# **APRIL 2014**

April 16 Monthly Business Meeting Soccer Park-Fenton

April 26 Roaring 20's Awards Gala Four Seasons Hotel

#### May

APRIL

May 7 Meet the GC's Luncheon Tarlton Headquarters

May 13 Partners in Construction Mason Contractors Assoc.

May 21 Monthly Business Meeting Syberg's on Dorsett

#### June

June 4 Construction Sales Training Quality Inn Dorsett

June 18 Construction Showcase & BBQ Queeny Park

visit <u>www.asamidwest.com</u> for a calendar of events. Later this month ASA will be hosting the ASA Roaring Twenty's Awards Gala at the Four Season's Hotel in downtown St. Louis. This evening is designed to celebrate the best in the St. Louis construction market from general contractors to specialty contractors to the construction person of the year as voted on by the members of ASA Midwest Council. This event is one of the premier events that ASA puts on throughout the year, and this year's event should be no exception. The contractors who will be represented are all very deserving, so if you have not signed up yet, please sign up and join us for a great night of entertainment and networking.

On a slightly different topic the Partner's in Construction group formed of ASA members, several general contractors that have won contractor of the year in the past, and an owner's representative, have been working hard getting ready for next month's panel discussion. The topic for the panel will be "How to close out the construction process and get everyone paid in a timely manner." The discussions in preparation for the panel have been very forthcoming and have shed a light on many different perspectives of the closing out a project and how to get paid in a more efficient manner. Let me be the first to say that having representation from an owner's perspective really did show how sometimes general contractors and subcontractors are not so very different. This event should be very eye opening and I would suggest sending as many people as you can from your company.

I look forward to seeing everyone soon.

Vincent Irwin Irwin Products, Inc. President, ASA MWC Building. Community.



Soccer Park-Fenton One Soccer Park Road Fenton, Missouri 63026 Directions: From HWY 270, take the HWY 44 west ramp. Take the first exit for Soccer Park Road, turn right and then left into the Soccer Park Facility.



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## Join a committee today.

Membership (Jennifer Tichacek/Tom Woodcock)

**Programs** (Steve Albart)

**Golf** (Jennifer Church/Jeff Jordan)

Advocacy (Tim Thomas)

Awards Gala (Molly Spowal /Rick Swanson)

Construction Showcase & BBQ (Kevin Douglas/Rick Williams)

> **GC Expo** (Walter Bazan, Jr./Tim Thomas)

> > Safety (Mike Sicking)

Brand Development (Stephanie Woodcock)

Contract Review (Dick Stockenberg)

Most committees meet every 4 weeks , contact a committee chair today, to join a committee!!

# APRIL 2014 MONTHLY BUSINESS MEETING SOCCER PARK-FENTON

Wednesday, April 16, 2014

Please join us Wednesday, April 16, 2014 at Soccer Park in Fenton, 5:30 p.m. Join the discussion and interact with a panel of commercial real estate executives when ASA presents:

## Commercial Real Estate-Is 2014 the Year?

Panelists will include: Jeff Muech, CBRE; Todd True, Duke Reality; Dan Merlo, Intelica CRE; Tim McGowan, McGowan Brothers Development.

The cost is \$42 per member and includes networking, program, hosted bar and dinner.

## Register online by Friday, April 11th.

The following companies will be reviewed at BPI:

CIC Construction G. T. Lawlor Musick Construction H.B. E. Hof Construction BPI Topic: What can you do to collect your retention dollars quicker?

Please invite a non member guest to the meeting, remember first time <u>non member guests are FREE</u> to attend. It is the best way to introduce someone to the benefits of ASA membership! Please register your guests in advance with the ASA officesusan@asamidwest.com or 314 845-0855.



**Building.** Community.

# Partners in Construction "Project Closeout-Getting Paid"

Mason Contractors Association 1429 South Big Bend Blvd St. Louis, MO 631117

> Tuesday, May 13, 2014 3:00 to 4:30 p.m.

