

FALL 2021

CROSSSECTION



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FALL 2021

On The Cover

Maple Road project
photo courtesy of
Angelo lafrate
Construction Company.



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A Special Delivery



at the Summer Conference

For Cross-Section Magazine advertising or editorial inquiries,
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Mike Nystrom

To contact Mike, email him at mikenystrom@thinkmita.org or call the MITA office at 517-347-8336.

By the time this magazine is on your desk, the construction industry will be working long, hard hours to complete projects before the end of the season,

a time period that marks anniversaries of many work zone traffic accidents and fatalities. See page 37 for an ad, put together by the Michigan Work Zone Safety Task Force, which is running a Positive Project Safety Collaboration Award contest. The award is aimed at recognizing and celebrating the uniting of all parties on a Michigan highway construction project to achieve a positive safety culture.

MITA participates on the Work Zone Safety Task Force, and we are continuing to focus our efforts on safety training for all our members. MITA's Director of Safety and Compliance Greg Brooks has spent the summer visiting member job sites to perform job site inspections and lunch and learns. See page seven for a recent example, and feel free to reach out to him at gregbrooks@thinkmita.org to

schedule your opportunity for ongoing safety training.

MITA also continues to push for infrastructure investment. An article on page 8 by Lance Binoniemi, Vice President of Government Affairs, discusses how state budget talks stalled, which is nothing new in Michigan. To see if things are any different at the federal level, check out the article on page 34: "Federal Infrastructure Plan Closer to Reality," and stay tuned to your MITA bulletins for future updates.

As the construction season comes to a close later this year, take time to join us for the MITA Holiday Parties (see page 51 for details). If the MITA Summer Conference (see the centerspread), and MITA Golf Outings were any indication, the parties will be sellouts. We hope to see you there! **CS**

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MITA's Director of Safety and Compliance Greg Brooks did a combination jobsite inspection/lunch and learn recently with Dunigan Bros. Inc. in Brighton. To schedule your opportunity for ongoing training/jobsite inspection, email gregbrooks@thinkmita.org.



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Lance Binoniemi

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As the Michigan Legislature left for their summer recess, a finalized state budget has not yet been passed and presented to Governor Whitmer. This is certainly nothing new in state government, and, under the Michigan Constitution, they have until October 1 to finalize a budget. Over the tenure of Governor Rick Snyder, it became a regular occurrence to have the budget finalized before July, so much so that the Legislature passed a statute that required a budget to be passed by July 1, which the Legislature temporarily suspended for this year.

During that time, the Legislature was controlled by the same party that the Governor's office was, which made things easier as priorities align more. Under a split government, negotiations become more contentious.

Typically, when budgets are at a stalemate, it is because the state has declining revenues, and the discussions revolve around what revenue increases could occur or what programs to cut from the state budget. That is certainly not the case in this year's budget negotiations. The discussions revolve around how to spend the money that they have, with unexpected revenue increases from the state as well as

STATE BUDGET TALKS STALL

MITA CONTINUES PUSH FOR INFRASTRUCTURE INVESTMENT

billions of dollars from the federal government.

Michigan has received over \$10 billion in federal stimulus money, with over \$7 billion going to the state where the Legislature and Governor have broad discretion on how they spend that money. In addition to that, the

billion into local bridge maintenance and construction and \$2.5 billion into underground and clean water infrastructure. The House has also introduced significant investments into our infrastructure as a way to invest the money coming out of the federal government.



state has about \$2 billion in surplus money from unexpected revenues for the current fiscal year.

As you can imagine, there are plenty of ideas floating around Lansing on how to spend some of the money. The Legislature and Governor did agree on a large increase on education spending, but the other budgets within the overall state budget were not acted upon. MITA staff has offered several ideas and concepts on how the state can invest in its infrastructure. As a result, legislation has been introduced in the Senate that would infuse \$1.5

Negotiations will continue throughout the summer during the recess and budgets will be acted upon this fall. MITA staff is continuing its push to leverage as much money as possible to invest in our infrastructure, while still arguing for long-term, sustainable solutions to the legislature, for our infrastructure needs. If there are any community events in your area that you are attending with elected officials, encourage them to invest in as much infrastructure as we can; the need is certainly there. **CS**

FALL 2021: MITA PAC UPDATE

Thank you to everyone who has contributed to the MITA PAC. Your generosity is greatly appreciated. If you haven't donated to the MITA PAC yet this year, please consider making a contribution today.

Name	Company	Donation	Name	Company	Donation
Pete Vandenbos	Pete's Contracting Inc.	\$1,000.00	Kurk Schweitzer	GM & Sons, Inc	\$250.00
Toni Vandenbos	Pete's Contracting Inc.	\$1,000.00	Sean Morrissey	GM & Sons, Inc	\$300.00
Kurt Shea	PK Contracting	\$500.00	Chad Listerman	CL Trucking & Excavating	\$1,000.00
Mike Buck	Salus Consulting Group	\$500.00	Craig Fons	GBM Companies	\$1,000.00
Tom DiPonio	Jay Dee Contractors	\$10,000.00	Ron Measel	Ace Cutting Equipment & Supply	\$1,000.00
Rob Wilson	Mid Michigan Materials	\$1,000.00	Mark Campbell	GM & Sons, Inc	\$200.00
Mike Peake Sr.	Action Traffic	\$1,000.00	Jack Dykstra	Jack Dykstra Excavating	\$1,000.00
Ryan O'Donnell	Anlaan Corporation	\$2,000.00	J.W. Fisher	Fisher Companies	\$3,000.00
Scott Bazinet	Lowe Construction Co.	\$4,000.00	Don Meram	F.D.M. Contracting, Inc	\$1,000.00
Mike Anderzack	Tenmile Creek Excavating LLC	\$2,500.00	Frank DiPonio	DiPonio Contracting	\$1,500.00
Patrick Dunigan	Dunigan Bros. Inc.	\$2,500.00	Fred Meram	F.D.M. Contracting, Inc	\$1,000.00
David Marsh	Peninsula Prestress Company	\$300.00	Gerald Kalin	Kalin Construction Co. Inc	\$1,000.00
Paul Muscat	Cortis. Bros.	\$250.00	John Zito	Zito Construction Company	\$1,000.00
Derek Arens	Anlaan Corporation	\$250.00	Jamie Lemke	Give 'Em A Break Safety	\$3,000.00
Nicholas Baker	Anlaan Corporation	\$2,500.00	Brandie Meisner	M & M Excavating Company	\$1,000.00
Jim Dykema	Dykema Excavators, Inc.	\$1,000.00	Lucas Fleischmann	Michigan Pipe & Valve - Grand Rapids	\$500.00
Andrew Rose	Rehmann	\$250.00	John Landrie	M & M Excavating Company	\$1,000.00
Mike Peake Sr.	Action Traffic	\$1,000.00	Gabe Nowicki	M & M Excavating Company	\$500.00
Paul Marsh	Peninsula Prestress Company	\$300.00	Ken Nowicki	M & M Excavating Company	\$1,000.00
TJ Peake	Action Traffic Maintenance	\$1,000.00	Kurt Shea	PK Contracting	\$500.00
Timothy Peake	Action Traffic Maintenance	\$1,000.00	Marc VanTil	Give 'Em A Break Safety	\$1,500.00
Jeff Irwin	Action Traffic Maintenance	\$1,000.00	Blake Zapczynski	Z Contractors, Inc	\$1,000.00
Michael Peake Jr.	Action Traffic Maintenance	\$1,000.00	Brooke Zapczynski	Z Contractors, Inc	\$1,000.00
Tom Peake	Action Traffic Maintenance	\$1,000.00	Dave Marsh	Penninsula Prestress Company	\$300.00
Dan Eriksson	Hoffman Bros., Inc.	\$2,500.00	Doug Kaltz	Kaltz Excavating Co.	\$1,000.00
Mike Definis	Angelo lafrate Construction Company	\$250.00	Ron Wey	1 Wey Safety Training	\$200.00
Troy Broad	Team Elmers	\$5,000.00	Rachel Snyder	BCT Benefits	\$500.00
Troy Broad	Team Elmers	\$5,000.00	Ed Boucher	Kotz Sangster	\$500.00
Gerald Kalin	Kalin Construction Co. Inc	\$1,000.00	Brad Stover	Toebe Construction LLC	\$1,000.00
Dave Pytlowany	AIS Construction Equipment	\$500.00	Andy Stover	Toebe Construction LLC	\$1,000.00
Kyle Fortier	Bacco Construction Company	\$1,000.00	Carrie Pennington	Toebe Construction LLC	\$1,000.00
Karl Schweitzer	GM & Sons, Inc	\$1,500.00	Dave Fischer	Toebe Construction LLC	\$500.00
Ricky Gallegos	GM & Sons, Inc	\$250.00	Jason Fowler	Toebe Construction LLC	\$500.00
Michael Campbell	GM & Sons, Inc	\$200.00	Andy Thelen	Toebe Construction LLC	\$500.00
Byron Miller	AIS Construction Equipment	\$500.00	Matt Hickey	Toebe Construction LLC	\$500.00
Nic Troshak	Cardinal Fabricating, Inc	\$250.00			
Dave TerBeek	AIS Construction Equipment	\$500.00			
Bob Allison	AIS Construction Equipment	\$500.00			



