

SPRING 2014

CROSSSECTION

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Perspectives On Persistence

BY KEITH ROSE, RIETH-RILEY CONSTRUCTION CO., INC.
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It has been said that the character of an individual is best measured in tough times rather than in good times. The same can be said of an industry association.

There is no doubt that the last several years have been challenging for the entire industry, including MITA. There is also no doubt that just as companies have risen to the challenge, so has MITA. Both have retooled and doubled their efforts to weather the storm, to maintain a high level of service to their customers and to prepare for the huge infrastructure demand that is inevitable.

Unless you live under a rock, or are in a perpetual state of denial, you know that the state of our infrastructure is absolutely deplorable. Michigan has long prided itself as being the "Auto Capital of the World." How ironic that our locally built automobiles must exit the factory only to then travel on Third World like roadways and bridges. Imagine if the automobile manufacturers had to film their advertisements using just

Michigan roads. I wonder how many vehicles they would

sell. The same is true for every other industry in Michigan. As our infrastructure goes, so goes our economy.

Our elected officials in Lansing know all too well that Michigan is long overdue for a significant increase in infrastructure investment. The persistent efforts of our MITA staff, our members and all of our partners have helped to drive that message. The severe winter weather and subsequent impacts to the roads have driven this point even further home.

We now have broad recognition and public acknowledgment by members throughout the entire legislature. They now recognize that the issue of good, safe roads and bridges has no political affiliation – they affect us all. They impact us getting our children to and from school safely. They impact our families getting to and from work and other events safely. They affect farms and businesses shipping and receiving goods and services. They affect our tourism industry. They impact our ability to attract new businesses. There is not a single person that is not in some way affected by the condition of our roads and bridges. This is why I am certain

that the legislature will ultimately pass legislation for a significant annual increase in infrastructure funding.

Now some are likely to say that actually passing legislation may be a heavier lift, but I disagree. There certainly will be negatives and naysayers along the way (any fool can criticize, condemn, complain and make excuses – and most fools do). However, the energy and persistence of the vast majority WILL outweigh any fringe minority. There are already many positive developments and positive signs all around us. Public recognition of the need is at an all time high, as is public pressure on our legislature to act.

However, recognition by the legislature and public sentiment alone will not push the ball across the goal line. All of us, along with our capable MITA staff and all of our partners, must continue to engage with not only our elected officials but with everyone we interact with at work and at home. This is OUR responsibility, and the results we can expect will be directly attributable to the efforts that we put forth. Energy and persistence conquer all things, including this very challenging infrastructure funding debate.



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Cover Photo: Dan's Excavating, I-96 project, Detroit

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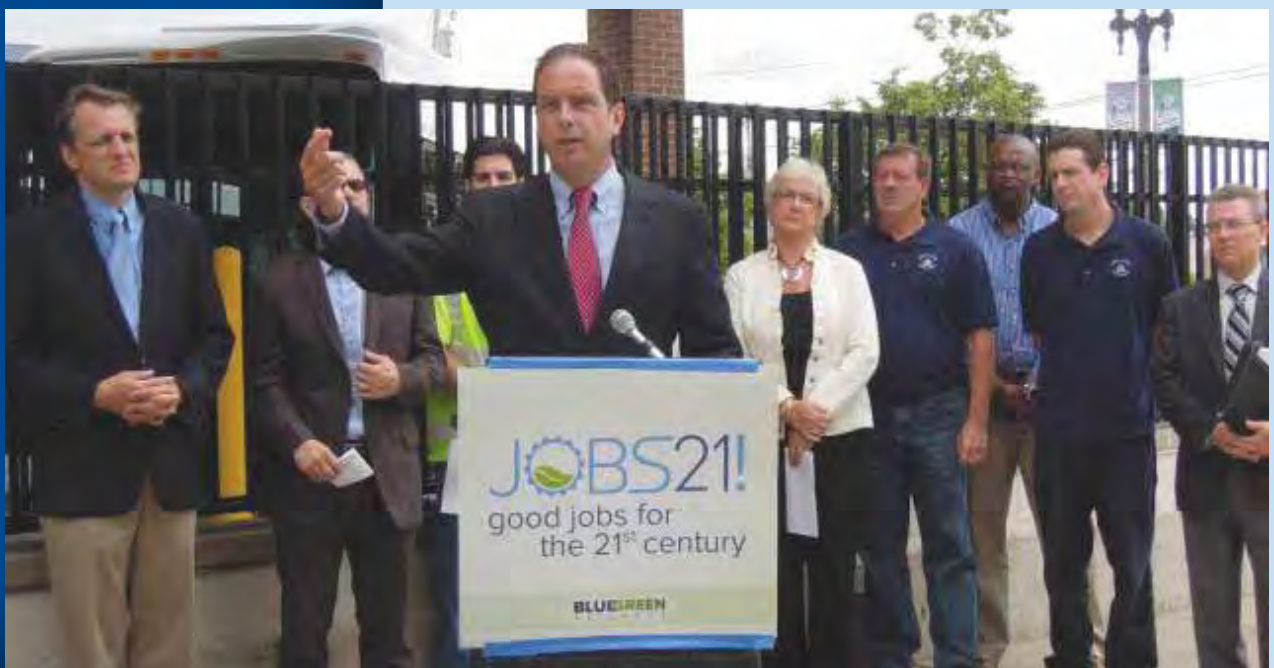
MITA staff works hard every day dealing with legislative, safety, engineering and legal issues on behalf of the industry. You see the results of this work with new laws, improved MDOT specifications and successful MIOSHA appeals. What you might not always see is the way MITA staff works the media on your behalf.

Whether it is speaking at a media press conference in Lansing about jobs created by the industry (see my photo below); speaking at a work zone awareness media event in Lansing (See Vice President of Membership Services Comment, by Rob Coppersmith, on page 16); or organizing an Annual Construction Science Expo in Detroit (see Vice President of Industry Relations Comment, by Douglas Needham, P.E., on page 18); MITA is constantly in touch with the media.

Besides speaking at press events, MITA distributes press releases and our staff conducts one-on-one interviews regularly with reporters who work for traditional media outlets, such as newspapers, radio and television. These reporters often rely on social media, such as Facebook and Twitter, to gather news ideas, so MITA actively participates on a daily basis on both Facebook and Twitter. A story, with other examples of our how we work the media, can be seen on page 32.

The benefits of everything MITA does with the media include increased understanding among the media, the public and policymakers regarding top industry matters, such as transportation and underground funding. If you ever have any news ideas, or if you want to invite a reporter to visit a jobsite, please contact us and we will be happy to “work the media” on your behalf.

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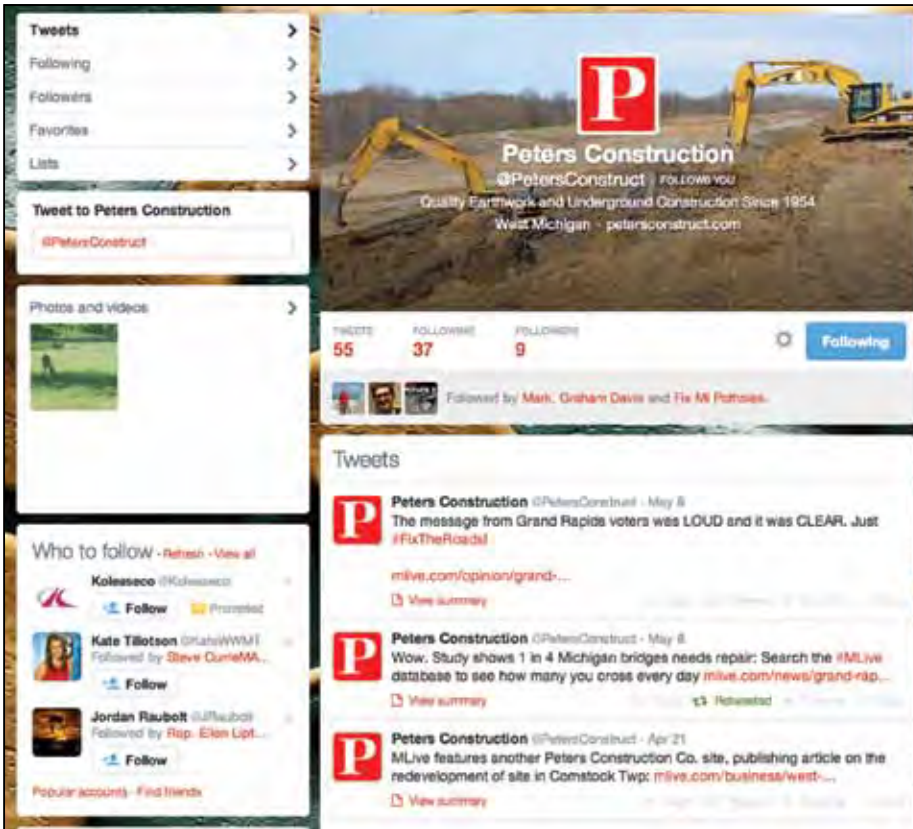
Peters Construction of Kalamazoo is proud to be celebrating their 60th anniversary this year.

The company, which concentrates in MDOT and municipal work, was founded by Al Peters and later incorporated by LeRoy Nichols, according to Jason Sandusky, who has been with the company for 16 years. Peters Construction has been a proud union contractor for a long time, Jason said, and they also take special pride in their ability to handle extremely diverse projects, small or large, \$5,000 to \$5 million.

"Our ability to handle diverse jobs is what is helping us through the recession," Jason said. "2013 was a good year, and this year we have a lot of

Continues on pg. 9





PETERS CONSTRUCTION COMPANY

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projects, including six lanes on 44th Street in the City of Wyoming, which is a reconstruct of three-quarters of a mile. We are handling the concrete, water main and storm sewer.”

Other prominent projects this

year include the site development for a new Menard’s store in Kalamazoo; and one-half mile road and utility project in Sturgis, which is been taken back to brick; a new residence hall complex at Western Michigan University; and many other current projects that a displayed on a colorful project map at www.petersconstruct.com.

Peters Construction began as a small earthmoving contractor and aggregate

supplier. They’ve grown, and gotten away from the aggregate business, but they offer a diversified and skilled union workforce with vast experience in earthmoving operations, grading, road building and underground

utility construction. They concentrate on public sector work, but they also perform commercial site work and industrial work in the private sector, along with the occasional foray into

Continues on pg. 10



From left to right: Jim Ruzick, Mark Howard, Mark Pohlman, Jason Sandusky and Laura Comerford.

residential development work.

In addition to staying extremely busy this year with construction projects, Peters Construction takes time to be supportive of MITA's state funding effort by staying active on Facebook and Twitter. A recent post on their Facebook page supports the effort by referencing the The Road Information Program (TRIP) report, which highlighted the annual cost of legislative inaction on road funding spent by Michigan motorists who must drive on roads that are congested, deteriorating and which lack desirable safety features.

A recent Facebook post from Peters Construction said:

"We do a lot with numbers here at Peters Construction Company, and we're decent at math, but honestly, how hard is it to see that spending \$225 per year on transportation costs is better than spending \$1,000 per year? The comparison may be an oversimplification, but the concept isn't, and the figures ignore other obvious economic benefits of infrastructure investment, like immediate employment, business development and logistical efficiencies."

The Fix the Roads lobbying effort is one of the many benefits Jason said he appreciates as a MITA member. Other benefits include the lobbying MITA does for the entire industry, safety training and the MIOSHA appeals service.

The future looks bright for Peters Construction, and this year they have already hired 10 new employees, Jason said, a testament to their overall success.

"Part of the reason for our success is good bids, being diverse with the types of jobs we handle, and doing what others don't want to do, like nasty dirt, deep sewer and sidewalk removal," Jason said. "We don't turn our nose up at any job."



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Implemented in 2012; the Michigan Laborers' Training and Apprenticeship Institute has developed a Laborers' Productivity Training Course. In today's competitive environment it is critical that the highest level of productivity be achieved in all aspects of a project. The Michigan Construction Laborers' Union recognizes this need and is leading the way to a more productive workforce by including this training in our Apprenticeship Program and offering the class to our Journeymen as a skills enhancement course.



Kimberly Dohn completed the course recently and commented:

"I was fortunate to be among the first to participate in the Laborers' Productivity Training Course. I am very passionate about the training that was

offered and I feel that ALL laborers will benefit from participating in this course. The skills developed during training will aid them in their daily and future endeavors. I believe that the skills taught throughout this course are invaluable to a person with aspirations of bettering themselves and/or their position in life and it provides real tools to make those things happen.

I am currently employed in a management support position in the construction industry and I feel confident that the skills I learned from the Laborers' Productivity Training Course have prepared me to successfully deal with the challenges that occur on a daily basis. Since completing the course I feel more prepared and I know that the knowledge I acquired has improved my performance and ability to make a positive contribution on any job site."



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With five locations in Kalamazoo, Grand Rapids, Saginaw, Livonia and Chesterfield, and a staff of more than 90 who are dedicated to the construction industry, Carleton Equipment Company carries a large inventory of new and used equipment, attachments, parts, rental equipment, field-service vehicles and factory trained technicians. Carleton staff takes great pride in backing-up everything they sell with top quality customer service, according to Ryan Wurtzel, director of dealership operations.

"We have built a reputation on top-



notch service after the sale," Ryan said. "Since 2012 we have seen an increased demand for our products and with more units in the field throughout the entire state, we needed to increase our mobile support

level. So, we added 10 mobile field service vehicles for on-site service to our existing fleet. Our customers are not making money when their machine is in the shop. Construction is a tough business driven



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Howard Simmons, Vice President

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by deadlines and we are here to help our customers meet, or exceed, those deadlines by ensuring that equipment is up and running in the field, where it belongs.”

