



CONSTRUCTION INDUSTRY FEELS THE IMPACT OF CORONAVIRUS OUTBREAK

Contractors Forced to Adapt Their Work Schedules to Meet Health Requirements

By now, most everyone has been impacted in one way, shape or form by the coronavirus in our region. Local officials instituted a “Stay-at-Home or Shelter-in-Place” policy nearly three weeks ago as a means to try and contain the spread of the virus from person to person. Most businesses, schools, restaurants and bars, to name a few, shuttered their doors. Employees in these and other businesses have been laid off.

More than 3.3 million Americans filed for unemployment benefits in late March, the largest number in history, and that is just the

SITE IMPROVEMENT
ASSOCIATION
NEWSLETTER

TABLE OF CONTENTS

Terry's Tidbits - P. 3

Legislative Report - P. 4

**MSD Construction for Fiscal
Year 2021 - P. 7**

**Delays in Construction
Beyond Your Control - P. 9**

Labor Report - P. 10



beginning. Economic experts expect the number to increase weekly until the virus is contained; and businesses can once again open their doors.

Fortunately for the construction industry, it was declared an essential service and therefore exempt from Stay-at-Home orders. SITE staff worked with local county officials in St. Louis, St. Charles, Jefferson and Franklin counties to encourage them to let contractors continue working. “Much of the work done by SITE members is outdoors,” said Executive Director Terry Briggs. “Thus, the social distancing required--six feet from each other--is easier to meet than if employees were standing shoulder-to-shoulder.”

Still, contractors need to follow federal and state guidelines to protect themselves and others

while working. In addition to keeping a six-foot distance from each worker, contractors should:

- ◆ Provide hand sanitizers, soap and water so their employees can frequently wash their hands.
- ◆ When requested, have masks available that cover the mouth and nose of workers. Remember, this virus is spread human to human.
- ◆ Have an employee examined if he/she exhibits signs of coronavirus infection: dry coughing, fever and fatigue. If an employee tests positive for the virus, you may be facing an entire crew being quarantined.

Already, some citizens are raising questions as to why construction should be exempted from the stay-at-home order, citing instances

where construction workers are standing right next to each other performing work. Some of those situations are unescapable, but where possible, contractors should space out their employees as much as possible. Local officials are monitoring work sites and could at any time revoke the exemption for construction if they feel contractors are not trying to do all they can to safeguard their employees on job sites.

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TERRY'S TIDBITS

BY TERRY BRIGGS

There is an old song, written by Herbie Hancock and made popular by Bob Dylan, that contains the lyrics “the times they are a changing,” and they certainly are now. Who would have thought three weeks ago that individuals would be restricted to their homes, for the most part, and most of the retail business sector shut down by a virus; yet, that is the situation we find ourselves in today.

The coronavirus outbreak has swept the St. Louis region just like it has the rest of the country. “Stay-in-Place or Shelter-in-Place” orders are in effect for all of the St. Louis metro area and it does not look like they will be lifted any time soon. Fortunately for the construction industry, its work was categorized as “essential” and exempt from the stay-at-home provision. This was due in part to the work of SITE’s staff and others who helped persuade local officials to allow contractors to continue working. Thank goodness for that!

Public bodies also are using this opportunity to complete road and bridge work when the traffic is light. MoDOT has said it plans to continue with its bidding schedule as normal. Municipal bodies also continue to let contracts for construction, although some are worried about the impact the stay-at-home orders are having on their revenue sources in the future. MSD also is staying the course with its construction work and has much more on the way, as noted in the article on page 7.

But the virus still presents problems for contractors and suppliers. Some construction workers have expressed concerns about working in close proximity to one another; others have requested more hand soap and sanitizing wipes along with facemasks on job sites. Some material suppliers may be facing a shortage of items as manufacturing facilities curtail operations while the virus is spreading. In southeast Missouri, Robinson Construction, a local road and bridge contractor, has furloughed a good portion of its workforce.

Construction contractors need to be aware of perceptions by the public and their impact upon the public officials who make the decisions about what is or is not essential. There have been numerous social media postings from people questioning why construction should continue when they see workers standing shoulder-to-shoulder performing construction work. Some of the time it is unavoidable, such as a large concrete pour or working in a trench box, but there may be times when your employees can and should spread out a little more on job sites. We want to keep from having public officials being led to believe construction is not necessary and revoking the essential designation from construction work.

Though these times “they are a changing,” construction can and will adapt to the changes taking place.

On a sad note, Aaron Loehr, President of West Plains Bridge and Grading, a subsidiary of Pace Lion Mark Construction, died in March. Aaron was a respected member of the construction industry and his passing at an early age was quite a shock.

Aaron grew up in Bridgeton, and my wife and Aaron’s mother had taken turns babysitting the kids when they were young.

Our sympathies to Aaron’s family and his co-workers. A fund has been established for Aaron’s young daughter, Rylee. Contributions can be sent to Edwards Jones for Rylee Loehr, 100 West Jefferson Street, Kirkwood, MO 63122.