Angelo Iafrate Construction Company (Iafrate) was founded nearly 60 years ago by Angelo Iafrate Sr., who emigrated to the United States from Italy. His business started small removing and replacing concrete driveways and sidewalks in Detroit. Over the years the company evolved and grew into a full-service heavy-civil and road construction contractor specializing in earthwork, grading, underground utilities, and concrete paving with work in both the public and private sectors.



Oakland University

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CONSTRUCTION



and distribution centers for Amazon including work at the former Michigan State Fairgrounds in Detroit, the former Pinnacle Race Course in Huron Township, and the former Pontiac Silverdome; and a number of MDOT projects including the Gratiot Avenue (M-3) reconstruction from 11 Mile to 14 Mile through Roseville.

How has Iafrate completed these projects while dealing with the challenge that all construction companies face: a limited workforce? To answer this question, DeFinis remarked that the industry lost a significant number of its workforce because of the recession in 2008.

Livernois Streetscape Project

Iafrate remained a family-owned business until 2013 when it was converted to an employee-owned company (ESOP). During the construction season the company ranges between 250 and 300 employees, including estimators, project managers, support staff, superintendents, foreman, and skilled trade personnel.

"All companies want their employees to think like an owner, to have an entrepreneurial spirit, and to do what is best for the company," said Mike DeFinis, vice president of construction, and a MITA Board Member. "The ESOP has created an environment where our employees have that spirit, they have a vested interest in the company."

Employees of Iafrate are proud to play a part in Detroit's revitalization by working on the following projects:

- Eastern Market Streetscape and Dequindre Cut
- Woodward Avenue reconstruction and M-1 Rail (Q-Line)
- Downtown sports venues; Little Caesars Arena, Comerica Park, and Ford Field



- Livernois (Fashion Avenue) Streetscape
- Fiat Chrysler Mack Avenue Engine Complex

Currently Iafrate is working on many projects in southeast Michigan, including the General Motors Detroit-Hamtramck Factory Zero, which is being reconfigured to an all-electric vehicle assembly plant; new warehouse

The economy has since improved and construction work has increased. Unfortunately, the number of qualified workers has not increased at the same rate, which has resulted in a shortage of skilled trades, a trend that is also true nationwide.

"Construction is not glamorous and a tough way to earn a living," he said. "And it doesn't help when middle and



Maple Road Project

high school counselors and curriculum nationwide tend to downplay a career in the skilled-trades and push students towards college; even though a rewarding career can be had working in construction skilled-trades.”

As lafrate continues to seek out a high-quality workforce in all skill sets in this challenging time, they participate in several outreach and recruitment opportunities including Detroit Workforce of the Future, Access for All, and Michigan Construction, in addition to conducting project specific outreach and recruitment events and working with their unions to meet their employment needs.

Besides workforce development issues, lafrate has risen to the challenge of the COVID-19 crisis. Like most companies, COVID-19 had an immediate impact on their business and, because lafrate was among companies designated “essential,” they implemented administrative controls and best practices, along with additional safety, health, and



hygiene measures to minimize the impact on their operations and keep their employees safe.

“Specifically, we addressed COVID-related personal responsibilities, social distancing practices, and

personal protective equipment usage,” DeFinis said. “We spent a significant amount of time educating our employees through Toolbox Talks, Safety Stand Downs, and other means. Our requirements for training, operational guidance, and best practices changed over time as COVID evolved and a vaccine became available. We continue educating today.”

As a member of MITA, lafrate keeps their finger on the pulse of the industry, DeFinis said, specifically as it relates to best practices, labor relations, legislation, and safety. “MITA provides the benefit of one-voice representing the industry with both MDOT and the legislature.” **CS**



ASSOCIATE MEMBER PROFILE



From left to right at Alta's New Hudson, Mich., location: Gianni Campo, Executive Vice President; and Greg Pease, Director of Sales in Michigan.

Alta Equipment Company is more than a dealer of construction equipment. They are your partner in business.

With seven convenient locations throughout Michigan, including the Upper Peninsula, they focus on the customer by always remembering another integral part of their company slogan: Uptime Matters.

"I grew up in the business," said Gianni Campo, Executive Vice President. "Starting my own construction company at a young age, I know the needs of the customer, having been one myself. I understand the importance of having a trusted relationship with your dealer. At Alta, our main priority is to be a value add by reducing downtime for our customers."

Greg Pease, who Gianni has known for many years, joined the Alta team last November as Director of Sales in Michigan. Greg has over 30 years

of experience in the construction equipment business primarily as an account representative and sales manager.

"Alta's diverse product lines allow us to serve multiple market segments throughout the construction industry," said Greg, who is a familiar face at MITA events, along with his family. "Customers for life is a guiding principle we work towards every day. Alta's entire team understands that for us to grow our market share, it starts by providing a true customer experience through fair value in pricing and delivering the best product support in the business."

The company went public in February 2020, is trading on the New York Stock Exchange as ALTG, and they are proud of the fact that their share price went up 40 percent within one year. They are also proud of their history, which began in 2010, when Alta bought Wolverine Tractor

& Equipment Company. In this time, Alta's construction group has grown from a \$20 million a year operation to an over \$500 million a year venture. Alta now has 800+ employees that make up the construction group with a grand total of 2,100 employees in 55 Alta locations throughout the United States.

Gianni highlighted the fact that many of Alta's loyal customers are also members of MITA.