\$40 ASA Members \$60 Non ASA Members

<u>For additional details or to register</u> <u>visit www.asamidwest.com</u>



# Reserve your Table

ASA MIDWEST COUNCIL *Roaring twenties* Awards gala

Saturday, Apríl 26, 2014 Four Seasons Hotel St. Louís

<u>www.asamídwest.com</u>



#### **Beware of Killer Lien Waivers**

#### Richard A. Stockenberg

#### Sandberg, Phoenix & von Gontard

front of them in order to facilitate and expedite the not within the subcontractor's base contract. However, this is the type of situation signing a lien waiver.

"Lien Waiver" when in fact these forms do more than \$35,000. simply waive lien rights. For example, overly expansive lien waivers purport to release claims for disputed amounts, as well as expand indemnification and warranty think that when the job is over it may file a mechanic's obligations that go beyond what is required in the contract documents. Because of the consequences of signing lien waivers, they must be read carefully before signing. There is nothing wrong with using your own form of lien through that date, then the only thing the subcontractor waiver that protects your rights and limits the scope of may be able to secure with its mechanic's lien is the what you are waiving.

Unfortunately, lien waiver forms often state that the subcontractor is waiving all of its lien rights through the date the lien waiver is given. Unless the payment being received is the final payment for all sums due, including retainage, change orders and amounts in dispute, the lien waiver should not waive lien rights through a particular date; rather, the lien waiver should simply waive lien rights to the extent of the payment received.

The importance of limiting lien waivers to the amount received can be shown with the following example: Suppose a job runs for nine months. In the first

It does no good to work to preserve and perfect few months there are no problems, but there are a couple lien rights if they are lost by hurriedly and carelessly changes that are made to the contract and retainage has signing overly expansive lien waivers. Subcontractors are been withheld at the rate of 10%. Suppose further, a particularly prone to sign whatever lien waiver is put in dispute erupts later over whether particular work is or is Some payment process. This is especially true on projects with subcontractors will perform the work grudgingly without serious payment problems where payments have been assurance of payment. Assume that the payment process slow and there is an urgency to get caught up financially. slows down and at the end of the eighth month the where subcontractor is short on funds because it has not been subcontractors need to be the most cautious before paid for the last three months and is anxious to get paid. By this time, the landscape has worsened. Assume there is a considerable amount of retainage being withheld -Regrettably, lien waiver forms come in all sizes, \$75,000. Also assume there is uncontested work that has shapes and colors. The most important thing to keep in not yet been reduced to a change order - \$50,000 - and mind when signing a lien waiver is that the lien waiver there is a large dispute over the subcontractor's scope of should simply waive lien rights to the extent of the work - \$100,000. If the subcontractor signs a fairly payment received. As a general rule, lien waivers for typical lien waiver waiving all of its lien rights through partial payment should not waive lien rights through a the date it receives payment for its eighth pay application particular date unless the form specifically reserves lien it may unwittingly sign away its lien rights for these items rights with respect to retainage, change orders, disputed - \$225,000. By the beginning of the ninth month, the work and unknown claims, e.g., impact costs. Too often, subcontractor's work is slowing down and the amount of subcontractors are presented with forms that are titled remaining work left in the contract is relatively small,

> In this scenario, the subcontractor may mistakenly lien to secure everything that is due it (\$260,000), but if the lien waiver signed at the end of the eighth month served as a release of all claims and a waiver of lien rights relatively small amount of work it performed during the ninth month - \$35,000 instead of \$260,000.

> This real life example demonstrates the importance of using only lien waivers that release lien rights to the extent of payment received or, at a minimum, specifically reserve rights for retainage, change orders and contested amounts. If you fail to read and understand your lien waiver, you will do so at your own risk and it might hurt.