Lastly, I would like to commend the SITE staff for their work during the coronavirus outbreak. Leah, Jeremy, Chris and Rhonda have done yeoman’s work in getting information out to members, creating a place on SITE’s website for information, and in general keeping the office functioning even though we have reduced the number of employees down to one a day at the office. This type of dedication, from staff and from members, is what makes SITE such a great organization.

We will keep the SITE office operating throughout the pandemic unless ordered to shut down. Keep safe out on the job sites and remember to practice social distancing.

LEGISLATIVE REPORT

BY CHRIS DAVIS

MISSOURI LEGISLATURE SHUTS DOWN

As the COVID-19 coronavirus emerged across the United States in early March, the Missouri General Assembly acted relatively quickly to suspend activity. With most priorities passed and only one week away from a scheduled Spring Break, the Senate suspended session indefinitely on March 12. The House used the next week to “finalize” a budget but stopped short of passing it over to the Senate prior to adjourning on March 19 for the scheduled Spring Break. Finally, on March 24, Governor Parson unilaterally closed the capitol building for two weeks. The announcement to close the capitol specifically stated there will be no legislative activity until at least April 6. In doing so, the executive effectively prohibited the activity of the co-equal legislative branch of government; all the while refusing to issue a statewide “Stay-at-Home” order for the citizens of the state of Missouri. It was not until April 3 that Parson issued a Statewide “Stay-at-Home” Order, effective on Monday, April 6.

Upon expiration of the Governor’s closing of the capitol building, on Tuesday, April 7, the Senate returned to Jefferson City to hold hearings on and pass a current Fiscal Year Supplemental Budget. Much of the supplemental budget is technical language and appropriations that are “necessary” for Missouri to claim federal funds appropriated in the recently adopted Families First Coronavirus Response Act and Cares Act. In addition, the Senate passed the FRA Tax, an assessment on hospitals that enables the state to claim federal Medicaid funds. Traditionally, this assessment needs to be implemented 90 days prior to the July 1 federal disbursement of these funds. Most states are banking



on federal suspension of the 90-day requirement, in lieu of the coronavirus crisis. In addition, the Cares Act specifically included provisions temporarily eliminating the requirement to pass the supplemental budget, enabling language to receive affiliated federal funds.

It is entirely unknown when the House or Senate will return to enact next year’s budget. The Missouri Constitution mandates that the budget be approved prior to May 7. However, this is a relatively meaningless constitutional requirement, as there are no ramifications or additional requirements if this deadline is surpassed. What is likely more critical is for lawmakers to assess the detrimental impact on revenues that the current lack of economic activity will have on next year’s budget.

Stay tuned...

CONGRESSIONAL ACTION ON CORONAVIRUS

After the coronavirus started spreading throughout the United States and medical experts began to issue various estimates on its impact, Congress took notice and began a legislative process to bring help.

One of the first congressional actions was a bill to extend sick leave and family medical leave to workers and to pay for all employees’ sick leave, whether full or part-time. This is unusual for construction contractors because sick leave is not paid nor is it required in the collective bargaining agreements negotiated by SITE. While Congress passes and the president signs a bill, it is usually up to the department impacted the most by its provisions, in this case the Labor Department, to interpret and imple-

ment how the provisions are to be met. The Labor Department has not issued the guidance necessary.

How can an employer afford to pay this? According to the legislation, each quarter, beginning on April 2, 2020, employers are entitled to a fully refundable tax credit equal to the “qualified sick leave wages” paid by the employer. The tax credits are capped at \$511 per day (\$200 per day if the leave is for caring for a family member) and 10 days. The tax credit is applied against employer Social Security taxes, but employers are reimbursed if their costs for qualified sick leave exceed the taxes they would owe. The Treasury Secretary is provided with regulatory authority intended to help with cash flow issues, for example by waiving penalties on failing to deposit payroll taxes in anticipation of the credit.

The credit amounts are increased by the amount of nontaxable health insurance contributions/premiums paid by the employer for employees who are out on Emergency Paid Sick Leave, for the days of leave. Employees on sick leave are not eligible for unemployment benefits.

The second bill passed by Congress is the \$2.2 trillion economic stimulus package, the largest, most expensive piece of legislation, approved by the federal legislature. Implementation of these provisions is expected before the end of April.

This Paycheck Protection Program Act is designed to prevent workers from losing their jobs and small businesses from failing due to the COVID-19 pandemic. Under the program, loans are 100 percent guaranteed by the government to provide upwards of 10 weeks of cash-flow assistance to employers who keep their payroll in place during this emergency. As long as the employer uses these funds for payroll, then any portion of the loan used to cover payroll costs, interest on mortgage obligations, rent, and utilities would be forgiven.

C Corporation, S Corporations, Partnerships, Sole Proprietors, eligible self-employed individuals, and

“
**Governor Parson
committed another
\$50 million toward
a local cost-share
transportation
infrastructure program.**
”

501(c)(3) Not for Profits are small businesses who can participate in this program. A small business is one with less than 500 employees.

Loans would be equal to 250 percent of an employer's average monthly payroll, with the maximum borrowing of \$10 million. Loans will be available immediately through existing SBA Certified Lenders, including banks, credit unions and other financial institutions.

