

## JULY 2019

### JULY

#### **NO MEMBER MEETING**

**IN JULY-Enjoy your summer  
& stay safe!**

### AUGUST

**August 21**  
**Monthly DINNER Meeting**  
*Syberg's on Dorsett*

### SEPTEMBER

**September 18**  
**Monthly LUNCH Meeting**  
*Syberg's on Dorsett*

**September 26**  
**Educational Seminar**  
*Enterprise University*

### OCTOBER

**October 7**  
**ASA 32nd Annual  
Golf Tournament**  
*Whitmoor Country Club*

### NOVEMBER

**November 20**  
**Monthly LUNCH Meeting**  
*Paric Corporation*

For a full list of all  
ASA Midwest Council events  
visit [www.asamidwest.com](http://www.asamidwest.com)

I'd like to begin this message with a word of thanks. Thank you, Jennifer Church, ASA Midwest Council's immediate past president, for a job well done. Thank you, Susan Winkelmann, for your past and future valiant and much appreciated efforts. Thank you to the current board members for their current and future support. Thank you to the committee chairs and committee members for their ongoing hard work. Thank you to the past presidents for their help and continued guidance along the way. Finally, and as importantly, I'd like to thank each member for their involvement.

I've been asked several times as I begin my presidency; Do you have specific goals? This has been a difficult question for me to answer, as I only have one goal, but it is a big one. That goal is maintaining and adding value to the membership wherever possible. Our membership is very diverse. Many member's experience or perceive value for many different reasons, from a long list of reasons. Advocacy, networking, education, professional guidance and peer input, marketing to customers (both general contractors and other ASA members), outright fun, friendship, just to name a few that come to mind quickly. None of these reasons for value are the wrong reason, and each of these reasons deserve attention. So, I will give my best effort to pay that attention and support providing that value where possible.

While ASA Midwest Council continues its strength as an organization, I will be open to ideas the membership may have to improve or add value to the organization. Should you have any ideas or see an avenue you would like to get more involved, don't hesitate to drop me a line. Or find me at the next event and let's have a conversation. Join a committee, give us your input, make it a point to show up at any of our great events. This is your ASA organization, help us make it the best it can be.

Finally, be sure to sign up your foursome (or more) for the ASA golf tournament on October 7<sup>th</sup> at Whitmoor Country Club. This will be the 32<sup>nd</sup> annual golf tournament and promises to be bigger and better than ever this year. We also have many sponsorships available, so watch for details coming later this month.

Tom Henson, Affton Fabricating & Welding Co., Inc.  
President, ASA Midwest Council  
[thenson@afwc.com](mailto:thenson@afwc.com)

**NO MONTHLY MEETING IN JULY**  
**ENJOY YOUR SUMMER AND SEE YOU IN**  
**AUGUST AT SYBERG'S ON DORSETT**  
**FOR A DINNER MEMBER MEETING ON**  
**AUGUST 21st AT 5:30 p.m.**

**IT IS DUES RENEWAL TIME!**  
**DUES INVOICE WAS SENT VIA EMAIL IN MAY!**

**YOUR 2019-20 DUES INVOICE IS DUE NOW!**

*If you have not received your renewal notice, contact Susan Winkelmann*

**Dues renewal only \$845 per year!**

**Did you know ASA membership is a company membership &  
includes all employees of your company for one rate.**

**Questions? Contact Susan Winkelmann**  
**[susan@asamidwest.com](mailto:susan@asamidwest.com) or 314.845.0855**

## **WE NEED YOU!**

ASA Midwest Council needs  
your Time & Talent!

*Consider Joining a Committee to help  
ASA be the Best we Can be!*



### **Membership**

(Chris O'Hagan/Matt Tucker)

### **Education/Programs**

(Chris O'Hagan/Steve Albart)

### **Golf**

(Jennifer Church/ Steve Cummins)

### **Advocacy**

(Tim Thomas)

### **Awards Gala**

(Molly Spowal /Rick Swanson)

### **Construction Showcase & BBQ**

(Amy Heeger/Rick Williams)

### **GC Expo**

(Walter Bazan, Jr. /Tim Thomas)

### **Safety**

(Rose Kastrup/Steve Williams)

### **Brand Development**

(Stephanie Woodcock)

### **Contract Review**

(Dick Stockenberg)

### **Affinity Programs**

(Dianne Gibbs/Marty Hooper)

Contact a committee chair or Susan Winkelmann  
to join any of the above committees!

