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PRESIDENT'S MESSAGE *by Stu Taub, P.E.*



I hope that your Holiday Season is off to a great start, and that it is already filled with family and friends, good food and drink, football games, and of course shopping for the brave of heart!

Just as October started with a BANG with the ACEC/MD Congestion Relief Symposium held at the Engineer's Club on the 1st, a group of ACEC/MD folks closed out October with another BANG at the 2018 ACEC Fall Conference in Las Vegas, which ran from Sunday October 28th – Wednesday October 31st. This year's conference was a

special one as our new President and CEO Ms. Linda Bauer Darr hosted her first of many conferences along with our own Manish Kothari from ACEC/MW as Chair. Linda proved to be a very effective and entertaining Emcee and kept things moving along nicely.

Sunday included Member Organization (MO) Firm Leadership meetings with MOs from ACEC/MD, MW, DE, Pitt, PA, OH, MI, and WI discussing issues each of us are facing. It was interesting to hear that we all have similar issues. The rest of the day was filled with sessions that included the Board of Directors meeting and CEO Roundtables, where firm leaders discussed issues that our firms face every day. Monday and Tuesday were also filled with a wide variety of sessions that dealt with topics that are important to member firms. There were also some very interesting and entertaining speakers during our lunch sessions, including Mick Ebeling who has used low cost innovative techniques to help legions of people deal with war injuries, speech challenges, and Parkinson's disease. The Awards Program speaker Susan O'Malley was the first female president of a sports franchise (Washington Bullets) at age 29, and her story was very interesting as she discussed how she navigated her way through a traditionally male-dominated industry. Congratulations to ACEC/MD's Kunal Gangopadhyay of EBA, who was honored with a Community Service award. I wish I could tell you all the stories from our trip, but you know what they say – "What happens in Vegas, stays in Vegas".

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PRESIDENT'S MESSAGE *(continued)*

November saw the number of committee meetings increase dramatically, and I attended three very productive meetings with the Construction Services, Small Business Enterprise, and the County/Municipal Government Committees. Kudos to Chair Mike Galvin and our Career Outreach Committee for hosting another successful STEM pro-



gram for over 70 students from the area on November 7th at the Engineers' Club. I'd also like to give a shout out to the 25 presenters and support staff who took time out of their busy schedules to participate in this worthy program.

On a surprisingly snowy November 15th, we had a very strong turnout for our Legislative Breakfast, which included a roll-out of our legislative agenda for the upcoming session by Committee Chair Heidi Van Luven. Our featured presentation was delivered by Les Knapp, Legal & Policy Counsel for the Maryland Association of Counties (MACo). Les discussed the election, which resulted in a large influx of newly elected officials, and legislative agendas for the upcoming session. When the 2019 session gets underway, we clearly have a lot of work ahead of us to educate the new elected officials. Directly tied to our success in the General Assembly is the ability to make targeted political contributions. As called for in the new Smart Goals, our CEPAC goal increases from \$25,000 to \$40,000 in the new election cycle. This increase recognizes the number of new elected officials and the increasing cost to attend fundraisers. With only 30% of our member firms contributing to CEPAC, it is imperative that we increase both the number of firm contributions and individual contributions. Even small contributions count, so please help ACEC/MD carry the profession's message to our elected officials. After the program, we moved from the Library to the Heritage Room to hold our November Executive Committee meeting where I'm happy to report more kudos. This time they're for Chair Amy Lambert and our Public Relations Committee who presented a recommendation for hiring a website designer to bring the ACEC/MD website into the 21st century. The committee unanimously approved the recommendation, and the roll out date for the new website will be in May.

Our 2019 Leadership Program will soon be underway, and we continue to have a heavy emphasis on grass roots political lobbying efforts, starting with a session December 20th immediately following our general membership meeting. The Leadership Class participants, along with other interested member firm representatives, will be attending this presentation by our Legislative Consultant, Chris Costello. Member firm representatives are encouraged to attend this complimentary program.

If you live in Maryland, you are a constituent of a State Senator and Delegates, and we are looking for you to join us in Annapolis for our annual Legislative Action Day on January 22nd. There will be a number of new politicians coming in, and it is imperative that we let them know who we are and what we do. So please put this on your

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PRESIDENT’S MESSAGE *(continued)*

calendar and join us. The more folks we have, the stronger our collective voice will be. We’re looking for 50 member firm participants for the visits and 100 to attend the luncheon, where we can break bread with our elected officials and educate them about our industry and ACEC/MD.