Covered costs of the loan consist of payroll costs, including salaries, wages, payment of cash tips, employee group health care benefits, including insurance premiums, retirement contributions and covered leave. Salaries and wages are limited to an annual amount of \$100,000 per employee.

Eligible small businesses must apply for the loan and make a good faith certification during the loan process. No fees will be collected by the SBA (Small Business Administration). No personal guarantees or collateral will be required to obtain the loan. The covered loans can be forgiven for payroll costs, payments of interest on any covered mortgage obligation, payments on covered rent obligations, or covered utility payments. The total amount of loan forgiveness will be determined based on employment retention.

Documentation verifying the number of employees, payroll, payroll rates, canceled checks, etc. must be provided, or no loan forgiveness will be granted.



CONTRACTOR MEMBERS

Concrete Division

Alfred F. Mullen Concrete Contracting Co.	Mike Mullen	(314) 966-0177
Birkemeier Construction, Inc.	Jeff Birkemeier	(636) 978-8892
Boling Concrete Construction	Cindy Boling	(314) 772-6300
Bumb Construction, Inc.	Dave Bumb	(314) 291-4284
Byrne & Jones Concrete	Carl Rouse	(314) 567-7997
Concrete Strategies, LLC	Joe Vitale	(314) 592-2153
E. Meier Contracting, Inc.	Rod Fain	(636) 300-0908
Fenix Construction Company	Steve Ladenberger	(314) 892-4700
Hawkins Construction and Flat Work LLC	Bob Hawkins	(636) 409-1115
Hoette Concrete Construction Co.	John Hoette	(314) 895-5000
J.S. Aubuchon Concrete Company	Jerry Aubuchon	(636) 661-5655
Joint Sealing Solutions	Blake Gamber	(314) 229-1460
Karrenbrock Construction, Inc.	Roger Karrenbrock	(636) 828-5420
Musselman & Hall Contractors, LLC	Keith Ahal	(314) 739-1142
Oreo & Botta Concrete Company	Tom Milne	(314) 427-3800
R. V. Wagner, Inc.	Dan Wagner	(314) 892-1600
Scharf Construction Co., LLC	Rick Scharf	(314) 869-0060
Spencer Contracting Company	Tim Spencer	(314) 843-5166
Vee-Jay Cement Contracting Company, Inc.	Sam Vitale	(314) 351-3366

Earthmoving Division

Ballmann Earthworks, LLC	Jon Ballmann	(636) 236-4242
Bloomsdale Excavating Co., Inc.	Scott Drury	(573) 483-2564
Brandt Contracting, Inc.	Sedrick Brandt	(636) 352-4818
Budrovich Excavating & Contracting	Jeff Budrovich	(314) 892-3030
Busken Construction Company	David Busken	(314) 630-8866
Edwards-Kamadulski, LLC	Kevin Edwards	(314) 329-3624
Interstate Trenching & Excavating	Steve Lawrence	(636) 387-7700
Jones Grading & Excavating, Inc.	Noel Jones	(314) 647-1697
K. J. Unnerstall Construction Company	Kurt Unnerstall	(636) 239-2028
Kendall's Hauling, LLC	Kendall Davidson	(314) 517-0905
Kuesel Excavating Co., Inc.	Mike Steiniger	(636) 978-3478
McFry Excavating, Inc.	Doug Povis	(636) 386-4779
Nor-Vel Grading & Excavating, LLC	Matt Beckmann	(636) 387-1888
Plattin Creek Excavating, LLC	Mike Harman	(314) 267-7650
R & K Excavation, Inc.	Kyle Faulkner	(636) 937-1268
Rich Gullet & Sons, Inc.	Randy Gullet	(636) 271-2327
Sellenriek Grading Company, Inc.	Drew Sellenriek	(636) 938-9299
Semke Grading & PipeWorks, Inc.	Brenda Semke	(636) 250-4225
Town & Country Grading, Inc.	Alan Laughlin	(636) 475-7887

Highway/Bridge Division

AMCON Municipal Concrete, LLC	Paul Amelong	(636) 379-9396
Gershenson Construction Co., Inc.	Ed Gershenson	(636) 938-9595
J.M. Marschuetz Construction Company	Denny Marschuetz	(636) 938-3600
Krupp Construction, Inc.	John Meiner	(636) 391-8844
M & H Concrete Contractors, Inc.	Mark Rubinstein	(636) 379-9682
Millstone Weber, LLC	Thom Kuhn	(636) 949-0038
N.B. West Contracting Company, Inc.	Jim Fitzgerald	(314) 962-3145
Pace Construction Company	Ryan Casey	(314) 524-7223
Pavement Solutions, LLC	Matt St. John	(636) 970-2727
Zoie, LLC	Dana Howard	(618) 857-8444

Asphalt Paving Division

Accurate Asphalt Paving Co., Inc.	Dan Lucas	(636) 343-5199
Byrne & Jones Construction	Brian Goggins	(314) 567-7997
Diversified Contractors	Brad Laramie	(314) 638-2500
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L. Keeley Construction	Matt Taylor	(314) 421-5933
Leritz Contracting, Inc./Busy Bee Paving, Inc.	Joe Leritz	(314) 821-2615
Topps Paving & Drainage LLC	Allen Baldwin	(314) 333-4444