2019-20

## **ASA Midwest Council Officers & Directors** *(Terms begin July 1, 2019)*

### **President**

*Tom Henson, Affton Fabricating & Welding Co.*

### **Vice President**

*Rich Russell, Sachs Electric Co.*

### **Secretary**

*Chris Sauer, T J Wies Contracting*

### **Treasurer**

*Mark O'Donnell, Schmersahl Treloar & Co.*

### **Immediate Past President**

*Jennifer Church, United Rentals*

### **Directors:**

*Steve Cummins, Bell Electrical Contractors*

*Steve Albart, Enterprise Bank & Trust*

*Dennis Voss, Golterman & Sabo*

*Dan Tucker, Pipe & Duct Systems LLC*

*Ryan Spell, Precision Analysis Inc.*

*Sal Vitale, Vee-Jay Cement Contracting*

### **Chapter Attorney**

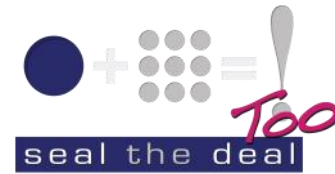
*Richard Stockenberg,  
Sandberg, Phoenix, & von Gontard*

### **Executive Director**

*Susan Winkelmann*

# Is Traditional Marketing Dead?

Stephanie Woodcock  
*Seal the Deal Too*



Cold calling is dead. The days of the “hard sell” are behind us. Thank goodness, right? However, this places the onus on the marketing departments to support sales even more and create a united front of messaging and brand positioning. Both departments need to work in tandem with each other with the new trend of “soft selling,” a trend that is here to stay.

If your company depends heavily on referral work and repeat business, you’ve been in business for a while and you have salespeople and project managers who possess years of relationships and experience in their field, chances are you are already employing the soft sales approach. How do we increase its effectiveness? We engage Marketing. Yes, you – Sales – will not get rid of us. You need us. The hard sell is going away, but we – Marketing – are here to stay.

Companies lose important sales opportunities when they don’t engage Marketing. They don’t understand this new relationship between marketing and sales. In the old way of hard sales, Sales could act more independently through cold calls, forceful sales letters and unsolicited pitches. The customer knows he or she is being sold to. There is no gray area. Marketing was able to act more independently as well, while employing more traditional, straightforward marketing techniques that didn’t need the salesperson’s collaboration.

The buyer persona is changing. Buyers are more aware, more informed, doing their own research online, choosing when they buy and preferring to order online with a few clicks on their keyboard or mobile device rather than picking up the phone. Because this customer/sales dynamic is changing with a new, softer approach, Sales and Marketing need to work together to strategically find ways of informing customers rather than pressuring them.

This type of selling focuses on the relationship-building aspect of sales and finds less aggressive ways to show customers the solutions they need. Enter Marketing.

Marketing should support the sales effort with a brand image and message that delights and informs the customer. Useful and creative messaging that captures the customer’s interest and information is the key to growing your sales pipeline. While Sales engages customers, builds relationships and becomes trusted advisors, if Sales doesn’t have the brand, messaging and marketing expertise to back up this soft sell approach, Sales misses out on major low-hanging fruit opportunities.

It’s actually more than a soft sell approach. It is a creative and strategic partnership between Sales and Marketing that connects the customer base with the *identity* of the company.

Many undermine or dismiss marketing’s importance because it is more difficult to measure. I was recently asked, “Are print ads in industry magazines really worth it?” Why was I asked this? Because it is difficult to measure results and the bottom-line value.

My answer is simple: If your customers are reading that magazine, if you want to position your company as a premier, experienced expert in your industry... then yes, they are worth it. And guess what? You can measure an ad’s effectiveness.

While the main point of print ads, billboards, commercials and more are to position and elevate your brand, they can be measured through analytics. A customized website link can be printed on the ad that directs traffic from that ad to a monitored landing page. Image is power. You are presenting an image of your company that helps support your sales effort.

Both traditional and non-traditional marketing techniques are needed to accomplish a cohesive strategy. The older, more traditional way of marketing will not properly reach those newer buying types and is being reinvented to remain relevant. Landing pages, digital marketing, analytics and SEO/SEM are all part of this reinvention. These non-traditional methods are becoming an integral piece of the marketing playbook. The key is for Sales and Marketing to develop a strategy that uses the best of both traditional and non-traditional marketing.

So how do we accomplish this? I sit down with marketing teams to discuss and create strategic approaches. How-to videos, white papers, social media engagement, search engine optimization, electronic newsletters, lunch n’ learns and digital engagement are just a few of the marketing tools my clients use to become the go-to source for their customers.

My clients also still use traditional marketing techniques such as print ads, billboards and press releases – but these traditional techniques have been reinvented. Traditional marketing is not dead. It is reborn. Billboards call attention to creative website URLs to increase traffic and SEO on a mobile website. Press releases link to blogs and white papers on the company’s website. Print ads have call-to-action links to increase online engagement.