## ASA MIDWEST COUNCIL MEMBER AFFINITY PROGRAMS

## ASA Membership has many benefits!!

Your membership includes exceptional affinity programs exclusively for ASA Midwest Council Members.

Discounts include but not limited to programs from the following ASA Members:

CMIT Solutions D & J Glass & Sign ELCO Chevrolet Cadillac Firestone ideas4promos Pac-Van, Inc. Secura Insurance Stylemaster Promotional Products

www.asamidwest.com for details

# HANK YOU

to the companies that attended the March Monthly Meeting:

Air Land & Sea Express Air Masters/Gateway Mech. Bazan Painting Co. **Bi-State Fire Protection** BMS Drilling **Bommarito** Ford Briner Electric C & R Mechanical Co. CD Strong Construction CeeKay Supply Central Power Systems **CMIT** Solutions CNA Surety Corrigan Company D & J Glass & Sign Duct Systems Ductz of West St Louis

ELCO Chevrolet Cadillac Enterprise Bank & Trust Envirotech Event Productions Inc. **Excel Fire Protection** Fabick Firestone Flooring Systems Foreman Fabricating Foundation Supportworks by Woods Freeman Contracting Frost Supply George McDonnell & Sons *Guarantee Electrical* Hereford Concrete Products Parkway Construction Svcs Ideas4Promos

Interstate Trenching & Excavating Irwin Products J.D. Kutter Insurance Johnson Controls J W Terrill K & K Supply Lizmark Mays Maune McWard Michele K Smith CPA Midwest Elevator Midwest Service Group Montgomery Bank Oreo & Botta Concrete Pac-Van, Inc. Precision Daylighting

PS Rapp Sewer & Plumbing Rental Supply RubinBrown LLP SD Smith Financial Sachs Electric Co. Safety International Sandberg Phoenix & von Gontard Schaeffer Electric Sikich LLP St Louis CNR Stone Carlie Swanson Masonry T. J. Wies Contracting TROCO LLC **UHY LLP** United Rentals

# CONGRATULATIONS ASA Midwest Council Roaring Twenties Awards Gala 2014 Nominees

## <u>General Contractor</u> <u>of the Year</u>

#### <u>Category A</u>

Alberici Constructors BSI Constructors Holland Construction Services L. Keeley Construction McCarthy Building Companies Tarlton Corporation

## <u>Category B</u>

ARCO Construction Co. Interface Construction Corp. Kadean Construction McGrath & Associates Musick Construction Co. Rhodey Construction Volk Construction Co.

## <u>Category C</u>

G.H. Voss Co., Inc. G.S. & S. Inc. Hof Construction J.E. Foster Building Company Lauer Construction, Inc. SITELINES, Inc.

# **MEP Subcontractor**

## <u>Category A</u>

Aschinger Electric Co. C.E. Jarrell Contracting Corrigan Company Guarantee Electrical Haberberger, Inc. Kaemmerlen Electric Kaiser Electric Key Bee Electric Murphy Company PayneCrest Electric Rock Hill Mechanical Sachs Electric Co. Schaeffer Electric Co.

#### <u>Category B</u>

Duct Systems Excel Fire Protection O.J. Laughlin Plumbing Co. Parkway Construction Services

# **Specialty Subcontractor**

### <u>Category A</u>

Affton Fabricating & Welding Collins & Hermann, Inc. Drilling Service Co. Fenix Construction Co. John J. Smith Masonry Co. T. J. Wies Contracting, Inc. Vee Jay Cement Contracting