Many of you may be wondering what each of the emblems on ACEC/MD nametags represent, so here is what they mean:

The Crab indicates a personal contribution to the State PAC (CEPAC)

The Maryland State Sticker indicates a firm’s contribution to the State PAC

The American Flag represents a personal contribution to the Federal PAC (ACEC/PAC)

The Minuteman Pin represents a firm’s federal contribution to the Minuteman Fund, which provides local funding from ACEC for issues of national significance.

Name tags with all of these emblems show your and your firm’s full support of ACEC/MD and ACEC National. Don’t be caught with a “naked” badge at future ACEC/MD events!



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## *ACEC/MD ROLLS OUT 2019 LEGISLATIVE AGENDA*

ACEC/MD officially kicked off the 2019 political season on November 15th at the organization’s annual Legislative Breakfast. At this event, the Business Agenda for the General Assembly Session, that convenes on January 9th, was rolled out and Maryland Association of Counties (MACo) Legal and Policy Counsel Les Knapp delivered the keynote address. During his remarks, in the wake of the November elections, Mr. Knapp provided an overview of the national, state, and local political environment. Due to the timeliness of the program, in some cases races were not decided.

While realizing a net gain of one Republican seat in the Maryland Senate, and a resounding victory in the reelection of Governor Hogan, the party failed to gain the five

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## *ACEC/MD ROLLS OUT 2019 LEGISLATIVE AGENDA*

seats necessary in the Senate to provide Governor Hogan with a veto proof margin. With new chairs in three of the four standing Senate committees, the chamber will be very different. At this point the House will feature only one new chair in the Judiciary Committee and three new vice chairs.

Issues that are expected to resurface in Annapolis are:

- Chesapeake Bay TMDL
- MS4 Permits
- Climate Change
- Septic Systems
- Small Cells
- Miss Utility
- Smart Growth & Land Use
- Education Funding
- Renewable Energy
- Recycling
- Comparable Fault

Mr. Knapp closed his remarks by emphasizing the important role that owners and employees of businesses play in educating elected officials on issues of importance to your firm, and stressed the importance of targeted political contributions.

This year's ACEC/MD agenda will focus on addressing uninsurable indemnification language in contracts by including economic damages and eliminating the sole negligence of the promisee, and requiring that a negligence standard be included in agreements. In addition we will continue the process of educating our elected officials on the importance of using Qualifications Based Selection (QBS) when federal or state funds are used for design services.

Be sure to mark your calendar for January 22nd, and plan to join your colleagues at ACEC/MD's Legislative Action Day in Annapolis. The day commences with targeted visitations in the morning followed by the annual CEPAC luncheon. To ensure that our elected officials hear from their constituents, we really need everyone's participation.

Plan on assisting ACEC/MD in lobbying for the following initiatives:

### **UNINSURABLE CONTRACT PROVISIONS - INDEMNITY - DUTY TO DEFEND REQUIREMENT**

#### **WHAT IS THE ISSUE?**

With passage of SB 234 and HB 871 in 2016, engineering and design firms obtained some relief from onerous "Duty to Defend" clauses in A/E contracts. There are still additional modifications required to ensure the obligation to indemnify and pay defense costs for claims arising out of the negligence of others, including an indemnified party's own negligence, are not passed on to design firms.

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## *ACEC/MD ROLLS OUT 2019 LEGISLATIVE AGENDA*

UNINSURABLE CONTRACT PROVISIONS - INDEMNITY - DUTY TO DEFEND REQUIREMENT (continued)

### **WHY IS IT IMPORTANT?**

- The Duty to Defend clause is an unfair allocation of risk.
- The Duty to Defend clause is uninsurable.
- This requirement contractually draws engineering firms into litigation when they have no negligence.
- Small businesses could go bankrupt over expenses to defend when not at fault.
- Engineering firms could be indemnifying another party's negligence in a matter where they have zero or minimal responsibility for any injury or damages.
- There are statutes in other states including VA that relieve professional service firms from the uninsurable "Duty to Defend" clauses.
- Business environment is better for companies in states that do not allow "Duty to Defend" clauses in contracts.

### **Legislative Action Required**

Amend Section 5-401(a) of the Annotated Code of MD to delete the "sole" negligence requirement to fairly assign liability to the responsible party and add "economic loss" to the types of damages to which the statute applies.

## **UNINSURABLE CONTRACT PROVISIONS - INCORPORATE NEGLIGENCE STANDARD**

### **WHAT IS THE ISSUE?**

In 2018, the State of Maryland made a decision to delete the "negligent performance" clause from procurement contracts for A/E services. By excluding this indemnity language, A/E contract services become uninsurable, impacting A/E firms and State agencies that use these services.