In softer, strategic sales, we shape the narrative. Because the soft sales approach relies on expertise and relationships, our marketing position plays an important role. More importance is placed on the marketing team to help facilitate the soft sales process. It’s no longer a transaction between a salesperson and a customer. The whole company’s image is becoming part of the transaction. Website presence and traffic, search optimization, digital tools and electronic marketing are all essential in a comprehensive communication strategy. If the brand and message of Marketing isn’t in line with the values Sales is presenting, then the relationship with the customer – and the customer’s trust – is at risk. How do you increase your marketing efforts and image? Each company and industry need a customized approach. The good news: There are so many tools in our arsenal now to make an impact. The bad news: Learning how to master each takes more skill and a team of people to facilitate.

I find that companies are still struggling to get sales and marketing departments on the same page. They each go their separate ways, as if their paths do not cross. Whether you know it or not, your paths cross. Your customers see what the marketing department sends out and then they see the salesperson. The two need to be unified in their approach. Get a good team of people, work on a strategy, solidify your identity and work together. Marketing and Sales need each other. It’s “‘til death do us part.”

*Stephanie Woodcock is president of Seal the Deal Too, a St. Louis based marketing, creative & communications firm. She can be reached at [stephanie@sealthedealtoo.com](mailto:stephanie@sealthedealtoo.com).*



The **Tom Owens Memorial Scholarship** is a 501(c)(3) non-profit organization that provides financial assistance to qualified candidates who are part-time or full-time students who attend or will be attending accredited junior college, college, university or post-graduate institutions.

Please consider making a tax deductible donation to the **Tom Owens Memorial Scholarship Fund** to further our cause today.

**For additional information about the Scholarship Fund contact  
Chris O'Hagan, J D Kutter -chris@jdkutter.com**

# THANK YOU

**to the MEMBER COMPANIES that attended the JUNE Monthly Meeting**

Affton Fabricating & Welding  
American Steel Fabrication  
Archview Metals  
Aschinger Electric Co.  
Aspen Waster  
AUTCOhome Appliances  
Bangert Computer Systems  
BAZAN Painting Co.  
Bell Electrical Contractors

Bi-State Fire Protection  
CarsonAllaria Wealth Mgmt.  
CK Power  
Common Sense Solutions  
Drilling Service Co.  
Enterprise Bank & Trust  
Equipment Share  
Fabick  
Foundation Supportworks

Frost Supply  
George McDonnell & Sons  
Hayden Wrecking  
ideas4promos  
Integrated Facility Services  
J. W. Terrill  
J.D. Kutter  
Knapheide  
Lawrence Fabric & Metal  
Nu Way

Onsite Companies  
P&A Drywall  
Pac Van  
PM Leach Painting Co.  
Pipe and Duct Systems  
Precision Analysis, Inc.  
SFW Partners, LLC  
Signature Craft  
TJ Wies Contracting, Inc.  
United Rentals

# ***Upcoming ASA Midwest Council Meetings & Events***



***July 2019***                      ***NO MONTHLY MEETING-Enjoy your Summer!***

***August 21***                      ***Monthly Membership DINNER Meeting***  
*Syberg's on Dorsett*

***September 18***                      ***Monthly Membership LUNCH Meeting***  
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***September 26***                      ***Educational Seminar***  
*Enterprise University*

***October 7***                      ***ASA Midwest Council Golf Tournament***  
*Whitmoor Country Club*

***November 20***                      ***Monthly Membership LUNCH Meeting***  
*Paric*

***VISIT [WWW.ASAMIDWEST.COM](http://WWW.ASAMIDWEST.COM) TO REGISTER FOR ANY OF THE ABOVE EVENTS!***  
***Event registration now requires member login, contact [susan@asamidwest.com](mailto:susan@asamidwest.com) with questions!***

*ASA Midwest Council is on Facebook, Twitter & LinkedIn  
Follow ASA Midwest Council  
for the latest news and information!*





Please join us for the 32nd Annual

# ASA Midwest Council Golf Tournament



**October 7, 2019 | Whitmoor Country Club | 11:30 am. Tee Time**

***Reservations Required • Sponsorships Available***



**All-Inclusive Registration:**

**GOLFER GIFT • COURSE GAMES • LUNCH BUFFET • COCKTAIL HOUR • STEAK DINNER • SILENT AUCTION**

Visit [asamidwest.com](http://asamidwest.com) to register.  
susan@asamidwest.com or (314) 845-0855 for additional details.

**Building.  
Community.**

# SAVE THE DATE!

# DETAILS COMING SOON

# LIENS AND BONDS: Bad Things Happened (2016), Then Good Things Happened (2019)

*"I like things to happen and if they don't happen I like to make them happen."*

*Winston Churchill to Arthur Ponsonby MP, 1929*

Richard A. Stockenberg  
Chapter Attorney ASA Midwest Council  
Sandberg Phoenix & von Gontard, P.C.  
[rstockenberg@sandbergphoenix.com](mailto:rstockenberg@sandbergphoenix.com)  
(314) 446-4301

In 2016, bad things happened to the lien rights of subcontractors and suppliers in Missouri because of a bad court decision. Then in 2019, ASA and its industry partners made good things happen in the legislature with the passage of a favorable law to overcome the bad court decision. The problem started when the Supreme Court of Missouri unexpectedly ruled that a subcontractor had neither a bond claim nor a mechanic's lien claim against the real estate owned by a county but leased by it to a private entity to be used by that entity as its corporate headquarters.