"MITA is a great platform to give contractors a collective voice and is especially helpful to the smaller and mid-size companies," Gianni said. "Being a member of MITA allows contractors access to many benefits such as networking, safety training, legislative advocacy, and labor relations."

Like others MITA members in the industry, Alta is always happy to see new employees come on board to join their team.

"Our company culture is positive and energetic, with high morale," Gianni said. "This comes from the passion for excellence that all Alta employees share. We are proud of the fact that we can attract and keep talented employees. We love to promote from within, and, with our continued growth, the sky is the limit for motivated employees."

With all the talent Alta has, they were voted by Crain's Magazine as a top place to work for the past four years and were voted the Volvo Dealer of the Year in 2020. Way to go, Alta! **CS**



The sign outside Alta's New Hudson, Mich., branch. Alta has six other locations throughout Michigan, including the Upper Peninsula.

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Rachelle VanDeventer, P.E.

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Over the past few months, we at MITA have heard from many members in regard to MDOT's Project PDF pilot projects. What exactly is Project PDF? Project PDF changes the conventional

MDOT'S PROJECT PDF PILOTS

MDOT contract plan deliverables by replacing standard 11x17 plan sheets of the roadway views (removal, construction, profile, etc.) with high-level project overview PDF sheets (of up to 200 inches in length). In addition, Project PDF sheets are created in color and contain "layers" which are enabled in the PDF document. Sheet-wide quantities are not included on the Project PDF plans, but instead, they are shown within a spreadsheet and are broken down by roadway (northbound,

southbound, ramp X, etc.). In addition, Project PDF projects include KMZ files of construction and removal items as Reference Information Documents (RID) for use in the field.

MDOT has stated that they view this Project PDF process as a step in their long-term efforts towards complete Civil Integrated Management (CIM). MDOT's CIM goals are focused on providing and making available uniform and accurate data consisting of the delivery of the digital data (in which

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designers have the most confidence to convey design intent), reduced plan production efforts, increased use of data by the downstream user, and reduced risk from duplicate information.

MDOT began piloting Project PDF concepts in 2018 and will be piloting at least one project in every Transportation Service Center (TSC). One of the concerns we at MITA have heard the most, especially since the number of pilot projects being let has picked up, is that many members are hindered greatly by the process because of the inability to easily print (11x17 sheets). MDOT has created and provided instructional materials that can be accessed online (https://mdotwiki.state.mi.us/design/index.php/Project_PDF_for_Field_Use) and includes instructions on printing sheets from the Project PDF in a

variety of formats including "current view" and printing to scale, but MDOT also stresses that the Project PDF documents are intended to be viewed in a digital format.

In addition, many other training materials are available online including videos for navigating a Project PDF project, setting up a view, how to overlay different sheet types, how to calibrate the measurement tools, how to count items and measure areas with the measurement tools, and how to use the search tool. Furthermore, MDOT has been hosting collaborative bi-monthly live webinars open to all to discuss their ongoing Project PDF efforts. The live webinars are recorded and made available on MDOT's website.

Industry feedback brought to MITA's attention so far, although varied, has been largely negative. In an effort to better understand the contractor's

perspective MDOT is conducting surveys and will be setting up some "field walks" with contractors to better engage with industry and to see if there are opportunities for optimizing processes.

At this time MDOT's Project PDF concept is only a pilot concept and MDOT is still gathering feedback. There is no set date for this process to be fully implemented as standard. As with any new concept or pilot, there may be many good intentions behind the change, but some of those concepts may not fully translate to the field. On the flip side, there may be some unexpected advantages discovered along the way. Now is the time to voice your opinion. Please contact Rachelle VanDeventer (rachellevandeventer@thinkmita.org) with any questions and to share any thoughts and/or concerns. **CS**

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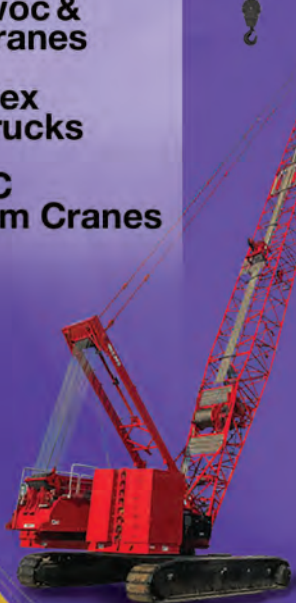
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A PRIMER ON CONTRACT NOTICE

*By Ed Boucher and Tyler Phillips
Kotz Sangster*

Paradoxically, the best way a contractor can avoid a claim is to inform the owner it has one. Too often, however, contractors fail to inform the owner of problems when they are small and manageable, and what could have been solved quickly festers into a serious, money-losing situation for the contractor, or the owner, or both. In contrast, providing timely and effective notice of a problem or claim can be the difference between a successful project and an expensive trip to the courthouse. We therefore offer this primer on notice to facilitate a successful end to your projects.

Why Provide Notice?

Notice is a project management practice that ensures there are no surprises for either the owner or the contractor. It provides an opportunity to address problems as they occur and work together towards a mutual solution, when it is available. Consistent with this “no surprises” approach, courts over the past five decades, have distilled the concept of notice into two, universal principles. First, notice must be timely: the owner must be informed of the problem before the owner would be harmed by lack of knowledge of it and within the time required by the contract. Second, notice must be effective: the contractor must inform the owner about the need to act on problem and do so in the manner required by the contract.¹

What Makes Notice Timely and Effective, Eliminating Misconceptions

Variations on the principles of timely and effective notice are sprinkled throughout all standard-form contracts

and specifications. In some cases, identifying when to give notice is easy because a contract will put the deadline and the content of the notice in black and white. Such is the case with MDOT Standard Specification Section 104.10, which uses the word “notice” and lists exactly what must be included with it. In other cases, a contract will impose a notice requirement without ever using the word “notice” itself – often in the same document that contains an express notice provision elsewhere. MDOT Standard Specification Section 109.01.A is an example of this, in that it allows a contractor who believes plan quantities are in error to “request, in writing” the Department to check the identified quantity, including with the contractor’s request “calculations, drawings, or other evidence” in support of the contractor’s position. This is an oblique way of requiring formal notice.

Given this varied approach, identifying when a problem has brewed to the point at which notice must be given can be difficult. However, the contract is always the first document a contractor must consult when issues arise. Because the contract spells out the parties’ rights and the procedures for enforcing them, the contract will almost always say when notice is required. And invariably, the contract will require notice sooner than later.

Many contractors mistakenly believe notice is only needed when the contractor has a dispute destined for litigation. In fact, the standard contracts that define a “claim” use such broad terminology that any problem of significance constitutes one. For example, the EJCDC standard general conditions C-700, a form used on many municipal projects,

wrote a catch-all into its definition of claim such that the term includes any request seeking “other relief with respect to the terms of the Contract.” This phrase is so broad it could include just about anything. Rules applicable to MDOT projects are equally broad. While the MDOT specification does not define the word “claim,” the claim procedure, applicable by reference, says a contractor has one any time the contractor merely disagrees with the Engineer’s decision on a cost- or time-related issue. The first sentence says, “A claim occurs when the Contractor does not agree with the decision of the Engineer regarding compensation for work performed and/or the time required to complete work operations including requests for extension of time.” In sum, the duty to give notice arises quickly, long before a concern has ripened into a dispute.

