

# THE FLOW

## Upcoming Events

Sept. 17th  
**Intuition Ale Works  
Networking Event**  
**6:00 pm**



Sept. 22nd  
**Annual Golf Tournament**  
St. Johns Golf & Country Club  
205 St. Johns Golf Dr. (Off 210 W)  
Sponsorships are still available.  
See page 10

## SEPTEMBER 2020

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## 2020 OFFICERS & BOARD OF DIRECTORS

### EXECUTIVE COMMITTEE

#### **President**

Chad Cockrell, A. J. Johns, Inc.

#### **President-Elect**

Gabriel Powers, Burnham Construction

#### **Vice President I**

Marty Adams, TB Landmark

#### **Vice President II**

Jason Plauche, Petticoat-Schmitt Civil Con.

#### **Secretary/Treasurer**

Rob Pinkston, Ferguson Waterworks

#### **General Counsel**

Tony Zebouni, Lindell & Farson, & Zebouni

#### **Past President**

Mike Kivlin, John Woody, Inc.

### BOARD OF DIRECTORS

Wesley Cook, Florida Roads Contracting

Rick Erickson, Beard Equipment Company

Tim Gaddis, Vallencourt Construction

Billy Hood, J. B. Coxwell Contracting

Drew Lane, Advanced Drainage Systems

Chance Leonard, ECS Florida

Rick Parker, Standard Precast

Barry Watson, Fortiline Waterworks

Jarod Wolford, Martin Marietta Materials

Jon Woodall, John Woody, Inc.

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& Associates, LLC**

Linda Daniels, CCIM

Licensed Real Estate Broker  
100 Center Creek Road  
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## PRESIDENT'S MESSAGE

Dear Friends,

I hope that you all are healthy and doing Well. Thank you to all our monthly sponsors, we couldn't be as successful as we are without you! We will be hosting a NUCA Networking Event at Intuition on September 17<sup>th</sup>, so please come out and reconnect with peers that you have not seen for a while. We will be hosting our Annual Golf Tournament on September 22<sup>nd</sup>, we are looking forward to seeing you all at this event. We are sold out for teams and vendor Showcase spots but we have some sponsorship opportunities still available.

NUCA of Florida will be hosting their President's Cup Golf Tournament on October 30<sup>th</sup>, at Hammond Beach, Palm Coast. This is a great event for companies across the state. We will be hosting our annual NUCAF Clay shoot will be on November 3rd. Look for more info soon.

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. I look forward to working with you all.

Sincerely,

*Chad*

## 2020 NUCA of North Florida

### Monthly Sponsors

#### Diamond Sponsor

United Rentals  
Trench Safety

Fortiline Waterworks

#### Platinum Sponsors

Beard Equipment Company

#### Gold Sponsor

Standard Precast, Inc.

#### Silver Sponsor

Ring Power Corporation

#### Bronze Sponsors

A.J. Johns, Inc.  
ECS Florida, LLC  
Alta Construction  
Equipment  
Gate Fuel Service  
John Woody, Inc.  
Lippes & Bryan  
Petticoat-Schmitt Civil  
Contractors

## CALENDAR OF EVENTS

Sept. 17th

**Executive Committee Meeting  
4:00 PM**

Sept. 17th

**Board of Directors  
Networking event at Intuition  
Ale Works  
6:00 PM**

Sept. 22nd

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

Sept. 23rd

**NUCA Virtual Washington  
Summit**

Oct. 29th & 30th

**NUCA of Florida  
Board Meeting & President's  
Cup Golf**

November 3rd

**Sporting Clay Challenge  
Jacksonville Clay Target  
Sports**

# The Law and Your Business

## **The Law and Your Business— Arbitration Provisions and Applicable Law** **By Tony Zebouni, Lindell, Farson & Zebouni**

When you sign an agreement with an Owner or Contractor it is important that you read and understand all the provisions of the contract (including those referenced as part of the contract documents). Whether arbitration is mandatory or permissive, the law of which state is to apply and who will decide whether a matter is arbitrable or not are considerations what should not be overlooked,

A recent Florida case (*AT&T Services, Inc., et al v. S&S Utilities Engineering, LLC, et al.*) dealt with AT&T contracting with S&S Utilities Engineering, LLC to locate and mark its underground lines and equipment prior to excavation projects. S&S filed a complaint in circuit court alleging, among other things, that AT&T frequently required S&S to investigate damage claims at jobsites where it had not been requested to perform any work and assessed “unilateral, unsupportable, grossly inflated” charges for damages in order to avoid paying S&S for its services.