In this case, the property was owned by St. Louis County. It adopted a resolution authorizing the issuance of Industrial Revenue Bonds ("IRBs") to finance the development and construction of Six City Place to be leased to Smurfit-Stone Container Enterprises, Inc. as its corporate headquarters. No part of the project was to serve a governmental purpose. Clayco, Inc. was hired to serve as the project's general contractor. Subcontractors were hired, but not fully paid. Liens followed.

For decades, governmental bodies have issued IRBs as a means of financing private construction projects in order to spur economic growth in their jurisdictions. Also, for decades, subcontractors have successfully filed mechanic's liens against the government's fee simple interest in the real estate to secure payments due to them for improving the real estate, but in 2016, a bad thing happened. The Supreme Court of Missouri ruled that a subcontractor had no right to file a mechanic's lien against St. Louis County's interest in the real estate. (The Court did, however, recognize the subcontractor's right to file a lien against the tenant's leasehold interest, a right of dubious value.) The Court's reasoning for denying the lien against the owner's interest was based on the theory of sovereign immunity. While it is the unquestioned law in Missouri and elsewhere that there can be no mechanics' liens against government-owned property *used for governmental purposes* such as jails, courthouses, schools, fire houses, etc., the Supreme Court did not examine precedent recognizing the right to file liens against government-owned property *that was not used for a governmental purpose*.

Having lost its lien claim, the subcontractor advanced an alternative theory arguing that where there is no lien right there should be a payment bond in place to serve as security for the amount due the subcontractor. The Supreme Court said "no" to that argument as well, ignoring a long line of Missouri cases

consistently recognizing a seamless continuum of payment protection where courts have held subcontractors are entitled to either bond rights or lien rights.

What makes this ruling so remarkable is that none of the parties – St. Louis County, developer, or lessee – challenged the subcontractor's right to have a lien against the County's interest in the real estate. The Court's ruling was purely gratuitous.

But.....

## **Good Things Happened – Legislative Cure**

The American Subcontractors Association Midwest Council and other industry associations – SITE, PDF, NECA, AGC, the Surety Association, and their respective lobbyists – championed the cause for a legislative cure to the Court's adverse ruling.

As a result of legislation introduced by Senator Sandy Crawford and Representative Aaron Griesheimer, subcontractors, suppliers and even general contractors, will have their payment rights protected by a payment bond posted by the party who contracts with the governmental body for development/construction. For projects financed through IRBs, this party is typically the developer.

Under prior law, a contractor who entered into a construction contract worth more than \$50,000 was required to post a payment bond for the protection of its subcontractors, sub-subcontractors and suppliers. Usually, this was a general contractor. In doing so, the general contractor was thereby assuming potential liability (along with its surety) to unpaid subcontractors, sub-subcontractors and suppliers. The new law expands the definition of a "contractor" who must post a bond to also include anyone who "contracts, provides, or arranges for construction services on a public works project for a nongovernmental purpose when acting as a lessee, agent, designee, or representative of a public entity." This is done in anticipation that it is the developer who will have a direct contract with the governmental body owning the real estate, not a general contractor. Accordingly, in such cases it becomes the developer's responsibility to post the payment bond. This is a benefit to general contractors who are accustomed to posting the bond as "principal" with resultant potential liability. Without being the principal on the bond, the general contractor will join subcontractors, sub-subcontractors, and suppliers as beneficiaries of the bond on government projects used for nongovernmental purposes without any corresponding diminution of rights or protection to subcontractors, sub-subcontractors, and suppliers. However, on traditional types of governmental projects used for governmental purposes, the general contractor will still have to post a payment bond for the protection of subcontractors and suppliers.

If this is not the first statute in the country offering a general contractor payment bond protection, it is a rarity. While the new statute makes clear lien rights do not exist on these types of projects, payment bond rights are secured, thus once again affirming the principle of a seamless continuum of protection for subcontractors and suppliers.

**Plus, more good things happened.....**  
**(ARTICLE CONTINUED ON PAGE 13)**



The halls of the Capitol are quiet as the legislative session is over and lawmakers have returned to their home districts. As noted in our last report, session concluded on May 17. Governor Parson and his staff have now begun the arduous task of reviewing all bills passed by the General Assembly in order to make decisions on whether to sign or veto the legislation.