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Baxter Farms & Nurseries	Adam Guthrie	(314) 542-9400
Chesterfield Irrigation Co.	Dave Horwitz	(636) 537-9795
Conoyer Brothers Landscaping, Inc.	Craig Conoyer	(636) 397-7217
DJM Ecological Services, Inc.	Doug Bauer	(314) 478-2388
ECO Constructors	Shawn Garland	(636) 561-3158
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Keeven Brothers Landscaping, Inc.	Mike Keeven	(314) 837-6948
LanDesign, LLC	George Tucker, Jr.	(636) 332-4500
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Professional Irrigation Systems	Jon Lauer	(636) 695-7800
Roden's Landscaping, Inc.	Steve Roden	(636) 561-3947
ROSCH Midwest, LLC	Scott Rozier	(636) 519-7770
Schaefer-Meyer Seed-Sod Div. 1, Inc.	Greg Meyer	(636) 947-7173
Site System Landscaping, LLC	Kathy Roden	(636) 332-7333
TerraScape Landscape Constructors	Eric Hoqan	(314) 581-8576

Sewer/Utility Division

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Bates Utility Company, Inc.	Tim Bates	(636) 939-5628
Bi-State Utilities Company	Mike Jerome	(314) 209-0202
C.E. Bollmeier Co., Inc.	Bill Bollmeier	(314) 298-7885
Castle Contracting, LLC	Aaron Retherford	(314) 421-0042
David Mason + Associates	Spencer Mason	(314) 534-1030
Fred M. Luth & Sons, Inc.	Bill Luth	(314) 771-3892
Girdner Contracting LLC	Bridget Girdner	(314) 605-4301
J & J Boring, Inc.	Jennifer Bouquet	(636) 566-6766
J.H. Berra Construction Company, Inc.	Frank Berra	(314) 487-5617
J.W. Bommarito Construction Co., Inc.	Joe W. Bommarito	(314) 353-0104
Karrenbrock Excavating LLC	Doug Bierman	(636) 828-5420
Kelpe Contracting, Inc.	Tom Kelpe	(636) 458-1400
Luther's Supply, LLC	Amber Boykins	(314) 385-6499
Poeling Construction	Shane Poeling	(636) 463-2437
S & S Utility Contracting Company, Inc.	Danny Purler	(636) 463-2441
SAK Construction	Jerry Shaw	(636) 379-2350
Semke Pipe Works, Inc.	Brenda Semke	(636) 250-4225
TaylorMade Construction, LLC	Andre Taylor	(314) 828-1005
Unnerstall Contracting Company, LLC	Steve Unnerstall	(636) 257-3003
Williams Tunnelling Industries, Inc.	Edison Williams	(832) 889-1468
XL Contracting, Inc.	Ken Novel	(636) 970-2710

Specialty Division

AgriCycle, Inc.	Patrick Geraty	(636) 861-3344
All Star Concrete Pumping	Keith Dennis	(636) 475-9539
A-Plus Contractors, LLC	Will Sanders	(636) 498-1790
Badger Daylighting Corporation	Benji Koonce	(314) 954-7192
Blood Hound Underground Utility	Jim Wilson	(314) 224-9640
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Drilling Service Company	Sean Jackson	(314) 291-1111
Fick Supply Service, Inc.	Dave Fick	(314) 560-0146
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Hansen's Tree Service & Environmental Resources	Ken Byrne	(636) 379-1830
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Kurtz Nursery and Topsoil	Matthew Kurtz	(636) 405-2667
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Soil Installers	Brent Kerns	(618) 235-5595
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Traffic Control Company	Joe Backer	(636) 225-7800
TraMar Contracting, Inc.	Peggy McGrath	(636) 255-0808
Two Alpha Contracting, LLC	Rhiannon Parisi	(636) 384-1296