Under the contract, AT&T would pay S&S a unit rate per “locate request” and an hourly rate for labor and equipment. In the event of any damages to AT&T's property as a result of S&S's performance or lack of performance under the contract (“supplier-at-fault damages”), AT&T could either demand payment from S&S or deduct the damages from the amount it owed to S&S for its services. The contract contains two arbitration provisions. The first provision provides generally that if the parties are unable to resolve a dispute informally or by mediation, then either party “may initiate arbitration” by providing the other party with written notice of its intent to arbitrate. The parties agreed that any arbitration would be held in Dallas, Texas under the Commercial Arbitration Rules of the American Arbitration Association. The second arbitration provision, applies specifically to disputes related to supplier-at-fault damages and provides that if the parties are unable to resolve a dispute informally, and the claimed amount is at least \$10,000, then either party “may elect to initiate arbitration.

Arbitration clauses are usually interpreted as mandatory, even if they use the permissive “may,” unless they require both parties to consent to arbitration or otherwise make clear that one party can opt for litigation over arbitration. Usually, and in this case under Texas law, an agreement to arbitrate is mandatory even though it contains permissive terms such as ‘may’ ” and interpreting a provision that either party “may” submit a dispute to arbitration to mean that either party has the power to require arbitration. Under Texas law, the word “may” in the arbitration provisions means only that either party can initiate arbitration if a dispute cannot be resolved informally; it does not mean that the other party can avoid arbitration once it is initiated.

The parties delegated any questions of arbitrability to the arbitrator by agreeing to arbitrate under the Commercial Arbitration Rules of the American Arbitration Association.

## **2020 FISHING TOURNAMENT RESULTS**

We had another beautiful day for our tournament this year at the Northeast Florida Marlin Association in St. Augustine on August 29th. Grill Billy's provided a wonderful BBQ of brisket and chicken. Troy Askew from Nimnicht and Ed Porter from Bobcat managed the weigh in. Valinda Krynicki, United Rentals Trench Safety and Alexis Saffer, TB Landmark helped out selling raffle tickets, filling out weigh-in cards and with the clean-up. Our fishing Chairman, Ashton Milam, United Rentals Fluid Solutions, was our announcer and handed out the door prizes and awards. A special thank you to Drew Lane for his help redesigning the logo for this year's tournament. Congratulations to the winners of this year's tournament.

### **REDFISH**

1st Place, Earp Ethridge Petticoat-Schmitt, 6.93 lbs

2nd Place, Lauren Atwell, Petticoat-Schmitt 6.65 lbs

3rd Place, Tony Kraus, Petticoat-Schmitt 6.35lbs

**REFISH MOST SPOTS:** Tony Macaluso, Beard Equipment 4 Spots

### **FLOUNDER**

1st Place, Drew Lane, Advanced Drainage, 3.64 lbs

2nd Place, Gerry Lee, Cecil W. Powell & Co., 3.37 lbs

3rd Place, Mike, Whitestone, 1.81 lbs

### **KINGFISH**

1st Place, Gordon Spottswood, Ferguson, 25.75 lbs

2nd Place, Ryan Freshwater, Ferguson, 15.2 lbs

3rd Place, Alvaro Rios, T.G. Utility, 9.86 lbs

### **OTHER SPECIES**

1st Place, Lauren Bailey, Stingray, Coastal Utility, 3.86 lbs

2nd Place, James Magofna, Triple Tail, Petticoat-Schmitt, 3.69 lbs

3rd Place Jay Ethridge, Black Drum, Petticoat-Schmitt, 3.6 lbs

### **KID'S TROPHY FOR THE LARGEST FISH & KID'S PRIZE WINNER**

Corey Allen, A.W.A. Contracting Stingray 1.8 lbs

### **GRAND PRIZE WINNER**

James Magofna, Petticoat-Schmitt

### **FISHNG DIVA**

Toni Anderson, Ring Power, Kingfish 7.71 lbs



## FISHING TOURNAMENT PHOTOS





### **NUCA-Supported Great American Outdoors Act Signed Into Law**

President Trump signed into law on Aug. 10 a NUCA-supported bill that has the potential to create thousands of new construction industry jobs. The "Great American Outdoors Act" (S. 3422/H.R. 1957) would help mitigate the billions in deferred maintenance in the Dept. of Interior and the National Park Service (NPS). Much of the \$6.65 billion in funding would be used for infrastructure improvements in national parks and other federal recreation areas. Addressing the infrastructure needs in NPS alone would create an estimated 108,000 construction industry jobs, according to a recent Pew study. Read NUCA's letter of support [here](#).

### **\$1.2 Trillion COVID-19 Relief Legislation Stalls in Senate**

On July 28, Senate Republicans as part of their HEALS Act COVID-19 relief legislation included a section expanding eligibility under the Paycheck Protection Program (PPP) to 501c6 organizations like NUCA and our Chapters. There are several other pro-business aspects of the HEALS Act, including \$190 billion in new PPP funding, extending the PPP loan program until Dec. 31, 2020, and expanding uses for non-payroll funds up to 40% of a loan. NUCA strongly supports the HEALS Act and deeply thanks Sens. Marco Rubio (R-FL) and Susan Collins (R-ME) for their sound legislation.