Ryan’s father, Phil, and his business partner, Howard Simmons, have owned the company for over 40 years. The original location and present-day corporate headquarters in Kalamazoo is the original structure that was constructed in 1938. With some renovations along the way, the company has seen numerous changes, serving as a farmer’s trading post, a Studebaker dealership, and in the 1940’s Carleton started selling multiple lines of John Deere Equipment. In 1979 they became the dealer for Bobcat compact equipment on the western side of the state and also sold heavy equipment. In 1993 they opened a Grand Rapids branch and in 2002 the Saginaw store opened, followed by expansion into the Metro Detroit area in 2009. The most recent Carleton Equipment

expansion happened on December 23, 2014, when their Metro East store opened in Chesterfield. The retrofitted building is their pride and joy, and will now serve as their eastside main hub of operations.

“Equipment men” all their lives, Phil and Howard maintain a strong business partnership and that has translated into a well-run business with a family atmosphere, Ryan said. Ryan was put in charge of Metro Detroit operations in 2009. His brother, Steve, is operations manager; while Todd Simmons, Howard’s son, is general manager. Other key staff includes T.R. Cagney, who serves as vice president of sales.

In 2009, Carleton joined MITA and unfortunately the economy was tanking. However, Carleton Equipment took a calculated risk and opened a Metro West store in Livonia.

“We had a five-year plan to improve and expand this business and we are pleased that everything is on track,” Ryan

said. “We are glad we took the risk to expand in 2009 and to also join MITA, because the MITA membership has put us in front of people who need what we offer. When you spend money on a membership, you want it to have value. I can’t think of another membership that has such a tremendous impact on the issues that face the construction industry.”

Ryan added that what he hopes MITA members remember about Carleton Equipment Company is that they are diversified in the products they offer, and they focus heavily on service.

“Anyone can simply sell a product, but to provide value you have to provide full-service support after the sale,” Ryan said. “We pride ourselves in understanding the construction business and anticipating the needs of our customers. We provide them with the right equipment and attachment solutions to get their jobs done correctly and for the lowest total cost possible.”



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Various MITA members with MITA hats during a fishing retreat in Montana. From left to right in the back row: Don Anderson, Dusty Barclay, Steve Lewis, Bob Brannan, Todd Schrader, Paul Malloure, Brad Poggi, Scott Maclean and Joe Malloure. Front row: Peter Tornes, Tom Wagenmaker and Bruce Lowing.

Where's Your MITA Hat Been Lately?

Tyler McCastle, with the Michigan Carpenter's Union, and his son, Matthew.



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MITA Safety Staff Working Round the Clock for You

The theme of this magazine is how MITA staff churns the media. It should be understood that while the MITA safety staff is very active on many fronts, including training and MIOSHA appeals, these matters seldom make the news because they are generally private matters that are handled "behind the scenes." Some exceptions, however, occur in the workzone safety and workforce development areas.

Workzone Safety

In May, I spoke during a Michigan Roadside Safety Awareness press conference. In the spring, I was involved with a Dig Safely in Michigan event, and I spoke during a Michigan Roadside Safety Awareness press conference along with other industry-related groups. I was also asked by MDOT to provide comment for their news release about the Give 'Em a Brake workzone safety effort. The news coverage these efforts generated is merely a byproduct of what we are doing

on a day-to-day basis in service of the industry. Last year we saw news coverage of our EPA grant open house and Give 'Em a Brake Safety Press Conference. In addition, there was news coverage last year of Construction Career Days, which our staff participates in along with other industry-related groups.

Workforce Development

It's no secret that the industry is facing what could be an epidemic labor shortage. Far too many kids have grown up without getting a little dirt on their hands that didn't come from a sporting event. Many of the skills I learned as a child are not performed in the households of today, such as changing oil, mowing lawns, shoveling snow and even cleaning the house. These events are now witnessed, and individuals seldom get a chance to actually participate. This reality will impact our industry. To help kids get ready for possibly working in our industry, MITA has been heavily involved

with what has come to be known as Construction Career Days. This two-day event each spring is designed to introduce high school aged youth to possibilities of a heavy construc-



Construction Career Days

MITA's Matt McClintick chats it up with Governor Snyder during the 2014 Construction Career Days, which was covered by the media. This MITA co-sponsored event hosts thousands of high school students and introduces them to possible construction careers. Big thanks to the many MITA members who donated equipment to this worthy event.

tion career. Attendees have the opportunity to operate numerous types and sizes of heavy equipment and test their skills with other related construction processes and equipment.

MIOSHA Construction Safety Standards

Many members may not understand that MITA staff also is involved in the rule making process with regard to MIOSHA Construction Safety Standards. MIOSHA has to remain as effective as Federal OSHA. To that end, anytime a rule needs



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to be changed or updated, industry committees are drawn together to hash out the terms and language that shows up in the standards. We actually had input in condensing and removing redundant rules, which were an early requirement of the Snyder Administration.

Michigan Damage Prevention Board

On the utility front, MITA formed and participates in the Michigan Damage Prevention Board in an effort to help

members gain traction in the frustrating at best utility locating and damage arena. The recently passed Public Act 174 was a step in the right direction, but many problems will still remain to plague the industry. These quarterly meetings are an opportunity to remind the utility



MISS DIG Event

MITA's Rob Coppersmith poses with the mascot for the MISS DIG 811 Press Conference, which was held at the MITA offices in 2013 and attracted media attention.

owners of the struggles that contractors face. The regular emails and phone calls generate enough fodder to present the stakeholders.

In closing, MITA is constantly involved in safety and workforce development initiatives that don't always make

the local news. Whether it be hours of committee meetings and events or good old fashioned jobsite visits, MITA stands ready to continually work the issues that impact contractors from every available angle – whether they are newsworthy or not.

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Engineering Influence

As you know, MITA influences many areas of the heavy/highway construction industry. From most member viewpoints, our efforts and influence are likely most visible when pursuing legislative issues, due to our various media reports and outreach efforts. However, there are a number of issues that impact the construction industry that are resolved by the aggressive action taken by the MITA engineers that never reach the media blasts.

In addition to the positive daily influences MITA's engineers impart on behalf of the industry, there are a few notable successes, including but not limited to reasonableness in the FHWA Buy America regulations, improvements to the 2012 MDOT Specifications for Construction, utility improvements, various MDOT process and specification improvements, and community outreach and workforce development.

As we reflect on where we were just a

couple of years ago with the enforcement of the federal Buy America requirements, it is hard to forget how the entire construction industry was brought to a halt as we struggled to comply with the "if a magnet sticks to it then full step certification is required" requirement. However, MITA's engineers went to work lobbying the Michigan DOT, Michigan FHWA division office, FHWA headquarters in Washington D.C, and, as a result of that relentless advocacy, FHWA issued a clarification memorandum clarifying that not all manufactured products are subject to the Buy America regulations. After the issuance of the memo, MDOT revised their Buy America requirements, and the industry went back to work.

The MDOT Standard Specifications for Construction not only impact all state and federally funded highway and road projects, they also impact many county and municipal projects, along with some private developments. Therefore, when the opportunity was presented to provide input and work with MDOT to rewrite the 2003 MDOT Specifications for Construction, MITA's engineers went to work and assembled committees to review and offer suggestions on all nine divisions of the book. After countless hours and numerous committee meetings, MITA was pleased that many improvements were made to the statewide specifications as a result of our involvement.

When utility facilities are not appropriately accounted for during the design phase, there are many aspects that can negatively

impact construction. Those unaccounted for items can cause considerable heartburn during construction, along with an increase in construction costs and delayed completion dates. MITA's engineers lead the initiative to create the annual Michigan Utility Coordination Conference (MUCC). This annual conference provides a venue for the various utility companies, roadway owners, designers and contractors to assemble once a year and discuss various ways to improve utility coordination. As a result, MITA has aggressively worked to create a utility scoping and design checklist, and to pilot a depth of utility study. Through MITA's continued action, the Michigan Utility Coordination Committee, (co-chaired by MITA), has recently secured federal funding for a Geospatial Utility Infrastructure Data Exchange (GUIDE) program that will require x, y and z coordinates for facilities placed within the road ROW. This requirement is the first in the nation, and it will have a monumental impact on utility coordination in the future.

MITA recognizes that not all members work in the MDOT arena, but, as stated above, the MDOT specifications, procedures and processes are commonly used by other owner agencies across the state. Therefore, any improvements that can be made at the MDOT level have a vast impact. MITA's engineers meet regularly with MDOT at various levels on a variety of topics. These meetings have positively impacted the industry in a variety of ways, including the integration of electronic proposals, migration toward e-contracting, movement toward 3-D designs and modified timing of preconstruction meetings.



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

MITA's engineering influence is not just limited to improving specifications and various design standards. We place significant effort on improving community outreach for workforce development purposes. We work aggressively to promote the heavy/highway construction industry to Michigan's middle school and high school students, and we provide them information on career opportunities in our industry. As an example, MITA has worked diligently in facilitating the annual Construction Science Expo that, to date, has exposed over 3,000 middle school and high school students from the Detroit Public Schools to careers in the fields of engineering and construction.

MITA's engineers remain steadfast in our commitment to work diligently on your behalf, and we will continue our various "engineering lobbying" efforts to improve Michigan's heavy/highway



Douglas Needham, P.E., MITA's Vice President of Industry Relations (fourth from the right), is pictured here with dignitaries and sponsors of the 2014 Construction Science Expo in Detroit, which was covered by the media. Doug is a leader on the Michigan Design and Construction Coalition, which sponsors the event annually. The event is aimed at helping expose 700 plus Detroit Public School students to a future in skilled construction design, the trades and engineering.

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Michigan Utility Coordination Conference



The Michigan Utility Coordination Conference is held annually in January in Mt. Pleasant. The goal of the conference is to help to improve utility coordination efforts throughout Michigan.



Mark Van Port Fleet, P.E., MDOT's deputy chief engineer and director of bureau development, was the keynote speaker at the annual Michigan Utility Coordination Conference.



Douglas Needham, P.E., MITA's vice president of industry relations, kicked off the 6th Annual Michigan Utility Coordination Conference.

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MEMBER NEWS

Hart & Associates Construction, LLC www.hartandassociates.net

Tiffany Hart of Hart & Associates Construction, LLC was recently accepted to be a Scholar for the "Goldman Sachs 10,000 Small Businesses Initiative!"

"Goldman Sachs 10,000 Small Businesses" is a \$500 million investment relating to helping small businesses find success



Tiffany Hart of Hart & Associates Construction, LLC

by offering entrepreneurs with a business education, expanding jobs, bringing capital to be accessible and also offering support services.

Tiffany was chosen from hundreds of individuals from Detroit in hopes that her dedication to her business will provide the maximum benefit from the program and help the business community prosper. This program is now available in 16 different states and now Michigan is offering this program for the first time.

The Goldman Sachs program collaborates with Babson College, Wayne State University as well as Macomb and Oakland Community Colleges and includes guidance for networking and other support services. The main goal of this organization is to increase small businesses as well as help

promote jobs in the region.

Contact Info:

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7744 W. Vernor Hwy.

Detroit, MI 48209

Phone: 313-406-4086

Fax: 313-406-4098

hartandassociates@yahoo.com

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Buyer's Guide: 03, 11, 17, 18, 21, 22, 23, 27, 94, 99

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Ajax Paving Industries, Inc. Participates in Operating Engineers Apprenticeship Program

Apprenticeship offers a pathway to a successful career that provides family-sustaining wages and benefits, and this is the reason Kaitlin Hoetger decided to become an apprentice Operating Engineer for Ajax Paving Industries, Inc.

Leo Remijan, operations manager of Ajax Paving Industries, Inc., said that in 2008 Ajax contacted the Operating Engineers for potential applicants for the MDOT On-the-Job Training Program. Kaitlin was referred to Ajax at that time.

"She has proven to be a dedicated hard worker, dependable, knowledgeable, willing and able to work as a valuable team member to get the job done," Remijan said. "Kaitlin has earned the respect and trust of her other crew members, and is one of our

talented young operators who will be the future of the company for many years to come."

According to Mark Zinser, education and training instructor at Operating Engineers Local 324 JATF, Inc., Kaitlin strives to be the best operator she can be, which is probably why she was honored earlier this year as the Operating Engineer Apprentice of the Year, by the Associated General Contractors of Michigan.

"She would not settle for a passing score on her equipment proficiency test,"



Left and above: Kaitlin Hoetger, Operating Engineer Apprentice of the Year

Zinser said. "She wanted the best score. She went above and beyond her requirements for graduation by taking extra classes so that she was a well-rounded operator."

Zinser added that Kaitlin has demonstrated all that it takes to be a successful operating engineer. She arrives early to the job site and is prepared to begin each day with a good attitude. This positive attitude can be contagious, and that is why other crew members enjoy working with her. She understands that the days may be long, often with travel away

Continues on pg. 26

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from home, but that has not stopped her. She also understands that road and highway work is dangerous, which is why she always puts safety first.

To top it off, Kaitlin sustains her successful career as an operating engineer while also raising a family. In early 2012, she took a maternity leave to become a mother.

"Upon returning to work, not missing a beat, she picked up right where she left off," said Joe Landino, safety director for Ajax.

Fisher Companies **www.fishercompanies.net**

The Michigan Safety Conference recently announced the winner of the 2014 Harry L. McKinley Safety Leadership Award: Fisher Companies. The award is given to an employer who exhibits leadership commitment and strives for significant and sustainable results for environmental, health and safety excellence in the workplace.

The award was presented at the annual 2014 Michigan Safety Conference in Lansing.

G2 Consulting Group **www.g2consultinggroup.com**

G2 Consulting Group, a nationally recognized, Michigan-based engineering services firm specializing in geotechnical, environmental and construction engineering services, recently opened a new full service office in Ann Arbor.

The office will service clients in Ann Arbor, Washtenaw County and the surrounding area. G2 has already completed several campus improvement and infrastructure projects at the University of Michigan with its Architecture, Engineering and Construction Group. G2 also recently completed its work on the Arbor Hills Shopping center, and is providing special inspection/testing services to a general contractor.

"G2 has enjoyed contributing to the growth and construction activity in Washtenaw County and particularly in Ann Arbor in recent years," said G2 President Mark Smolinski, P.E., "and we know we can serve our clients even better by locating closer to them. Having an Ann Arbor office will enable us to participate more fully in this community."

