

THE FIRST WORD

February, 2019

Stitt Becomes Governor; Legislative Session Begins **Anti Indemnification/Duty To Defend ACEC OKLAHOMA Priority**

J. Kevin Stitt was inaugurated the 28th Governor of Oklahoma on Monday, January 14th, and presented his first State of the State address this past Monday as the 57th Oklahoma Legislature convened.

During the State of the State, Governor Stitt reiterated his campaign call to give the Governor authority to hire and fire agency heads arguing that agencies have too much independence from voters. To that end, several bills have been filed allowing the Governor to appoint heads of agencies including the Oklahoma Department of Transportation.

A brief review of the proposed budget shows that most state agencies, including ODOT, will receive the same appropriation as last year, which was approximately \$165 million not counting the ROADS fund.

Turning to the Legislature, some 2,800 bills have been filed, by the 101 House and 48 Senate members. Leadership is still assigning bills to the various Committees, and a full slate of Committee hearings is expected to begin next week.

Currently, ACEC OKLAHOMA is tracking some 30 bills which could possibly have a direct impact on the consulting profession and/or the engineering profession as a whole. And, we're still going through all of the bills, so that number many increase in the coming days.

For now, here's a quick summary:

SENATE BILL 353 by Senator Bice. This is an ACEC OKLAHOMA request bill and our MAJOR PRIORITY for the 2019 session.

If enacted, the bill would make "void and unenforceable" any Indemnification and/or Duty To Defend provision in a contract by a political subdivision (state, county, city, etc.). Indemnity clauses in Design Professional contracts used by some governmental entities place unreasonable liability on these businesses. These indemnities undermine traditional notions of liability based on fault and can create contractual duties, including a defense, even in the absence of any fault or wrongdoing. To make matters worse, there are no professional liability policies available to provide coverage for these indemnities. Professional liability insurance covers only liability caused by a Design Professional's negligence, again consistent with well-established rules of liability.

Indemnities are risk-shifting provisions that force private business to defend and indemnify project owners from events not caused by the Design Professional's negligence or other legal fault.

The bill has been assigned to the Senate Judiciary Committee. ACEC OKLAHOMA is working on Discussion and Talking Point documents, which we will share with all members very soon.

ACEC OKLAHOMA will issue a "Call to Action" when the bill is scheduled for Committee hearing. This is a major undertaking by ACEC OKLAHOMA, and we will only be successful with your help!

Senate Bill 698 by Senator Allen. For the third session in a row, Senator Allen has introduced legislation to put a two-year moratorium on ODOT hiring consulting engineers. The bill has been assigned to the Senate Appropriations Committee, and ACEC OKLAHOMA will again STRONGLY oppose this ill-conceived legislation.

Senate Bill 110 by Senator Burgstrom. Another repeat, this would exempt public owners of "pre-engineered" buildings from having to further contract with consultants for any engineering or architectural services. As in previous years, ACEC OKLAHOMA will OPPOSE this legislation.

There are too many other bills, ranging from Design/Build & CM at Risk and control by counties of the CIRB funds to professional licensing and the use of drones, to mention at this point.

Be assured that ACEC OKLAHOMA will be closely watching and working to protect YOUR interests this session, and will always keep you updated!

Welcome New Member

ACEC OKLAHOMA is excited to welcome our newest member, Halff Associates, Inc.

A branch of a Richardson, TX based firm, the 18-person Oklahoma City office is led by Scott Barrett, and offers a full range of engineering services.

Welcome Halff Associates, Inc!

HNTB Corporation Wins 2018 “Grand Conceptor” Award for the Riverside Drive at the Gathering Place

ACEC OKLAHOMA presented the 2018 Engineering Excellence Awards at our January 24th dinner meeting.

There were nine entries in this years competition, HNTB Corporation’s “Riverside Drive at the Gathering Place” in Tulsa earning ACEC OKLAHOMA’s “Grand Conceptor Award”.

Regarding the project, the City of Tulsa had a special problem to work through. A community foundation wanted to create an amazing \$465 million park, along the Arkansas River in Tulsa, Oklahoma, between 41st Street and 21st Street, less than 2 miles from the downtown business district.

