

# THE FLOW

MARCH 2019

## Upcoming Events



**Annual Golf Tournament**  
**Tuesday, April 2nd**  
**St. Johns Golf & Country Club**  
**Forms on page s12 & 13**

**NUCA National  
Conference**  
**March 14th to 16th**  
**Naples, FL**

**NUCA of Florida  
Legislative Days**  
**March 25th & 26th**  
**See info on page 7**

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## 2019 OFFICERS & BOARD OF DIRECTORS

### EXECUTIVE COMMITTEE

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Jarod Wolford, Martin Marietta Materials

Jon Woodall, John Woody, Inc.

### PRESIDENT'S MESSAGE

Dear Friends,

Can you believe that it's already March? As always, thank you to our monthly sponsors, we couldn't be as successful as we are without you!

NUCA of North Florida continues to march through 2019. On February 21<sup>st</sup>, we held our general meeting at The Main Event. It was one of our more casual events, but it was well attended, and tons of fun! I will say, as a group, we make much better contractors than bowlers! On February 26<sup>th</sup>, we held a Pre-Session Town Hall meeting with the Duval Delegation. It's always great to get some one on one time with our local representatives, prior to session. On February 28<sup>th</sup> – March 2<sup>nd</sup>, NUCA of Florida will be participating in the Andrew Scott Johnson Memorial Scholarship Bass Fishing Tournament. This tournament helps raise money for scholarships that are awarded to our members families! The NUCA National Annual Convention goes from March 14<sup>th</sup>-16<sup>th</sup> at the Naples Grand. For us here in Northeast Florida, I know this conflicts with TPC, but it is a great event and helps our members understand the national perspective of our industry. On March 25<sup>th</sup> and 26<sup>th</sup>, NUCA of Florida will be walking the halls of the Capitol Building in Tallahassee. NUCA of Florida is collaborating with lawmakers from around the state on several issues, and we need to have a strong showing in Tallahassee, so sign up today! And finally, we have our Annual Golf Tournament at Saint Johns Golf and Country Club on April 2<sup>nd</sup>. This is one of our biggest events and it is always a lot of fun. There are plenty of sponsorships available, but golf team spaces are running out! Sign up quick!

As always, please continue to support our members and associates. If there is anything I can do to help you out, please do not hesitate to give me a call.

Sincerely,

*Mike*

Linda L. Daniels, CCIM  
Licensed Real Estate Broker



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## 2019 NUCA of North Florida

### Monthly Sponsors

#### Diamond Sponsor

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### Platinum Sponsors

Beard Equipment Company  
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### Silver Sponsor

Ring Power Corporation

### Gold Sponsor

Standard Precast, Inc.

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A.J. Johns, Inc.  
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Gate Fuel Service  
John Woody, Inc.  
Lippes & Bryan  
Petticoat-Schmitt Civil  
Contractors

## CALENDAR OF EVENTS

### March 12th

**Executive Committee Meeting**

### March 14th to 16th

**NUCA National Convention  
Naples Grand, Naples, FL**

### March 25th –26th

**NUCA of Florida  
Legislative Days  
Tallahassee**

### April 2nd

**Golf Tournament  
St. Johns Golf & Country Club**

### April 9th

**Executive Committee Meeting**

### May 23rd

**Board of Directors  
Night at Baseball Grounds of  
Jacksonville**

# The Law and Your Business

## **The Law and Your Business – Bid Protest on City of Miami Project Denied Despite Argument that the Winning Bid Materially Deviated from the RFP**

**By Rebecca Ross, Regan Atwood. P.A.**

In *Biscayne Marine v. City of Miami*, Biscayne filed a bid protest regarding a City of Miami project. The City anticipated that the winning bidder would redevelop and lease the property and then operate a marina, a boatyard, wet slips, a dry storage facility and a restaurant on the site. The RFP described the property as three parcels and included a survey, which identified a rectangular portion of parcel 3 as “Not a Part”. Initially bidders had the option to use this County Land to provide the required parking. During the RFP process, however, the City issued Addendum 5, which removed the County Land from the portion of the property anticipated for parking use. Subsequently, the City received three proposals and all three bidders made some use of the Not a Part area. VKLLC proposed 111 dry storage slips, Biscayne proposed vehicular access and circulation, and the third bidder proposed to use the space partially for boat storage and partially for parking. Ultimately, the City (based on rankings from the Committee) awarded to VKLLC.