The Ann Arbor office is being managed by 12-year G2 veteran Jason Stoops, P.E., and has four full-time engineers and a senior field technician. The facility also includes a full service materials laboratory that can complete soil and materials lab work onsite.

The new office is housed in the Eisenhower Commerce Center at 1595 Eisenhower Place, Ann Arbor. For more information, visit www.g2consultinggroup.com.

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, G2 also has offices in suburban Chicago, Ill.

Hubbell Roth & Clark, Inc. (HRC) **www.hrc-engr.com**

NEW HIRES

Jesse Morgan, P.E., Project Engineer: Experience in MDOT municipal road design, including feasibility studies and project scoping for state highway projects. Morgan is a registered P.E. in Michigan and Ohio and earned his bachelor's degree in civil engineering from Michigan Technological University.

Kristen Paulson, P.E., Graduate Engineer II: National recognition for her expertise in a variety of specialties, including road and utility design, railroad design, bridge design for highways, light rail and commuter rail; airport pavement analysis, construction phasing and maintenance of traffic design. She earned her bachelor's and master's degrees in civil engineering from Michigan Technological University.

Aaron Uranga, P.E., Senior Project Engineer: Experience in planning, design and construction engineering services for a wide variety of municipal engineering projects, including condition analysis, and the design of water and wastewater pumping facilities. Uranga serves on the American Water Works Association Michigan Section Water Treatment Practices Committee. He earned his master's degree in civil engineering from the University of Michigan, with an emphasis in hydraulics.



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NEW HIRES – HOLT, MICH.

Kevin O'Keefe: Outside Sales Representative with a territory of southeastern Michigan, including Livingston, Genesee, Washtenaw, Shiawassee and Ingham counties. O'Keefe graduated from Michigan State University with a bachelor's degree in communications and business. He has extensive experience in sales for the medical and pharmaceutical industries, including two years as a field sales representative trainer at Johnson & Johnson. In his spare time he enjoys mountain biking, watching college basketball and spending time with his family. He currently resides in Lansing, Mich.

Joel Merchant: Outside Sales Representative with a territory of southern Michigan, including Lenawee, Hillsdale, Calhoun, Jackson, Eaton, Clinton and Branch

counties. Merchant earned his bachelor's degree in communications from Albion College in Albion, Mich. During the past three years, he was a field salesman for Bonnie Plants, where he also gained experience in marketing and displays. In his spare time he enjoys hunting, fishing and spending time with his family.

Southeastern Equipment Company has been selling, servicing and renting heavy machinery since 1957. The company has 18 locations throughout Michigan, Ohio, Kentucky and Indiana. Manufacturers represented by Southeastern Equipment Company include: Case Construction, Kobelco, New Holland Construction, Bomag, Gradall, Kubota Construction, Hyundai Construction, Etnyre, Vacall, Terex, Schwarze, Alamo Industrial, Eager Beaver Trailers, Superior Broom, Massey Ferguson, Midland Machinery, Badger Equipment Company, DuraPatcher, Case IH, Fecon, Genie, Skytrak, JLG, Sullair, and a wide variety of

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ROWE TRUCKING, LLC

on which to build a solid foundation built on quality customer service and superior trucking experience), a father/daughter trucking company was born: Rowe Trucking, LLC.

Rowe Trucking, LLC had three tri-axle dump trucks that were paid for and three skilled drivers. Rhonda's next step was to modernize the

Rhonda Rowe, owner of Rowe Trucking, LLC, based out of Detroit, decided in March 2007 to try and convince her father, Arthur Rowe, to come out of retirement and explore new career opportunities for his lifelong dream of operating his own trucking business: Arthur L. Rowe Trucking.

Rhonda knew her father still had the

passion and dedication needed to reinvent their family brand into a more lucrative business, as well as operate more efficiently in today's trucking industry.

After a heartfelt conversation with her father about the future direction of their 40-year-old trucking business (along with a 100 percent commitment from her to beat the pavement researching the latest insight

operational and clerical piece of the puzzle to ensure success with bidding, billing, and everything in between, such as networking, meeting customers, scheduling and payroll. The next step now, Rhonda said, is to grow the company, to acquire more trucks and to hire more employees that will help the economy in Michigan.

"My father acts in an advisory capacity,"

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Arthur L. Rowe and Rhonda Rowe of Rowe Trucking, LLC.

Rhonda said. "He fuels the trucks and makes sure they are operating well. He also drives when needed. Driving is his true passion, especially if we are hauling asphalt. I can always go to him with questions that may arise. He has a lot of trucking knowledge, and I'm thankful to still have him."

With customers, including many MITA members, Rowe Trucking, LLC specializes in hauling asphalt, dirt, broken concrete, sand and gravel.

Rhonda explained how her relationship with MITA has helped her.

"I have been fortunate to receive such a good education from MITA. Being an associate member allowed me to be part of the Future Leaders Class of 2013. I learned more about the DBE Program, bidding, bonding and health care, just to name a few of the things touched on in class. It was a great experience being in class with primes that we have worked with and some we hope to work with. We did gain some new opportunities in 2013 that were a direct result of a connection I made in class. Going to Lansing was part of our class curriculum, and seeing that process was very informative.

"The MITA Annual Conference is a great way to start the New Year off. They also offer great, knowledgeable and motivational speakers. Most, if not all, of the prime companies from Michigan are there and that makes for the best networking opportunities to build a bigger customer base. I met some key members of Cadillac Asphalt and Angelo lafrate Company a few years ago at the conference and have worked with them as needed ever since.

"I know that MITA is our best resource if we ever have a problem with any project, but they also help with simple things as well to help us run like a well-oiled machine. We operate with a renewed commitment of being efficient, dependable and committed on every project we acquire."

For more information about Rowe Trucking, LLC, call Rhonda Rowe at 313-205-5915 or email her at rowetrucking@comcast.net.



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Adamo Group has been involved in the repair of a massive sinkhole that opened in Detroit in late March. The 16-foot-deep and 30-foot-wide hole appeared on Linwood Avenue on the city's west side.

Adamo was called on March 28 by the City of Detroit to handle the emergency repairs, which were completed in approximately two weeks. A five-man crew worked on the project, along with trucking and equipment moves supplemented by Adamo staff. Adamo was contacted by the City of Detroit because

Adamo is under subcontract with Inland Waters Pollution Control to perform point repairs on sewers before cured in place liners are installed. Along with that contract is a supplemental portion of the contractor for emergency sewer repairs.

Tom Miller, Adamo's project manager of the earthwork and underground utility division, shared details of the entire repair project. The broken city water main that caused the initial problem was shut down, and any existing utilities in the excavation that were exposed were protected. Pavement that was undermined during the water main break was removed back to solid ground. A new manhole was

installed due to an existing sewer line that was broken during the cave-in from the water main, which could not be replaced as it was originally installed.

Once the new manhole was constructed, the existing sewer pipes were connected to the new manhole, then reconnected to the main nine-foot diameter sewer running parallel with Linwood Avenue. The excavation was then backfilled and compacted in place up to the elevation of the broken water main. The broken water main was then repaired and the remainder of the sinkhole was backfilled, compacted and the street surface was restored.

About Adamo Group

Adamo Group is among the nation's leading demolition and remediation companies. The earthwork and underground utility division is rapidly growing as a portion of this company. Founded in 1964 and headquartered in Detroit, Adamo Group is well-known and respected for performing demolition, decontamination, asset recovery, and related services.

Adamo Group has completed many of Michigan's highest profile projects, such as the

Dodge Main plant and the Uniroyal Tire Plant demolition in Detroit. It has evolved from a small local demolition company to a national site decommissioning and redevelopment business partner for clients throughout the United States and Canada.

With a strong team of tenured engineers and management professionals, Adamo Group has developed into a technical team that advises clients on managing the seemingly endless environmental issues and regulatory

mandates impacting demolition projects. The company stands apart from its peers through its consultative approach as well as its focus on crucial areas such as:

- Strict time management to meet clients' short-term constraints
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- Engineered demolition methods

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Media Relations: How MITA V

There are thousands of examples of roads, bridges, and underground systems in decay throughout our state, a reality that unfortunately has resulted in thousands of news stories and editorials. These news stories did not just happen without the influence of MITA staff, who work with the media on your behalf.

How MITA works with the media often involves proactively contacting reporters directly to comment on a industry-related stories. But more often than not, MITA is contacted whenever a news matter arises regarding roads, bridges, or underground issues. We have also found that the media is hungry for reports that summarize data that they do not have time to review. For example, MITA gathers all the bridge, road or sewer condition data into databases, analyzes the information, and then writes press releases to share the analysis with the media.

“This approach allows the media to localize the story about structurally deficient, or functionally obsolete bridges, or in the case of roads, they focus on the worst roads in their county or city,” said Mike Nystrom, executive vice president of MITA. “Regarding

underground issues, the media can see the actual amount of combined sewer overflows in their area. This allows us to not only educate the media about the need for more infrastructure funding, but then the media spreads the word to the public, who then contact their policy decision makers.”

Traditional Press Releases

MITA issues dozens of press releases each year on many topics related to the industry. Most recently, MITA's Statewide Bridge Report Press Release was "top of the news" in all major media markets in Michigan. In one instance, as if on cue during an interview MITA's Executive Vice President Mike Nystrom was having with a major television station in Detroit, a large hole developed on the approach to a major bridge in Detroit. This caused traffic to snarl during rush hour and sent emergency crews rushing to the rescue. The media even reported on the irony behind the timing of this incident on Facebook, a popular social media site for sharing news and ideas.

During the summer months, similar MITA reports and press releases about combined

sewer overflows have generated news coverage in communities across the state, and helped influence public policy regarding matters related to helping communities receive low interest loans from the state revolving fund for sewer projects.

In addition to press releases, MITA often issues statements to the press regarding our reaction to, for example, the governor's state of the state address. Other information provided to the media may come in the form of longer opinion page pieces regarding our thoughts on the state of our infrastructure and the need for a stable, annual source of funding.

“New Wave” Social Media

Besides contacting the media through traditional means, MITA is extremely active on a daily basis with “new wave” forms of communication, also known as social media. The prime examples of these are Facebook and another Twitter. We use our “Fix the Roads” and MITA Facebook pages to post news stories and information about industry issues, similar to what appears on our websites. But the format of Facebook allows the public, and the media, to follow and comment on the information, which is evolving into a powerful educational tool regarding industry matters. We use our Twitter pages to post very brief news and information with quick links to more details. The media are among the people who “follow” us on Twitter or “like” us on Facebook in order to keep up to date on our issues. These “new wave” forms of communication have proven to be highly effective.

Events

When MITA speaks at an event, such as a workforce safety press conference, we make sure to invite the media. We also proactively encourage the media to attend our annual events, such as the Construction Science Expo in Detroit, or Construction Career Days in Lansing. These events showcase MITA's focus on workforce development and safety, which are just as important to us as promoting infrastructure funding.



This cartoon is reprinted with permission from the artist, John Auchter, and was originally published in MLive Newspapers on February 16, 2014.

Works with the Media on Your Behalf

Other Ideas?

Please feel free to contact us anytime you have ideas that might interest the media in doing a story about the industry, or if you have questions about how to submit a letter to the editor or opinion piece for the editorial section of your newspaper.

FOR IMMEDIATE RELEASE
May 6, 2014

Contact:
Mike Nystrom
Executive Vice President
Michigan Infrastructure & Transportation Association
517-896-1493

Statewide Bridge Rankings Released Wayne County Ranks #1 for Structurally Deficient and Functionally Obsolete Bridges

Oakman, Mich. – Wayne County has the worst bridges in the entire state, according to an extensive statewide analysis of nearly 11,000 state and local bridges released today by the Michigan Infrastructure and Transportation Association (MITA).

Wayne County was the stand alone winner, not only for having the highest number of bridges (549) that are structurally deficient or functionally obsolete*, but also for having the highest percentage of bridges (54 percent) that are structurally deficient or functionally obsolete of any county in Michigan.

All of the Detroit-area counties ranked poorly on the list. Oakland County ranked the third worst in the number of structurally deficient or functionally obsolete bridges with 159, followed by fourth ranked Macomb with 107 and eighth ranked Washtenaw with 96 bridges needing repair. Although Livingston County ranked 156 total state and local bridges, the percentage of these bridges that are structurally deficient or functionally obsolete was the seventh worst in the state at 35 percent.

FOR IMMEDIATE RELEASE
Friday, April 26, 2013

CONTACT: Mike Nystrom
Michigan Infrastructure & Transportation Association
517-896-1493

1.5 Billion Gallons of Sewage Discharged April rains, aging sewers to blame

More than 1.5 billion gallons of sewage, enough to fill nearly 2,300 Olympic size swimming pools, have been discharged into Michigan's rivers, lakes and streams during April's historic rainfall, according to a statewide analysis by the Michigan Infrastructure and Transportation Association (MITA).

The final April total discharge figure will be substantially higher, because not all areas of the state have reported their full details on discharges for the month of April, according to online data from the Michigan Department of Environmental Quality (DEQ).

Michigan has eight water resource districts, that include multiple counties, and nearly every district reported discharges during the month of April, with the exception of the Lansing district, based on the most current data available. The front-runners are the Southeast Michigan district (1.1 billion gallons of sewage discharged) and Grand Rapids district (364 million gallons of sewage discharged).

"We all can't help but take notice when our roads and bridges are in bad shape, and usually our aging sewer infrastructure is out of sight and out of mind," said Mike Nystrom, executive vice president of MITA. "But this month, during catastrophic flooding, more of us are becoming aware of what is lurking in Michigan's greatest natural resource after a heavy rainfall – sewage.

The solution, Nystrom said, is more state funding for municipalities to upgrade their sanitary and storm sewer systems so that they do not overflow during heavy rainfalls.