### **WHY IS IT IMPORTANT?**

- Insurance companies can deny coverage without the word "negligence" in the procurement contract, thereby leaving the A/E firm without insurance coverage.
- If the State files a claim for negligence, the State would have to pursue the A/E firm to settle the claim, not the insurance company, because without indemnity language to determine liability for A/E services, the insurance is invalid.
- A/E firms are exposed to a risk and expense that is not covered by insurance, which could be a hardship for most businesses.
- This issue especially impacts small and minority A/E businesses where such a risk may lead to bankruptcy.
- The State runs the risk of carrying the cost of claims if the contract requires the A/E firm to have insurance, but the firm is not insured.
- This practice is contrary to the intent of procurement reform, and is not "business friendly".

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## *ACEC/MD ROLLS OUT 2019 LEGISLATIVE AGENDA*

UNINSURABLE CONTRACT PROVISIONS - INCORPORATE NEGLIGENCE STANDARD  
(Continued)

### **Legislative Action Required**

Amend Maryland State Finance and Procurement law to include a provision that requires "negligent performance" as a standard for determining liability for A/E services.

## **QUALIFICATIONS BASED SELECTION (QBS)**

Both federal and Maryland state procurements use Qualifications Based Selection (QBS) to procure professional design services for their projects.

### **WHAT IS THE ISSUE?**

Federal and state monies are used by many local jurisdictions for infrastructure projects. Some of these jurisdictions are using a low bid system to select design services related to these initiatives. Both the federal and state governments long ago mandated QBS as the method to select architects and engineers. ACEC member firms strongly support QBS for procurement of design services.

### **WHY IS IT IMPORTANT?**

- QBS ensures that the most qualified team is selected for the work.
- QBS provides for consideration of all teams based on past performance.
- QBS leads to higher quality services on public infrastructure projects.
- Selecting the most qualified firm likely results in a better design, and construction savings.

### **WHY A LEGISLATIVE INTEREST?**

- Important issue among Architectural/Engineering Firms
- State legislators can encourage local jurisdictions to advertise through QBS process

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LEGISLATIVE ACTION DAY

Tuesday, January 22, 2019

Visitations 8:30 - 11:30 AM

Luncheon 11:30 AM – 1:30 PM

Governor Calvert House, 58 State Circle, Annapolis

(You can avoid the parking hassle by parking at the stadium lot on Rowe Blvd. and taking the shuttle into Annapolis.)

With the large number of newly elected legislators, the upcoming General Assembly session shapes up to be another challenging one. This is the perfect opportunity to educate your elected officials on important issues that impact your firm, such as:

- Further strengthening the state's Indemnification Law by restricting the "Duty to Defend" requirement and incorporating the "negligence" standard.
- Defeat efforts to raid money from accounts dedicated for infrastructure funding.
- The importance of local jurisdictions using the QBS process when federal or state dollars are used to pay for services.

The cost is \$75.00 per person. Register online at <https://acecmd-2019legislativeactionday.eventbrite.com>. IMPORTANT: With each registration, PLEASE include the registrant's legislative district and the legislative district for the firm, and if you plan to participate in the visitations with the legislators. Contact the ACEC.MD office for registration information.

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ACEC/MD Legislative Action Day schedule:

8:30-11:30AM – Targeted Legislative Visitations

11:30AM-1:30PM – Annual CEPAC Luncheon, Governor Calvert House, 58 State Circle

1:30-3:00PM – Executive Committee Meeting  
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ACEC/MD MEMBER FIRMS RECOGNIZED AS BALTIMORE SUN'S TOP WORKPLACES

RK&K NAMED TOP LARGE EMPLOYER

Demonstrating satisfaction by employees in dynamic workplaces, ACEC/MD member firms once again scored very high in this year's Baltimore Sun's Top Workplaces competition. To identify organizations that meet the Top Workplaces' standards, employees at a record 205 companies were surveyed out of the 1,674 companies that were nominated by employees or invited to participate by Energage, an employee research and consulting firm. Job satisfaction factors included: organizational health factors such as company values, effectiveness, appreciation of employees and management style. In addition, the survey asked employees about: employee engagement, confidence in company leadership, compensation, and flexibility.