Biscayne filed a timely protest and argued that out of the three bids, VKLLC’s use of the Not a Part area would have the most significant impact and was a material deviation from the RFP. The Hearing Officer denied the protest and found that all three bidders had proposed to use the Not a Part area in their bids and declined to weigh the relative merits of the different proposed uses. The Hearing Officer accepted the City’s view that the RFP had not prohibited the use of the Not a Part rectangle and that it remained subject to different interpretations.

Biscayne then filed a petition with the Circuit Court. The Circuit Court affirmed the Hearing Officer’s deference to the City, including the City’s analysis of the competing proposals and the resulting determination that both Biscayne and VKLLC’s bids were responsive. The Circuit Court cited to Florida’s policy of deferring to governmental decisions in competitive bidding, as here, when there is no finding of illegality, fraud, oppression, or misconduct.

Biscayne then sought review with the appellate court. Biscayne argued that for a bid protest, either a court or a hearing officer must perform an analysis independent of the public procuring agency to determine whether a material deviation from the bid specifications had occurred. The appellate court disagreed and cited to Florida Supreme Court authority that “in Florida... a public body has wide discretion in soliciting and accepting bids for public improvements and its decision, when based on an honest exercise of this discretion, will not be overturned by a court even if it may appear erroneous and even if reasonable persons may disagree.” Thus, the appellate court denied Biscayne’s petition because Biscayne had failed to show that the Circuit Court departed from the essential requirements of law.



## MAIN EVENT HIGHLIGHTS

We had over 50 people registered to attend our bowling night at Main Event. Guests were treated to two hours of bowling and a Tex-Mex buffet. Some of our young professionals also came out for this event. Although we are probably not the best bowlers, everyone had a great time.



# NUCA OF FLORIDA LEGISLATIVE RECAP

## **ICYMI--NUCA FL DEFEATS BAD BORING CONTRACTOR DETRIMENTAL LIEN LAW RULE**

### **The Construction Industry Licensing Board**

Rules Committee gathered on February 15 in Crystal River to discuss once again whether there should be a boring contractor specialty license. NUCA of Florida has worked for more than a year to defeat this bad proposal to ensure the safety and welfare of our citizens and protect current license holders against unlicensed contractor activity.

With the help of NUCA FL Immediate-Past President Tom Woodward who testified before the Rules Committee of the CILB and other NUCA of Florida members who reached out to Ed Laney, the appointee who represents our industry on the CILB, NUCA of Florida was able to convince the Rules Committee NOT to move forward with rule development of a Boring Contractor Specialty License.

Many thanks to Ed Laney, CILB Board Member who advocated against the creation of a specialty license to protect the integrity of the full underground utility and excavation contractor license.

Additionally, NUCA FL was prepared to testify against a detrimental proposed lien law rule that would have mandated a \$1000 fine against contractors in certain situations. Fortunately, the CILB General Counsel relayed that the Rules Committee and the full CILB did not have statutory authority to make changes to the lien law. It was a double-win day for NUCA of Florida members!

## **811 LEGISLATION**

811 Legislation was revised to apply only to damages to pipelines/hazardous materials. Other revisions creates Creates 9-member review panel under the Attorney General's, Office of Legal Affairs.

\* The Sunshine 811 board nominates 3 people for each of the 8 industry seats and the AG appoints the members of the panel from those nominees. The AG can appoint whomever she wants in the 9<sup>th</sup> **(member of the public) seat. The panel's enforcement is limited to** damages to gas/hazardous material lines. \* Extends time to mark facilities from 2 to 3 days. Keeps the language relating to damage/removal of permanent markers.



Don't be left in the dark...

# JOIN YOUR INDUSTRY COLLEAGUES FOR NUCA OF FLORIDA'S LEGISLATIVE DAYS MARCH 25-26.

Register  
for NUCA FL  
discounted room  
rate at Hotel  
Duval here!