March/April



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Acuity Insurance	AJ Gajdosik	(636) 287-2068	Mannino Truck Leasing, Inc.	Joe Mannino	(314) 393-0715
Advanced Drainage Systems	Brian Snelson	(618) 593-6135	MayeCreate, LLC	Stacy Brockmeier	(573) 447-1836
Agilis Systems	Sean Gaffney	(314) 732-4925	Middendorf, Inc.	Allan Middendorf	(618) 540-8446
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Audio Video Concepts	Rob Roessler	(618) 281-4164	Mueller Prost LC	Bengi Bala	(314) 862-2070
Bank of Springfield (BOS Bank)	Marty McCabe	(314) 888-6906	National Trench Safety	Scott Emmitt	(314) 383-0504
BITCO Insurance Companies	Chris Demse	(314) 822-4446	Neenah Foundry Company	Brandon Ostendorf	(636) 928-1023
Bobcat of St. Louis	Mike Allen	(636) 225-2900	Northwestern Mutual	Zach Nannini	(636) 578-6677
Bussen Quarries, Inc.	Mark Bussen	(314) 894-8777	Nu Way Concrete Forms, Inc.	Mike Townsend	(314) 544-1214
CarsonAllaria Wealth Management	Joe Allaria	(618) 288-9505	OnSite Companies	Aaron Jackstadt	(636) 519-0507
Carter-Waters LLC	Ray Hillmann	(636) 940-0001	Pat Kelly Equipment Company, Inc.	Brian Kelly	(314) 895-9500
Central Power Systems	Chuck Bauers	(314) 427-4911	Peoples Savings Bank	Don Meyer	(636) 398-5600
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Champion Precast, Inc.	Joel Anderson	(573) 384-5855	Purple Wave Auction	Scott Broz	(636) 725-6737
CMIT Solutions	Barry Herring	(636) 925-9920	R. Barr Consulting LLC	Rich Barr	(314) 692-8888
CMW Equipment	Larry Glynn	(314) 993-1336	Rackers & Fernandez, LLC	Sergio Fernandez	(636) 498-1900
Contech Engineered Solutions, LLC	Mike Hill	(573) 380-0719	Republic Services, Inc.	Jerry Ballard	(636) 947-5959
Core & Main	Randy Bradley	(314) 432-4750	Risk Consulting Partners	Warren Dunnegan	(314) 449-8181
County Materials Corporation	Joel Gardner	(217) 544-4607	Ritchie Bros. Auctioneers	Michael Juenger	(636) 751-8383
Craftsmen Utility Trailer	John Zehnder, Jr.	(636) 795-6350	Rock Hill Quarries Co.	Bruce Dresser	(314) 968-2336
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David J. Peters Trucking, Inc.	Dave Peters	(314) 440-0255	RubinBrown LLP	Ken Van Bree	(314) 290-3429
Dewitt Insurance	Alex Toler	(314) 527-2522	Rudd Equipment Company	John Robinson	(314) 487-8925
Energy Petroleum Company	Steve Madras	(314) 383-3700	Rush Truck Centers of Missouri, Inc.	Justin Demers	(314) 449-7200
Enterprise Bank & Trust	Brian Green	(314) 543-3914	Safety Training Resources	Jeff Viehmann	(314) 808-3502
Enterprise Fleet Management	Kamil Koscik	(314) 889-8516	Sandberg, Phoenix & von Gontard, P.C.	Tony Soukenik	(314) 446-4279
EquipmentShare	David Meyer	(636) 459-8640	Schmersahl Treloar & Co.	Marianne Biangardi	(314) 966-2727
Erb Equipment Company	Gregg Erb	(636) 349-0200	SCI Engineering, Inc.	Karl Koenigsfeld	(636) 584-7991
Fabick CAT	Greg Durst	(636) 343-5900	Silver Eagle Construction Products, Inc.	Erik Thompson	(636) 240-6300
Federated Insurance	Cole Waddell	(316) 617-7880	Simpson Materials Company	Steve Simpson	(636) 343-4944
Fred Weber, Inc.	Jack Branz	(314) 344-0070	SITECH Midwest, LLC	John Simmons	(618) 314-8105
G.S. & S.	Chris Hyams	(314) 298-8100	SmithAmundsen LLC	Daniel Peters	(314) 719-3766
Gateway Dredging & Contracting, LLC	Terry Bangert	(636) 665-5180	St. Louis Composting	Roy Gross	(636) 861-3344
GenCon Safety Consulting, LLC	Joe Thornton	(636) 345-3883	Tensor International Corporation	Eric Nestel	(816) 516-7033
Hanes Geo Components	Steve Wright	(636) 875-7317	The Charles L. Crane Agency Company	Frank Rebholz III	(636) 537-5641
Hayden Machinery LLC	Jeremy Hancock	(314) 550-1400	The Clayton Engineering Company, Inc.	Steve Quigley	(314) 692-8888
Heritage Petroleum, LLC	Mike Mabrey	(314) 504-3198	Topcon Solutions	Craig Ferris	(314) 416-4970
Interstate Testing Services	Andy LaPlante	(314) 994-0641	Tramelli Industrial Products and Contractor Supply	Jim Tramelli	(314) 429-4100
J.D. Kutter	Brenda Mainer	(314) 444-4949	United Rentals	Angie Wheeler	(314) 267-7621
J.W. Terrill, Inc.	Pete Mohs	(314) 594-2700	United Rentals -Trench Safety	James Dickey	(314) 729-0003
John J. Guilfooy & Associates, LLC	John Guilfooy	(314) 781-1122	Vanguard Truck Centers	Dan Green	(618) 857-7625
K & K Supply Inc.	Matt Williams	(636) 349-1141	Vermeer Midwest, Inc.	Chad Van Soelen	(636) 532-2332
K & P Precast, Inc.	Tammy Daugherty	(636) 978-3111	Wallis Lubricants, LLC	Kati Douglas	(636) 271-0900
Kienstra Co.	Ted Kienstra, Jr.	(314) 994-1616	Warrenton Oil Company	David Baker	(636) 456-3346
Kienstra Precast, LLC	Steve Peery	(618) 482-3283	Western Ready-Mix, Inc.	Mike Reed	(636) 519-1522
Kohrs Truck & Auto Repair, Inc.	Harold Kohrs	(636) 240-7935	Wieser Concrete Products, Inc.	Drew Wieser	(618) 251-9210
Lizmark Branded Solutions	Liz Tillman	(636) 938-5502	Winter Brothers Material Company	Ryan Winter	(314) 843-1400
Lockton Companies	Zach Frey	(618) 975-7258	Workplace Synergy	Maureen Trompeter	(314) 473-4665
Luby Equipment Services	David Kedney	(636) 343-9970	Xylem Dewatering Solutions Inc.	Michael Myers	(314) 900-3829