Many contractors also mistakenly believe a notice will lead the owner to believe the contractor is hostile. But experience has proven otherwise. Again, a goal of notice is to timely inform the owner of the need to address a problem. A notice that describes the situation factually, and without editorializing, is more likely to lead the owner to believe the contractor is professional and is also more likely to get positive results. And even if, for some reason, the notice does not move the owner to action, a factual and professional-sounding notice will improve the judge’s, the jury’s, or the arbitrator’s view of the contractor.

Another common misconception is the belief that strict adherence to contractual notice requirements is not required if the owner itself has

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not followed the contract strictly. In fact, an informal-but-good relationship between field personnel and inspectors or between the contractor's and owner's project managers matters little when an issue gets bumped to the next level in the bureaucracy, where formalities must be given heightened regard because of the sheer number of projects being administered and because of the potential impact a problematic project may have on the public purse. Infrastructure contracts are written by the government to protect the government. They are enforced by judges who not only live in the world of paper and written documentation but work for the government. Writing a century ago in a case by a contractor on a federal project, Chief Justice Oliver Wendell Holmes put it best: "Men must turn square corners when they deal with the Government."ⁱⁱⁱ

To facilitate such square corners, many contractors will prepare a "cheat sheet" summarizing important notice deadlines and content requirements. This is an excellent technique. However, an oblique notice requirement, such as the MDOT's Section 109.01.A mentioned above, might be inadvertently omitted from a cheat sheet if the drafter only includes contractual provisions that use the word "notice." So by all means prepare one, but always look at the actual contract too when a problem arises to ensure it is being handled in the proper manner.

Finally, a contractor's project manager must develop a working understanding of the notice procedure for common situations that may affect a project. The contract for the particular project will always govern. But because the MDOT specifications apply to so many projects performed by MITA members, as they apply to MDOT jobs and as they are incorporated by reference into scores of county and municipal projects, and because the procedures governing notice in other standard contracts closely resembles the MDOT specification, the MDOT specifications are a good case study to show how the notice concepts discussed above are applied on a practical level.

Notice in the Real World: The MDOT Specification

In general, the MDOT specification sets a three step procedure. It begins with a written notice of the particular event (submitted within the contractual deadline applicable to the particular event), followed by a written Notice of Intent to Claim if the matter is not resolved quickly (also submitted within the contractual deadline applicable to the event), followed by the written claim itself (submitted within 60 days of the end of the work or delay at issue). This procedure and its deadlines are mandatory. The Michigan Court of Claims has not hesitated to dismiss a contractor's

case when a contractor fails to follow it.ⁱⁱⁱ

The circumstances in which this procedure may be triggered are too numerous and varied to list in their entirety in this article. But the requirements applicable to a "constructive change" in the scope of work provide a good illustration. Relatively few disputes arise when the Engineer uses a work order to revise scope, since the change is being acknowledged. A constructive change occurs when the Engineer directs an increase in scope without issuing a work order, for example in a submittal response or an RFI response. Such a direction would be extra work, to which Section 103.02.E is applicable: "The Engineer may, at any time during the progress of the contract, order extra work." When the contractor believes such direction has been given, Section 103.02.A says the contractor "must notify the Engineer in accordance with subsection 103.03.B."

That subsection falls within the provision governing Contractor-Engineer Communication, Section 103.03. Among other things, it spells out the content requirements for the contractor's notice of extra work to the Engineer, including such things as an "explanation of why the situation requires a revision to the contract" and a "statement of the revisions deemed necessary." Notably, this specification

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requires the Engineer to respond within seven days, but does not set a deadline for the contractor's initial submission of the notice. That deadline is determined with reference to Section 104.10.A, which says the contractor must submit its Notice of Intent to File Claim before beginning the extra work. Because the Notice of Intent to File Claim comes later in the process, the contractor's notice under Section 103.03.B must be given well before the extra work begins, obviously.

If the Engineer disagrees with the contractor's contention that it has been directed to perform extra work, or if the Engineer fails to respond in a timely manner, the contractor must send its Notice of Intent to File Claim. Sections 103.02.A and 103.03.D both instruct the contractor to proceed in this fashion. Again, pursuant to Section 104.10, the contractor must send the Notice of Intent to File Claim before starting the extra work. The notice must also include "a concise description of the claim" and must identify "the contract requirement in dispute." Under the express provisions of Section 104.10, if the contractor fails to send this notice, the contractor may have waived its right to compensation and additional time. Finally, as stated above, if MDOT and the contractor have not come to agreement on the extra work

at this stage, the contractor must file its claim in accordance with Section 104.10.E within 60 days of completing it.

Contractors who follow this procedure satisfy the two principles courts have required for good and proper notice. The timing requirement advises MDOT that the contractor views the work as an extra before the work has been performed, allowing the Engineer to either change its instruction or track the costs. The content requirement advises MDOT about the need to take action, namely, to issue a modification.

By satisfying these principles, the contractor has a better position in formal dispute resolution proceedings. But more importantly, by satisfying these principles, the contractor has enhanced all parties' ability to solve the problem before it even gets there.

Practice Pointers

Below are a few practice pointers to ensure your notices are both timely and effective:

- **Make a Contract Cheat Sheet:** A summary of notice deadlines, with citations to the contractual provision and short summary of the notice requirements, is a handy tool.

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- **Get Your Contracts in Electronic Format:** Get contracts in electronic format and use word search features for key terms. Be sure to search for "writing," "written," and "days" in addition to "notice."
- **Use Your Cell Phone:** Function beats formality. When you cannot write a formal letter from the office, a short email dictated on your cell phone in the field may be enough to solve the problem – and preserve the claim.
- **Preserve the Relationship with a Telephone Call:** The personal fallout of formal notice can be reduced with a call that explains the contractual requirement and invites discussion on solving the problem.

- **Stay Professional:** Resist the urge to rain fire and brimstone. A professional tone will lead to a better outcome – with the recipient and in court, if it winds up there.
- **Set the Tone Early:** Set the tone early by providing consistent and professional written communication from the start of a job. This good habit will catch problems early and may reduce the feelings of escalation and negativity that often occur when a formal notice is received after the parties have established a more casual relationship.

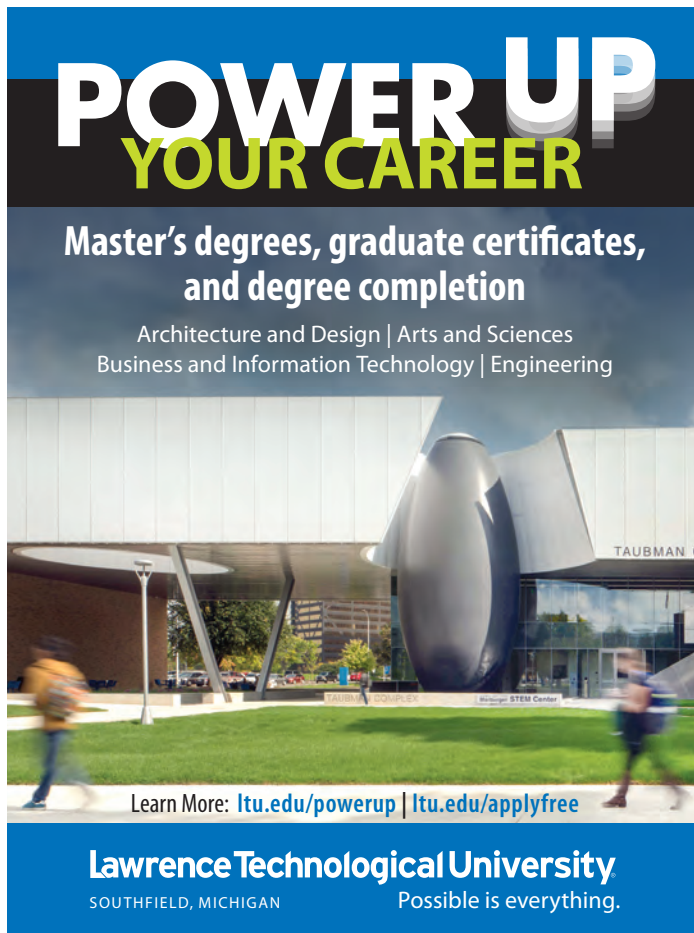
ⁱSee e.g., *Hoel-Steffen Construction Company v United States*, 456 F2d 760 (1972) and *Calfon Construction Inc. v United States*, 18 Cl.Ct 426 (1989).