## MONDAY, MARCH 25

9:00 AM-11:00 AM | Hotel Duval-Onyx Boardroom  
Executive Committee Meeting

11:00 AM-2:00 PM | Hotel Duval-Opal Room  
Board Meeting Luncheon &  
Legislative Briefing

2:30 PM-5:00 PM  
Capitol Visits

6:00 PM-7:00 PM | Hotel Duval-North Terrace  
Legislative Reception

## TUESDAY, MARCH 26

8:00 AM-9:45 AM | Hotel Duval-Opal Room  
Breakfast with Lawmakers

10:00 AM-4:00 PM  
Capitol Visits

Register here for Legislative Days Event  
today or visit [www.nucaflorida.org](http://www.nucaflorida.org).



### **OSHA Releases Final Electronic Recordkeeping Rule**

As proposed in July, the rule will not require large employers to electronically submit details about their employees' workplace injuries and illnesses, somewhat relieving contractors from the requirement. The rule is slated to go into effect February 25. Read more [here](#). Read the final rule [here](#).

### **OSHA Hikes Civil Penalties**

Effective Jan. 23, OSHA stated the increase is based on a 2.5% cost of living adjustment. The maximum penalty increased to \$132,598 (from \$129,336) for willful and repeat violations, while the mandatory minimum penalty is now \$9,472. Read the OSHA memo [here](#).

### **Extreme Low Temperatures Nationwide Could Lead to Cold Stress in Workers**

Cold stress occurs by driving down the skin temperature and eventually the internal body temperature (core temperature). This may lead to serious health problems, and may cause tissue damage, and possibly death. With current exceedingly low temperatures, it is important to keep your workers' safety in mind. Read more about cold stress [here](#).

### **SCHOLARSHIPS NOW AVAILABLE**

The NUCA Foundation for Education and Research is now accepting scholarship applications.

**Eligibility:** Any high school senior whose parent or legal guardian is employed by a NUCA member company in good standing at the time of the application deadline may apply. This includes dependents of employees of NUCA members, high school student employees of NUCA members, and dependents of NUCA Chapter Executive Directors. Submission Deadline is April 15, 2019.

Please visit <https://www.nuca.com/nucafoundationscholarship> for additional information and to get an application.



**SAVE THE DATE**

**NIGHT AT THE BASEBALL  
GROUNDS OF JACKSONVILLE  
THURSDAY, MAY 16TH  
6:00 PM**

**More details next month**



**NUCANF FISHING TOURNAMENT  
SATURDAY, AUGUST 3RD  
NORTHEAST FLORIDA MARLIN ASSOC.  
ST. AUGUSTINE**

## **Predictive Modeling in Insurance**

**By Fitzhugh K. Powell, Jr., AAI, CRIS, CWCA  
President, Cecil W. Powell & Company**

All insurance companies have started utilizing automated predictive modeling on all lines of coverage. This process started with large property risks, especially as it relates to Windstorm/Hurricanes in Florida and Earthquakes in California. Various firms have developed modeling software that each insurance company customizes to fit the book of business they insure. RMS15 is the most famous model, and it gets updated every year (ARM is another).

Reinsurance companies use this to develop adequate rates. They put in all the data (payrolls, receipts, premiums, losses, etc.) in the model and the program predicts what the claims for various account(s) will be over the next five years..... so the term “this account doesn’t model well” has become a huge problem, especially as it relates to automobile insurance. There are secondary modifying factors that can influence the modeling outcome either favorably or not, and sometimes they just use a default for this which makes the outcome worse, and the account gets higher pricing! So, with auto insurance, we have a real problem, as the driver's ages, violations (tickets) as well as the type of vehicles and claims history can impact the cost of this in a very negative fashion! Bear in mind that in Florida, the combined loss ratio on automobile insurance is currently 130% of premiums collected! That number is across all carriers (insurance companies) both personal and commercial auto insurance and means that for every dollar spent on premium, the insurance companies are spending \$1.30 in claims and expenses..... So, the next several years will be tough for this line and for the various companies in the Utility Contracting business, as our trucks are heavier, which hurts the modeling as well.... And then the cell phones create the distracted driving issue as well as other vehicles causing not a fault accidents and when the other party has no insurance, so the company has to file a claim.... Or they buy the cut-rate insurance that doesn’t pay the claim anyway or only up to a certain limit. We have various safety policies that we are helping our clients institute to keep them as protected as possible, but insurance costs are certain to go up on auto, no matter how well we do Loss Control.