MAKE SITE WORK FOR YOU

Call on SITE members for the highest quality products and services

March/April

MANAGEMENT SEMINARS

SITE's annual Management Seminar trip was to a new location, Los Cabos Mexico. The trip was from February 6-13 to the Marquis Los Cabos Resort. As you can see in the picture, it was a large group that attended. While the temperatures in Mexico were in the 70s, St. Louis was having cold, snowy, and wintery mix weather. A bad wintery mix storm came through the day before and it was not looking good to leave the next day, but Southwest Airlines did their best and succeeded. Many people attended the two seminars offered: *"Electronic Challenges in the Workplace – Put that Phone Down!; Who's Keeping an Eye on Your Job Site?; Cyber Invasion; Cyber Insurance"* and *"Up in Smoke...Missouri's New Medical Marijuana Law and the Impact Upon Your Company."* A very special "Thank You" to the presenters. SITE arranged a whale watching tour on two 52 foot private yachts. They cruised in search of whales on the Sea of Cortez and the Pacific Ocean past one of the most popular attractions in Cabo San Lucas, the Arch (El Archo). Yes, that's right, I said "Arch." St. Louis and Cabo San Lucas have something in common. The groups saw several whales as well as them breaching. It was a wonderful experience. The golfers got to experience three different golf courses. They said it was a challenge but well worth it. A note from Rhonda: I personally want to say "Thank You" for those who helped make my milestone birthday a most memorable time. The Management Seminars committee is already planning the 2021 trip.



MARCH GENERAL MEMBERSHIP MEETING

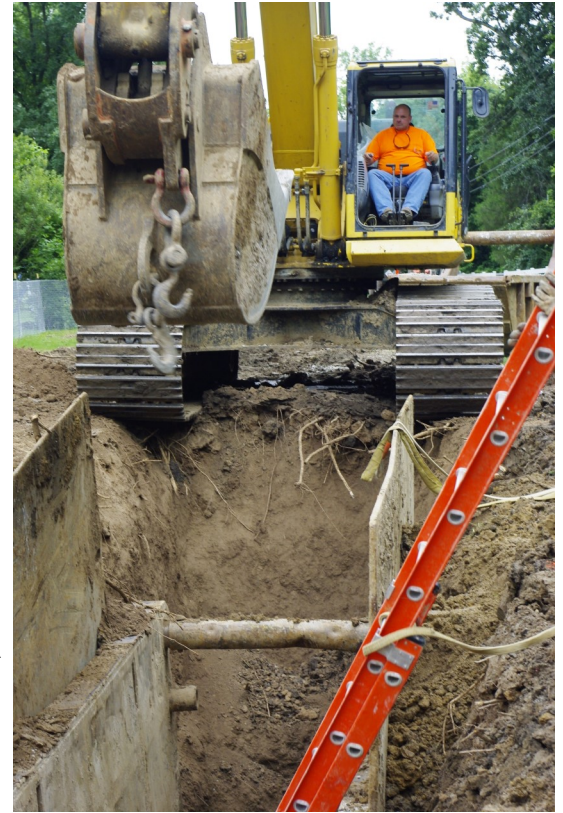
SITE members enjoyed lunch at Syberg's on March 4 for the General Membership Meeting and welcomed Colonel Jeffrey Beaton, one of the officers on the front line of local law enforcement in the area and the Chairman of the St. Louis Police Chiefs Association. Colonel Beaton shared his perspective on law enforcement from the small, residential St. Louis County communities to the larger municipalities in the area. He also addressed issues of the negative/positive images police officers have now and how it has changed.



MSD CONTINUES ITS AGGRESSIVE CONSTRUCTION SCHEDULE FOR FISCAL YEAR 2021

The Metropolitan St. Louis Sewer District (MSD) staff plans to present the MSD Board of Trustees with a nearly \$340 million program for construction for fiscal year 2021. Details of the construction, improvement and repair program (CIRP) were first revealed at SITE's Infrastructure Expo in February.

The sewer district is continuing its construction program to comply with a \$4.3 billion consent decree it entered into with the EPA to improve its wastewater collection and treatment system and enhance water quality in the region.



CONTRACTOR PAYMENTS

Contractors are most antsy about whether the project owner or the prime/general contractor can continue paying them for services delivered at a time when the economy is slowing down. To date, no SITE contractor has contacted the office to say the virus outbreak has prevented them from receiving a check.

We have had a few examples where an owner has instructed the contractor to leave a job site or not even show up because of the virus. But for the most part, these are isolated cases and are done out of extreme caution for the owners' employees or public.

Several of the large public entities who contract out a lot of work--MoDOT, MSD and county governments --are allowing contractors to finish their projects and are continuing to bid construction work. Most of these construction jobs are outside work, enabling a contractor to use social distancing with his/her workers.