As of the writing of this report, the governor has signed 36 of the 102 bills and resolutions passed this year by the House and Senate. He must take action on all bills, excluding budget bills, by July 14. If no action is taken on a bill, it becomes law without his signature. Any bills vetoed by Parson may be considered for an override by lawmakers during the annual veto session in September. Included in the bills Parson has signed thus far, are the 19 bills which make up the state budget. The Governor has signed all aspects of the budget, thereby agreeing with the legislature and giving spending authority to the various agencies that make up state government. The operating budget for Fiscal Year 2020 totals \$30,090,180,470 which includes general revenue collections, federal funds, grant spending authority and a one-time expense for Capitol renovations. The new fiscal year begins July 1.

Highlights of the FY2020 budget include \$5 million for rural broadband grants, an increase of nearly \$60 million for K-12 public education funding, an increase of at least \$1 million for all public universities, and \$6 million in SEMA grants for flood recovery throughout the state. Additional funding may be sought in supplemental budget items for disaster relief due to the ongoing flooding as well as recent tornadoes, including the one to hit Jefferson City on May 22. Scores of buildings in the capital city were destroyed in the storm, with major damage occurring at some state office buildings.

Governor Parson has also signed legislation approving the issuance of \$301 million in bonds to undertake the construction or repair of 215 bridges throughout the state. Included is \$50 million for a cost-share program with local municipalities to fund road repairs.

As of the deadline for this newsletter, Governor Parson had not yet signed SB167. Although the Governor has yet to sign SB167, the ASA priority bill which allows for subcontractors and suppliers to have recourse for payment on certain public works projects, we are fully confident he will do so in the near future.

Other political news includes the gearing up of candidates eyeing to fill the vacancy in House District 99, which lies in the St. Louis County areas surrounding Manchester and Valley Park. The seat was formerly held by Republican Jean Evans who resigned earlier in the year to take over as executive director of the Missouri Republican Party. Democrats have chosen Trish Gunby of Manchester as their candidate, while Republicans have chosen Lee Ann Pitman of Ballwin. Governor Parson has set November 5 as the date for the special election to fill the seat. An additional special election will take place to fill the vacancy in House District 158, which was vacated by Scott Fitzpatrick when Parson appointed him as State Treasurer. The district lies in far Southwestern Missouri. Republican Scott Cupps will square-off against Democrat Lisa Kalp.

We are honored to represent you at the Capitol and will continue to keep you updated on issues and happenings in Jefferson City that impact ASA and the construction industry. Nikki Strong, Strong Consultants.

# ASA Midwest Council Members

24/7 OnSite Cameras  
Acoustical Ceilings, Inc.  
Acropolis Technology Group  
Advanced Environmental Svcs  
Affton Fabricating & Welding  
Ahern Fire Protection  
AME Constructors  
American Burglary & Fire, Inc.  
American Steel Fabrication, Inc.  
Aqueduct Plumbing LLC  
Architectural Sheet Metal Systems  
Archview Metal Systems Co.  
Aschinger Electric  
Aspen Waste Systems  
Autco Appliances  
Automatic Controls Equipment  
Bangert Computer Systems  
Bazan Painting Company  
Bell Electrical Contractors  
Benson Electric Company  
Bick Group  
Big Boy's Steel Erection  
Bi-State Fire Protection Corp.  
Bi-State Utilities Company  
Bloomsdale Excavating Co.  
BluSky Restoration  
Boyer Fire Protection  
Building Point Mid-America  
C.E. Bollmeier Company, Inc.  
C. E. Jarrell Contracting  
CK Power  
CMIT Solutions  
CNA Surety  
CSA Advisors LLC  
Cardinal Environmental Operations  
CarsonAllaria Wealth Management  
Cee Kay Supply  
Century Fire Sprinklers, Inc.  
CliftonLarsonAllen, LLP  
Collins & Hermann  
Common Sense Solutions  
Corrigan Company  
Doll Services and Engineering  
Drilling Service Company  
Dynamic Controls, Inc.  
ELCO Chevrolet Cadillac  
Enterprise Bank & Trust  
Equipment Share  
Event Productions, Inc.  
Fabick CAT  
FBM  
Fenix Construction Co. of STL  
Flooring Systems, Inc.