ⁱⁱ*Rock Island A. & L. Co. v United States*, 254 US 141 (1920).

ⁱⁱⁱSee e.g., *Walter Toebe Construction Company v Department of Transportation*, unpublished decision of the Michigan Court of Appeals, docket No. 244356, March 9, 2004, 2004 WL 435398

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Ken Bertolini

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MITA is always working to serve its members and take care of industry needs. This includes taking care of future needs as well. MITA is not sitting still on the workforce front. We are always searching for ways to increase the workforce and to educate young people that show an interest in the infrastructure construction industry. It also includes teaching young people the opportunities that our industry offers. Recently, MDOT asked MITA to help develop a statewide program specifically aimed at youths ages 18 and older. MITA has worked to bring together partners that can help shape this vision to fruition. Youth Solutions is an organization that works with Michigan youths, providing training utilizing the Jobs for Michigan Graduates (JMG) as the premier program helping students and graduates find their path to employment success. 85 percent of Youth Solutions graduates go on to postsecondary education, employment or the military. 18,500+ vulnerable youth have been served since 2008. Youth Solutions is very proud of their collaboration with industry and employers. Their webpage states, "We are advocates. We are coaches. We

MITA IS DEVELOPING THE CONSTRUCTION JOBS ACADEMY OF MICHIGAN

are mentors. We are ambassadors. We are connectors. Ultimately, we are solution seekers, deeply engaged and committed to preparing Michigan's youth for tomorrow's opportunities". YS never works alone; they collaborate with other groups and with industry.

This is where MITA comes in. YS and MITA have been in discussions throughout the Covid-19 lockdown, developing a construction training program specifically geared towards youths ages 18 and older. MITA has deemed this the age group that has a higher probability of placement in our industry for a number of reasons. Motivation. As an example, take a person that is roughly 2-4 years out of high school, working at an unsatisfying job. They have bills, rent, car payment, etc. They know how to work and how to show up for a job. Show this person the career that is possible through the construction industry, including the pay and the benefits. Provide them with a 12-14 week training program. Bring in local contractors to interview at the end of the program.

This program is currently being developed by MITA, Youth Solutions, as well as other organizations, and we are working for a fall of 2021 kick-off. The initial cohort of students will be limited to one region of Michigan for the first year. The plans are to increase the locations to two to three for 2022, eventually becoming a



Construction Jobs Academy of Michigan

statewide program. The program is called Construction Jobs Academy of Michigan (C-JAM). This program will be free to all participants and funding for C-JAM will be provided through grants currently available through the state of Michigan and private foundations. MITA is not asking for sponsor funding from its members. We are providing this as a member service and only ask that companies use this in addition to their current hiring programs.

MITA is pleased with the development of the C-JAM program and is working hard with our collaborators to meet the program kick-off date and to provide a successful first year run. We will be contacting local contractors, offering them the opportunity to meet the cohort members and to interview once the program is complete. Cohort members will be interviewed and vetted to help ensure that top-level, serious candidates are brought into the program. It is very exciting to initiate a training program that has the potential to work with member

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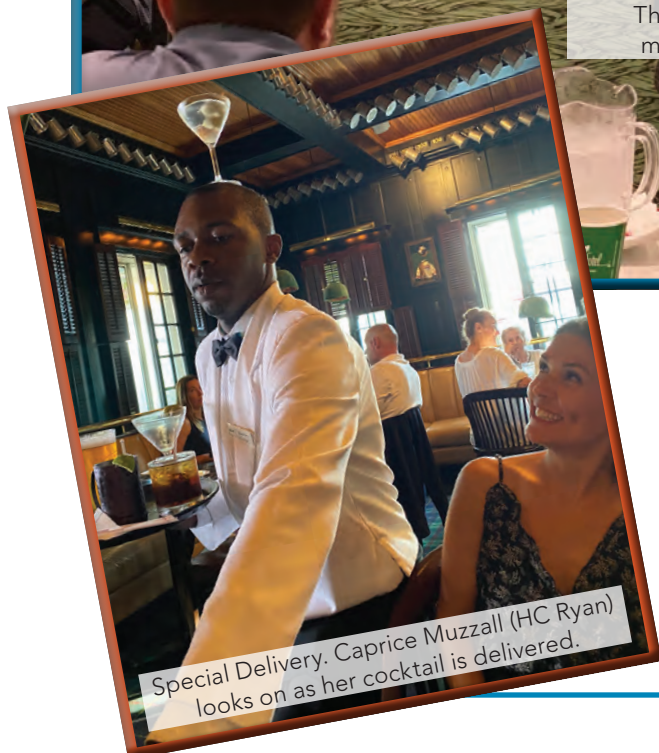
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MITA SAFETY DIRECTORS' GROUP UPDATE

MITA has a long relationship with safety issues from both sides of the coin. While we handle appeals for the membership on a regular basis, MITA also performs a great deal of preventative medicine by way of winter training, jobsite inspection and post appeal corrections. MITA also understands it has members of all shapes and sizes but with a commonality and obligation to meet or exceed MIOSHA regulations.

To that end we at MITA have spent over a year compiling a safety directors' group, consisting of one or a few employees from dozens of member companies. In the beginning the group wasn't much more than just a list of email addresses, with hopes that it could become more. Now that meeting restrictions are being lifted, MITA plans on moving forward with face-to-face meetings as well as Zoom meetings depending on the topic and need.

Currently 163 members are part of this group. If you are not a part of the group yet and would like to simply reach out to me, you will be immediately added. MITA regularly shares toolbox talk ideas, MIOSHA updates and trends with

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the group. But I will be looking for the group to drive content; so, if you're dealing with an issue on a jobsite or have a great idea to drive safety, please share your experience with me so we can add it to the next meeting agenda.

The final vision of this group is for it to be a large and active group that strives to meet the safety needs of our membership. MITA can provide a consistent flow of information between all members, thus driving content for future training, mini conferences and even the MITA Annual Conference, which is scheduled for January 18-21, 2022.

MIOSHA is back in the field and the fines are at all-time highs. MITA shares the same goals as MIOSHA with regards to worker safety and we would like to achieve our safety goals via a joint effort with member companies. This can be accomplished by sharing information and best practices that create continuity throughout the heavy construction industry.

