

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
February 1, 2012

Meeting Began At: 1:30 P.M.

Meeting Ended At: 2:15 P.M.

Members Present: Chris Beutler, Eugene Carroll, Tim Clare

Item 1 - Introductions and Notice of Open Meetings Law Posted by Door

Chair Beutler opened the meeting with introductions of the Board members. He advised that the open meetings law posted at the back of the room is in effect.

Item 2 – Public Comment and Time Limit Notification

Chair Beutler welcomed public comment. He stated that individuals from the audience would be given a total of five minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record and sign in.

Item 3 – Approval of the minutes from the JPA meeting held January 6, 2012

Beutler asked for corrections or changes to the minutes from January 6, 2012. Clare had a clarification change on Item 8, page 4, third paragraph. The \$425-\$500 should reflect thousands of dollars. Hearing no other changes, Carroll motioned for approval of the minutes as amended. Clare seconded the motion. Motion carried 3-0.

Item 4 – West Haymarket Progress Report

Paula Yancey, PC Sports, distributed a packet (attached hereto) updating the status on the Pinnacle Bank Arena and associated infrastructure projects.

The first image is of the continuing work on 'M' and 'N' Streets. It is expected to be complete by the originally scheduled timeframe of March 1. By the end of next week, the south half of 'N' Street from 10th to 9th Street should be open to allow that left-handed turn. The second image shows the S.W. corner of 10th and 'N' Streets, and you can see the lane that should be open next week. On the Amtrak Building, both Ronco and Stephens and Smith are on site and work is progressing. The image shows the backfilling operations for the Amtrak platform, as well as the storm drain tap. Responding to a question from Clare, Yancey explained that a storm drain tap is the process of tapping into the existing storm drain systems for that building. On Alter Sliver, TCW is proceeding on the environmental remediation work. The image shows the shoring installed along the rail line. The excavation has begun.

For other project progress, the Lincoln Haymarket Infrastructure Team is continuing design Core Area Roadway project and plans are expected to be complete and ready for bidding in early summer. Purchasing received the Parking Deck 1 construction manager at risk proposals on Monday. Those proposals are currently under review by the team. LHIT also continues working on the design for the pedestrian bridge and the festival space areas.

For the Pinnacle Bank Arena project update, the first image is the aerial dated December 16, 2011, and shown at the last JPA Board meeting. You can see that the columns were on the north side of the site and some pile cap work was beginning towards the south. On the new January 15, 2012, image you can see how the work has progressed and all the columns are out of the ground down to the south of the site and starting to come around towards the east.

As of January 31, there have been 243 RFI's (requests for information from the contractor to the architectural engineering team) and 388 submittals that either are in the review process or returned to the contractor for approval. Seventeen CCA's (construction change authorizations) have been issued to the design team to clarify added design concepts on the drawings.

John Hinshaw, Mortenson Construction, detailed further construction information for the Board. Last month they held a safety luncheon to reward workers for 120 working days without a safety incident. They have roughly 100 workers on site on daily basis and have worked around 80,000 hours. There is a picture of the workers in the tent in the packet. Clare asked about the percentage of workers that were local. Hinshaw responded that there is a high percentage of workers from Lincoln, in the 70-80% range. They will have a report coming out on that issue.

Hinshaw went on the concrete superstructure. The picture shows the elevated shoring at the north end of the site, which will eventually become the main concourse. Mortenson continues to install columns, grade beams, spread footings and pile caps. As shown, 3,100 yards of concrete has been placed. Tomorrow the first elevated piece of the main concourse will be placed at the north end of the job site. From there the concrete decks will continue on a weekly basis.

The precast stadia is awarded to our local partner, Concrete Industries. On the right of the image, there is a screen shot of the stadia showing the event seating. The shop drawings are complete and samples are approved. They will start casting the precast within two weeks. They will be delivered in May and erected on site.

Beutler expressed his appreciation and how impressed he was with the progress.