And another way many of our contractor clients are combatting the auto accident crisis & who’s at fault is by installing various types of GPS equipment provided by a variety of vendors, as well as cameras in their auto fleet! These can prove who really was at fault, as well as determine speed of vehicle & whether the vehicle was being operated safely.

# SAFETY NEWS

From the Eyes and Ears of Mark Gibson  
Safety Director at A.J. Johns, Inc.

What do you as a safety manager feel your biggest safety hot points are to manage in our world of construction business today. Is it who is wearing their PPE? Is that Trench shored, stepped or benched properly? Am I in compliance with all OSHA standards at our jobsites? These are all our daily concerns, no doubt, but I think the biggest thing that keeps me awake at night is this ever growing problem called, "Distracted Driving". Why is that you might ask, well stop and think of how many pieces of equipment your company uses, from trucks, to dozers, motor graders, hoes, you name it, if it is operated by a driver, guess what, they probably own a cell phone, and what can you do about it to prevent your staff from talking on that cell phone, selecting their playlist, getting a text to bring home a gallon of milk and a loaf of bread tonight. It is a tough dilemma to have to deal with. Our company vehicles are basically rolling billboards and advertising who we are. Our contact information is on the door or tailgates, and guess what, the driver is yakking on the cell phone while driving the company vehicle.

Today, our public is well trained on the law, and how they can take advantage of the laws. Case in point, your employee and your company vehicle is rolling down I-95, over 75 mph. The driver has the cell phone in their ear and driving with one hand. That traffic is everywhere, and your driver, with your beautifully marked and logo'd vehicle is driving distracted, weaving in and out of traffic, and potentially causing an accident, or even death to others due to careless, distracted driving habits. What a liability nightmare. What can we do as a company to deter this from happening. It's all about your policy. We as Safety Managers, Directors, Superintendents, and business owners, must take a hard and solid stance against distracted driving, especially cell phone use in company vehicles. You are at risk if you do not have a steadfast, hardcore, written policy against distracted driving. It is as dangerous as drunk driving, and as NTSB continues to measure accidents rates relating to distracted driving, the statistics are becoming increasingly ugly. It's rampant, it's dangerous, and we must put a stop to it by enforcing with our staff a no tolerance policy against cell phone usage while driving. Hands free cell phone use is different, yet can still cause distractions. Your best bet is to have a no tolerance policy, training, and employee ownership into the best practices against distracted driving. You don't want to get that phone call from John Q. Citizen, reporting your truck, by number, as to erratic driving, possibly causing an accident, and raising the awareness level that your company has unsafe drivers on the road. Because, you know, that people love to go to the news and say, what you have done wrong today... Take an active stance and if you do not have a no tolerance policy in place, and the proper accountabilities, get it done much sooner than later. Make it a point to bring the subject of Distracted Driving up on a frequent basis, and make sure you have done your due diligence to keep your drivers Distraction free.





NUCA of North Florida, Inc.  
Cordially invites you to attend the

## Annual NUCANF Spring Golf Tournament

**St. Johns Golf & Country Club**  
**205 St. Johns Golf Drive (Off 210 West)**  
**Tuesday, April 2nd, 2019**  
**11:30 a.m. "Shotgun" Start**

***\$150 Per Person includes*** 18 Holes of Golf, Greens Fee & Cart, Boxed Lunch, Beer and water at stops on the course, Team Handicap, Format (4-Man Captains Choice), Prize Holes and Door Prizes. Award Ceremony will be held in the Dining Room immediately following the end of play. **Price after March 8<sup>th</sup>, \$700 per team.**

**Non-member Cost: \$800/team, \$900 after March 8th**

Please fill out the entry below & mail (OR FAX) with payment to NUCANF by Friday, March 22nd.