## <u>Category B</u>

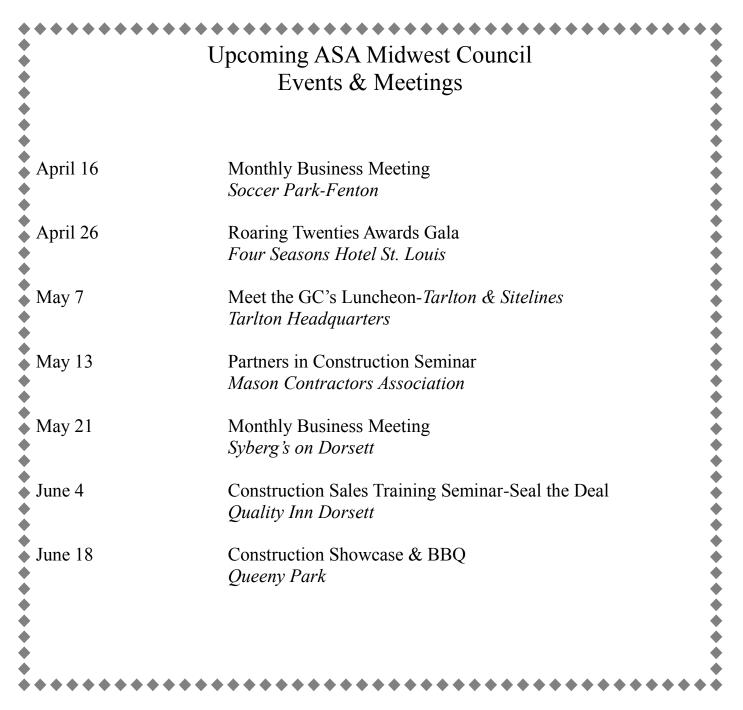
AME Constructors Bazan Painting Co. Foreman Fabricators Grant Masonry Contracting

# Service Provider/Vendor

Enterprise Bank & Trust H & G /Schultz Door J.D. Kutter Insurance Associates Negwer Materials/ Negwer Door Systems Seal the Deal United Rentals Volvo Rents

Roaring Twenties Awards Gala Saturday, April 26, 2014 Four Seasons Hotel St Louis







# Have you Heard??

ASA Midwest Council has a new *Safety Program* Powered by ASA Members and the ASA Safety Committee!

The investment is <u>only</u> \$300 per company and the benefits include the following:

- Job-Site Analysis
- Hazard Prevention & Control
- Safety Training & Education
- Industry Recognition
- Improved Employee Productivity & Morale

Contact Safety Chairman, Michael Sicking with Safety International. msicking@safety-international.com OR 314 486-3141

To apply, visit www.asamidwest.com.

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STAR SAFETY PROGRAM Safety Training And Responsibility Powered by ASA MWC Members

The month of March seemed to fly by rather quickly and quietly on legislative front. Bill movement in the House agenda. Bills we have filed dealing with retention on public centered, for the most part, around fiscal year 2015 budget projects are in a good position for passage this year. HB1484 negotiations. March was the month candidates flocked to the sponsored by Rep. Bart Korman sits on the House Calendar Secretary of State to file for candidacy for the 2014 elections, waiting debate. SB529 has passed the Senate and sits on the March is shortened on the legislative front as it is the month the House calendar waiting committee referral. HB1733 dealing legislature recesses approximately 10 days for its Legislative with final lien waiver clarification was voted out of the House Spring break. This year the Legislature recessed at noon on Small Business Committee. The bill continues to be highly little bill movement thus far, the bills that have moved, will be opponents and House leadership not wanting to deal with another seriously looked at by others to try to amend their legislation lien law battle as we did a few years ago. Finally, risk transfer which appears slow moving so far.

the fiscal year 2015 budget out of the House Chamber. Like confusing which has made writing appropriate language difficult usual the budget process has been extremely controversial this at best. year with the limited resources. The General Assembly and Governor are in disagreement over the amount of monies available for the budget based on projected revenues for the the membership about the events happening legislatively during coming year. The General Assembly and Governor were \$320 the 2014 legislative session. I am available at any time to answer million apart in their calculation of the available revenues for any questions you may have regarding any legislation or anything state fiscal year 2015. Some of the difference is due to the fact else going on in our State Government. Nikki Strong. that the Governor included monies the state would receive if it expanded Medicaid, which is vey unlikely.

