve Nichols, P.E.,

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Stephen Pangori, P.E., Anderson,

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Robert Rayl, P.E., RS Engineering, LLC, Lansing

ACEC of Michigan is the association representing the business interests of Michigan engineering, surveying, architectural and related scientific firms who provide professional knowledge to the built environment and strive to protect the health and safety of the public. ACEC of Michigan is part of the American Council of Engineering Companies headquartered in Washington, D.C. The national association is comprised of more than 5,000 firms nationwide that employ more than 300,000 engineers, architects, land surveyors, scientists and other specialists who are responsible for more than \$100 billion of private and public works annually. For more information about ACEC of Michigan, visit the ACEC website at www.acecmi.org or contact the ACEC Lansing office at 517-332-2066.

REPOWER!

Many MITA members continue to receive engine upgrades, thanks to a grant project that was established by MITA in conjunction with Region Five EPA.



Jon Hoffman
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AIS mechanic
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Michigan Paving & Materials Co. Welcomes Legislators

Recently, Michigan Paving and Materials Stoneco sand and gravel operation in Horton (Moscow Plant) was honored by a visit from U.S. Rep. Tim Walberg, 7th District.

The congressman is the chairman of the U.S. House Workforce and Protections Subcommittee. He spoke directly to the managers and operators to get a front line understanding of how government regulations might be a barrier to the creation of new jobs.

The operators and managers took the opportunity to talk about jobs and the Federal Highway Bill. The congressman agreed that the number one priority in order for the economy to recuperate is to protect the jobs we have and find a way to recover from the 30 percent shrinkage our group has seen during the last five years. The congressman understands as well that in order to stimulate investment in plant and equipment, America needs a long term Federal Highway Bill which will allow planning for the future. The congressman agrees that investment in our infrastructure will strengthen America and the income from the increased employment will trickle down through dozens of avenues to create even more jobs.

It was a great day to celebrate safety and talk about our future. Michigan Paving and Materials appreciated the genuine concern U.S. Rep. Walberg showed for their employees and their business..



In the center, flanked by Michigan Paving and Materials – Stoneco employees, is U.S. Rep. Tim Walberg.

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On August 19, 2011, Michigan Paving & Materials - Klett Construction Division in Paw Paw was happy to welcome U.S. Rep. Fred Upton, State Sen. John Proos (21st District), and State Rep. Margaret O'Brien (61st District), for a meet and greet and plant tour with representatives from southwest Michigan's road building industry.

Attendees included:

Jim Klett, Michigan Paving & Materials - Klett Construction
 John Hay, Oldcastle Materials, Inc.
 Jeff McAlvey, McAlvey & Associates
 Gregg Campbell, Michigan Paving & Materials
 Jim Lindstrom, Michigan Paving & Materials
 Rob Mayer, Michigan Paving & Materials
 Rusty Stafford, Michigan Paving & Materials
 Mike Cirino, Michigan Paving & Materials
 Jessica Vliek, Michigan Paving & Materials
 Pete Pfeiffer, Michigan Department of Transportation Coloma TSC
 Kurt Shea, P.K. Contracting, Inc.
 Jerry Kalin, Kalin Construction Company, Inc.
 John Yerington, Michiana Sand and Gravel
 Dan Kulwiski, Northern Construction Services
 Dan Balkema, Aggregate Resources
 Don Swartzlander, Balkema Excavating Incorporated
 John Becsey, Asphalt Paving Association of Michigan
 Andy Schulz, Stoneco of Michigan
 Greg Finnilla, Michigan Paving & Materials
 Tom Vasquez, Michigan Paving & Materials - Klett Construction
 Pam Whitmyer, Michigan Paving & Materials - Klett Construction
 Jason Whitmyer, Michigan Paving & Materials - Klett Construction
 Casey Tripp, Michigan Paving & Materials - Klett Construction
 Jerry Sorn, Michigan Paving & Materials - Klett Construction
 Ed Shackley, U.S. Rep. Fred Upton
 Mark Ratner, U.S. Rep. Fred Upton

Topics of discussion included the need for increased road funding to help Michigan's struggling economy, mining concerns, asphalt business concerns, and were followed with an opportunity for some questions and answer time where a broad range of issues were also discussed.