Carroll asked if Yancey would please use the aerial to point out the work that will be discussed later on the agenda items related to the site preparation. Referring to the January 15 aerial, Yancey pointed out that the images on the east and west side shows the track that remains. Once those tracks are removed, the rest of the grade will need to be brought back up to pad ready.

Clare inquired as to timing, to which Hinshaw confirmed that the project is on schedule.

Chair Beutler invited public comment. Being none, the Board moved ahead to the next item.

Item 5 - Approval of Payment Registers

Steve Hubka, JPA Treasurer, informed the Board that roughly \$10,400,000 was expended in December. This included two payments to Mortenson that landed in the same month and the internal billing from Engineering Services for \$27,113.

Beutler asked for public comments. Hearing none, Carroll made a motion to approve the December payment registers. Clare seconded the motion. Motion carried 3-0.

Item 6 - Review of the December 2011 Expenditure Reports

Steve Hubka stated that this is the December 2011 expenditure report. Since there is now a guaranteed maximum price there will be a revision soon of the various breakdowns on the project.

Beutler asked for further comments or discussion. There was none.

Item 7 - Bill No. WH 12-08 Resolution to accept the financial audit and management letter from BKD CPA's & Advisors LLP for the period ending August 31, 2011

Hubka introduced Roger Watton and Chris Lindner from BKD to do the audit presentation.

Watton addressed the Board regarding the audit process, financial statements and communication letter. He explained this was somewhat historic because the statements are through August 31, 2011. BKD issued an unqualified opinion on the financial statements. The audit was performed under generally accepted accounting standards and layered on that is the government auditing standards which are more compliance driven. Therefore, when BKD looks at contracts, they also look at statutes to be sure they comply with regulations -- in addition to the financial appropriateness. This was a single year presentation and next year there will probably be a two-year presentation, which is always a little easier to look at and compare financial data.

The format is unique, because auditors are issuing an opinion on a stand-alone governmental fund. In addition, even though it has many aspects of a business it is in fact a governmental fund because it is strictly relying on tax revenues. Therefore, what is shown is a three-column approach taking it from a project fund column (literally a modified accrual system), the adjustments are shown, and showing statement of net assets. This is on page 6 and 7 of the document. It would be very similar to a commercial entity on full accrual reporting all debt, all assets, where the project fund is modified accrual, does not present any long-term debts, or does not present the capital assets of the arena itself. Footnotes are a significant piece of the financial in terms of explanation. Note 4 goes in to the long-term liabilities, all the terms and conditions, and the fact that they are Build America Bonds and the interest rate subsidies, etc. From the income statement standpoint, on page 7, there is the modified accrual and, in this case, unlike what a commercial entity would do, the interest that you pay on the bonds is not capitalized in to the capital assets section. This is a period expense. Under the General Revenues, the Occupation Taxes have been beyond projections with \$7.6 million either collected or reported as receivable in this period. The intergovernmental revenues includes Build American Bond interest rate subsidy -- principles say this is set out as revenue. Also, NDEQ Grant is also shown in that \$3.2 million. The end of year showed \$4.8 million.

The staff of the Finance Department were very cooperative.

Clare questioned if Occupation Taxes were monies we collect and if Mr. Watton was aware that we were bring someone back, Don Herz, to help with some of the formulas for that collection. Clare asked if BKD also looked at performance audit issues.

Watton confirmed we collected the Occupation Tax monies and did work with a little element of performance audit due to the governmental standards, but this is still primarily a financial driven audit.

Hubka responded that Herz is not being brought back to primarily work with the Occupation Tax, but to work with the cash flow model and other aspects of the overall financials.

Beutler asked about the overall audit suggestions made concerning Occupation Tax collections and how capital assets components are being handled and if BKD is satisfied with the City's response for recommendations. He wanted to know if they believed we were on the right track and if there were any other categories about which substantial recommendations were made.

Watton expressed that those were the two larger areas. From his knowledge of the verbal discussions – he has not seen anything in written form – they are very much on track in addressing those areas. Policies are in the process of being reduced to writing.