Governor Snyder included in his budget recommendations \$97 million for grants and loans to municipalities for sewer upgrades and \$3 million for wetland

MICHIGAN BEACH ADVISORIES AND CLOSINGS ON THE RISE

OAKMAN — Beach closures continue to be a fact of life in Michigan, as a result of high bacteria levels caused by many factors, including combined storm and sanitary sewer overflows.

Source: Michigan Infrastructure and Transportation Association Date: Tuesday, August 14, 2013
<http://michigan-mta.org/pressroom.aspx>

Growing Number of Beach Closings in Michigan

by Don Gaudin

OAKMAN — Beach closures continue to be a fact of life in Michigan, as a result of high bacteria levels caused by many factors, including combined storm and sanitary sewer overflows.

The number of monitored public beaches with advisories or closings continued to increase each year between 2005-2010, according to the most recent formal report available on the Michigan Department of Environmental Quality (MDEQ) website.

So far in 2012, there have been 96 beach advisories or closings, up from 2011, when during the same time period the number was 88.

This trend points out the increasing need to fix our aging underground water and sewer systems, according to the Michigan Infrastructure and Transportation Association (MITA), and the importance of state



Michigan's bridges are in poor shape, says a new report. The report says that the state's bridges are in poor shape, and that the state needs to invest more money in infrastructure. The report also says that the state's bridges are in poor shape, and that the state needs to invest more money in infrastructure.

Fix MI Roads shared a link.
Posted by Henry Brown (1) - May 7, 2014

As if on cue, this happened yesterday. A large hole has opened up in the southbound I-75 near the Rouge River Bridge.



Large Hole Opens At Rouge River Bridge
CBS Detroit
detroit.cbslocal.com

A large hole has opened up in the southbound I-75 near the Rouge River Bridge.

Like Comment Share

17 people like this.

Brian Borich If they do not approve additional funding for our roads, get use to it
May 7 at 7:02pm · Unlike · 1

Chris Balog Let's pony up by me would

TWEETS 1,866 PHOTOS/VIDEOS 18 FOLLOWINGS 1,684 FOLLOWERS 1,330 FAVORITES 66 More

Tweets Tweets and replies

Just Fix The Roads! @JFTRoads - 2h
Weakened support beams prompt closure of NB I-75 ramp to Lodge
detroitnews.com/article/201405...

MITA WETTER BY JUST FIX THE ROADS
Jeff Cransen @jeffcransen - 1h
Poli shows strong support for raising taxes to pay for repairing Michigan roads bit.ly/1vwKBK via @MichiganRadio

Just Fix The Roads! @JFTRoads - 2h
Time running out to fix Michigan's road funding crisis
article/201405... @michiganleg @FixtheRoads

Just Fix The Roads! @JFTRoads - 2h
Trend Watch: SINKHOLES.

What Michigan Needs: \$2 billion annually in additional infrastructure investment.

What You Can Do: Contact your legislators today and tell them to Fix the Roads Now!

<http://www.capwiz.com/pkconsulting/home/>



Large sinkhole forms on Detroit's west side
www.detroitnews.com

Detroit - A large sinkhole formed in the west side of Detroit, Michigan, on Monday, May 12, 2014.





Underground Spotlight

As you've read in this edition of Cross-Section, MITA is constantly churning up conventional media and social media (Facebook and Twitter) to shed light on the crumbling infrastructure throughout Michigan, in the hopes of obtaining public support, political support and regulatory assistance. Our work for the underground community is no different. Because our underground infrastructure is unseen, it is even more vital that we utilize every opportunity to draw attention to it through the media.

Most citizens take our water and sewer systems for granted, as they are typically unaffected by them in their everyday lives. But the real story is that our underground infrastructure in most areas of the state is in critical need of repair, and it is extremely important for MITA to work with their local communities to educate the public on just how critical it is.

From time to time, the Environmental Protection Agency (EPA), with assistance from the Michigan Department of Environmental Quality (DEQ), is forced to close beaches throughout Michigan. This is to protect swimmers from bacteria, viruses and other contaminants found in beach water. The most commonly identified cause of beach closings and swimming advisories is polluted storm water runoff. Another major reason for advisories or closures is sewer contamination. But often times, the public has no idea why a

beach is being closed or why the water may be contaminated.

MITA takes advantage of each of these opportunities to educate the public on what the real cause of these events is: underinvestment in our underground infrastructure. Michigan's underground infrastructure continues to suffer from underinvestment in the majority of communities throughout the state, resulting in crumbling and broken systems. By informing the public that these closings are the result of inadequate investment, the media can help play a role in gaining public support for increased revenues.

Michigan has also seen an increased number of sinkholes this spring, which could be attributed to failing underground systems. This is another opportunity to point out just how much we've ignored our water and sewer systems. While a beach

closing may be an inconvenience for the public as they are not able to enjoy some relief from the heat, sink holes can create a major safety hazard.

All of this is an effort to open up the eyes of the public. For our underground system, if our toilets flush and our faucets produce water, we generally think things are just fine. But when we take a closer look at some of the underground systems in Michigan, we see that there are much more serious concerns than what the public is aware of.

Lawmakers and policy decision-makers respond most often to public outcry. Most would like to continue their everyday jobs without complaints from their citizens. These types of news articles and social media activity can produce results if the public is motivated enough to engage with their elected officials.



THANK YOU: MITA Members Sponsor Billboards Across The State!

2014 has proven to be the year of grassroots campaigning for MITA members. We are churning the media, involving the public and holding legislators accountable. Grassroots campaigns are always the toughest, but they are also the most rewarding, because a collective effort is literally built from the ground up and then disseminated far and wide to attract the interest and attention of the public to achieve a goal. Part of the grassroots efforts here at MITA has been the installation of four different types of billboards around the state, highlighting the harsh truth for the strong need for increased infrastructure funding for our roads and bridges.

As with most campaigns, messaging can only go as far as the dollars that carry it. In this vein, three MITA member companies have stepped up their participation by volunteering to sponsor multiple billboards around the state. We'd like to take this opportunity to profoundly and publicly thank these companies for their continued support, and for stepping up financially to do their part to ensure the success of this effort. We are only as strong as our member companies make us, and these three have demonstrated a level of leadership that will play a significant role in the success of this process. MITA and the entire heavy construction industry salutes you and thanks you.

C.A. Hull Co., Inc.

Give 'Em A Brake Safety

Michigan CAT

Pictured here are the four types of

billboards you can see on various roadways across the state. Please contact us if you are interested in sponsoring a billboard, too.



MITA placed over 50 billboards, using these designs, in strategic areas of the state.



Outreach Spotlight: Emailing Bad Road Photos to Legislators, Media

As the industry continues to ramp up all efforts to engage the public in the infrastructure funding issue, we must also remember the importance of including the media, too. Engaging the media helps us to shape our narrative, and it allows us to have some leverage in controlling the way the funding problem is perceived.

While MITA staff members are constantly working to engage the media, it is absolutely critical (particularly as we ramp up our grassroots campaign for support) that members also take part in this process, and use their knowledge and background as industry leaders to propel the discussions forward. Members are the most knowledgeable sources we have to use.

This spring, an employee at Rieth-Riley Construction Co. had the brilliant idea to

email photos of bad roads in his area to his state senator. Taking his process one step further, this employee then took an extra minute to copy his local media contact on the email. The media ran with it, exposing the fact that the Senator's claim that the roads in his district were fine and not in need of investment to be false.

This is the kind of punch we are looking for when we ask members to step up and contact their legislators and the media. The press is constantly watching what the legislature is up to, so when members take a minute to simply copy the media on their personal outreach efforts, we are deliberately inviting them to ask the hard questions of the elected officials.

This is a good thing because the press helps the public hold politicians account-

able. The press exposes the triumphs and the failures, and above all, the facts. When the industry has statistic after statistic to share, demonstrating in percentages and charts just how poor the condition of our roads and bridges are, there is no legitimate basis for an opposing argument.

Our ask of you, as we rapidly move toward the summer season and the height of a campaign year, is to continue reaching out to your legislators via email. In your emails, attach photos of bad roads, bridges and potholes in your areas, and copy your local media contacts to keep the stories current. This is one of the most effective ways in which we can maintain the pressure on the legislature to find a permanent, long-term solution to the infrastructure funding problem before 2015 is upon us.



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Rep. David Rutledge (D-Ypsilanti)

Q: *How has your background in local government, specifically service on the Washtenaw County Road Commission, helped prepare you to make policy decisions as a member of the House Transportation and Infrastructure Committee?*

A: Even before my first term in the House of Representatives began, I have been deeply passionate about the importance of a well-supported transportation infrastructure in our state. As a Road Commissioner, I heard from individual drivers, business owners, pedestrians, bicyclists, community leaders and others about the negative impact of poorly maintained roads on safety, business attraction and quality of life.

Q: *How have your past experiences helped you become an effective House Democratic Floor Leader?*

A: I am fortunate to be part of a wonderfully diverse caucus. Much of my role as Democratic Floor Leader is about coalition-building and helping bring people to a compromise that makes sense for all involved. Certainly my work as a policy staffer under former Speaker Gary Owen has helped shaped my understanding of the role. But, I have also drawn on my experiences as a former township supervisor and small business owner.

Q: *What legislative priorities do you have?*

A: My biggest priority is finding a forward-looking, long-term solution to funding our state's roads and bridges. In my view, this issue is integral to Michigan's economic health as poor roads can significantly impede growth. I am also very committed to protecting and strengthening our public education system from pre-K through higher education. Both of these areas are crucial to a vibrant future for our state. And, both will require policy-makers, especially at the state level, to have the courage to: 1) demonstrate efficiency with tax dollars, and 2) give our citizens investment options.

Q: *What are your thoughts or comments on your relationship with MITA and the heavy / highway construction industry?*

A: I value MITA staff and members as a resource of on-the-ground information and innovative ideas as we consider new approaches to our road infrastructure issues.

Q: *What has been your reaction to the increase in calls for increased infrastructure investment in Michigan?*

A: I am absolutely supportive of an increased investment in our infrastructure, and I am certain that Michigan residents agree. In my district, every day I hear from residents who are simply fed up with the state of our roads and bridges, and even more troubling is the larger impact on businesses already in Michigan. We must do everything possible to stabilize and support our infrastructure.

Q: *There have been many calls for significant investment in Michigan's roads, bridges and underground infrastructure. As House Democratic Floor Leader, what do you feel is the next step towards adequately funding our infrastructure in Michigan?*

A: I believe the next step is simply political courage. On behalf of the residents of Washtenaw County, I know my neighbors want greater investment in our infrastructure. In my view, what we lack right now in Lansing is the political courage to make the necessary comprehensive investment in our infrastructure that would benefit the entire state.

Q: *What is your opinion on the current level of state-funded investment in our state's transportation system?*

A: As a candidate for the House of Representatives in 2010, one of my biggest priorities was an increase in road funding. Before I was even elected, I knew from my time as a Road Commissioner that our infrastructure was severely - and dangerously - underfunded. While a commissioner, I saw our staffing level drop from 157 to 131 because of funding decreases. It has been deeply disappointing to me that we have not been able to increase our infrastructure investment with a long-term, sustainable funding source.

Q: *When do you believe the State Legislature will enact substantive changes to how we*

pay for our transportation infrastructure?

A: I believe the time is now! Residents throughout the state are extremely frustrated with the condition of our surface streets and the absence of leadership from Lansing to fix it.

Q: *How can our MITA members better advocate for their industry and encourage the Legislature to act on increased investment for our infrastructure?*

A: MITA and their partners have done an excellent job advocating in Lansing. The blame rests with the hyper-partisan atmosphere permeating the Capitol. As a result of term limits, I believe that many legislators lack political fortitude to do what is best for Michigan in the long-term. I would suggest that MITA members stay the course and have the courage to insist that a long-term, sustainable funding source be established to fix our roads.

About Rep. David Rutledge

State Representative David E. Rutledge is serving his second term for House District 54, which covers part of Washtenaw County, including the city of Ypsilanti, as well as Superior and Ypsilanti townships.

He is the president of Alpha Environmental Services Inc. and has also served on the

Washtenaw County Road Commission, the Washtenaw Community College Board of Trustees, the State Boundary Commission and the Ann Arbor Community Foundation. He earned a bachelor's degree in political science from Tennessee State University.

Rutledge and his wife, Geraldine Simmons Rutledge, have two children.