On the private side, most owners hopefully understand schedules for completing their jobs may not be met as workforces shrink due to the concern of contracting the virus or suppliers run out of materials to use. SITE members would be wise to advise owners if schedules will be disrupted due to the coronavirus outbreak.

It is hard to say when things will get back to normal. Health experts speculate the outbreak could be with us into the middle of the construction season. Let's hope it is shorter rather than longer.



SCHOLARSHIP DEADLINE EXTENDED

SITE scholarship applications for high school seniors and/or college students are now available!! Applicants must be the child or step-child of a full-time employee or officer of a SITE contractor or associate member in good standing. Such employee or officer shall be employed at the employer's facility located within the St. Louis metropolitan area. Applications for scholarships and the 2020 Eligibility Rules & Application Process have been mailed and emailed to all member companies and are available at www.sitestl.org on the front page listed under 2020 Scholarship Information. Applications are due to SITE's office by Friday, April 24. Contact Leah at (314) 966-2950 should you have any questions.



2020 MEMBERSHIP DUES

Thank you to all SITE members who have renewed their 2020 memberships. If you have not renewed your membership, please remit renewals to SITE's office. Invoices for membership dues were mailed out late December 2019. If you have any questions regarding your 2020 membership dues, please email Leah at leah@sitestl.org or call SITE's office at (314) 966-2950.

Dues and any other SITE invoices can be paid via credit card. Contact Leah to make a payment by credit card over the phone.

A strong membership means success for our Association.

Thank you for your continued support.

CONDOLENCES

Robert Erb passed away. Mr. Erb served as president of Erb Equipments company after the passing of his father, Alvin G. Erb, in 1973 and recently served as chairman of the Erb organization.

The son of retired SCI Engineering president Bill Green, Matthew Green, passed away at the age of 40. Please remember Bill and his family in your thoughts and prayers.

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Chad Van Soelen
General Manager

621 Spirit Valley East Dr.
Chesterfield, MO 63005
vermeermidwest.com

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Mobile: (314) 660-5192
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DELAYS IN CONSTRUCTION BEYOND YOUR CONTROL AND WHAT YOU CAN DO TO PROTECT YOUR COMPANY

The construction industry in the St. Louis region is grateful to the public bodies in the area for allowing construction to continue on both public infrastructure projects and private work. This action has helped keep many Missourians gainfully employed and supporting their families.

Contractors who are continuing to work during the coronavirus pandemic are taking the necessary precautions to protect their workers as best they can from contracting the coronavirus. This includes using social distancing, providing essential equipment such as masks, gloves and hand sanitizers, and working flexible schedules where possible.

Project owners and prime/general contractors on private work continue to stress the need to subcontractors and suppliers to take every precaution available to keep workers as safe as possible during the outbreak. Subcontractors and suppliers alike are heeding this advice and trying to ensure the safety of their employees.

However, there are construction workers who are still concerned about working on jobsites under these conditions. This is completely understandable and subcontractors and suppliers are allowing employees with these concerns to leave jobsites and remain at home, if that is what they wish to do.

If a number of workers leave a jobsite over concerns of becoming infected with the virus, a subcontractor or supplier may not have the workforce nor supplies available to continue working on the project.

In those circumstances, a subcontractor and supplier may have no other choice than to stop work for a period of time.

This in turn can and has caused construction schedules to become unstable. While there have been no cases in Missouri where a project owner or prime/general contractor has threatened a subcontractor or supplier that he/she finish the job on schedule or face termination of the contract and or the threat of liquidated damages, it could occur.



For contractors who have “*Act of God or Force Majeure*” clauses in their contracts, this provision can be used as your primary defense if the project schedule is delayed beyond your control by the outbreak of the coronavirus. Owners and prime/general contractors should understand this.

But what happens for those who don’t have this clause in your contract? There is another legal principle that can be used. Missouri courts have and continue to recognize the common law principle of “commercial frustration.” This is very similar to the force majeure clause. The subcontractor or sup-

plier must demonstrate to the court why he/she cannot continue working on the project because of circumstances beyond their control. Certainly, the outbreak of a pandemic and subsequent disruption in everyday activities would be a valid reason that a schedule could not be met.

Using this principle of law may forestall the owner or prime/general contractor from seeking liquidated damages or requiring the original subcontractor or supplier to pay the difference in cost for bringing someone else on site to finish the job.

Of course, the easiest approach to take would be for a subcontractor or supplier to sit down with the owner and prime/general contractor and work out the differences when schedules could not be met. Accompanying this article is a draft “Notice of Delay” document contractors at any level may want to use to advise an owner or prime/general contractor that the project they are working on may be delayed due to circumstances beyond their control. It is always advisable in the course of doing business to let an owner or prime/general contractor to know if delays might occur on their project.

But that is not always the case, and thus subcontractors and suppliers will need other lines of defense, such as the “commercial frustration” principle or “*Act of God or Force Majeure*” clause, to use if the issue requires litigation.

Our thanks to the attorneys from Sandberg & Phoenix for the assistance with this article.