To be added to our email list, please contact me at gregbrooks@thinkmita.org. Feel free to contact me with any suggestions for events, topics, or any safety related needs that you think can be met from this group. **CS**



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WORK ZONE VIDEO CAMERA ENFORCEMENT

By Lance Binoniemi

As been reported in previous editions of our Cross-Section Magazine, MITA and MDOT have formed the Michigan Work Zone Safety Task Force in response to the increase in accidents occurring and worker injuries and deaths within work zones in Michigan. The task force is a partnership between MDOT and Michigan's heavy construction industry and includes contractors as well as MDOT employees. There are seven different subgroups that address workers safety, including a variety of topics and goals set by each workgroup. Subgroup Team 1 is tasked to influence driver compliance by consistently enforcing work zone safety laws.

Within sub-group 1 a lot of discussion has occurred on how to change drivers' behaviors within work zones and presence of law enforcement in work zones seems to have the biggest impact. A number of attempts to require police presence at job sites have been made over the years and have been typically met with financial and overtime concerns. There have been instances where law enforcement officers have been on individual job sites monitoring traffic and those MITA members have expressed gratitude as they have recognized that traffic does slow down significantly.

A few states have seen similar issues with obtaining officers on job sites and have gone a slightly different direction. Some states have begun to utilize video camera enforcement throughout work zones and have seen successful results. Maryland, Illinois and Pennsylvania are examples of states that use camera enforcement in work zones, the most recent example comes from Pennsylvania, where the first few months saw nearly 30,000 violations from motorists, and, in the first eight months, that number rose to 192,000 violations. Cameras are activated, monitored and controlled by the state police in Pennsylvania in work zones throughout the state and if a vehicle is going 11 miles over the posted speed limit within the work zone, a warning is given for the first violation, a \$75 ticket for a second violation and \$150 for a third or subsequent violations.

Results have been significant in decreasing driver speeds within work zones. At the end of the day, the ultimate goal is to have safer work zones and not just to penalize

individuals. Over time, drivers will become more aware of enforcement and will slow down.

Most of policy initiatives that are being developed by the task force are able to be changed through efforts with MDOT. There are, however, some items that need to be addressed legislatively. Legislative language is being developed for potential movement to implement a similar program, as Pennsylvania's, in Michigan. Previous attempts at camera enforcement in Michigan have had a difficult time in the Legislature; however, something needs to be done to slow drivers down in work zones. Throughout the year, MITA staff has had good conversations with policy leaders and will continue supporting policies that improve the safety of workers on the job site and we hope to continue those positive conversations in this initiative. **CS**

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FEDERAL INFRASTRUCTURE PLAN CLOSER TO REALITY

Several reports over the past few weeks have suggested that Congress and President Biden may actually come to a final passage of an over \$1 trillion infrastructure deal. The measure has recently passed the U.S. Senate, and it will be debated in the U.S. House when House members return from summer recess in September. The information coming out of DC has been confusing with a lot of different numbers and figures thrown around. What is clear: if passed, this would be the single largest investment from the federal government for transportation in decades.

What does this all mean for Michigan's infrastructure? Some reports have suggested that this would mean \$7.8 billion in new investments for road and bridge repairs from the federal government over the next five years. That is simply not true. The entire federal program for Michigan will be approximately \$7.8 billion, and it will be about \$1.7 billion more, or "new money" for Michigan's roads and bridges over the next five years compared to the previous five years of distribution from the federal government. Below is a chart of the annual appropriations

for Michigan from 2021 through 2026 under the Senate passed version.

In addition to the annual increase through 2026, a general fund appropriation was also included and Michigan will see an additional \$682 million for infrastructure, of which, \$562 million will be used to repair and replace bridges in Michigan. Despite all the new investment coming into Michigan, it is still woefully short of the over \$2 billion annual investment that has been proven to be needed.

Several billions will also be spent on other types of infrastructure, including underground infrastructure. The bill provides \$55 billion in new money for water infrastructure. This represents a doubling of funding compared to recent funding allocations. The money will be distributed to communities in grants and low interest loans to replace lead service lines and upgrade wastewater and stormwater systems.

While this isn't exactly the infrastructure bill that MITA or our affiliates would write, it represents a 24 percent increase in the program in the first year and overall a 38 percent increase for surface transportation over the five-year reauthorization.

Traditionally, MITA supports user fee increases to pay for our infrastructure; however, there is not a lot of support to increase the federal gas tax in Congress.

There will be pressure for the U.S. House to pass the Senate passed version of the infrastructure bill. The public overwhelmingly supports increased investment for infrastructure; and, with a bill already supported by the Senate that has support from the President as well, it will be tough for the House to not take up. Earlier in the summer, the House passed a much larger infrastructure bill that included things that many do not consider "traditional infrastructure" including money for child care and drastic climate change measures.

As complete details come out and the House debates and hopefully passes an infrastructure bill, MITA staff will continue to update the membership. If you have any questions, please contact Mike Nystrom, Executive Vice President, at mikenystrom@thinkmita.org, or Lance Binoniemi, Vice President of Government Affairs, at lancebinoniemi@thinkmita.org. **cs**

ANNUAL APPROPRIATIONS FOR MICHIGAN

2021	2022	2023
\$1,152,611,27	\$1,394,849,821	\$1,422,748,656
2024	2025	2026
\$1,451,205,467	\$1,480,231,414	\$1,509,837,877



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NEWBURGH ROAD RESURFACING UNDER WAY

By Aram Kalousdian

An approximately 1-mile asphalt resurfacing project on Newburgh Road from Ford Road to Cherry Hill Road in Westland began in June and it will be completed in November. Florence Cement Company, of Shelby Township, is the prime contractor for the project. Florence Cement's personnel on the project include Frank Prano P.E., project manager; Duane McIntyre, superintendent; Al Hernandez, foreman; and Tony Tiseo, foreman. The project includes cold milling, conditioning and a two lift hot mix asphalt (HMA) resurfacing. The project also includes concrete curb repairs, sidewalk and sidewalk ramp replacements, manhole reconstructs, signs and pavement markings.

The road is five lanes, two northbound and two southbound with a center left turn lane. There are right turn lanes at Ford Road and Cherry Hill Road. Two way traffic will be maintained at all times with the project being done in two stages.

The first stage includes milling, conditioning, paving and concrete work on the two outside lanes. Once the first stage is completed, traffic will be switched to the outside lanes and the second stage will begin, which includes milling and paving the three inside lanes.

Once the entire roadway is completed, manhole structures will be raised and then the entire job will be paved with the HMA wearing course.

The biggest challenge on the project has been the many rain days and the amount of rain that held up the roadway conditioning and HMA paving. However, once the HMA leveling was placed, the project proceeded as planned.

Material quantities on the project include 39,140 square yards of 3-inch to 3-1/2-inch cold milling, 11,000 linear feet of Detail 7 joint repair, 6,056 linear feet of Detail 8 joint repair, 903 tons of hand patching, 4,736 tons of 2-inch HMA 4E10 leveling course and 3,391 tons of 1-1/2-inch HMA 5E10 wearing course.

Subcontractors on the project include Century Cement Company, Inc., of Riverview (excavation and removals in order to construct new curbs, sidewalk and ramps); Fort Wayne Construction, of Detroit (manhole structure lowering and adjustment and replacement of castings); State Barricades,

Inc., of Warren (temporary signs and barricading for traffic control and permanent signs) and PK Contracting, Inc., of Troy (permanent pavement marking). The engineering firm for the project is Hennessey Engineers, Inc. Troy Nuccio, P.E. is the engineer with Hennessey Engineers and Mark Hudson is the head inspector for Hennessey Engineers. **CS**



The Newburgh Road resurfacing project in Westland.