BILL	BILL SPONSOR	DATE	LOCATION	SUMMARY	STATUS	POSITION
SJR - A	Sen. Walker - R	1/16/13	Senate Appropriations Committee	Provides for a Constitutional Amendment, provides for an increase of sales tax; revises distribution.	Referred to committee on 1/16/13.	Neutral
SJR - J	Sen. Richardville - R	1/30/13	Senate Appropriations Committee	Relates to a Constitutional Amendment; provides for increase in sales tax and use tax; revises distribution.	Referred to committee on 1/30/13.	Support
SB 6	Sen. Proos - R	1/16/13	House Tax Policy Committee	Establishes the distribution of a percentage of the sales tax collected on motor fuel to be earmarked to transportation funding in 2013 and each year thereafter.	Passed the Senate on 6/5/14.	Support
SB 13	Sen. Walker - R	1/16/13	Senate Appropriations Committee	Repeals motor carrier fuel tax act.	Referred to committee on 1/16/13.	Neutral
SB 14	Sen. Walker - R	1/16/13	Senate Appropriations Committee	Repeals motor fuel tax act.	Referred to committee on 1/16/13.	Neutral
SB 50	Sen. Casperson - R	1/16/13	THIS IS NOW A PUBLIC ACT.	Provide for operation of off-road vehicles on certain state highways.	Assigned PA 119 of 2013 with immediate effect.	Neutral
SB 84	Sen. Casperson - R	1/30/13	Senate Appropriations Committee	Authorizes recreation improvement account to receive portion of 2 percent sales tax dedicated to transportation.	Referred to committee on 1/30/13.	Support
SB 85	Sen. Pappageorge - R	1/30/13	Senate Appropriations Committee	Repeals motor fuel tax act.	Referred to committee on 1/30/13.	Support
SB 86	Sen. Pappageorge - R	1/30/13	Senate Appropriations Committee	Modifies vehicle registration fees.	Referred to committee on 1/30/13.	Support
SB 87	Sen. Kahn - R	1/30/13	Senate Appropriations Committee	Modifies motor fuel tax and implements a wholesale tax on fuel wholesalers.	Referred to committee on 1/30/13.	Support
SB 88	Sen. Kahn - R	1/30/13	Senate Appropriations Committee	Modifies vehicle registration fees.	Referred to committee on 1/30/13.	Support
SB 100	Sen. Walker - R	1/29/13	Senate Education Committee	Allows certain types of agreements regarding procurement of diesel fuel.	Referred to committee on 1/29/13.	Neutral
SB 147	Sen. Kahn - R	2/5/13	Senate Appropriations Committee	Repeals motor carrier fuel tax act.	Referred to committee on 2/5/13.	Support
SB 148	Sen. Kahn - R	2/5/13	Senate Appropriations Committee	Eliminates flat tax rate and establish an 18-month limitation period for filing refund claims.	Referred to committee on 2/5/13.	Support
SB 149	Sen. Kahn - R	2/5/13	House Transportation & Infrastructure Committee	Provides for the distribution of funds from Michigan transportation fund for capital improvements.	Passed the Senate on 6/5/14.	Support
SB 157	Sen. Meekhof - R	2/6/13	Senate Government Operations Committee	Eliminates requirement of paying prevailing wages on state projects.	Referred to committee on 2/6/13.	Oppose
SB 158	Sen. Meekhof - R	2/6/13	Senate Government Operations Committee	Eliminates hours and wages reference to repealed law.	Referred to committee on 2/6/13.	Oppose
SB 159	Sen. Meekhof - R	2/6/13	Senate Government Operations Committee	Eliminate hours and wages reference to repealed law.	Referred to committee on 2/6/13.	Oppose
SB 163	Sen. Green - R	2/6/13	THIS IS NOW A PUBLIC ACT.	Revise permit exemptions for wetlands and inland lakes and streams and require more information from department justifying denial of any part 13 permits.	Assigned PA 98 of 2013 with immediate effect.	Support
SB 164	Sen. Casperson - R	2/6/13	Senate Appropriations Committee	Provide for supplemental funding for dredging of waterways.	Referred to committee on 2/6/13.	Support
SB 184	Sen. Pappageorge - R	2/13/13	Senate Appropriations Committee	Provides for department of transportation appropriations for fiscal year 2013-2014.	Referred to committee on 6/5/13.	Neutral
SB 207	Sen. Proos - R	2/20/13	Senate Outdoor Recreation & Tourism	Requires financial assistance from department of transportation to rail freight and marine freight facilities.	Referred to committee on 2/20/13.	Neutral
SB 215	Sen. Brandenburg - R	2/21/13	Senate Outdoor Recreation & Tourism	Reestablish marina dredging loans program.	Referred to committee on 2/21/13.	Support
SB 218	Sen. Hansen - R	2/26/13	THIS IS NOW A PUBLIC ACT.	Remove sunset on water resource improvement tax increment finance authority and allow dredging.	Assigned PA 25 of 2013 with immediate effect.	Support
SB 220	Sen. Booher - R	2/26/13	Senate Transportation Committee	Require state to give preference to and solicit bids from county road commissions for maintenance work on state trunk line highways.	Referred to committee on 2/26/13.	Neutral
SB 229	Sen. Moolenaar - R	2/27/13	Senate	Clarify that money may be expended for dredging of harbors for use by recreational watercraft from the natural resources trust fund.	Awaiting a vote in the Senate.	Support
SB 243	Sen. Booher - R	3/5/13	House Natural Resources Committee	Establish funds for dredging and breakwalls.	Referred to committee on 4/17/14.	Support
SB 252	Sen. Brandenburg - R	3/7/13	THIS IS NOW A PUBLIC ACT.	Establish marina dredging loan origination program.	Assigned PA 10 of 2013 with immediate effect.	Support
SB 263	Sen. Caswell - R	3/13/13	THIS IS NOW A PUBLIC ACT.	Remove provision in state transportation preservation act of 1976 allowing for rail divestiture or leases to current operators of certain railroad properties and repeal other provisions.	Assigned PA 25 of 2014 with immediate effect.	Neutral
SB 264	Sen. Casperson - R	3/13/13	THIS IS NOW A PUBLIC ACT.	Modify procedure for issuance of permits for dredging.	Assigned PA 87 of 2013 with immediate effect.	Support
SB 265	Sen. Jones - R	3/14/13	House Floor	Exempt company test vehicles from additional tax on vehicle registrations charged by regional transit authority.	Awaiting second reading in the House on 3/25/14.	Oppose
SB 277	Sen. Hune - R	3/19/13	House Transportation & Infrastructure Committee	Requirement that commercial vehicles weighing over 5,000 lbs. display certain identification information; revise to apply to vehicles weighing over 26,000 lbs.	Referred to committee on 10/15/14.	Support
SB 281	Sen. Green - R	3/20/13	Senate Transportation Committee	Create and require oversight of publicly owned movable bridges by department of transportation.	Referred to committee on 3/20/13.	Neutral
SB 350	Sen. Casperson - R	5/7/13	Senate Transportation Committee	Revision to highway advertising act; provide for.	Referred to committee on 5/7/13.	Neutral
SB 385	Sen. Moolenaar - R	5/23/13	Senate Transportation Committee	Funding for rail grade crossing surface repair and construction; establish.	Referred to committee on 5/23/13.	Neutral
SB 415	Sen. Brandenburg - R	6/6/13	Senate Floor	Use tax; rate; tax on jet fuel; exempt.	On second reading in the House as of 3/25/14.	Neutral
SB 539	Sen. Nofs - R	9/24/13	THIS IS NOW A PUBLIC ACT.	Damage to underground facility; exempt from immunity.	Assigned PA 173 of 2013 with immediate effect.	Support
SB 540	Sen. Nofs - R	9/24/13	THIS IS NOW A PUBLIC ACT.	MISS DIG underground facility damage prevention and safety act; create.	Assigned PA 174 of 2013 with immediate effect.	Support

Continues on pg. 40

BILL	BILL SPONSOR	DATE	LOCATION	SUMMARY	STATUS	POSITION
SB 614	Sen. Casperson - R	10/10/13	Senate Transportation Committee	Pupil transportation act; expand to include use of certain motor buses and buses operated by public transit agencies or authorities to transport K-12 students to and from school.	Referred to committee on 10/10/13.	Neutral
SB 680	Sen. Kowall - R	11/13/13	House Local Government Committee	County authority to designate use of public road end for purpose of installing a seasonal dock; prohibit county road commission from exercising.	Referred to committee on 4/29/14.	Neutral
SB 695	Sen. Richardville - R	11/14/13	Senate Transportation Committee	Definition of street railway in nonprofit street railway act; amend.	Referred to committee on 11/14/13.	Neutral
SB 696	Sen. Smith - D	11/14/13	Senate Transportation Committee	Obligation of street railway to pay costs of modifying or relocating public utility facilities; waive under certain circumstances and regulate provisions of operating license agreements between street railways and road authorities.	Referred to committee on 11/14/13.	Neutral
SB 697	Sen. Casperson - R	11/14/13	Senate Transportation Committee	Property owned by nonprofit street railway; exempt from general property tax act.	Referred to committee on 11/14/13.	Neutral
SB 777	Sen. Pappageorge - R	2/11/14	Conference Committee	Department of Transportation; provide for fiscal year 2014-2015.	Conference Report signed on 6/5/14.	Neutral
HB 4015	Rep. Heise - R	1/22/13	House Transportation & Infrastructure Committee	Funding to authority created under the municipal partnership act or the urban cooperation act of 1967; provide for	Referred to committee on 1/22/13.	Neutral
HB 4028	Rep. Geiss - D	1/22/13	House Transportation & Infrastructure Committee	Creates an optional county registration fee to benefit public transit.	Referred to committee on 1/22/13.	Neutral
HB 4031	Rep. Geiss - D	1/22/13	House Transportation & Infrastructure Committee	Establish levy of a car rental assessment and earmark for construction and maintenance of certain roads.	Referred to committee on 1/22/13.	Support
HB 4074	Rep. Slavens - D	1/22/13	House Regulatory Reform Committee	Prohibit the use and sale of coal tar-based products for pavement.	Referred to committee on 1/22/13.	Neutral
HB 4086	Rep. Farrington - R	1/22/13	House Judiciary Committee	Modifies governmental immunity for repair and maintenance of highways.	Referred to committee on 1/22/13.	Neutral
HB 4106	Rep. Genetski - R	1/24/13	House Regulatory Reform Committee	Clarify allowable use of funds for dredging of Great Lakes harbors for use by recreational watercraft.	Referred to committee on 1/24/13.	Support
HB 4128	Rep. Johnson - R	1/29/13	House Transportation & Infrastructure Committee	Earmarks certain percentage of net revenue collected for the state trunk line fund.	Referred to committee on 1/29/13.	Support
HB 4141	Rep. Somerville - R	1/30/13	House Local Government Committee	Prohibits severance pay for certain public employees and contractors.	Referred to committee on 1/30/13.	Neutral
HB 4153	Rep. Shirkey - R	1/31/13	THIS IS NOW A PUBLIC ACT.	Provides for retroactive effective date for regulations on prepaid sales tax on gasoline; provides that if the purchase or receipt of gasoline is made outside the state for shipment into and subsequent sale within the state, the purchaser or receiver shall make the prepayment directly to the Department of the Treasury.	Assigned PA 1 of 2013 with immediate effect.	Neutral
HB 4172	Rep. Price - R	2/5/13	House Commerce Committee	Repeals the act that eliminates the requirement of paying prevailing wages on state projects.	Referred to committee on 2/5/13.	Oppose
HB 4173	Rep. MacGregor - R	2/5/13	House Commerce Committee	Eliminates the reference to repealed law. Tie barred with HB 4172.	Referred to committee on 2/5/13.	Oppose
HB 4174	Rep. Jacobsen - R	2/5/13	House Commerce Committee	Eliminates the reference to repealed law. Tie barred with HB 4172.	Referred to committee on 2/5/13.	Oppose
HB 4179	Rep. Pscholka - R	2/5/13	House Natural Resources Committee	Allow dredging of harbors.	Referred to committee on 2/5/13.	Support
HB 4197	Rep. Foster - R	2/6/13	House Appropriations Committee	Provide for funding for dredging of waterways.	Referred to committee on 2/6/13.	Support
HB 4241	Rep. Goike - R	2/12/13	House Transportation & Infrastructure Committee	Creates exception from penalties for exceeding weight restrictions for septage waste vehicles performing emergency work.	Referred to committee on 2/12/13.	Neutral
HB 4251	Rep. Cotter - R	2/13/13	House Floor	Provide for requirement for competitive bidding by county road commissions on certain projects involving townships.	Placed on second reading in the House on 5/7/14.	Neutral
HB 4265	Rep. Shirkey - R	2/14/13	House Transportation & Infrastructure Committee	Allows bicycles, motorcycles, mopeds or three-wheeled vehicles to proceed through automated stoplights if traffic control signal does not detect their presence under certain circumstances.	Referred to committee on 2/14/13.	Neutral
HB 4270	Sen. Ananich - D	2/19/13	House Tax Policy Committee	Provide for certain gasoline expenses credit.	Referred to committee on 2/19/13.	Neutral
HB 4284	Rep. Johnson - R	2/19/13	THIS IS NOW A PUBLIC ACT.	Allow, under certain circumstances, off-road vehicle shoulder access on state trunk line highways.	Assigned PA 117 of 2013 with immediate effect.	Neutral
HB 4299	Rep. Bumstead - R	2/2/13	THIS IS NOW A PUBLIC ACT.	Extend to entire state and eliminate sunset on counties eligible to authorize off-road vehicles on road shoulders.	Assigned PA 118 of 2013 with immediate effect.	Neutral
HB 4305	Rep. McCann - D	2/21/13	House Transportation & Infrastructure Committee	Eliminates deductions for remitting fuel tax by suppliers after October 1, 2013.	Referred to committee on 2/21/13.	Neutral
HB 4339	Rep. McBroom - R	2/27/13	House Transportation & Infrastructure Committee	Exempt county road commission from wetland mitigation.	Referred to committee on 2/27/13.	Neutral
HB 4358	Rep. Schmidt - R	2/28/13	House Transportation & Infrastructure Committee	Establishes an 18-month limitation period for filing refund claims and eliminates the flat tax rate.	Referred to committee on 2/28/13.	Support
HB 4359	Rep. Schmidt - R	2/28/13	House Transportation & Infrastructure Committee	Implements a wholesale tax and modifies the motor fuel tax.	Referred to committee on 2/28/13.	Support
HB 4389	Rep. Goike - R	3/7/13	House Transportation & Infrastructure Committee	Transfer oversight of the Michigan truck safety fund to the secretary of state and abolish the Michigan truck safety commission.	Referred to committee on 3/7/13.	Neutral
HB 4398	Rep. Price - R	3/7/13	THIS IS NOW A PUBLIC ACT.	Revise permit fee for dredging material from Great Lakes bottomlands determined to be largely sand.	Assigned PA 11 of 2013 with immediate effect.	Neutral
HB 4399	Rep. Pscholka - R	3/7/13	THIS IS NOW A PUBLIC ACT.	Expedited conditional permit process; allow for emergencies.	Assigned PA 12 of 2013 with immediate effect.	Neutral
HB 4400	Rep. Pettalia - R	3/7/13	THIS IS NOW A PUBLIC ACT.	Revise fee for dredging material from inland lakes and streams determined to be largely sand.	Assigned PA 13 of 2013 with immediate effect.	Neutral
HB 4401	Rep. Pettalia - R	3/12/13	House Natural Resources Committee	Exempt certain mining operations from inland lakes and streams permit requirement.	Referred to committee on 3/12/13.	Neutral
HB 4410	Rep. LaFontaine - R	3/12/13	House Natural Resources Committee	Establish marina dredging loan origination program.	Referred to committee on 3/12/13.	Support
HB 4515	Rep. Zemke - D	4/9/13	House Judiciary Committee	Purposes for which sinking fund may be used; include transportation.	Referred to committee on 4/9/13.	Support