Foreman Fabricators  
Foundation Supportworks by Woods  
Freeman Contracting  
Frost Supply  
Galloway, Johnson, Tompkins,  
Burr & Smith  
George McDonnell & Sons  
Golterman & Sabo  
Grant Contracting  
Grasser Electric  
Guarantee Electrical  
H & G Sales, Inc.  
HM Risk  
Haberberger, Inc.  
Hager Companies  
Hanenkamp Electric  
Hansen's Tree, Lawn & Landscaping  
Hawkins Construction & Flatwork  
Hayden Wrecking  
Heitkamp Masonry  
Hoette Concrete  
Ideas4Promos  
Integrated Facility Services  
Irwin Products  
JD Kutter  
J.F. Electric  
J.W. Terrill  
John J. Smith Masonry  
Johnson Controls  
Jos. Ward Painting Co.  
K & K Supply, Inc.  
Kaemmerlen Electric  
Kaiser Electric  
KAM's Mechanical LLC  
Kay Bee Electric  
Kent Companies LLC  
Kirberg Company  
Kirby-Smith Machinery, Inc.  
Knapheide Truck Equipment  
Landesign LLC  
Lawrence Fabric & Metal Structures  
Leach Painting Company  
Liberty Mutual Surety  
Lindberg Waterproofing  
Linek Plumbing Co.  
Lizmark  
Luby Equipment Services  
Marketeer, Inc.  
Martin Fence, LLC  
Meyer Painting Co.  
Midwest Elevator  
Montgomery Bank  
Mueller Prost

Murphy Company  
Negwer Door Systems  
Niehaus Building Services  
NuWay  
O.J. Laughlin Plumbing Co.  
On Site Companies, Inc.  
P & A Drywall Supply  
P.M. Leach Painting Co.  
Pac-Van, Inc.  
Parkway Construction Services  
Patterson's Hospitality Agents LLC  
PayneCrest Electric  
Pearl Street Electric, LLC  
Pipe and Duct Systems  
PPG Paints  
Precision Analysis, Inc.  
Professional Installers  
Professional Metal Works, LLC  
R.F. Meeh Co.  
RJP Electric  
Raineri Building Materials  
Ravensberg, Inc.  
Rebar Specialists Installation  
Rental Supply, Inc.  
Rock Hill Mechanical Corp.  
RubinBrown LLP  
Sachs Electric Company  
Safety International, LLC  
Sandberg, Phoenix, von Gontard  
Schaeffer Electric Co., Inc.  
Schmersahl Treloar & Co.  
Seal the Deal Too  
Seiler Instruments  
SFW Partners, LLC  
The Sherwin-Williams Co.  
Signature Craft  
Sikich LLP  
Smash-It  
St. Louis-KC Carpenters Reg Council  
Stylemaster Apparel, Inc.  
Sunbelt Rentals  
Swanson Masonry, Inc.  
T.J. Wies Contracting  
Taylor Excavating  
Team Industrial Services  
Tradesmen International  
TROCO Custom Fabrication  
UHY LLP  
USI Insurance Services  
United Rentals  
Vee-Jay Cement Contracting  
Wies Drywall and Construction  
Worksafe Technologies  
Zurich Surety

*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. Interested in joining a committee? Contact Susan Winkelmann, ASA Executive Director-  
[susan@asamidwest.com](mailto:susan@asamidwest.com) or 314.845.0855*

## **MEMBERSHIP**

### **IT IS DUES RENEWAL TIME!**

**If you have not received your invoice, please contact [susan@asamidwest.com](mailto:susan@asamidwest.com) for a copy of your invoice, as payment was due July 1st.**

The ASA Membership Committee is asking for your help. If you know a subcontractor who could benefit from the resources that ASA brings to its members, let us know. The benefits of ASA membership are many and our committee is very focused on adding quality new members. For Additional information contact on of our Membership Committee Co-Chairs Chris O'Hagan, JD Kutter, at (314) 444-4949 or [chris@jdkutter.com](mailto:chris@jdkutter.com). Matt Tucker, Affton Fabricating & Welding, at (618)391-0434 or [mtucker@afwc.com](mailto:mtucker@afwc.com)

## **SAFETY**

The ASA safety committee is growing! We meet the fourth Thursday of the month at 4:00pm. The location varies by month. Please consider sending someone from your staff to join our committee. Lets be **Always Safety Aware!** For additional information regarding the ASA Safety Committee, contact our Safety Committee Co-Chairs-Rose Kastrup with CSA Advisors at (417) 761-4194 or Steve Williams with Bell Electrical at (314) 447-9071.

## **CONTRACT REVIEW**

Your committee has just completed its review of the subcontract form used by KCI Construction Company, Inc. While we recommended many changes, the subcontract contains a remarkably good payment clause.

If you have questions regarding the contract review service, contact committee chair, Dick Stockenberg, Sandberg Phoenix, von Gontard [rstockenberg@sandbergphoenix.com](mailto:rstockenberg@sandbergphoenix.com).