From left to right: Jim Klett, Michigan Paving & Materials, Mike Cirino, Michigan Paving & Materials, and U.S. Rep. Fred Upton.



From left to right: State Rep. Margaret O'Brien, Tom Vasquez, operator with Michigan Paving & Materials, and State Sen. John Proos.



In the golf cart front row: State Rep. Margaret O'Brien and Rusty Stafford, Michigan Paving & Materials; center, State Sen. John Proos; back row, John Hays and Dan Kulwiski from Michigan Paving & Materials.

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A big thanks to all the sponsors who made this year's MITA Summer Conference in July at Crystal Mountain another great event.



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Armond Cassil Railroad Contruction, Inc.	Highway Service Co., Inc.	MUE	Thompson Pump Midwest
David Chapman Agency	C.A. Hull Co., Inc.	Northern Concrete Pipe, Inc.	TIC International
Lawrence M. Clarke	Angelo Iafate Construction Company	Pamar Enterprises	TMA Rental Co.
Cordes Excavating	Inland Waters Pollution	Pinnacle Insurance Partners	Valenti Trobec Chandler, Inc.
County Road Association of Michigan	Jackson-Merkey Contractors, Inc.		



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Calendar of Events

(All dates are subject to change and additional events may be added. Please check out the electronic calendar regularly in the events section of www.mi-ita.com.)

DECEMBER 9

MITA Board Meeting
Country Club of Lansing • 8:30 a.m.

DECEMBER 9

Central Michigan Holiday Party
Country Club of Lansing • 11:30 a.m.

DECEMBER 16

Western Michigan Holiday Party
McFaddens, Grand Rapids • 11:30 a.m.

DECEMBER 21

Southeastern Michigan Holiday Party
Woody's Diner, Royal Oak • 11:30 a.m.

JANUARY 18-19, 2012

MITA Annual Conference
Soaring Eagle Casino & Resort

2011 MDOT BID LETTINGS

All bid lettings are downloaded at the MDOT Building (Van Wagoner Building on Ottawa St. in Lansing), second floor.

January 7, 2011	July 1, 2011
February 4, 2011	August 5, 2011
March 11, 2011	September 2, 2011
April 1, 2011	October 7, 2011
May 6, 2011	November 4, 2011
June 3, 2011	December 2, 2011



The children of Greg Pease from Michigan CAT take time out for a photo during the MITA Ski Weekend in January.



The daughters of Leo Remijan from Ajax Paving enjoy the food at the MITA Ski Weekend.

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10/13/2011	Countdown Begins to Snyder Infrastructure Message
10/11/2011	MITA Announces New Vice President of Government Affairs
09/26/2011	Governor Snyder's Call to Action for MITA Members
09/22/2011	MLive: State lawmakers propose long-term effort to fix crumbling Michigan roads
09/16/2011	Congress, Legislature Kick Off Fall Session: Reauthorization, Jobs Plan and E-Verify Among Bills Under Consideration
09/14/2011	What the Industry Can Expect in the Months Ahead
09/07/2011	Governor Snyder's Fall Agenda
09/01/2011	Let's Make Michigan Great Again!
08/31/2011	Get Motivated, Get Activated, Get Moving....
08/22/2011	What Should You Say When You Meet Your Elected Officials?
08/02/2011	Fundraiser for Senator Casperson
07/19/2011	Action Alert: MITA Introduces New Public Relations Effort
07/08/2011	Washington Update: Highway Reauthorization Bill Unveiled
06/17/2011	State Transportation Commission to Meet in Benton Harbor on Thursday, June 23, 2011
06/17/2011	Legislature in Overdrive to Address Many Long-Standing Issues