Lindner stepped forward to review the communication letter. According to auditing standards, a firm is required to make certain indications to those charged with governing. There are several ways to do this and BKD chooses to do this via a written letter. They include a response even if there is nothing to report, such as on page 2 “Disagreements with Management.” Also, on page 2 it is noted that there were no audit adjustments to the original statements provided by management. That is a complement to Steve and Mark and the rest of the Finance staff for their hard work put in to compiling those statements. As part of this statement, BKD is required to do an evaluation of internal controls for financial reporting. This is usually thought of as segregation of duties, but also looks at whether there are controls in place to catch things such as audit adjustments and any misstatements to the financial statements. There were no problems with the segregation of duties within the Finance Department for JPA.

BKD is not allowed to report in written form that there were none, but it is okay to communicate that verbally to the Board. This is another complement to the Finance staff. On page 3 are other matters addressing best practices for the future. The “Occupation Taxes Collection Policy” recognizes that this is new but needs to be followed closely due to the significance of that tax to the JPA. Dealing with the “Capital Asset Components,” although the project will not go into service for several years and from a financial reporting prospective the depreciation expense will not occur for several years, BKD's experience with large construction projects is to look at the different components and make sure it gets broken out as it goes along instead of waiting until the end. This is not just for depreciation, but also for tracking various items with the overall project.

Additionally, BKD included information to make the Board aware of some upcoming financial accounting standards that will affect the JPA in the next several years. Although, these needed communicated, BKD does not feel they will have a significant impact on the financial statements, the presentation or format of those. Also, attached to the letter, is the management representation letter required under auditing standards. There is nothing of concern there as well.

Clare wanted to confirm that BKD is essentially giving us a clean audit and everything is in order. Lindner did confirm that was the case.

Beutler asked if BKD works with both private and public entities. And, if they were familiar with what the public or State Auditor looks for and if they check the same items.

Lindner responded that they do, but Watton and he primarily do public entities. BKD stands by their clean opinion. Watton explained that the State Auditor is often looking at compliance to State statute. Although they apply government auditing standards, it is probably not at the level that the State Auditor would be looking. BKD focuses on the material items, the financial statements, doing sampling of various elements. The State Auditor will “plow” in deeper to the same information than what is required by the AICPA. The State may look at financial and performance issues.

Attestation audits are a separate service that can be provided. Nothing BKD did or what the State Auditor usually looks at are part of the Attestation Standards. Those are more where you agree to do a certain set of things from a sampling or numbers standpoint. But the attestation parameters certainly encompass many of the same things in a financial audit. It is somewhat difficult to draw that line. BKD checks against the major statues and requirements.

Hubka thanked the Financial Department staff that worked on this – especially Mark Leikam and Dwight Fuhrer in Accounting and Pat Wiegel in the City Treasurer’s Office. As the management response reflects, there have been a number of actions taken over the last a few months related to Occupation Tax. There was a round of certified letters that went out in October and those collected well over a \$100,000. An assessment process was recently done which is provided for in the City Code and we are in the process of getting companies to respond. If they do not respond we would implement some follow-up action. Although we definitely have some problem companies we are averaging 582 contacts with returns in percentage of collection of dollars in the high 90 percent. Within the first 12 months of the Occupation Tax we took in \$11,847,000 – well in excess of the projections. The staff is very diligent is making that percentage as close to 100 percent as possible.

Beutler asked that Hubka add the Board’s congratulations to his staff also.

Beutler invited public comment. Hearing none, Carroll made a motion to accept the Resolution WH 12-08. Clare seconded the motion. Motion carried 3-0.

Item 8 - Bill No. WH 12-09 Resolution approving Final Guarantee Maximum Price Amendment to the Amended and Restated Construction Manager at Risk Contract with M.A. Mortenson Company to establish \$149,999,536.00 as the amount the Contract sum shall not exceed

Paula Yancey was happy to report that there was more good news. She was pleased to be joined by several staff from M.A. Mortenson and have Stan Meredith from DLR in the audience. This resolution is to approve the final guaranteed maximum price (GMP) to the Mortenson/Hampton Construction Contract. The GMP for the arena and garage totals \$149,999,536 and that is within the \$150 million dollar amount originally budgeted for these scopes of work and the project remains on schedule. This GMP has been reviewed and scrubbed by all members of the team to get it to this point today.