One of the main focuses of the budget this year has been education funding. The Governor included nearly \$280 million in his proposed budget for education funding. Since the Governor and the General Assembly cannot agree on the projected revenue numbers for SFY2015, the House Budget Committee implemented what they call a two tier funding recommendation for education. What this means is the House version of the budget includes \$122 million in funding for K-12 education. In addition, if the state's projected revenues grew to a level the Governor predicted, education money would be increased by another \$156 million making it consistent with the Governor's recommended \$280 million. As of newsletter press time, the House had not passed the full budget, but was expected to before the end of the month.

The House focused a lot of energy the first part of the legislative session on the topic of right-to-work. The House Workforce Development and Workplace Safety Committee held hearings nearly weekly on the issue, finally passing several rightto-work bills out of Committee the end of February. In March the topic became silent. It is expected the issue will be debated in the House the first of April if not the final days of March. The Speaker of the House has indicated this is a priority for him; however, the Senate has yet to show the same enthusiasm for the issue.

Finally, ASA continues its fight to move its legislative March 13<sup>th</sup> and resumed its duties on March 24<sup>th</sup>. We are now controversial and as expected has drawn many opponents. The past the halfway point of the 2014 Legislative Session. With bill has a long road ahead of it as we battle the multitude of has stalled out. Controversy over the intent of the language in the bill continues to be a problem. Until the language can be worked The House focused most of its energy in March passing out, HB1674 will likely not move. The current statute is very

I will continue sending weekly e-mail updates, updating





## THE ASA ROARING TWENTIES AWARDS GALA I

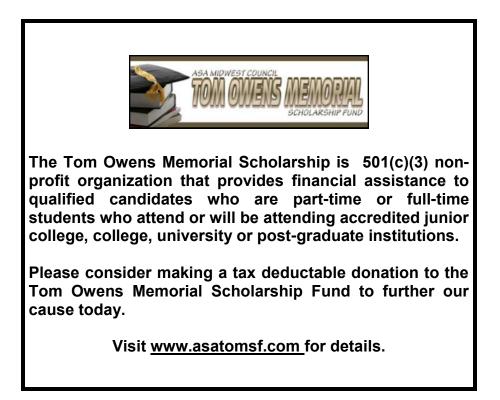
Saturday, April 26, 2014 6:00 p.m. to 11:00 p.m.

The Four Seasons Hotel

RESERVE YOUR TABLE TODAY Tickets are \$150 for the Black Tie Optional Event (valet parking included) <u>Reservation deadline is April 16th</u>

# SPONSORSHIP OPPORTUNITIES ARE STILL AVAILABLE

<u>www.asamidwest.com for additional details</u> susan@asamidwest.com or 314 845-0855



Each month you will receive an update on the committees within ASA, to keep you informed. on current happenings at the committee level. Below are this month's committee reports.

#### MEMBERSHIP

Here we are with spring upon us and I am challenging the entire membership to SPRING into action!

The membership committee has been working diligently on introducing new prospects to our organization and as they see the value of the group, they are jumping on board. We have our goal of 190 total members in sight as we only need 14 more new members to go. Thank you everyone let's keep up the great work.

Make sure to invite a college or vendor that works within the commercial real estate industry to our next meeting being held on April 16<sup>th</sup>, 2014 at Soccer Park in Fenton. This month's meeting is a MUST ATTEND if you provide GC's Luncheon on May 7th, Partners in Construction a service or sell any type of product to the commercial real estate industry. Our panelists are represented by the following companies, CBRE, Duke Realty, Intelica CRE and McGowan Brothers Development. Interactive panel discussions will include the 2014 commercial real estate outlook, current and upcoming projects.

As always, let me know how the membership committee can help you gain all of the possible benefits of being a member of the ASA - Midwest organization!