Notice of Potential Delay

Project _____

To: Project owner or prime/general contractor

From: [name of our company] _____

The work you have contracted with __[name of your company]_____, is experiencing unanticipated delays due to the outbreak of the coronavirus in our region and its impact on supply-chain factors including, but not limited to, workforce availability, delivery of materials/supplies and the scheduling of inspections, by both the owner and public inspection officials.

At this point in the construction, __[company name]____ calculating and reporting the precise amount of delay is impossible, as the situation remains fluid in our community and factors are changing every day. [company name] will keep you apprised as to future developments that may occur and their anticipated impact upon the construction schedule of this project as best we can. At the same time, unless you advise otherwise, we will understand that any claim or offset for delay-related damages attributable to the coronavirus will be waived and otherwise not assessed during this time period.

{Name of company} reserves all available legal rights pursuant to the contract, state or federal statute, or common law including, but not limited to, the right to assert force majeure and/or commercial frustration in defense of action brought against _____[company name].

Your signature

Your Title

Company Name

Date

Acknowledge of receipt of document by [project owner or prime/general contractor]

LABOR REPORT

BY JEREMY BENNETT

EASTERN MISSOURI LABORERS DISTRICT COUNCIL MERGES

The Laborers' Union informed SITE that a merger has occurred between the Missouri Eastern and Western Laborers District Councils. The new name for their organization is the Missouri and Kansas Laborers District Council. The Business Manager for the council is Brandon Flinn, President is Pat Pryor and the Secretary/Treasurer is Tim Bell. This merger has no initial impact on SITE's current Collective Bargaining Agreements, Pension Funds, Welfare Funds, or Apprenticeship Training Program. SITE looks forward to working with the new leadership team to continue to make the Midwest a competitive work environment for all signatory contractors.

SITE-OPERATING ENGINEERS LOCAL 513 NEGOTIATIONS

SITE's negotiating committee held a negotiating session with Local 513 in early March, well ahead of the upcoming May 1, 2020, expiration. Both groups discussed their goals out of these contract discussions and were ready to exchange proposals when COVID-19 shut down the momentum and discussions came to a halt. Both SITE's negotiating committee and Local 513 have been in numerous discussions trying to reach a solution of how to reach a new agreement and bring people together to ratify a new agreement. Ultimately both sides have agreed to an extension which allows contract talks to resume after shelter-in-place and large group restrictions are lifted. This means that contractors should operate and pay employees according to the current SITE contract until a new agreement is reached. More information will be forthcoming to all the signatory contractors.

I would like to thank Local 513 and SITE's negotiating committee for working together to make these unprecedented adjustments in these uncertain times.

CHANGES TO THE APPRENTICESHIP TRAINING PROGRAM SCHEDULES

The Laborers Apprenticeship School is currently closed due to coronavirus thru April 4; however, they are working with contractors to make the onboarding of a new apprentice as painless as possible. Here are the new steps:

1. Go ahead and work the new apprentice— they will be compensated at full journeyman level.
2. When the Laborers Apprenticeship School reopens, call to find out what paperwork is needed from the new apprentice.
3. Contractor informs new apprentice that he needs GED, birth certificate, etc. and bring copies to contractor's office for scanning purposes.
4. Contractor calls the school to set up a phone conference with school rep – the contractor must have apprentice present in the contractor's office during the call.
5. The school rep speaks with contractor and apprentice during call, all information is submitted, and all appropriate forms are signed off during this time.
6. Registration will be complete.

CHANGES TO THE CEMENT MASONS APPRENTICESHIP PROGRAM

The Cement Masons Joint Apprenticeship School is closed to training until May 1, but is open for applicants to come in. The Cement Masons Program created a website to help recruit more interest in the program. I encourage contractors to view and share the new website. If the phone number for your company is incorrect on the website, please let the school coordinator know. <https://cm527ap.com/>

CHANGES TO THE OPERATING ENGINEERS APPRENTICESHIP PROGRAM

The Operating Engineers Apprenticeship School is closed to training and applications until May 1.

FROM THE SAFETY SIDE

COVID-19 GUIDANCE FOR ANNUAL RESPIRATOR FIT TESTING

On April 8, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) issued [Expanded Temporary Enforcement Guidance on Respiratory Protection Fit-Testing for N95 Filtering Facepieces in All Industries During the Coronavirus Disease 2019 \(COVID-19\) Pandemic](#). The memorandum expands the temporary enforcement guidance provided in [OSHA's March 14, 2020](#) memorandum on enforcing annual fit-testing requirements of the Respiratory Protection standard, 29 CFR § 1910.134(f)(2), with regard to supply shortages of N95s or other filtering facepiece respirators (FFRs) due to the coronavirus disease 2019 (COVID-19) pandemic. **The March 14 guidance, which applied to healthcare, now applies to all workplaces covered by OSHA where there is required use of respirators.** This memorandum will take effect immediately and remain in effect until further notice and is intended to be time-limited to the current public health crisis.

For more information about COVID -19 please visit [OSHA's COVID-19 webpage](#) and [CDC's COVID-19 webpage](#).





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2020 UPCOMING EVENTS

**Due to COVID-19 all SITE meetings and events
have been canceled through the end of April**

Mon., August 17 SITE GOLF TOURNAMENT & DINNER

Norwood Hills Country Club

Visit sitestl.org for more upcoming events