In addition to RK&K garnering the top award in this year's large employer list, representing firms with four hundred employees and over in the Baltimore region, other ACEC/MD member firm winners included:

- KCI Technologies - (No.3) Large employer
- Whitman, Requardt & Associates - (No.5) Large employer
- Wallace Montgomery - (No. 15) Midsize employer
- SIG - (No.6) Small employer
- A. Morton Thomas & Associates (No. 57) - Small employer
- Straughan Environmental (No. 67) - Small employer

Congratulations to all the award winners for meeting and exceeding their employees' expectation of management and providing top flight places of employment!
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## *ACEC/MD OFFERING AWARDS PROGRAM SPONSORSHIP OPPORTUNITIES*

The American Council of Engineering Companies/Maryland (ACEC/MD) is pleased to offer interested firms the opportunity to cosponsor the ACEC/MD Awards Banquet. This annual event recognizes all finalists in our Engineering Excellence Awards Program, along with the recipients of the President's Award, the Young Professional of the Year Award, Community Service Award, and the ACEC/MD and Kahl Scholarships. This banquet will be held at the historic Garrett-Jacobs Mansion, 11 West Mount Vernon Place, Baltimore, on Thursday, **February 21, 2019** from 6:00 – 9:00 PM.

Member firms, suppliers to the industry, and other interested parties are invited to participate in this celebration by co-sponsoring the event. Included in this sponsorship are:

- Recognition on a sign board posted at the event.
- Acknowledgement in the March-April, 2019 ACEC/MD Newsletter.
- Color advertisement in the February 21, 2019 event program.

The investment for sponsoring this event is only:

Platinum - inside front or back cover (portrait-6½" high x 4½" wide)\* - \$1,000.00

Gold - full page vertical ad (portrait-6½" high x 4½" wide)\* - \$500.00

Silver - ½ page horizontal ad (horizontal-3½" high x 4½" wide)\* - \$250.00

Bronze Business card ad\* - (horizontal-2" high x 3½" wide)\* - \$100.00

(Please note: Platinum and Gold ads must be portrait; Silver and Bronze ads must be landscape.)

\* Ad must adhere to the layout and size requirements; otherwise ACEC/MD is not responsible for the appearance.

To take advantage of this opportunity, email ad (.jpg-200dpi minimum or .eps format; color or black & white;) to [acecmd@aol.com](mailto:acecmd@aol.com), and mail a check for the level of sponsorship desired to the ACEC/MD office, 312 North Charles Street, Suite 200, Baltimore, MD 21201, by the close of business on January 18, 2019. For further information, please contact the ACEC/MD office at 410-539-1592.

We hope that you will join us in this celebration of "excellence in engineering," and at the same time take advantage of this chance to promote your company's name.

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ACEC/MD CALL FOR NOMINATIONS

ACEC/MD is pleased to announce that nominees are being sought for both the **2019 Community Service Award** and **2019 Young Professional of the Year Award**. As indicated by recent ACEC award winners Kunal Gangopadhyay (EBA) and Chuck Phillips (KCI) Community Service and Stephanie Kunkel (JMT) Young Professional of the Year, many of our firms' employees are being recognized nationally for doing exciting and important work both for their companies and in the community. Look around your firm and be sure to get the recognition that is richly deserved for these individuals.

2019 ACEC/MD Community Service Award Nominees Wanted

ACEC/MD is once again looking for employees of member firms that have made significant contributions to their communities by volunteering their time and expertise. These individuals have enhanced the quality of life for all of us, and we would like to recognize their efforts.

Attached, is a copy of the criteria for the award along with an application. Please note that only the official ACEC/MD representative of a member firm may submit candidates. However, a representative from one member firm may nominate a representative from another member firm.

The deadline for entries in the ACEC/MD competition is **January 11, 2019**. The entry must include the ACEC/MD Nomination Certification below and ACEC Nomination Form. To be eligible for the competition, you must send your entry electronically to acecmd@acecmd.org; or mail it to the ACEC/MD office, 312 North Charles Street, Suite 200, Baltimore, MD 21201, by **January 11, 2019**. The winner in the ACEC/MD competition will be forwarded to ACEC for consideration in their competition later in the year.

Call for Nominations for the 2019 ACEC/MD Young Professional of the Year Award Competition

The American Council of Engineering Companies/Maryland is once again soliciting candidates for the 2019 ACEC Young Professional of the Year Award. This award recognizes the accomplishments of our young engineers by highlighting their interesting and unique work, and the resulting impact on society.

Your nominee must enter the ACEC/MD competition to be eligible to participate in the national competition. The 2019 ACEC/MD award will be honored at ACEC/MD's Awards Banquet February 21, 2019.

The 2019 ACEC Young Professional of the Year award information is posted on ACEC/MD's website (www.acecmd.org) as well as ACEC's website. You can download the application from ACEC's website (www.acec.org). The 2019 national winners will be recognized during the 2019 Fall Conference in Chicago.