Continues on pg. 41

BILL	BILL SPONSOR	DATE	LOCATION	SUMMARY	STATUS	POSITION
HB 4539	Rep. Schmidt - R	4/11/13	Senate	Collection of sales tax on gasoline; eliminate.	Referred to committee on 4/11/13.	Support
HB 4571	Rep. Schmidt - R	4/16/13	Senate Finance Committee	Exise tax on aviation fuel; repeal and impose wholesale tax.	Referred to committee on 12/10/13.	Support
HB 4572	Rep. Schmidt - R	4/16/13	Senate Finance Committee	Exempt aviation turbine fuel and aviation gasoline.	Referred to committee on 12/10/13.	Support
HB 4577	Rep. Shirkey - R	4/17/13	House Transportation & Infrastructure Committee	Increase registration fees for mass transit buses.	Referred to committee on 4/17/13.	Neutral
HB 4579	Rep. Shirkey - R	4/17/13	House Natural Resources Committee	Authorize deposit of certain revenues from leases for the extraction of nonrenewable resources on state land.	Referred to committee on 4/17/13.	Support
HB 4590	Rep. Haveman - R	4/18/13	House Transportation & Infrastructure Committee	Provide for fund-raising plate for First in Michigan.	Referred to committee on 4/18/13.	Neutral
HB 4608	Rep. Shirkey - R	4/23/13	House Transportation & Infrastructure Committee	Provide for a fee increase for certain vehicles powered by electricity or fuels not subject to the motor fuel or diesel fuel tax and make other general revisions to the Michigan vehicle code.	Referred to committee on 4/23/13.	Support
HB 4609	Rep. Shirkey - R	4/23/13	House Transportation & Infrastructure Committee	Earmark distribution of oil and gas severance taxes for transportation projects.	Referred to committee on 4/23/13.	Support
HB 4622	Rep. Pscholka - R	4/24/13	Senate Local Government & Elections Committee	Siting procedure for drainage district boundaries; modify.	Referred to committee on 10/16/13.	Neutral
HB 4630	Rep. McCready - R	4/25/13	Senate Floor	Modifies vehicle registration fees.	Advanced to third reading of bills on 5/21/14.	Support
HB 4632	Rep. Schmidt - R	4/25/13	House Transportation & Infrastructure Committee	Increase registration tax and create new registration tax for hybrid and alternative fuel vehicles.	Referred to committee on 4/25/13.	Support
HB 4633	Rep. Schmidt - R	4/25/13	THIS IS NOW A PUBLIC ACT.	Require digital printing methods and provide for an 8 year expiration date for registration plates.	Assigned PA 179 of 2013 with immediate effect.	Support
HB 4634	Rep. Schmidt - R	4/25/13	House Transportation & Infrastructure Committee	Change expiration date to January 1 for trailer registration.	Referred to committee on 4/25/13.	Support
HB 4677	Rep. Potvin - R	5/2/13	Senate Finance Committee	Earmark portion of sales tax revenue to transportation fund.	Referred to committee on 12/10/13.	Support
HB 4757	Rep. Muxlow - R	5/22/13	House Transportation & Infrastructure Committee	Establish funding for rail grade crossing surface repair and construction.	Referred to committee on 5/22/13.	Neutral
HB 4794	Rep. Zemke - D	5/30/13	House Transportation & Infrastructure Committee	Decision by regional transit authority to acquire, construct, operate or maintain any form of rail passenger service; allow by simple majority vote.	Referred to committee on 5/22/13.	Neutral
HB 4821	Rep. Lane - D	6/12/13	THIS IS NOW A PUBLIC ACT.	Motor carrier safety act of 1963; apply to buses for which a certificate of authority has been issued under the motor bus transportation act and delete obsolete language.	Assigned PA 263 of 2013 with immediate effect.	Neutral
HB 4899	Rep. Roberts - D	7/18/13	House Energy & Technology Committee	Hydraulic fracturing; require notice and an opportunity for a public hearing prior to authorizing.	Referred to committee on 7/18/13.	Neutral
HB 4900	Rep. Irwin - D	7/18/13	House Energy & Technology Committee	Hydraulic fracturing operations; require certain information and reports to be submitted.	Referred to committee on 7/18/13.	Neutral
HB 4901	Rep. Hovey-Wright - D	7/18/13	House Energy & Technology Committee	Hydraulic fracturing; provide for study and funding of the study.	Referred to committee on 7/18/13.	Neutral
HB 4902	Rep. Tlaib - D	7/18/13	House Energy & Technology Committee	Presumption of liability for contamination of groundwater caused by chemicals used in hydraulic fracturing process; create.	Referred to committee on 7/18/13.	Neutral
HB 4903	Rep. McCann - D	7/18/13	House Energy & Technology Committee	Water withdrawal assessment; require for certain oil and gas operators.	Referred to committee on 7/18/13.	Neutral
HB 4904	Rep. Driskell - D	7/18/13	House Energy & Technology Committee	County and township zoning regulation of certain hydraulic fracturing; eliminate preemption of.	Referred to committee on 7/18/13.	Neutral
HB 4905	Rep. Cochran - D	7/18/13	House Energy & Technology Committee	Use of flowback water from hydraulic fracturing process on dirt roads as a dust suppression tool; prohibit.	Referred to committee on 7/18/13.	Neutral
HB 4906	Rep. Barnett - D	7/18/13	House Energy & Technology Committee	Setback requirements for oil and gas wells; modify.	Referred to committee on 7/18/13.	Neutral
HB 4925	Rep. Lane - D	8/2/13	House Transportation & Infrastructure Committee	Public-private partnerships; allow the state transportation department to enter into.	Referred to committee on 8/2/13.	Neutral
HB 4970	Rep. Pscholka - R	9/12/13	Senate Regulatory Reform Committee	Licensing of residential lift contractors; create as class of elevator contractors.	Referred to committee on 10/31/13.	Neutral
HB 5143	Rep. Lane - D	11/12/13	House Transportation & Infrastructure Committee	Gross vehicle weight limits; modify to 80,000 lbs.	Referred to committee on 11/12/13.	Oppose
HB 5165	Rep. Schmidt - R	12/4/13	House Transportation & Infrastructure Committee	Transportation Economic Development Fund; repeal.	Referred to committee on 12/4/13.	Neutral
HB 5166	Rep. Schmidt - R	12/4/13	House Transportation & Infrastructure Committee	State and federal funds earmarked for subsequent deposit into transportation economic development fund; redirect.	Referred to committee on 12/4/13.	Neutral
HB 5167	Rep. Schmidt - R	12/4/13	Senate Infrastructure Modernization Committee	Contracts entered into by state transportation departments and local road agencies; change bidding requirements and allow state transportation department to borrow money from local road agencies.	Referred to committee on 5/13/14.	Neutral
HB 5168	Rep. Walsh - R	12/4/13	Senate	Agreement between a regional transit authority and a street railway; allow, and provide other general provisions.	Passed the House on 6/5/14.	Neutral
HB 5169	Rep. Schmidt - R	12/4/13	Senate	Definition of public transportation provider in regional transit authority act; amend to exclude street railways.	Passed the House on 6/5/14.	Neutral
HB 5308	Rep. VerHeulen - R	2/11/14	House Appropriations Committee	Department of Transportation; provide for fiscal year 2014-2015.	Referred to committee on 2/11/14.	Neutral

Continues on pg. 42

BILL	BILL SPONSOR	DATE	LOCATION	SUMMARY	STATUS	POSITION
HB 5400	Rep. Schmidt - R	3/11/14	Heading to the Governor's desk	Reduces regulation of low-hazard industrial waste, beneficial use of by-products and inert material.	Passed the legislature on 6/4/14.	Support
HB 5401	Rep. McBroom - R	3/11/14	Senate Floor	Exempts person who stores or uses inert materials and beneficial use of by-products from liability.	Passed the legislature on 6/5/14.	Support
HB 5402	Rep. Potvin - R	3/11/14	Senate Floor	Limiting material licensing conditions; provide for beneficial use by-products and inert materials.	Placed on third reading on 6/4/14.	
HB 5452	Rep. McCready - R	4/17/14	Senate Infrastructure Modernization Committee	Modifies permit fees charged by state transportation department for vehicles excluding vehicle weight or size limits.	Referred to committee on 5/13/14.	Neutral
HB 5453	Rep. Kosowski - D	4/17/14	Senate Infrastructure Modernization Committee	Increases traffic fines for overweight and oversized vehicles. Amends PA 300 of 1949.	Referred to committee on 5/13/14.	Neutral
HB 5458	Rep. Dianda - D	4/17/14	House Appropriations Committee	Provides for funding for response and recovery assistance of thawing public water lines.	Referred to committee on 4/17/14.	Neutral
HB 5459	Rep. Pettalia - R	4/17/14	Senate Infrastructure Modernization Committee	Earmark distribution of a portion of the sales tax revenue and limit use to transportation purposes. Amends PA 167 of 1933.	Referred to committee on 5/13/14.	Support
HB 5460	Rep. Lauwers - R	4/17/14	Senate Infrastructure Modernization Committee	Modifies replacement warranties on road repairs and extends warranty requirements to local road agencies. Amends PA 51 of 1951.	Referred to committee on 5/13/14.	Neutral
HB 5477	Rep. VerHeulen - R	4/23/14	Senate Floor	Modifies motor fuel tax. Amends PA 403 of 2000.	Advanced to third reading of bills on 5/21/14.	Support
HB 5492	Rep. Poleski - R	4/29/14	Senate Infrastructure Modernization Committee	Use tax; distribution; 1% of use tax revenue; earmark to road funding.	Referred to committee on 5/13/14.	Support
HB 5493	Rep. VerHeulen - R	4/29/14	Senate Floor	Motor carrier fuel tax; flat tax rate; eliminate, and establish an 18-month limitation period for filing refund claims.	Advanced to third reading of bills on 5/21/14.	Support
HB5554	Rep. Irwin - D	5/8/14	House Transportation & Infrastructure Committee	Allows tax levy by board of county road commissioners to raise money for county roads outside of the jurisdiction of cities and villages and regulate expenditure of money raised. Amends PA 282 of 1909.	Referred to committee on 5/8/14.	Neutral
HB 5565	Rep. Townsend - D	5/8/14	House Energy & Technology Committee	Adopts and requires performance metrics for public utility pipeline safety. Amends PA 3 of 1939.	Referred to committee on 5/8/14.	Neutral
HB 5632	Rep. Howrylak - R	6/4/14	House Appropriations Committee	Distribution formula for allocation of roads and risk reserve revenue; modify.	Referred to committee on 6/4/14.	Neutral
HB 5641	Rep. Townsend - D	6/10/14	House Transportation & Infrastructure Committee	Use of road funds by the state transportation department, counties, cities & villages; modify to require all money to be spent on preservation projects until the asset management council determines that all roads in this state are in at least fair condition.	Referred to committee on 6/10/14.	Oppose
HJR EE	Rep. McMillin - R	3/27/14	House Natural Resources Committee	Dedicates portion of revenue from gas/oil leases on state property to construction and maintenance of local roads/streets.	Referred to committee on 3/27/14.	Neutral



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Letters to MITA

Dear Rob:

I just wanted to send my sincere thanks to you for helping make yesterday's Dig Safely in Michigan event a success. From the important safety message we shared, to the opportunity to meet and mingle with Chairman Quackenbush, Sen. Nofs, many legislative staffers and other Dig Safely partners, the event was another annual success. Thank you again for your hard work on this event.

Deb Dodd
Consumers Energy

Dear MITA staff:

Just wanted to blast you a quick note of thanks – not just for inviting me to speak at your massive annual conference, but for all of the superb on-site support and hospitality. I very much appreciate it. I hope the meeting was a big success for you and your members and that you'll have even more folks to deal with next year.

Ken Schmidt
www.kenspeaks.com

Dear Rob:

Thanks for coming down today with Matt. Always good to review and appreciate your helping in changing Dunigan Brothers' culture regarding the importance of safety.

Steve Dunigan
Dunigan Bros., Inc.

Dear Glenn and Doug:

A quick note to thank you for your much appreciated guidance and support in helping this local improvement project move forward. With the eventual response coming from MDOT in a very favorable manner, the small business initially threatened by some rather recalcitrant politicians was spared.

Larry Gilbert
NTH Consultants, LTD.

Dear Glenn and Doug:

Thank you very much for your help at MDOT's 6th Annual Design and Build Bridge Challenge. With your support we

were able to promote math and science and make a positive difference for 363 of Michigan's middle and high school students. Thank you for your help in making this event a huge success.

Julie VanPortfliet
MDOT

Dear Rob:

I wanted to thank you again for the time you spent with us yesterday talking about safety. I value the information you shared with us and I believe the delivery of it was outstanding. I hope we made you feel at home.

Adolfo Castillo, PS
DTE Energy

Dear Rob:

I wanted to thank you for hosting the "Coffee with MIOSHA" this morning. I know all of the MIOSHA representatives there felt it was a successful step in our mission to connect with the industry. I hope that you and your members found it to be beneficial as well. I will make sure that the correct people hear of your interest in doing another one in February.

Scott Hodge
Workplace Safety Representative
MIOSHA Construction Safety & Health
Division

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PROMPT PAYMENT SPECIAL PROVISION 3.0: Hopefully Closing the Book on the Evolution of the PPSP

By Jim Urban, Butzel Long

By now, most contractors on MDOT construction projects know that we are now operating under the third and newest version of the Prompt Payment Special Provision (PPSP), 12SP109 (A) dated July 29, 2013 and approved by the FHWA on August 6, 2013. While not the official designation, we will refer to the newest, third version of the PPSP as “PPSP 3.0” for convenience.