Name	Company
Phone	Fax

Golfer: \_\_\_\_\_  
Golfer: \_\_\_\_\_  
Golfer: \_\_\_\_\_  
Golfer: \_\_\_\_\_

Payment: \_\_\_\_\_ Check (NUCANF) \_\_\_\_\_ Bill my account \_\_\_\_\_ Charge credit card\*

Visa/MC/AX: \_\_\_\_\_ Exp Date: \_\_\_\_\_

V-Code: \_\_\_\_\_ Zip Code for Credit Card billing address: \_\_\_\_\_

(The V-Code is the last three digits in the signature strip on the back of the credit card (Visa/Mastercard) or the digits on the front on the card for American Express.

Name on card: \_\_\_\_\_

\*A 5% processing fee will be added to all credit card charges.

Dress Code for Golf Course & Driving Range: Slacks or Bermuda shorts and collared golf shirt for men. No jeans, cutoffs, t-shirts or tennis attire.

**Mail or Email this form to:** NUCANF, PO Box 16810, Jax, FL 32245,  
Ph: 296-1230 Email: [nucanf@gmail.com](mailto:nucanf@gmail.com)

### 2019 NUCANF Golf Tournament Sponsorship Opportunities

For all sponsorships, your company will be acknowledged at the awards dinner the evening of the tournament and your company will be recognized in the NUCANF newsletter, The Flow, and the state association publication, The Ditchmen.

**sold**

#### **\$700 Gold Vendor Showcase**

Your showcase includes Domestic beer (or several other options) at your hole, plus a 6 foot table and two chairs and a tee/green sponsorship. You will need to provide anything else that you need. Your company name will be prominently displayed on a sign at the hole. Also available are a bloody Mary Station, Jell-O-Shot Station, Cigar Station, or Hot Dog Station, or Arnold Palmer's Station. First come, first serve based on availability. Holes will be assigned in the order received. **The following holes have already been are currently available:**

**2,6,7,11,15**

Hole Request Preference: 1<sup>st</sup> Choice \_\_\_\_\_ 2<sup>nd</sup> Choice \_\_\_\_\_ 3<sup>rd</sup> Choice \_\_\_\_\_

**sold**

#### **\$500 Silver Vendor Showcase**

Same as Gold Vendor Showcase but no beer will be provided.

#### **\$450 Trophy Sponsor (limit one)**

Sponsorship includes signage at event.

#### **\$450 Registration Sponsor (Limit one)**

Sponsorship includes signage at event.

#### **\$450 Longest Drive/Closest to the Pin Sponsor (limit four)**

Sponsorship includes signage at the hole.

**sold**

#### **\$450 Beverage Cart Sponsor (Limit two)**

Sponsorship includes signage at event

#### **\$450 Dinner Sponsor (Limit four)**

Sponsorship includes signage at event

#### **\$450 Lunch Sponsor (Limit four)**

Sponsorship includes signage at event. Your company will be acknowledged at the awards dinner that evening and your company will be recognized in the NUCANF newsletter, The Flow, and the state association publication, The Ditchmen.

#### **\$300 Green Sponsor (unlimited)**

Sponsorship includes signage on the tee or green. Your company will be acknowledged at the awards dinner that evening and your company will be recognized in the NUCANF newsletter, The Flow, and the state association publication, The Ditchmen.

**Payment:** \_\_\_\_\_ Check Enclosed \_\_\_\_\_ Please invoice me for total amount

Charge my credit card:\* \_\_\_\_\_ For total amount \_\_\_\_\_ For monthly installments( Feb & Mar)

\*(Please complete Credit Card Authorization form. A 5% processing fee will be added.)

Company Name: \_\_\_\_\_ Your Name: \_\_\_\_\_

Phone: \_\_\_\_\_ Signature: \_\_\_\_\_

**Return with payment to: NUCANF, PO Box 16810, Jacksonville, FL 32245**



# NEW MEMBER SPOTLIGHT

## ENVIRONMENTAL PRODUCTS GROUP

Providing our customers with the tools to work smarter - not harder - since 2002.

**Environmental Products Group, Inc. (EPG)** serves municipalities and contractors for their street, sewer, public work, and utility equipment needs. Ask our Vice President, Chris Haase, however, and he will tell you that we are, first and foremost a family based and minded business that is dedicated to our customers and our customers' needs. "Witnessing the success of our customers is a great joy," says Chris. "We value the professional and personal relationships that we have developed over more than sixteen years in business."