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- Effective communication to maintain positive results.
- Demonstration of a collective and positive project safety culture.

For more information, visit our website at Michigan.gov/WorkZoneSafety



MichiganWZSTF

DISPUTE REVIEW BOARD UPDATE

By John Friend

Retired MDOT Official, Approved DRB Panel Member Candidate

Well, we've been at it for over 10 years now ... this thing we call Dispute Review Board. Hey! We've even got our own acronym. Say "DRB" or "the DRB" and most everyone in the room knows what is being talked about! In today's construction lingo, if you got yourself an acronym, you're in the big time! Five years ago when I wrote my first article for "*Cross-Section Magazine*" (Winter 2017), I wasn't sure that the contract special provision would make it through the construction season. There were haters and skeptics for sure. To be fair, also there were those that supported

it right out of the gate. Looks like the policy setters have decided to hang with it. I've been fortunate to have my share of DRB work, and I'm appreciative of the opportunity to put pen to paper and offer lessons I've learned. I hope you find some merit to it. My top five:

#1 – It's not what you say, it's what you write.

If you're prepping for a claim hearing, put together a first-class briefing paper for the DRB panel to read and digest well ahead of the actual hearing day. Why you say? Because the folks

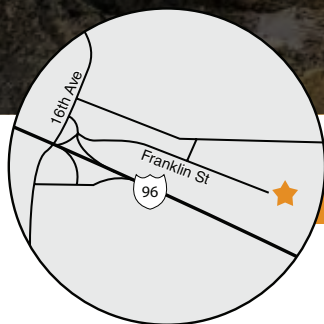
doing this work take it very seriously, and I suspect invest much more time studying and prepping for the hearing than one might think. Part of it is pride. If I am going to sit in a room after the hearing and debate contractual merit with two other sharp DRB members, I'm coming prepared to be taken seriously. More importantly though, there is a true desire to understand the issue and render the best decision one can muster. The stakes can be high both in terms of contract time and money. The members doing DRB work that I've come to respect prep and prep hard. If you're a project manager and either you or your firm is not seizing the opportunity to write something relevant to the issue, I hate to break it to you, but you are way behind. I've read some world class briefing papers put together by both contractor and



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MDOT project managers. Believe me, they stick. If you ask me to count the number of times I changed my mind based on what was actually said at a hearing, I'd be hard pressed to name two. The number of times I was influenced by the power of the written brief? Numerous. Write and write well. If it is not your strength, there are project managers around that do. Find them and pick their brain.

#2 – Approve the DRB chair positions carefully as it is the critical element for a successful panel.

The chasm of responsibility between what a DRB member is responsible for and what the DRB chair is responsible for is broad and deep. The chair drives the schedule, the communication, the method of

analysis and ultimately writes the claim decision or talking points (delivered verbally) at the advisory opinion. Yes, the great ones seek consensus within the DRB team and are not there to force things through. It's just the nature of it. Thirty to forty-five minutes after an advisory opinion hearing, the chair needs to build consensus, draft talking points that are relevant and address the issue and think through how best to deliver it. Seven days to publish a claim recommendation while providing a chance to critique the draft to the DRB members. Seriously? The chairperson has got to cook with gas and fast. There have been many times as a DRB member that I've thought "I wouldn't say it quite like that or I wouldn't write it quite like that, but it conveys the consensus and I'll live with it". Beyond that, the chairs I've seen

who develop effective communication protocols and work to meet scheduling needs are a pleasure to work with. Those that don't are ineffective. I don't think I'm alone. Veteran DRB members carefully and bluntly discuss who is qualified to chair. If you're seeing the same names being submitted, it is because those members have earned it. As operating, this process requires a strong communicator and organized scheduler to be an effective chairperson.

#3 – Communicate potential disputes early and make sure they are in ProjectWise.

Here is what one should expect of DRB members/chairs. They should roughly know what phase or stage you're in. They should be reading project meeting minutes ahead of

Continued on page 40



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Continued on page 39

Continued from page 39

the scheduled DRB/progress meeting and have a working knowledge of formal Notice of Intent to Claim (NOI'S) or other correspondence which outlines a potential dispute. The only tool they have is ProjectWise and the records contained within. DRB members work that hard. One might find it surprising the amount of intra-DRB panel chatter that takes place regarding NOI's or how fast that gets picked up on by a panel. As a group, DRB members don't like to be surprised and like time to think and study. The best way is to stay on top of it the best one can. Two related corollaries to this section. Make sure DRB minutes accurately reflect your position. They get referenced a lot. Secondly, site visits are extremely helpful to a DRB panel. I sometimes get the feeling that project managers see it as kind of a pain. Truthfully, it may be the only time the DRB panel gets to physically see the dispute and kick the tires so to speak. Lay the groundwork for a dispute as close to real time as you can. The sophisticated DRB panels are watching, reading and listening possibly more than one might think.

#4 – Be blunt about your position and don't bad-mouth the other side.

DRB Chairs want to zero in as quickly as possible regarding what the actual dispute is and what is being asked of them. If you're just laying the groundwork for what might come to be, describe it as potential challenge ahead at a DRB/Progress meeting. Convey your contractual references as clearly as possible. Give the other side some space to state their position. It looks bad if you interrupt or demean. You might think the other side is from a different planet, but an effective DRB chair is going to make sure they get their say on the issue. Whatever you do, don't with a capitol "D"



call or write the DRB chair privately. A DRB Chair better be insisting that all communication is 100 percent transparent or you should insist on replacement. Private communication is bias communication. You know the dispute I like best? The one where there has been continual dialogue, good written records, and after good preparation, I walk in for a DRB progress meeting/hearing and the contract team says it's

been solved and there is no role for the DRB at this time. I always buy an ice cream cone on the way home from those.

#5 – What I'd change.

Not much. I liked the DRB procedures and special provision five years ago and think them still well written today. A few things to consider though:

- Consider formalizing that the DRB chair is included as a cc on email notifying the other party of a potential dispute and on formal NOI letters. Effective DRB chairs are not trying to be nosey, but I guarantee they want as much lead time as possible to advise the broader DRB panel and to study.
- Stratify who is qualified to be a DRB chair. I don't know exactly how to do that. All I know is that there is a huge difference in workload and responsibility between a DRB member and a DRB chair. I've been privileged to be a member and watch some great chairs in action. Consider paying them more. They are worth it.
- Allow for draft panels to be established post low bid and prior to award. Why? So they can be at the preconstruction meeting which is extremely helpful. If



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the bid falls apart and the panel cannot be convened as intended, I don't know many DRB guys who are going to think that is a big deal. Current Federal Highway Administration protocols prohibit pre-award contact by MDOT with the apparent low bid contractor but maybe something can be worked out in the future.

- Long term support for the DRB process lies in the hands of MDOT and contractor project managers who are front line users. They must see value in it, and I hope that they are continually asked for feedback on how it can work better. I said it five years ago, and I'll repeat it today. There are some world class project managers out there working hard to deliver quality infrastructure projects to the public. Hopefully, they'll continue to think of the DRB process as a tool in their tool belt to help them do that.