## **PROGRAMS**

Our goal is to continue to provide relevant programming to all our members. If you have suggestions for future ASA program topics, please contact either of our Programs Committee Co-Chairs: Chris O'Hagan, [chris@jdkutter.com](mailto:chris@jdkutter.com) or Steve Albart, [salbart@enterprisebank.com](mailto:salbart@enterprisebank.com)

## **ASA GOLF TOURNAMENT**

**MARK YOUR CALENDAR AND SAVE THE DATE!**

**MONDAY, OCTOBER 7, 2019**

**Whitmoor Country Club**

*Additional Details coming soon!*

Questions? Contact Golf Committee Co-Chairs

Jennifer Church, United Rentals [jchurch@ur.com](mailto:jchurch@ur.com)

Steve Cummins, Bell Electrical

[steve.cummins@bellelectrical.com](mailto:steve.cummins@bellelectrical.com)

## Apply Today for ASA Awards

Applications are now being accepted for many of the awards offered by ASA. Visit <https://www.asaonline.com/awards/> to apply.

The ASA Certificate of Excellence in Ethics recognizes subcontractors for their commitment to ASA values, such quality construction and a safe and healthy work environment. Each applicant is required to respond to questions concerning the firm's corporate ethics policies and procedures, its construction practices, and its general business practices. Each applicant also is required to submit detailed documentation, including sealed letters of recommendation from a customer, a competitor, and a supplier.

The ASA National Construction Best Practices Awards recognize prime contractors that exemplify the values of subcontractors, treat subcontractors fairly through use of level-playing-field contract terms, and consider subcontractors part of their core project teams. The program's rigorous criteria 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, as well as highly favorable evaluations from three specialty trade contractors, based on 20 project management factors.

All award winners will be recognized during the 2020 SUBExcel conference on March 4-7, 2020, in Las Vegas, Nevada. We highly encourage all ASA members to get involved in are awards program. These valuable recognition opportunities are only available to ASA members.



## ASAdvantage Spotlight: SESCO Management Consultants

Get the most out of your ASA Membership with our ASAdvantage partner, SESCO Management Consultants!

ASA members receive complimentary human resources services provided by SESCO Management Consultants, including:

- **Free Telephone/Email Consultation**—The SESCO staff is available to answer your questions at no charge, Whether you have a federal or state employment compliance question such as wage and hour, FMLA, COBRA, INS, or Equal Employment.
- **Free Handbook Review**—The SESCO staff will review and analyze your current employee handbook or policies to ensure compliance with federal and state employment regulations, as well as to ensure the employee handbook is effective.
- **Discounted Management/Employee Satisfaction Survey Program**—Employee morale is at the core of whether a company is profitable and successful.

SESCO offers ASA members a discounted employee satisfaction survey program to help ASA-member companies identify employee relations issues that may be impeding optimum productivity and quality customer services. For each ASA member that joins the Management/Employee Satisfaction Survey Program, SESCO will customize a survey that will be sent to the subcontractor's employees. The survey can be performed on- or off-site, by mail or online. SESCO receives the confidential survey responses, then supports each company in reviewing, understanding and addressing survey results. The analysis will also include exclusive benchmarking to an ASA-member database.

ASA members interested in participating in the program may contact a SESCO consultant directly at (423) 764-4127 or [sesco@sescomgt.com](mailto:sesco@sescomgt.com) and identify themselves as ASA members.

## **Preventing Trenching Fatalities**

### **Prevention**

The OSHA standard for excavation and trenching, known as [29 CFR\\* 1926 Subpart P](#), describes the precautions needed for safe excavation work. OSHA requires that all excavations 5 feet deep or greater make use of one of the following protective system options : (1) sloping the ground; (2) benching the ground;† (3) shoring the trench with supports such as planking or hydraulic jacks, or (4) shielding the trench (using a trench box). Workers should never enter a trench that does not have a protective system in place designed and installed by a competent person. A competent person is one who understands OSHA regulations, can recognize hazards, and is authorized to correct them. Competent person training is available from many sources, including insurance companies, trade associations, labor unions, trenching safety equipment manufactures, and others.

### **Planning Before the Job Begins**

***To prevent trench collapse, planning is required before a job begins. Employers should:***

- ✓ Train and designate a competent person to ensure safety measures are in place.
- ✓ Call 811 before digging so that utility lines can be marked, then “pot-hole” utilities to determine the exact location and depth before digging.
- ✓ Have a competent person evaluate the soil to determine its stability. Because soil conditions can vary dramatically over just a few days, Appendix A of Subpart P provides techniques (roll test and thumb penetration) for evaluating the condition of the soil.
- ✓ Plan the job layout to identify safe locations (away from the trench) for spoil piles and heavy equipment routes.
- ✓ Have a competent person determine what type of protective system will be used for the job and schedule the steps needed to have the system complete and in place before workers enter.
- ✓ Trenches greater than 20 feet deep can be more complex. The competent person may choose a manufactured protective system with the appropriate depth rating or use a registered professional engineer to design a site-specific protective system. Refer to 29 CFR 1926 Subpart P for requirements.
- ✓ Ensure that none of the workers designated for entry into the trench are under age 18.
- ✓ Ensure that workers involved in the job are trained about hazards and work practices in a language that they understand and at the appropriate literacy level.
- ✓ Develop a trench emergency action plan [NIOSH 2006] that includes the steps to be taken and provides contact information in case of an emergency. Despite prevention and training efforts, trench collapses continue to kill and injure workers. Please share with us what you view as the barriers to implementing safety measures proven to protect workers and how you think we can overcome them.