Current President, Jeff Haase, and Jim Schwaller, now retired, started EPG in January of 2002 in Maitland, Florida through an opportunity from Federal Signal, which owns Elgin Sweeper and Vactor Manufacturing. Due to our success in Florida, we have been able to expand into a number of other branches and territories, including Pompano Beach, Florida in 2002, Atlanta, Georgia in 2010, and the Caribbean in 2016. Most recently, in 2017, we opened our newest branch in Memphis, Tennessee which serves Western Tennessee and Arkansas and has been a great success story for our business and our employees.

Throughout all of our locations, EPG is the choice supplier for Elgin Street Sweepers, Vactor Sewer Cleaners, TRUVAC by Vactor Hydro Excavation Equipment, and Envirosight Pipeline Inspection Cameras, among a number of other great brands. We are proud to also have over \$1,000,000 worth of parts, tools, and accessories on our shelves for street sweepers, sewer cleaners, sewer camera units, and other related equipment.



Our factory trained technicians provide service for all of the brands we represent, and then some. We also have

mobile units to provide service at your location by one of our factory trained service technicians.

One of the best services we provide our customers is our Turn Key Maintenance program. This special offering provides bumper to bumper guaranteed maintenance packages for our customers. We have a growing fleet of trucks we take care of in Florida and Georgia, and are currently looking for new contracts in our Western Tennessee and Arkansas territory. The program removes the maintenance hurdles for our customers and puts the maintenance burden and expense on us.



**Whether you come to one of our three dealerships, or are serviced by one of our mobile trucks, we pride ourselves on taking care of you the first time.**

While we believe that every machine we sell will bring our customers satisfaction and success, we also understand that some jobs require short term solutions, and sometimes that means buying a new piece of equipment is not always the most affordable option for those we serve. EP Rents, a division of Environmental Products Group, specializes in Vactor Sewer Cleaner and Hydro Excavation rentals, Elgin Sweeper rentals, and Envirosight Inspection rentals.

Maintaining clean streets and sewer lines is essential to the health and cleanliness of the communities we serve, and we take pride in providing the parts, tools, and equipment that help keep our streets and water clean and safe. If you are in need of any of our equipment, or you have questions and would like to learn more about the services we provide, visit our website at [www.myEPG.com](http://www.myEPG.com) or give us a call at **855.552.EPG2**.



# MARCH 2019 FEATURED SPONSOR

## LIPPE S & B R Y A N

### OUR FIRM APPROACH

Formed in 2001, Lippes & Bryan, P.A. is a law firm dedicated to efficient and practical resolution of construction, business, and real estate disputes and general legal counseling for our clients. We are committed to furnishing quality legal representation in our law practice by achieving cost-effective and desirable legal solutions for our construction industry clients, including site and underground utility contractors.

We focus our law practice in the following areas:

- construction law and litigation
- business law and litigation
- real estate litigation

Our firm goals are to create and achieve practical and cost-effective resolutions of our client's legal disputes and concerns. We use our legal and construction industry knowledge, creativity, effective negotiation, and aggressive litigation where appropriate to achieve our clients' goals.

Lippes & Bryan, P.A. and its attorneys will assist you from the beginning of the attorney-client relationship with a thorough review and analysis of your disputes and concerns and possible solutions to them, which can help avoid unnecessary, protracted, and/or costly litigation. Our approach assists our clients in achieving pro-active resolution of their business problems, whether through advice, consultation, and planning, or through negotiation, mediation, arbitration, or litigation. We help guide our clients to legal solutions, whether that involves filing and prosecuting, defending, resolving, or avoiding lawsuits.

At Lippes & Bryan, P.A., you will get quality and personalized representation from its construction industry knowledgeable attorneys, Mark C. Bryan and Harold S. Lippes, who are ready, willing, and able to assist you in meeting the challenges presented to your construction business.

Please inquire about our one hour Florida construction lien and payment bond seminars for your staff, provided at no cost to NUCA members, by calling us at (904) 686-1500.