All nominations must be submitted electronically directly to the ACEC/MD office (acecmd@acecmd.org) no later than Monday, **January 7, 2019**. Please note that nominations will not be accepted directly to ACEC from member firms. Contact the ACEC/MD office if you have any questions.

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## *MDOT-SHA ANNOUNCES THE APPOINTMENT OF NEW PROCUREMENT DIRECTOR*

Ms. Jada Wright has been named the new MDOT-SHA Director of the Office of Procurement and Contract Management (OPCM)

Ms. Wright brings a vast array of work experience, which includes over a decade performing and managing in the area of governmental procurement. She has worked in procurement for the Baltimore City Bureau of Purchases and several state agencies, and came to MDOT SHA from the Maryland Department of Housing and Community Development, where she served as Director of Procurement and directly handled major procurements and representation at the Board of Public Works.

As Deputy Director of the Procurement Support and Services Division of MDOT-SHA's OPCM, Ms. Wright was able to participate in the transformation of OPCM, which will continue to be an area of focus.

Ms. Wright earned her Bachelor of Arts in English from the University of Maryland Baltimore County, and is a lifelong Baltimore City resident.

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NEW MEMBER

The following firm has been elected to Joint Council membership in ACEC/MD:

TERRACON CONSULTANTS, INC.

20401 Seneca Meadows Parkway, Germantown, MD 20876

Phone: 301-354-6100; FAX: 301-354-6101

Rep.: Eric Rehwoldt, PE#21356 (Eric.Rehwoldt@terracon.com)

Website: www.terracon.com

Brief History and Activities of the Firm: Founded in 1965, Terracon is a 100% employee-owned consulting engineering firm providing quality services to clients. Since 1965, Terracon has evolved into a successful multidiscipline firm specializing in: Geotechnical, Environmental, Facilities, and Materials. Over its history, Terracon has achieved significant expansion through both internal growth and acquisitions. Terracon currently has more than 4,000 employees in more than 140 offices and 50 states nationwide. Additionally, they partner with their U.S. clients to serve their international needs. The firm has five new offices located in the DC Metro area which were established in 2017 as a combination of organic growth and acquisition. The firm's success is further evidenced by a current ranking of 24 in Engineering News-Record's 2018 listing of the Top 500 Design Firms, as compared to a ranking of 51 a decade ago.

We welcome this firm as a member of ACEC/MD. Be sure to add their information to your records. The next time you see one of their representatives, please take the time to let them know we're glad that they have joined the Council!

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**OFFICERS**

President  
 Stu Taub, P.E.  
 Wallace Montgomery

Vice President  
 Alan Straus  
 AECOM

Secretary  
 Sean McCone, P.E.  
 Johnson, Mirmiran & Thompson

Treasurer  
 Tony Frascarella, P.E.  
 Century Engineering

ACEC Representatives  
 Director  
 Stu Robinson, P.E.  
 A. Morton Thomas & Associates

Alternate Director  
 Jerry Jannetti  
 WSP

ACEC/MD Directors  
 2016-2019  
 Charles Kumi  
 Kumi Construction Management  
 Melinda Peters, P.E.  
 RK&K

2017-2020  
 James Deriu  
 KCI Technologies  
 Vince Pielli, P.E.  
 Urban Engineers

2018-2021  
 Derek Mostoller, P.E.  
 Gannett Fleming  
 Kathy Walsh, P.E.  
 Stantec

Executive Director  
 Jim Otradovec

*MEMBER NEWS*

**JAMES POSEY ASSOCIATES (JPA)** recently announced that the firm has relocated to:

11155 Red Run Boulevard  
 Suite 310  
 Baltimore, MD 21117

**DEWBERRY** recently announced that Phil Thiel has been promoted to executive vice president. With nearly 35 years of experience in the industry, in his new role he will lead the firm's federal market strategy and business development.

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UPCOMING ACEC/MD EVENTS

Legislative Action Day

January 22, 2019
 8:30am - Visitations in Annapolis
 11:30am - Luncheon with Legislators

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**General Membership Meeting & Awards Banquet**

February 21, 2019  
 The Engineers Club,  
 11 West Mount Vernon Place, Baltimore  
 6:00 PM

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For more information on these, and other events, please contact the ACEC/MD office at 410-539-1592, acecmd@acecmd.org, or go to www.acecmd.org.

Mark your calendar and to plan to attend.

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*ACEC/MD 2018
 Engineering Excellence Awards
 Grand Award winning entry
 San Martin Drive Pedestrian
 Improvement Project
 by RK&K.*