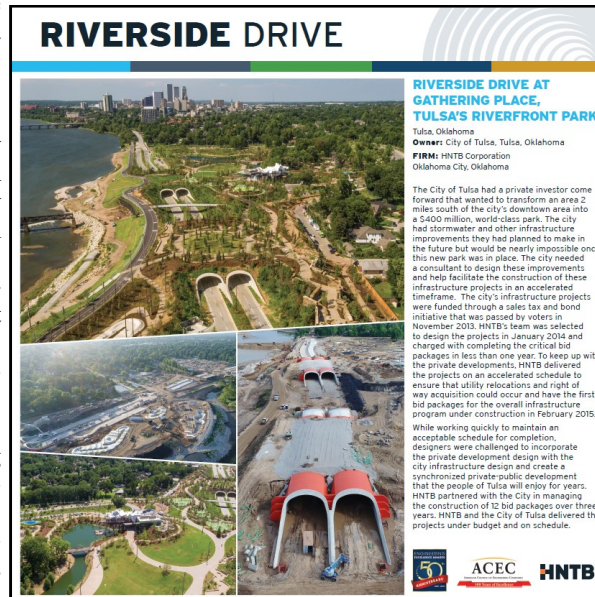
The park, dubbed a “Gathering Place,” would be transformational for the city and the region. However, the city had infrastructure issues in the area, such as storm water flooding, aging infrastructure, inadequate water and sewer lines, and a busy arterial street with significant safety concerns from chronic speeding, geometric deficiencies, and roadside safety issues. City leadership knew that it was critical to establish a foundational infrastructure system to support the park and it needed to happen in a timely and cost effective manner.

Often the schedule for privately funded projects moves faster than publicly funded projects. The privately funded park had a head start on the public infrastructure already, plus the city needed to determine how to fund \$41 million of critical infrastructure improvements. HNTB Corporation (HNTB) started civil, utility, bridge and electrical design work for the park in 2012. However, it was November 2013 before the city passed their tax-funded bond initiative. They needed a firm that could perform quality work in a short timeframe to catch up with the park. The city hired HNTB in February 2014 and challenged the firm to accelerate design of the infrastructure improvements to be ready for construction by the end of the year.

In addition to overseeing and working alongside the city to coordinate all utility relocations and right of way acquisitions, HNTB’s responsibilities also included coordinating with another primary stakeholder, George Kaiser Family Foundation (GKFF), and the development team for the Gathering Place park.

The \$400 million in private donations for the park brought extreme scrutiny and stakeholder engagement requirements to the city’s infrastructure projects. Full construction of the park and supporting infrastructure took three years, and

anxious residents and businesses watched with interest and amazement as the old Riverside Drive and undeveloped floodplain morphed into land bridges, skate parks, landscaped green ways and more.



What once was a mundane, forgettable stretch of road was becoming a place where friends could gather, families could play and visitors would envy as a truly beautiful and functional part of the city.

The Gathering Place and Riverside Drive re-opened fully in September 2018 and Tulsans were able to experience this world-class park and first-class roadway combining to make this stretch of Tulsa’s Arkansas Riverfront truly unique.

ACEC OKLAHOMA also present four Honor Awards and four Finalist Awards. Recipients were:

Honor Awards

Garver – Water Reclamation Facility Phase 2 Upgrades, Norman, OK

C P & Y, Inc. – Hefner Water Treatment Plant Sludge Handling Facility, Oklahoma City, OK

Freese and Nichols, Inc. – Edmond Elevated Storage Tank, Edmond, OK

GUY Engineering Services, Inc. – West 81st Street South, Creek County, OK

Finalists

MacArthur Associated Consultants – Iowa & Dakota Streets Residential Street Improvement, Norman, OK

Garver – Camp Gruber Fire & Emergency Services Report, Camp Gruber, OK

MacArthur Associated Consultants – SkyWest Airlines Maintenance Facility, Oklahoma City

Garver – Pig Farm Low Water Crossing Improvements, Fort Sill – Lawton, OK

A full description and pictures of all nine projects can be found under Awards at...<http://www.acecok.org>



Grand Conceptor Award
HNTB Corporation
Riverside Drive at Gathering Place



Honor Award
Freese and Nichols
Edmond Elevated Storage Tank



Honor Award
C P & Y, Inc.
Hefner Water Treatment Plant Sludge Handling Facility



Honor Award
Garver
Water Reclamation Facility Phase 2 Upgrades



Honor Award
Guy Engineering Services
West 81st Street South



Finalist Awards
Garver
Camp Gruber Fire/Emergency Services Report and
Pig Farm Road Low Water Crossing Improvements



Finalist Award
MacArthur Associated Consultants
Iowa/Dakota Residential Streets Improvements



Finalist Award
MacArthur Associated Consultants
SkyWest Airlines Maintenance Facility