It has been a long bumpy ride getting here and a brief re-cap is in order. Circa 2008, MDOT’s required enforcement of the initial version of the PPSP (PPSP 1.0) led to such draconian results MITA was compelled to advise MDOT that the Industry simply could not accept the double payment exposure created by the PPSP as it was being enforced and that an amendment of the PPSP was required. To its credit, MDOT listened and a core group of MDOT management and a core group of MITA members along with MITA Staff and counsel embarked upon a yearlong mission to re-write the PPSP. The resulting second version of the PPSP (PPSP 2.0) was a classic win-win situation in which the government’s interest in assuring prompt payment on federally funded projects and the contractors’ interest in enforcing their legitimate contract rights were both fairly addressed. This was reported to you in “The New Prompt Payment Special Provision: Another MITA Success Story”, Cross Section, Fall 2011.

The implementation and enforcement of PPSP 2.0 was successful. MDOT’s ability to enforce prompt payment and prevent abuses in the flow of money on MDOT projects was enhanced while at the same time contractors were able to

still enjoy protection from double payment risks and enforce their contractual rights. Again - - - a classic win-win.

Circa, 2012, despite having approved PPSP 2.0, the FHWA weighs in with an interpretation and application of the PPSP 2.0 which eliminates one of the critical protections specifically negotiated and included in the PPSP, the contractor’s right to have payment withheld when a lower tier contractor breaches or abandons its contract. The FHWA directed that regardless of a breach or abandonment of a subcontract by a lower tier contractor, the contractor must still release payment to that defaulting lower tier contractor for the amount of any work that was “satisfactorily completed” prior to the breach or abandonment. MITA and two affected contractor members initiated litigation against MDOT to enjoin the enforcement of FHWA’s interpretation as it applied to the facts of a few pending subcontracts involving one subcontractor and the litigation successfully blocked that directive on a retroactive basis. We reported this to you in “Prompt Payment Special Provision Update: MITA Compelled to Seek Injunctive Relief Against Change In Application of Prompt Payment Special Provision”, Cross Section, Winter 2013. Following the early rounds of the litigation, MITA and MDOT again went back to the table to attempt to re-write the PPSP. That year long process resulted in the third version of the PPSP now in effect.

With one notable exception discussed later in this article, the third version of the PPSP in effect today, PPSP 3.0, maintains and more clearly specifies protections for upper tier contractors and can legitimately

be considered a successful effort to create a new version of the PPSP which more effectively preserves an upper tier contractor’s right to protect itself against double payment risks and liquidated damages risks associated with defaulting lower tier contractors.

So, with the background out of the way, we will discuss the basics that you need to know to live under the new PPSP.

The fundamental underlying purpose of the PPSP is to assure, indeed force, the timely downstream flow of payments on MDOT’s federally funded contracts. There is nothing objectionable about that purpose as it essentially forces honorable business practice in the downstream flow of payments. In other words, if you timely and satisfactorily perform your contract obligations you will be timely and fully paid for that performance. As with any regulation seeking to regulate business practices, problems do not arise when everything goes as planned and expected. The problems arise when lower tier performance is materially deficient. At that point, the upper tier contractor, who is being held responsible for the performance of the lower tier contractor, must be able to avail itself of basic remedies to cover the damages likely to result from that lower tier contractor’s default. The first and most basic of those remedies is withholding payment from the lower tier contractor until the consequences of that lower tier contractor’s default are sorted out. Because withholding payment is diametrically opposed to the primary purpose of the PPSP, implementing that remedy (from the government’s perspective) must be strictly controlled. As they

say, the devil is in the details, and the struggle to fairly define those details has been the source of the repeated controversy over the PPSP and the reason so much effort has been invested by both MITA and MDOT to arrive at a practically workable PPSP.

For decades, we have been advising contractors in our seminars and as our clients that utilizing Sworn Statements and Lien Waivers as a standard “do it every time” component of any contract payment system is the best way to eliminate or at least limit “double payment exposure” (i.e. being required to pay the same bills twice - - - first to the lower tier contractor and then again when payment bond claims are presented because that lower tier contractor did not properly use the payment received to pay its downstream project debt). Revisions in PPSP 3.0 definitively address this practice.

PPSP 3.0 starts by providing specific definitions of operative terms to remove any confusion as to who and what is subject to the requirements of the PPSP.

“Lower tier Subcontract” means an agreement between a subcontractor of any tier and any individual or legal entity to perform part of the subcontract work.

“Lower tier Subcontractor” means the individual or entity that performs part of the subcontract work through a lower tier subcontract with a subcontractor.

“Supplier” means the individual or legal entity that agrees to provide materials or services to the Prime Contractor, a subcontractor or a lower tier subcontractor for the performance of the contract work.

“Sworn Statement” means a written verification under oath reflecting all persons or entities, which have furnished labor, equipment, services or materials to a subcontractor or lower tier subcontractor for performance of work on the project along with the original contract amount, current amount due, including union

fringe benefit funds, amounts paid to date and the balance to finish.

“Waiver of Lien” means a written release and waiver of any claim or right to payment for payments actually received for labor, equipment, services or materials furnished to the project.

PPSP 3.0 provides that the Sworn Statements and Waivers of Lien are not to be submitted to the Engineer unless requested as an aid in determining an alleged prompt payment violation. So, in making the use of Sworn Statements and Waivers of Lien a standard “do it every time” component of the payment process, you do not face the frightful prospect of being required to reproduce and submit all Sworn Statements and Waivers to the Engineer with every progress estimate.

In a joint effort, MITA and MDOT created Sworn Statement and Waiver of Lien forms tailored for use on MDOT bonded contracts and those forms are available at <http://mdotcf.state.mi.us/public/web-forms/index.cfm>. The forms are readily available; have been approved by MDOT for use on its projects; and, are automated to make using the forms as easy as possible for subcontractors suppliers and service providers of any tier.

The Sworn Statement provides you with all of the information you need to identify and track the payment of downstream debt on the project and assure that downstream debt is being properly paid. If properly paid, your risk of double payment is, of course, eliminated. That naturally assumes, however, that the Sworn Statements are accurate. As with any system, it only works if all participants follow the rules. In our representation of upper tier contractors, we have observed on far more than one occasion where the Sworn Statements submitted by a lower tier contractor were neither accurate nor complete. Consequently, upper tier contractors should take steps to monitor the accuracy of the Sworn Statements they

receive. Calls or emails to those suppliers, service providers or lower tier subcontractors listed on a Sworn Statement to verify the accuracy of the debt shown is recommended and is an effective way of discovering and addressing inaccuracies. The frequency with which you take those steps is obviously up to you. But, early and frequent is better than late and infrequent. You do not want to find yourself having paid out the majority of lower tier contract in reliance on Sworn Statements from that lower tier contractor and then having a conversation with a supplier like “Good Morning. We have ____’s Sworn Statement showing that you are owed \$6,000 for concrete furnished to them on our Smith and Jones Roads Project and we’re just checking to confirm that number since we’re close to finishing this job.” Response: “You’re missing a zero. They owe us \$60,000.” By then, the amount remaining in the lower tier contract may very well be far from enough to cover that inevitable payment bond claim.

A major change and significant protection provided in PPSP 3.0 is that the receipt of the requisite Sworn Statement and Waivers of Lien is now a component of “Satisfactory Completion” which, as you know, is the trigger for the Engineer processing payment to the Prime Contractor and commencing the 10 day period within which payment is to be released to subcontractors, service providers and suppliers. That same 10 day period applies at all tiers when payment is received. So, if you are a first tier subcontractor, your obligation to release payment to your lower tier contractor commences with your receipt of payment from the Prime Contractor. That same sequence cascades down the entire contracting chain.

In PPSP 3.0 “Satisfactory Completion” consists of:

- The Engineer’s preliminary review finding the work completed in ac-

Continues on pg. 46

cordance with the contract, plans and specifications, and

- All required documentation (material certifications, payrolls etc.) have been received, and
- Required subcontractor sworn statements and waivers of lien have been provided to the Prime Contractor.

The Engineer initially releases payment to the Prime Contractor based on the first two criteria and will not necessarily know if the lower tier contractor has provided the requisite Sworn Statements and Waivers. It is up to the contractor obligated to make a downstream payment to notify the Engineer or the Engineer and its upper tier contractor that the requisite sworn statement and waivers have not been received. You should consider a Sworn Statement proven to be false to be the same as no Sworn Statement at all for purposes of notifying the Engineer. This notification should be in writing and email should suffice. Copies of the notification should also be provided to the offending lower tier contractor. If that notice does not cause the problem to be cured within a short time, then additional steps must be taken which are discussed below to return the payment to MDOT if the Engineer concurs and finds that Satisfactory Completion has not been accomplished in connection with the offending contractor's work. Be very clear on one important point, the Engineer must make the finding that Satisfactory Completion has not been accomplished in order to justify withholding payment, not the contractor. So, even if it is obvious to you that payment is not due because of a lack of the requisite Sworn Statement and Lien Waivers from the lower tier contractor, it is the Engineer who must make that call.

PPSP 3.0 provides:

If the works meets the requirements of satisfactory completion and the Prime Contractor has been paid for that work, the Engineer must determine whether:

1. The Prime Contractor has demonstrated a valid reason for withholding payment from the subcontractor or supplier, or
2. The subcontractor has demonstrated a valid reason for withholding payment for the lower tier subcontractor or supplier.

This takes us to the obvious question "What is a valid reason to withhold payment?" Unlike PPSP 2.0 which contained a specifically negotiated list of examples which would justify withholding payment, PPSP 3.0 does not and simply leaves the determination of whether withholding payment is justified up to the Engineer. The only guidance currently available is contained in CA 2012-17 which pre-dates PPSP 3.0 and which will likely be revised at some point in the future. The examples of grounds to withhold payment presented in CA 2012-17 include:

- Failure to achieve satisfactory completion
- A Prompt Payment violation
- Possibly breach or abandonment of the contract - - - MAYBE
- Delay by the lower tier contractor subjecting the Prime Contractor to liquidated damages
- Failure to make required submittals/submit required documentation

Three of those criteria are self explanatory and should not present any difficulty to the Engineer in making the determination whether payment should be withheld. As soon as you learn of problems constituting a valid reason for withholding payment, you should notify the Engineer in writing (email should suffice) that payment needs to be withheld. Your notice to the Engineer should:

- Identify the facts constituting the reason to withhold payment
- Identify the amount involved in the problem
- Provide (or at least reference to be provided later if requested) any

available documents supporting your factual statements

- Reference the appropriate section of the PPSP justifying withholding payment
- Identify the pay items for which payment should be suspended and either request suspension of payment on those items or retraction of the payment on those items if payment has already been received

If the dispute with the lower tier contractor involves a delay which may subject you to liquidated damages, illustrate the delay in the Critical Path or, if there is no Critical Path, then in relation to the controlling operations and quantify the delay in terms of days and the potential liquidated damages in as much supportable detail as possible.

If the dispute involves the breach or abandonment of the contract, that situation has been, is and remains a problem. It is also the "notable exception" mentioned at the beginning of this article. The FHWA adamantly holds to the position that if a lower tier contractor has satisfactorily performed work prior to the abandonment and is otherwise in compliance of its obligations in connection with that work such as payroll, sworn statements and waivers and documentation, then payment for that quantity of "satisfactorily completed work" must be released to that lower tier contractor. An example helps put this in context. Assume that lower tier contractor X is engaged to install 1,000 lf of pipe (or any other work item) at \$10/lf for a total contract price of \$10,000. Assume that X satisfactorily completes 100 lf and then walks off the job abandoning the contract. Finally, assume that you must then engage lower tier contractor Y to complete X's work at \$15/lf. As the direct and sole result of X abandoning the contract, it will now cost you an additional \$4,500 (45% of the original contract price) to complete the work. Do you owe X

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MITA Annual Conference 2014

Over 1,000 people attended MITA's 2014 annual conference held at the Soaring Eagle Casino and Resort in Mt. Pleasant from January 22-24, making it the largest turnout ever. Check out the photos, and be sure to thank our many sponsors who are listed below and on page 57.

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anything at that point? It is hard to imagine one contractor or any other business person or attorney who would answer with anything other than "Of course not. X owes you \$3,500, your breach damages of \$4,500 less the \$1,000 for the first 100 lf held as an offset on those damages." However, under the PPSP, payment to the defaulting contractor X of the \$1,000 attributable to the 100 lf "satisfactorily completed" prior to X abandoning the contract is rigidly required. The PPSP as enforced does not recognize or allow enforcement of the set off remedies likely available under your contract or under long established common law.

Are you completely out of luck in an abandonment scenario? Depending on the facts of the particular job, perhaps not. Recall that a delay by a lower tier contractor subjecting you to liquidated damages is a valid reason to withhold

payment. Abandonment of a contract in mid-stream forcing you to procure substitute performance, particularly when that contract affected the controlling operation, will inevitably delay the construction of the project. If the lower tier contractor abandoning performance is a DBE, the delay will only be more protracted because of the need to replace that DBE with another DBE or a demonstration of your Good Faith Efforts if you cannot do so. Step 1 should be submitting a Request for an Extension of the Contract Time due to the default of and need to replace your subcontractor. There is a method to this madness and it is not as humorous as it sounds. The response you will receive is easily predicted - - - "EOT No. 1 denied. The contractor is responsible for the timely performance of the contract and is responsible for the performance of its subcontractors.

Subcontractor failure of performance is not grounds for extension of the contract time." However, if a delay which can be shown likely to subject you to liquidated damages exists, the denial of your time extension request should further support you request to withhold payment from the defaulting lower tier contractor. After all, under the right circumstances, the denial of the time extensions may assure the liquidated damages exposure which is necessary to justify withholding payment.

Given this circumstance, careful attention should be given to the project schedule so that any interruption of performance via a lower tier contractor abandonment will be a demonstrable delay of controlling operations. Another step to attempt to limit exposure resulting from a lower tier contractor abandonment entails carefully structuring your subcontracts to preclude, to the extent possible,

any "front loading" of the subcontract price or payments. It is axiomatic that the when payments made are ahead of work satisfactorily completed, the exposure resulting from an abandonment of the lower tier contract increases accordingly.