Clare asked for confirmation that the GMP is roughly \$150 million and there is contingencies built into that, so it is reasonable to believe that the GMP is actually closer to \$145 million.

Yancey confirmed it would be about \$4.9 million worth of Mortenson contractor controlled contingencies built in the figure.

Clare was excited about the number and wanted someone to elaborate on the value based procurement procedures and how that affects the GMP dollar and the local participation.

Derek Cunz, Vice President at Mortenson, explained that the ‘best value’ procurement process that JPA approved when we started the project allowed them to give a point system for local subcontractor involvement and go out early in the market place prior to the design being complete. To get subcontractors involved for the major scopes of work helped with design and the budget early on. This enabled us to lock in pricing early in the process to guard against price escalation to help the budget. It is a big part of why we are on budget today.

On the local participation issue, we are seeing virtually a 100% of local subcontractor participation on the teams that have formed for the project or entirely local subcontractors that we would not have had without that best value procurement process. Points were given in the bidding process for local. The large companies would not have had the incentive to find local partners to make it a local project. Some of the smaller local firms would not have had the capacity to take on this large of a job without teaming with other firms.

This process allows them to be standing in front of the Board on budget and on schedule. One problematic issue with the more traditional process where you design the building completely and then put it out for bid is if the bids come in over budget you then have to re-design and you have to recover financially from those costs. You have to redesign to either fit the budget or go outside the budget. This process allowed us to be proactive throughout and maximize the best value.

Carroll wondered in order to get to the \$150 million if we were getting the originally projected package at or below the budgeted dollars or if anything had to be cut to get to the number.

Cunz confirmed it was the original project and the building has room for future growth.

Bob Caldwell, President/CEO for Hampton Enterprises, thanked the JPA for using the best value procurement process. There really has been laser light focus on the local participation. It has been a resounding success.

Beutler invited public comment. Hearing none Carroll made a motion to accept the Resolution WH 12-09. Clare seconded the motion. Motion carried 3-0.

Item 9 - Bill No. WH 12-10 Resolution approving Amendment No. 1 to the Final Guaranteed Maximum Price Amendment to the Amended and Restated Construction Manager at Risk Contract with M.A. Mortenson Company to add Owner requested items and Construction Alternates and to establish \$156,270,167 as the revised amount the Contract sum shall not exceed

Paula Yancey explained that this is an amendment to the GMP just approved. It includes some owner added scope and upgrade items determined to be necessary after the GMP was reached. The items are within other line item budgets but will be shifted from those other budget line items and included within the Mortenson scope of services. Some were desired owner enhancements that would give additional benefit to the building. This amendment is to make those shifts and to adjust the contract amount to \$156,270,167 and all items are funded within the existing budget.

Clare wanted explanation on the increase and relationship to the GMP just established.

Yancey explained that this is the revised contract value; however, the GMP for the Mortenson arena and garage scopes of work as originally anticipated is \$150 million. At this time the contract total is being adjusted to include these items and they will be continued to be monitored and priced out. These are add-ons to the contract but are not part of the base GMP. These include items we knew would have to be done, such as the site prep items to which Carroll referred earlier, in order to get the pad raised after track removal. The pedestrian ramp is an example of this where it is already accounted for in another budget category but was shifted over to another line item in the overall program budget.

Chair Beutler opened the floor for public comment. Being none, Carroll made a motion to approve Resolution WH 12-10. Clare seconded the motion. Motion carried 3-0.