Hope some of this was useful. I'm over my limit on words and space. My thanks to a number of DRB peers who assisted with writing this article. If you think I'm crazy or better yet totally wrong, I'd love to hear from you at friendjohnnc@gmail.com. You can give me an advisory opinion! That would be cool! Just remember, it's non-binding! **cs**

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DID YOU KNOW?

UPDATE YOUR AP CONTACT

By Sara Schaibly

For the last several years, MITA has been sending invoices to our customers electronically, rather than by snail mail. Having this infrastructure in place has proved to be a great transition for our association, especially over the course of the last year and a half as the payment ecosystem has evolved. In order to ensure invoices are being sent to you in a timely manner, it is important to keep your AP contact or contacts updated with MITA.

Along with our billing infrastructure changing, our payment policies have been updated as well. As you may or may not know, MITA instituted a four percent surcharge on all credit card payments. While service charges and processing fees are extraneous to all of us, we can also now accept EFT and ACH payments without fee. We are still happy to receive paper checks as an appropriate form of payment.

For assistance with confirming or updating your AP contact or to process your EFT request, please contact Sara Schaibly, Membership Services Coordinator, at saraschaibly@thinkmita.org, or at the MITA office: 517-853-5864. **cs**

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MITA staff is now available for inspections upon requests and will comply with company and government-related COVID-19 policies and procedures on your jobsite.

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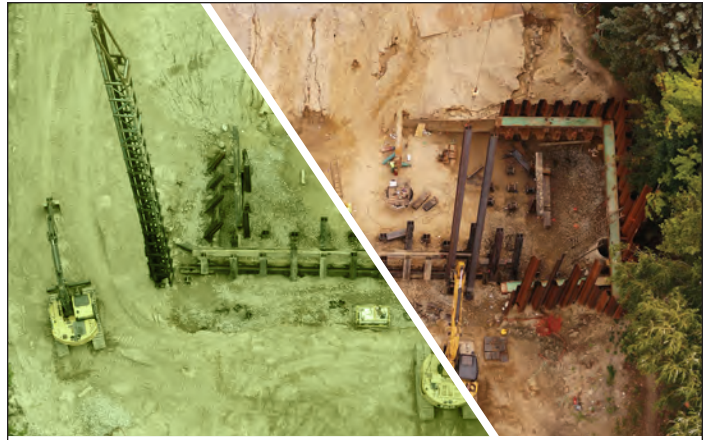


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Continued from page 26

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Email kenbertolini@thinkmita.org to be placed on a contact list. MITA will email the application to those on the list once released by the state.

For more information regarding the C-JAM program, contact Ken Bertolini, Director of Workforce Development at (517)-449-0155. **CS**



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CALENDAR OF EVENTS

September 2021

23 Wild Game Dinner
Palazzo Grande, Shelby Twp.

December 2021

10 Holiday Party, Lansing
Lansing Country Club

15 Holiday Party, Grand Rapids
Location TBD

16 Holiday Party, Metro
Location TBD

MDOT Bid Lettings - 2021

October 1, 2021
November 5, 2021
December 3, 2021



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In an effort to continue encouraging Michigan motorists to drive safely through traffic work zones, the Michigan **Work Zone Safety Task Force** is seeking stories and photos of incidents or “near misses” in work zones. Do you have a story and or photo that you would like to share anonymously? This information will be used on the **Michigan Work Zone Safety Facebook Page** to spread the word about work zone safety. Your identity, the identity

of your company, and the exact location of the job you were working on will not be released.

You may submit your information and photos anonymously to MITA's Director of Communications Nancy Brown by emailing her at nancybrown@thinkmita.org. If you have any questions, you can reach her at [517-896-1456](tel:517-896-1456).

Thank you for your participation! **CS**



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MITA was the Lunch on the Turn Sponsor August 5 for the COMTO - Michigan Chapter 9th Annual Scholarship Golf Outing at Mystic Creek Golf Course in Milford. MITA golfers at the event included Rob Coppersmith, and pictured here in the front row: Glenn Bukoski, P.E., and Rachelle VanDeventer, P.E. Lance Binoniemi is in the back row. COMTO maximizes opportunities in transportation for minority individuals, businesses and communities of color.

WE ARE ADVOCATES FOR MICHIGAN'S INFRASTRUCTURE

The Michigan Infrastructure & Transportation Association is a statewide construction trade association representing road, bridge, sewer and water, utility, railroad, excavation and specialty construction throughout Michigan. We remain at the forefront of the effort to enhance infrastructure funding in Michigan.

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CAN DRIVERLESS CARS MEET THE ROAD?

By John Schneidawind

ARTBA Vice President of Public Affairs

Nearly 42,100 people died last year on American roads, and 4.8 million more were injured in crashes. The European Union, with similar vehicle ownership and land size, had 19,000 crash deaths, fewer than half the U.S. total.

This human toll is one key factor driving America's push to driverless, automated vehicles (AVs), which not only could help make roads safer, but also increase mobility for elderly or disabled motorists.

Yet driverless technology, still in its infancy, also poses risks. The National Highway Traffic Safety Administration is investigating nearly two dozen crashes that did or might have involved Tesla's Autopilot feature, which allows the vehicle to steer, accelerate, and brake automatically within its lane. Tesla says the feature does not make the vehicle autonomous and still "requires active driver supervision."

In 2019, the U.S. Department of Transportation announced \$60 million in Automated Driving Systems (ADS) grants to explore technology challenges. Among eight projects in seven states is a \$7.5 million award for a Virginia technology demonstration managed by ARTBA member Transurban. It is designed to show the importance of integrating driverless cars with existing highway systems technology.

Think of it as the next generation of where the rubber "meets" road.

"Road operators have a role to play," says Transurban's Director of

Innovation and Development Lev Pinelis. "If the roadway is optimized to driverless technology, we can pursue more reliable, safe and more automated vehicle operations."

The trial will take place on what Pinelis calls the perfect road testbed—the I-95 and 395 express lanes Transurban built and operates between north of Fredericksburg and Washington, D.C. The express lane corridor is already equipped with the latest highway systems technology,



and the reversible roadway has natural midday and overnight periods with no traffic, which is ideal for the safest testing. The goal is to advance technologies that enable roads to "speak" to the next generation of Connected and Automated Vehicles (CAVs). The Virginia Tech Transportation Institute (VTTI), Virginia Department of Transportation (VDOT) and global auto manufacturers GM, Ford, Nissan, and Daimler are also participating. Road trials are anticipated to begin next year.

Building upon the existing traffic management system in place for the express lanes, the demo will feature highly automated, connected, and platooning test cars. The system will use the existing express lanes to monitor and advise the CAVs with near real time situational awareness and operational advisories. A full suite of Intelligent Transportation Systems (ITS) coverage utilized on roadway will include communications, cameras, and sensors blended with real-time vehicles, workers, and third-party data.

The trial seeks to gather data and answer questions, such as: Is it better for AVs to gather roadway condition data from a remote traffic app like Waze or from the actual road technology system they're traveling on? Can AVs interact immediately and in proximity with public safety technology and professionals to get a true picture of how to negotiate a traffic accident ahead without stopping and clogging traffic?

AV automakers also must decide whether to wait for a ubiquitous road system technology to develop nationally or continue to pursue a go-it-alone strategy. With road system technology and development varying from state to state, the incentive may be to go it alone.

"We believe a connected automated vehicle is better," says Mike Mollenhauer, director of the technology implementation division of VTTI. "If we're able to bend that digital horizon, we can make AVs smarter and safer." **CS**



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