All the best, Jennifer Tichacek, Membership Chairman C&R Mechanical Company



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#### SAFETY

Get educated by getting involved with the new STAR Safety program. Let us help you achieve your 2014 safety goals. The Safety Committee meets the last Wednesday of the month at 4:00pm at Helen Fitzgerald's Pub on South Lindbergh. New members are always welcome. If you think you might be interested, see you there! For additional info contact Mike Sicking, Safety International, 314-486-3141

#### PROGRAMS

Upcoming programming includes a Meet the event on May 13th and Seal the Deal Construction Sales Training on June 4, 2014.

If you have suggestions or comments regarding ASA Programming, feel free to contact Steve Albart, Enterprise Bank & Trust-salbart@enterprisebank.com

#### **CONTRACT REVIEW**

The next subcontract agreement the committee will review and add to our library of reviewed subcontracts, is the Walsh/Alberici joint venture form. This is an entirely different agreement than is used by Alberici.

The contract review committee has over 80 contracts of general contractors that have been reviewed. Copies are available for your use, contact Susan Winkelmann to see what contracts we have on file.

A 5 part seminar series on Killer Clauses and Lien Waivers is planned for late 2014/early 2015. Details to Dick Stockenberg, Sandberg, Phoenix & follow. von Gontard P.C.

#### ASA Recognizes Alberici Constructors with 2013 National Best Practices Award



NEW ORLEANS, La. — The American Subcontractors Association presented its 2013 National Construction Best Practices Awards to two construction contractors that demonstrate an extraordinary level of commitment to best industry practices, such as safety management, prompt payment, prompt processing of change requests and claims, and effective project scheduling and coordination. The awards recipients are:

- Alberici Constructors, St. Louis, Mo.
- Bigane Paving, Chicago, Ill.

"ASA is proud to honor these contractors for upholding superior business practices in the construction industry," said 2013-14 ASA President Jack Austhof, Sobie Company, Dutton, Mich.

The awards program's rigorous criteria, established by the ASA Task Force on Ethics in the Construction Industry, c include the use of a standard subcontract whose provisions substantially reflect the best practices incorporated into the ASA-endorsed ConsensusDocs 750 Standard Agreement • Between Constructor and Subcontractor and highly favorable evaluations from at least three specialty trade contractors, based on 20 project management factors.

ASA presented the awards on March 7, 2014, in conjunction with ASA's annual convention, SUBExcel 2014, in New Orleans.

ASA Recognizes 2 Local Subcontractors for their Excellence in Ethics



NEW ORLEANS, La. — The American Subcontractors Association presented its 2013 Excellence in Ethics Awards to 10 construction subcontractors that achieve "the highest standards of internal and external integrity for a subcontracting firm." St. Louis area recipients:

- Air Masters Corporation, Fenton, Mo.
- Bazan Painting Company, St. Louis, Mo.

ASA presented the awards on March 7, 2014, in conjunction with ASA's annual convention, SUBExcel 2014, in New Orleans.

"ASA's Excellence in Ethics Awards program promotes the highest standards of internal and external integrity for a subcontracting firm," said Shannon MacArthur, MEMCO, Spring, Texas, chair of the ASA Task Force on Ethics in the Construction Industry, which developed the awards.

# **IT Backup and Disaster Planning**

Michelle & Barry Herring, CMIT Solutions

wrote a great safety article about being prepared when expensive for a company when they get infected. The best disaster strikes. As a next step we would like to challenge bet is early detection and prevention. There are several each of you to consider your level of preparedness to factors involved to prevention and detection. Perform retain business continuity when a technical disaster strikes. regular operating system updates, install business class In the technical world disasters can come in all forms, not software that provides real-time, active, and updated just natural disasters, so part of your planning process protection from infections. IT Managed Service providers should consider other events, like hardware failure, power can install software agents and virus protection that failures, internet outages, or data loss. We will outline automatically ensures the computer and protection some potential situations and industry recommended best software is up-to-date, it will also report back to the IT practices to prepare for those situations.

albeit small, can still be disruptive. Okay not necessarily a opening them. While these practices are going to minimize disaster, but it can feel like one when it happens to you infections, ensure you have a good backup system in place and you have a deadline to make. These are however easy for when an infection does occur. to plan for by keeping pre-configured replacement equipment on hand. If you don't have someone on staff Server failure can be one of the most disruptive failures capable of replacing the equipment, make sure you have a that effects the productivity of everyone on the network. If maintenance agreement with an IT company and understand the service level agreement with your IT company.