Item 10 - Bill No. WH 12-11 Resolution authorizing AON Risk Solutions on behalf of the West Haymarket Joint Public Agency (JPA) to procure the attached endorsements to add the Jaylynn LLC and Alter Trading Company properties acquired by the JPA to the existing ACE American Insurance Company pollution policy

Dan Marvin presented the resolution stating that in 2010 the Board approved a contract with AON Insurance to provide environmental remediation insurance for properties north of 'O'

Street. That remediation is complete and that policy provided an additional \$20 million worth of protection with a \$50,000 deductible. Now that property south of 'O' Street has been acquired, including the Watson Brickson Property and Alter Scrap, the total of about 8.5 acres of property, we can extend that policy south of 'O' Street for an additional cost of \$69,127. That seems to be a prudent thing to do to have an additional layer of coverage in the case that we find unknowns for which we did not plan.

Beutler asked where that put us on the overall environmental budget.

Marvin explained that this does come from that existing budget. This was a planned expense within that budget.

Hearing no public comments, Carroll made a motion to approve Resolution WH 12-11. Clare seconded the motion. The motion carried 3-0.

Item 11 -- Set Next Meeting Date

The next regular meeting date is scheduled for Tuesday, February 14, 2012 at 3:00 in City Council Chambers Room 112.

Item 12 – Motion to Adjourn

Carroll made a motion to adjourn the meeting. Clare seconded the motion. Motion carried 3-0. The meeting adjourned at 2:15 P.M.

Prepared by: Pam Gadeken, Public Works and Utilities



PINNACLE BANK ARENA

**& Associated Infrastructure
Projects**

**Project Status Update
February 1st, 2012**

M&N STREET

(NE CORNER AT 9TH & N ST)