## **Preventing Accidents with Near Miss Reporting**

Near misses are situations that nearly became accidents. No one got hurt and no damage was done. Near misses are also frequently called close calls or narrow escapes.

### **Benefits of near miss reporting**

There is a huge benefit to having a near miss reporting program within your organization. Near misses indicate that there are improvements to be made in a company's safety efforts. Research indicates that most serious incidents were preceded by warning signs and/or near misses.

Investigating occurrences that nearly became incidents can help prevent accidents from happening in the future. With reporting a company's health and safety practices can also be elevated to the next level.

### **How to handle near miss reporting correctly**

Near miss reporting is a way of voluntary safety feedback from employees. A way to discover issues that otherwise may not have been noticed by management. When a near miss occurs workers should be able to report it without feeling they will be punished for doing so. If your company safety culture does not give them a safe feeling and does not reassure them that there are no repercussions to near miss reporting, they will not report anything at all.

Another issue that can quickly thwart near miss reporting is blame. Near miss reports should never be used to blame or discipline workers. If corrective actions need to be taken, because someone's behavior is unsafe, the focus point should be the behavior, not the person.

After a near miss report an investigation should take place, because knowing the cause of a near miss and taking preventative measures means preventing future incidents. You will also need to communicate to your employees what you are doing with a near miss report. Otherwise your employees will feel like they aren't listened to and will not report any future incidents.

## **QUESTIONS ABOUT THE ASA SAFETY INITIATIVES?**

***Contact our Safety Co-Chairs: Rose Kastrup with CSA Advisors-(417) 761-4194 or Steve Williams with Bell Electrical-314) 447-9071.***



INTERESTED IN SPONSORING AN UPCOMING MEETING?  
ONLY \$250-CONTACT [SUSAN@ASAMIDWEST.COM](mailto:susan@asamidwest.com) FOR DETAILS!

## ***BluSky Restoration***

*Help ASA Midwest Council continue to grow, by inviting someone who would benefit from ASA membership, to join us at the next monthly meeting. All first time non member guests are free of charge.  
Please register your guest in advance by contacting [susan@asamidwest.com](mailto:susan@asamidwest.com)*

### **(continued from page 7) LIENS AND BONDS-Richard Stockenberg/ASA Chapter Attorney**

#### **Suppliers' Rights Expanded**

Under existing law (pre-August 28, 2019), Missouri courts only allowed bond rights to extend down as far as third-tier parties, that is to sub-subcontractors or to suppliers to a subcontractor; whereas, a supplier to a sub-subcontractor (fourth-tier) had no rights under the bond. This limitation was especially problematic with the increasingly frequent practice by contractors of inserting subsidiaries or related entities into the contract chain as additional parties. Also, with the inclusion of minorities as material suppliers, yet another layer is inserted into the food chain, resulting in the actual suppliers often finding themselves too far down the food chain to be fed through the use of a payment bond. This problem was successfully addressed and redressed in the same legislation addressing bond claims on government property used for a nongovernmental purpose. The roadblock preventing claims by suppliers below the third-tier has been removed thanks to this new legislation.

For post-August 28, 2019, projects, "remote" suppliers "**at any tier**" will be able to make claims under a payment bond. But to be entitled to this protection they will be required to give to the principal of the bond written notice within 90 days of the time they last supplied materials on the public works project that they have not been paid. The expansion of bond rights to remote suppliers is not limited to only projects owned by a governmental body used for a nongovernmental purpose, but also applies to remote suppliers on all government projects regardless of use.

#### **Conclusion**

Like Churchill, ASA and its partners teamed to "make things happen." These changes happened because the industry coalition successfully lobbied - through their respective lobbyists - the Missouri legislature with the result of the passage of a law (1) materially expanding bond rights to more suppliers on all government projects and (2) effectively overruling an unfortunate Supreme Court decision. Without the help of the AGC, it would have been more difficult to secure passage of this legislation.

# Sponsorship Rates

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

- Website Rotating \$420/Year
- Website Static \$1,000/Year
- 1/4 Page Monthly \$300/Year
- 1/4 Page Quarterly \$125/Year
- 1/2 Page Monthly \$500/Year
- 1/2 Page Quarterly \$225/Year
- Business Card Monthly \$125/Year
- Business Card Quarterly \$70/Year
- Whole Page 1X \$300 Per Issue
- Whole Page Quarterly \$900/Year



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