MEMBERSHIP BULLETINS

10/12/2011	MITA's European Hunt's - A few spots still remain
10/07/2011	MITA Seeks to Change Lowboy Regulations
09/30/2011	Did You Know: MITA has an Extensive Safety Video Library
09/29/2011	MDOT - Raising Awareness & Busting Myths
09/22/2011	Annual Conference 2011: Save the Date!
09/21/2011	2012 MITA European Hunt

Schedule Now Available

09/16/2011	Did You Know: Getting Trained Makes All the Difference!
09/09/2011	Did You Know: Prevailing Wage Assistance is Available to MITA Members
09/09/2011	Stolen Equipment Notice
09/01/2011	Did You Know: Updating Your Directory Information is Just Two Clicks Away!
08/31/2011	Member Voice: In what areas do you see more risk being shifted to the contracting community?
08/26/2011	Did You Know: MITA Carries Vital Equal Employment Opportunity Resources
08/19/2011	MITA's 2011 Central Michigan Golf Outing is Right Around the Corner— Sign Up Today!
08/12/2011	Did You Know: MITA is a "One-Stop" Shop
08/12/2011	Bryan Jackson Memorial Scholarship Golf Outing
07/27/2011	Did You Know: MITA Has Launched a Legislative Letter Writing Campaign for All of The MITA Members
07/22/2011	Did You Know: MITA is Working to Improve Transport Permitting on Many Fronts
07/14/2011	Did You Know: Space for the 2011 Summer Conference is Going Quickly- Reserve Your Spot Today!
07/08/2011	Did You Know: MITA Representation is on All Fronts
07/07/2011	In Memoriam of Donald Taylor
06/23/2011	Did You Know: Hazard Recognition is Crucial!
06/16/2011	Did You Know: It's Time To Get Your Crew Connected!
06/16/2011	MITA is Seeking Donations for the 2011 Silent Auction

ENGINEERING BULLETINS

01/14/2011	Bureau of Highway Instructional Memorandums (BOHIM) Update
10/07/2011	Construction Advisory (CA) Update

10/07/2011	Hot off the Press: Order your 2012 MDOT Spec Book Today!
09/30/2011	MDOT FY 2012 Highway Program Announced
09/29/2011	MDOT to Hold Three Workshops - Register today!
09/23/2011	FUSP/BOHIM/CA/SOA Update
09/20/2011	2012 MDOT Spec Book - Update
09/14/2011	MDOT Releases 2012 Program Information
09/02/2011	Concrete Quality Control - Contractor's Responsibility
09/01/2011	New Project Update - Michigan Wind Farms
08/31/2011	State Ad Board "Approves" Industry Significant Resolutions
08/30/2011	Call for Contractors Frustrated with Utility Conflicts
08/26/2011	MDOT to hold two workshops Wednesday, September 14
08/24/2011	BOHIM/CA Update
08/18/2011	City of Detroit - Employer Reimbursement Program On-the Job Training
08/08/2011	IRS Extends Heavy Highway Vehicle Use Tax Filing Deadline
08/05/2011	Fraudulent USDOT Faxes/Email Resurface
08/05/2011	CA/SOA Update
08/03/2011	MDOT Server to be Down
07/13/2011	MDOT M-20 Design-Build Project
07/13/2011	MDOT is looking for Women and Minority Owned Businesses
07/07/2011	MITA Success - Design Utility Checklist
06/30/2011	Summer Assistantships/Job Shadowing Program
06/29/2011	MDOT Hosts Prevailing Wage Training Workshop in Traverse City
06/20/2011	CA/SOA Update

LABOR BULLETINS

08/26/2011	September 1, 2011 Underground Wage Rate Updates
06/14/2011	FASB Reaches Tentative Decision on Multiemployer Disclosure Rules



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