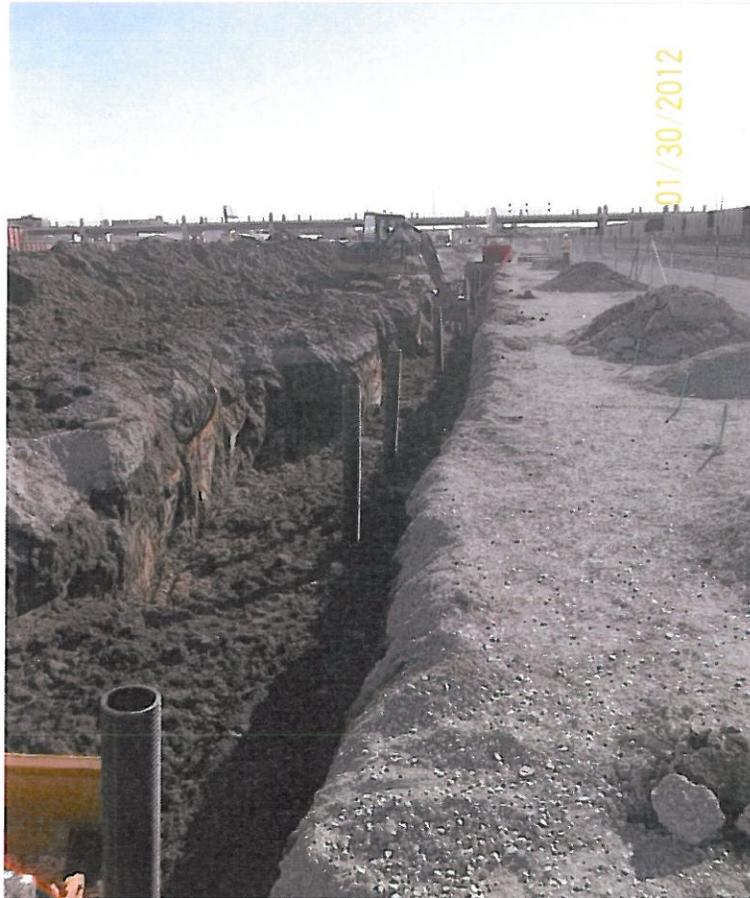


M&N STREET

SW CORNER AT 10TH & N ST



AMTRAK

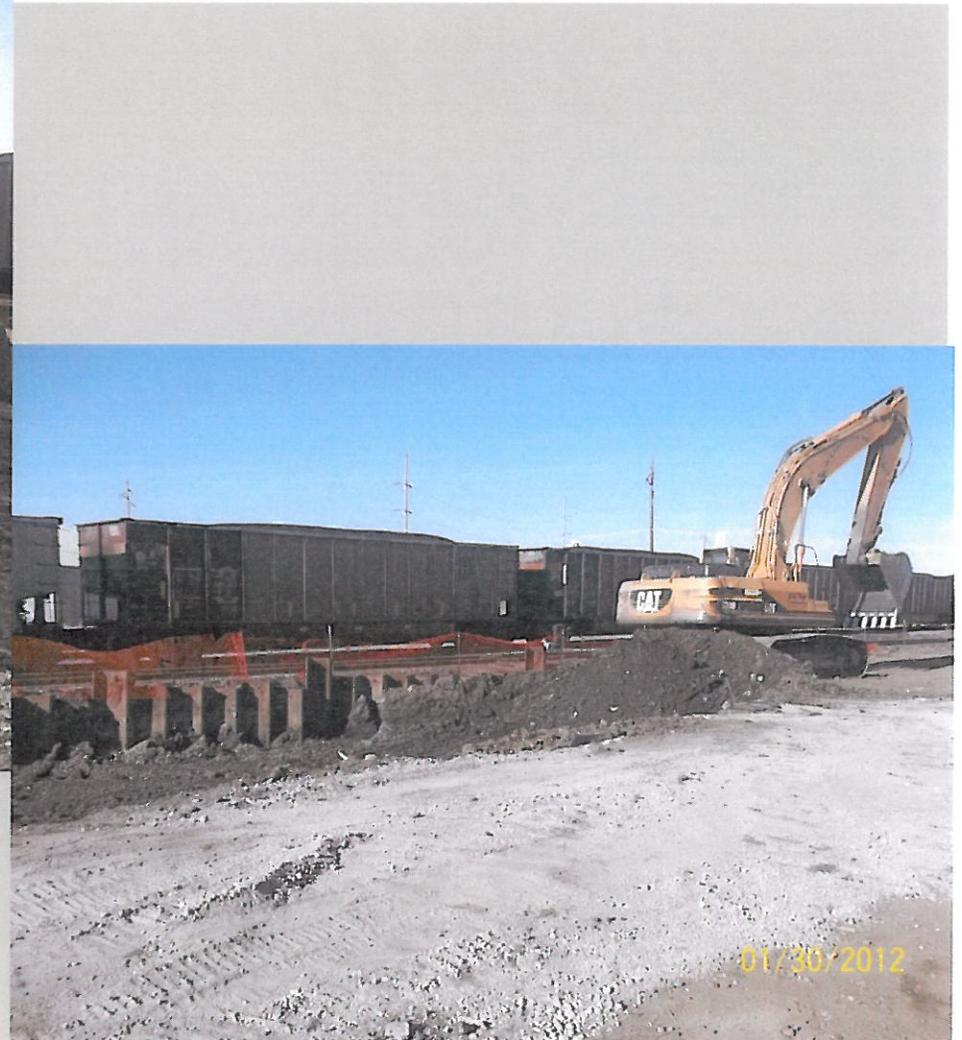


Backfilling platform storm drain (looking South)