Power failures can lead to data corruption and data loss. We recently saw a business lose, and have to reconstruct, all their financial data because a power failure wiped all the data on the computer's solid state hard drive. By ensuring all computers and hardware are connected to an Uninterruptable Power Supply (UPS), when power does go out, this provides everyone time to gracefully exit all applications and power down your devices.

Over time companies have become more reliant on the internet. If your business cannot function without internet service consider having two internet providers. If the primary internet connection fails, everything switches to the backup connection until the primary connection returns. Also consider, if you have an on premise email server, when internet service is disrupted, incoming emails will be returned to the sender as undeliverable. Subscribe to a spam filtering service, which holds incoming emails until they are successfully delivered to the on premise email server. Everyone in the organization will get the added bonus of eliminating the majority unwanted spam emails.

Last month Michael Sicking of Safety International, LLC Viruses, spyware, and malware can be extremely provider as problems are detected. Lastly, don't forget to educate employees or anyone that accesses your network Smaller disasters like a router, switch, or single pc failure, to scan incoming attachments and downloaded files before

> a server fails, without a backup plan in place, it can take days or even weeks to procure, and configure new equipment. The best plan to have in place is automated backups to a backup appliance with virtualization capability. If the server fails it can be virtualized on the backup appliance, which can be utilized until the physical server can be replaced.



SPONSOR AN UPCOMING ASA MEETING COST IS ONLY \$250 CONTACT SUSAN WINKELMANN FOR DETAILS

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# WE NEED YOUR FEEDBACK!!

Have you filled out a *member needs survey* for 2014?

Please visit <u>www.asamidwest.com</u> to access the member survey



Please complete and email tosusan@asamidwest.com

>ponsorship Pates

Sponsorship opportunities are available in the ASA Rates are very reasonable but are newsletter. limited. Below are the rates. If interested, please call Susan at 314 845-0855.

- Website Rotating
- Website Static
- \$1,000/Year
- 1/4 Page Monthly \$300/Year
- 1/4 Page Quarterly \$125/Year \$500/Year
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- \$225/Year • 1/2 Page Quarterly
- Business Card Monthly \$125/Year
- Business Card Quarterly \$70/Year
- Whole Page 1X
- Whole Page Quarterly
- Classified Ads
- \$300 Per Issue \$900/Year
- \$15 Per Issue

\$300/Year

# **ASSOCIATION PARTNERSHIPS:**

# Mason Contractors Assoc.(MCA)

**Contact Pam Holway** or David Gillick (314) 645-1966



www.masonrystlouis.com

**American Society of Professional Estimators (ASPE)** Contact Mindy Funk or Cyndi Walker (314) 596-7695 or (314) 781-1422 www.stlouis-aspe.org

## **ASA Meeting Sponsorship**

Highlight your company at an upcoming ASA Monthly Meeting

It is only \$250 to be a meeting sponsor.

## What do you get for \$250?

Full Color Sponsor featured on the 11x 17" placemat. Announcement at Meeting. Slide in Meeting Presentation. Recognition in Newsletter.

Contact Susan Winkelmann susan@asamidwest.com

# Have you Heard??

THE ASA MIDWEST COUNCIL HAS A NEW WEBSITE

# WWW.ASAMIDWEST.COM

- **Online Event Registration** •
- Advocacy Information
- Safety Information
- ASA Affinity Program Benefits •
- Member Only Information
- And much more...