When you notify the Engineer of a reason to withhold payment and the Engineer determines that withholding payment is justified, PPSP 3.0 provides an effective menu of remedy options that the Engineer may authorize, including:

- Delaying or postponing payment



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until the dispute or problematic situation is resolved

- Process only partial payment and withhold payment in an amount necessary to address the problematic situation
- Process partial payment from a subcontractor to a lower tier subcontractor or supplier.

These options allow the Engineer to craft an effective response to the situation while the parties employ whatever dispute resolution mechanism is specified in their contract or available under Michigan law. The dispute resolution process, if litigation or arbitration, must be initiated in a timely manner and what is considered timely will be driven by the facts and circumstances of each dispute and project. The results of the dispute resolution proceeding must be promptly provided to the Engineer and that result will control the Engineer's decision in releasing payment.

Non-Payment Claims or complaints under the PPSP are handled somewhat differently and PPSP 3.0 presents a noticeably improved set of remedy options.

Just as the PPSP requirements apply to all contract tiers, a non-payment complaint can be initiated by anyone in the contractual payment stream - - - the Prime Contractor, a subcontractor, a lower tier subcontractor or a supplier. As with all other issues under the PPSP, the process is initiated by a written notice. The written notice of a prompt payment violation must be sent to the party alleged to be in violation, with a copy of the notice to the Engineer and the Prime Contractor (if the Prime Contractor is not the offending party) within 30 days of the date payment was to be received. The alleged offending party must respond to the complaining party in writing within 10 days of receiving the complaint. Copies of the response must be provided to the Engineer, Prime Contractor and the Engineer of Construction Field Services. Failure to respond will be considered an ADMIS-

SION of the complaint and the offending party may be sanctioned for the admitted violation.

Copies of the Sworn Statement and Lien Waivers from the affected subcontractor or supplier must be provided to the Engineer with 10 days of the com-

plaint notification. The Engineer will then review the complaint and response and determine in writing whether a Prompt Payment Violation exists. Note that there is no provision for a mandatory hearing or meeting to discuss the facts and nuances

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The Battle Over the Highway Trust Fund is Just Beginning

By ARTBA President and CEO Pete Ruane



Pete Ruane

As I write this column on January 31, I've been flabbergasted, to say the least, at what took place during the first three

weeks of the year.

Several groups purporting to represent certain transportation industry sectors and no less than three widely-read construction trade publications have sent up smoke signals that the battle over one of the most significant threats

facing the U.S. transportation design and construction market in decades is already finished.

What's even more alarming to me is that the "white flag waving" came before we even have had a serious fight.

Specifically, I am referring to the reauthorization of MAP-21 and the crisis facing the federal Highway Trust Fund (HTF)—the source, on average, of 52 percent of all state highway and bridge capital investments. Unless Congress and the President act by October 1, the HTF will not be able to support any new projects in fiscal year 2015.

Such an outcome could devastate the American economy, jeopardize hundreds of thousands of jobs, and throttle market development activities for many ARTBA and non-ARTBA member firms.

At least nine states already are warning of adverse impacts on their construction programs if the uncertainty drags on.

One construction publication didn't even mention MAP-21 or the HTF in its wish list of top construction business issues for 2014, and it called for shifting the focus away from Washington, because it viewed the chance of consensus as low. Another publication opinion piece slammed the politicians in Washington, and said the only way to go was to toll everything. While ARTBA certainly supports tolling as part of the solution, it is not the panacea, and the political hurdles to establishing national tolling are arguably even higher than other new revenue options.

It's easy to bemoan Washington political and policy gridlock, and to argue that nothing will get done. But, it's the wrong message to be sending to transportation design and construction professionals whose livelihoods depend, in large part, on what happens on Capitol Hill.

The fact is that when it comes to infrastructure policy issues, there is common ground to be ploughed. How quickly we have forgotten that MAP-21 passed the House of Representatives 373-52 and the Senate 74-19—the same legislation many naysayers said would never get done. How many other bills garner such overwhelming support these days?

Federal highway and transit investment will be more than \$50 billion in



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fiscal year 2014. It speaks to the importance of the federal government role in transportation policy and also explains why shifting focus out of Washington would be unwise for at least two more reasons.

First, the data shows that from 2008-2013, state and local highway and bridge spending dropped cumulatively about \$18 billion from pre-recession levels. By contrast, over the same period, federal investment, thanks in part to the 2009 stimulus law, increased by nearly \$17 billion and helped keep the market afloat.

Second, over 40 percent of the \$11 trillion in domestic truck freight shipments in 2011 were sent out of state, according to Federal Highway Administration data. Over 23 percent of that total was sent to non-neighboring states, which is more evidence of a national transportation network's importance to moving products and supplies critical to economic growth. This network cannot be built and sustained through a patchwork of state programs.

Given these realities, now is the time for every industry professional concerned about the future of their business to get ready to fight over the next few months.

Take your message directly to Washington. Call your representative and senators via ARTBA's Action Hotline (888-448-2782) today and tell them to do their bloody jobs by fixing the Highway Trust Fund and completing action on MAP-21's reauthorization as soon as possible. Download the "Transportation Construction Advocate" app from the iTunes or Google Play stores to access the information you need to connect with your elected officials

The work ahead will not be easy, but it never is when it's truly worth fighting for. When it comes to the imminent battle over the Highway Trust Fund and

our industry's future, surrender is not an option!

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American Council of Engineering Companies www.acecmi.org

Michigan's Top Engineering and Surveying Projects Recognized at Annual ACEC Excellence Awards Ceremony

The American Council of Engineering Companies (ACEC/M) recently honored firms for engineering and surveying excellence during the association's 49th annual Engineering and Surveying Excellence Awards ceremony in Grand Rapids.

This year's engineering Eminent Conceptor Award winner was Fiels & Vanderbrink Engineering, Inc., for the West Bay County Wastewater Treatment Facility upgrades. The \$8.2 million proj-

ect expanded the plant to handle existing flows and add two new communities.

The company used an innovative hydraulic design, installed a high rate anaerobic digester, which helped eliminate odors, decrease sludge volume, and capture greenhouse gas methane for energy use (thus reducing operating costs). Fleis & VanderBrink saved West Bay County millions of dollars while providing a sustainable design with increased plant capacity for years to come. The firm also took home the surveying Eminent Conceptor award for the Kalamazoo River Bank Stabilization.

Other awards were as follows:

Engineering Honorable Conceptor Award:

- Fishbeck, Thompson, Carr & Huber, Inc., for Mackinac Island Wastewater Treatment Plant improvements.
- HH Engineering LTD and G2 Consulting Group, LLC, for the I-94/Sargent Road Interchange Road Realignment and Bridge Replacement in Jackson.
- Harley Ellis Devereaux for the CHASS Southwest Center in Detroit.
- HNTB for the Blue Water Bridge Plaza CBP Primary Inspection

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Engineering Merit Award:

- Anderson, Eckstein & Westrick, Inc., for the Ember Oaks Drain Drainage District in Ingham County.
- Fishbeck, Thompson, Carr & Huber, Inc., for the M-20 over Schrader Creek Design/Build project in Mecosta County.
- Parsons Brinckerhoff, Inc., for the East Stadium Ann Arbor Bridges Replacement project in Ann Arbor.
- OHM Advisors for the DTW Deicing Runoff Pumping Station and Force Main project in Detroit.
- HNTB for the Blue Water Bridge Freeway Corridor Reconstruction in Port Huron.
- Byce & Associates for the Bell's Brewery, Inc., Brewhouse Expansion and Renovation Project in Galesburg.

Survey Merit Award:

- Abonmarche Consultants, Inc., for the South Haven Maintenance Dredging Project in South Haven.
- Survey Solutions, Inc., for the M-1 Rail Data Fusion Project in Detroit.

Judges' Choice Award for Board

Design:

- Spalding DeDecker Associates, Inc., for the project board designed to tell the story of the Veterans Memorial Pointe Enhancement project in Rochester Hills.

ACEC/M Vernon B. Spalding Leadership Award"

- Melvin (Ernie) Orchard, P.E., founder and past president of OHM Advisors in honor of his outstanding leadership roles in ACEC and several community organizations.

ACEC/M Felix A. Anderson Image Award:

- Richard Anderson, P.E., of Somat Engineering, Inc., for his actions and contributions to enhance the image of the profession.

The Eminent and Honorable Conceptor award winners are eligible to compete at the National ACEC engineering competition in Washington, D.C. For more

information on the projects and award winners, visit www.acecmi.org.

The American Council of Engineering Companies of Michigan is the voice of Michigan's engineering industry. Council members, numbering nearly 100 firms throughout the state, are engaged in a wide range of engineering/architectural/surveying works that propel the state's economy, and enhance and safeguard

Michigan's quality of life. These works allow people to drink clean water, enjoy a healthy life, take advantage of new technologies and travel safely and efficiently. The Council's mission is to contribute to Michigan's prosperity and welfare by advancing the business interests of member firms.

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of the complaint. The Engineer will be making a decision based on what is submitted. Consequently, it is important that you take the documentation of your position seriously and provide the Engineer sufficient information to demonstrate the

legitimacy of your position. If the Engineer determines that a violation exists, the Prime Contractor has 5 days from receipt of the Engineer's determination to propose one or more of the following actions:

- Issue payment to the subcontractor

- Issue payments to a subcontractor in the form of joint checks to the subcontractor and its lower tier subcontractors and suppliers
- Issue payment directly to lower tier subcontractors or suppliers of the subcontractor
- Process a negative estimate to withdraw the amount confirmed in the prompt payment violation

Failure by the Prime Contractor to submit his proposed action plan will result in the Engineer issuing his or her own action plan that the Prime Contractor must implement or risk sanctions (read that as a likely suspension of estimates on the project) until the Engineer's action plan is implemented.

As stated, the list of remedies provided in PPSP 3.0 is a definite improvement over the prior version. More than one upper tier contractor reading this article has undoubtedly been faced with situations where joint checks were the answer to the problem but the lower tier contractor would not agree to joint checks or the contractor ran into issues getting a joint check application approved. That is not an issue under PPSP 3.0. Joint checks can be ordered by the Engineer and approval of a joint check application is not required. In other situations, direct payment to unpaid lower tier contractors or suppliers was the answer but the lower tier subcontractor either would not agree or was unresponsive or you were concerned over breach of contract claims by the lower tier contractor. That is no longer an issue under PPSP 3.0. The Engineer can authorize such direct payments and those payments will be contractually deemed to be payments to the problem lower tier contractor.

The PPSP requires that all subcontracts contain provisions mirroring the major provisions of the PPSP and otherwise incorporate the PPSP into each subcontract at all tiers. It is strongly

Continues on pg. 56

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9:00 am

MITA Summer Conference

July 23-27, 2014
Grand Traverse Resort,

MITA Board Meeting-August

MITA Office
August 19, 2014
1:00 pm

MITA Golf Outing-Central Michigan

Eagle Eye Golf Club, East Lansing
August 21, 2014
9:00 am

MITA Board Meeting

MITA Office
October 21, 2014
1:00 pm

MITA Board Meeting

Country Club of Lansing
December 12, 2014
8:30 am

MITA Holiday Party- Central Michigan

Country Club of Lansing
December 12, 2014
11:30 am - 1:30 pm

MITA Holiday Party- Western Michigan

Location TBD
December 16, 2014
11:30 am - 1:30 pm

MITA Holiday Party- Southeast Michigan

Location TBD
December 18, 2014
11:30 am - 1:30 pm

Please check out MITA's electronic calendar for updates at www.mi-ita.com.

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recommended that you do so not only because the PPSP requires that but also to be sure your subcontract contains the effective list of remedies now available under PPSP 3.0 to address non-payment situations.

The PPSP provides for sanctions for non-compliance ranging from withholding of estimates on projects to suspension of bidding privileges to reduction/removal of prequalification. And, recall, complaints of Prompt Payment Violations can be initiated by any party in the contractual payment chain and the direction from which those complaints can come is not restricted. A party in the contractual payment chain injured by the chronic failure of another party in the payment stream to comply with the PPSP has the right to file a complaint for violation of the PPSP. It should go without saying that MDOT cannot take action on a problem until they are notified of the problem.

The cautions presented in this article should be taken in the same light as a discussion about whether to obtain insurance. Is a lower tier contractor complete

breach or abandonment an everyday occurrence? In our experience, the answer would be no. Neither are the kinds of risks for which you obtain insurance. However, when the unlikely and unexpected occurrence happens, you are certainly relieved to know the insurance was in place. The same applies to recognizing the exposure created by the inability under the PPSP to exercise your contractual rights and common law remedies in the event of a lower tier contractor complete breach or abandonment. In that uncommon event, having taken the steps to limit that exposure will have been worthwhile. Under today's regulatory scheme, which prohibits exercising your business judgment to determine from whom you will require bonds and which prohibits any form of performance security other than bonds, the only other viable and allowed alternative to cover your exposure resulting from lower tier contractor defaults is to require performance and payment bonds on all subcontracts. While doing so will unnecessarily escalate the cost of MDOT's contracts, it is the only allowed and sure

way to cover the damages resulting from lower tier performance failure.

At the end of the day, with the one notable exception discussed above, PPSP 3.0 represents a noticeable improvement over the prior version of the PPSP and provides a mechanism for regulating the flow of payments on MDOT's federally funded contracts that the industry should be able to live with. The primary goal of the PPSP to assure the prompt flow of payments on MDOT's federally funded construction contracts is unassailable. Promptly paying amounts legitimately due under contracts is good business and contributes to the health of the industry. For those contractors who honor their contracts and their obligations under those contracts, the prompt payment requirements of the PPSP are essentially nothing more than business as usual. It is those who do not honor their contracts and fully perform the obligations under those contracts who create the need to incorporate procedures in the PPSP to interrupt that flow of payments when necessary to protect the legitimate interests of those upper tier contractors who must ultimately pay all of the bills.

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