Building storm drain tap into
72" RCP

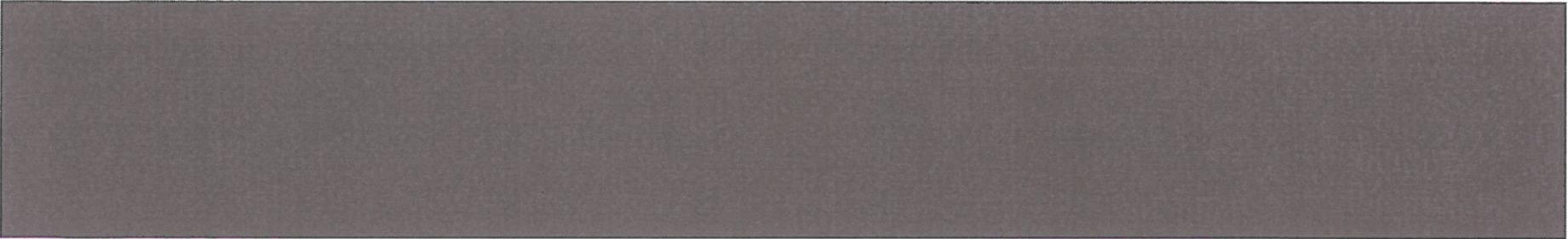


ALTER SLIVER EXCAVATION



OTHER PROJECT PROGRESS

- Design continues on Core Area Roadway
- Deck 1 Construction Management Risk Proposals received January 30th, 2012
- Pedestrian Bridge design work continues



Pinnacle Bank Arena Progress Update

AERIAL DECEMBER 16TH, 2011



12-16-11

AERIAL

January 15th , 2012



PROJECT PROGRESS

- As of January 31st, there have been a total of 243 RFI's submitted
- There have been a total of 388 Submittals as of January 31st.
- To date there have been 17 CCA's issued.

SAFETY



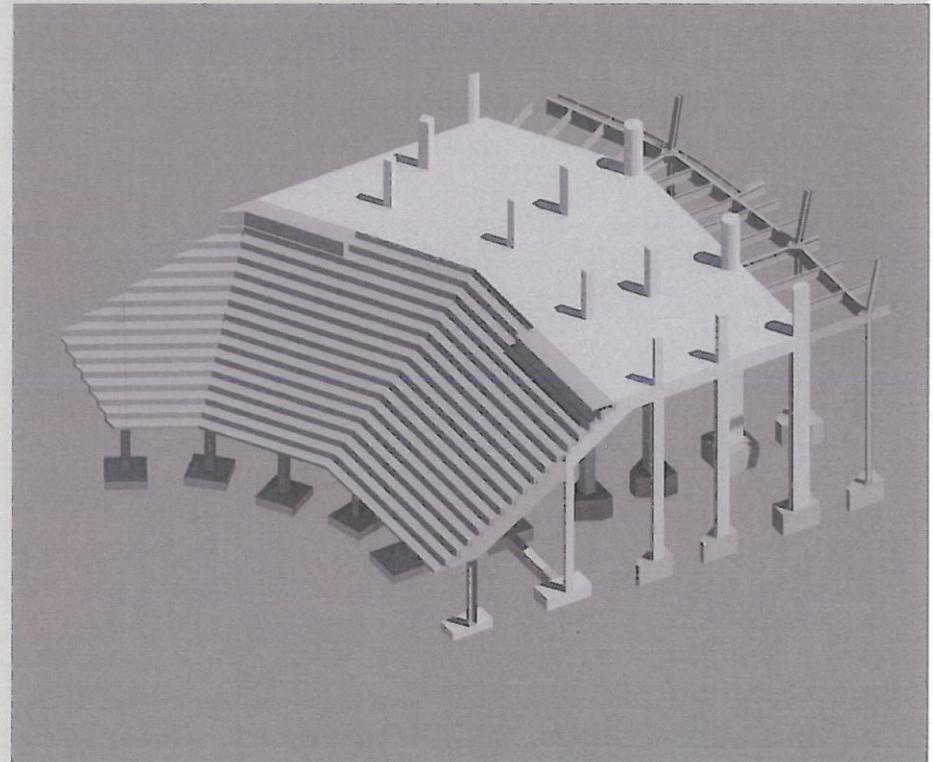
Concrete Superstructure

- Installing Columns, Grade Beams, Spread footings, and Pile Caps
- 3,100 yards of concrete have been placed.
- First Elevated Deck Pour Tomorrow



PRECAST STADIA

- Awarded to Concrete Industries
- Shop Drawings Complete
- Samples Approved
- Casting Begins within 2 Weeks
- Setting Precast starts in May



VIEW OF SHORING ALONG WEST SIDE OF ARENA



CRAFT WORKERS COMPLETING FIRST DECK POUR