However, with both parties unable to reach a final deal after talks broke down August 7, the future of any COVID-19 relief legislation remains in question. President Trump issued several Executive Orders on Aug. 8 which would extend unemployment benefits of \$400/week as well as defer payroll tax. However, the legality of these orders is unclear and may be challenged in court.

Relief legislation negotiations are focusing on pro-NUCA issues: Democrats are still prioritizing aid to state and local governments to shore up budget shortfalls (especially for State DOTs) and Republicans continue to push for robust liability protections for businesses. All things considered, this means that whatever form the final bill takes will likely be a win for our industry. Read more [here](#).

### **House Passes Appropriations Bills, \$10 Billion for Clean Water SRFs**

The Democratic-led U.S. House passed on July 24 the first of several FY2020 federal appropriations bills. H.R. 7608 (Interior/Environment/Agriculture) passed 224-168, primarily on party lines. The "minibus" bill contains \$10.2 billion for the Clean Water SRF and Drinking Water SRF programs, \$1.4 billion for rural water and wastewater loans, \$610 million for grants directed towards clean water systems, \$1.05 billion in funds for broadband, and \$6.9 billion in loans directed toward rural electric/telecom infrastructure.

### **2020 Trench Safety Stand Down Numbers**

The interim numbers are in on this year's Trench Safety Stand Down, held in June. 19,420 employees at 2,256 jobsites focused for a day on trench and excavation hazards and using the safety systems provided by their employers. We're collecting the final #TSSD20 numbers from our National Partners and will report on the total number of participants next month. Thank you to all who took part this year, despite current difficulties.

### **Are Your Employees Aware of Heat Stroke Symptoms? OSHA Is**

With severe heat striking several parts of the nation, OSHA has provided several online resources for construction companies to use in protecting their employees from heat stroke or heat exhaustion. Go to [osha.gov/heat](https://www.osha.gov/heat) for more information. As a NUCA member, you can also use your Toolbox Talk on "Heat Exhaustion and Heatstroke" for employee instruction. Download now in [English](#) | [Spanish](#)



# Let's

# DO THIS

## NUCA's (Virtual) Washington Summit

Wednesday, September 23, 2020



### 2020 is an election year. And Congress is building again!

COVID-19 has shuttered in-person visits to Capitol Hill this year. But with your help, NUCA is still going to Washington—*virtually!*

Several important infrastructure funding bills are pending in Congress. Your expertise and passion are vital to making Congress hear our message loud and clear. Our virtual 2020 Washington Summit will enable you to hold online meetings with your elected lawmakers and their staff. Your NUCA Chapter is arranging these meetings.

The Summit is free to NUCA members. To view the Summit schedule and register for this unique event, visit [www.nuca.com/summit](http://www.nuca.com/summit).



Locally owned and operated, Usina Contracting, Inc. has been building in Northeast Florida for nearly fifty years. As a provider of site development contracting services we strive to provide our clients with quality work, at a fair price, from a company they can trust.

Our specialized services include: Land clearing, grubbing and disposal , Earthwork, Hauling, Grading , Road construction and base installation , Underground utilities: water and gravity sewer systems, force mains, reuse water mains, and fire mains, Storm sewer systems, Storm retention ponds, Storm water pump stations, Lift stations.

*Usina Contracting, Inc. is licensed, insured, and bonded.*



# SAFETY NEWS

By Jeff Blomgren  
Safety Director at Petticoat-Schmitt Civil Contractors

## **Returning to School Safely During COVID19**

Normally, at this time, we would be coaching everyone to watch out for kids going to school and to be aware of school busses. That's an annual cautionary message to all of our drivers. This year, there are some significant changes in that message that influence our precautions.

School has started. With the normal anticipation of getting back to the possibility of social interaction with friends and the learning environment, comes the concern for the children and their safety. It's not only the safety of the children that's a concern but also the safety of the educators that are providing, not only the learning environment, but the healthy aspects of the classroom. Teachers and administrators have been working hard to do the best possible job of maintaining the educational standards using the CDC guidelines for classrooms.

Virtual learning has been a learning tool that has relieved some of the pressure of ensuring social distancing but that applies to children that are self-disciplined enough to apply themselves to the process. It also takes parental involvement and commitment of time and effort to maintain a standard of learning that will keep children from falling behind. According to [healthychildren.org](http://healthychildren.org), an American College of Pediatrics participating organization, children learn best in the classroom. All that being said, there are things that parents can do to help with the process. Educating kids to wash their hands, wear cloth masks, maintain social distancing and personal hygiene go a long way in preserving a healthy scholastic environment. Be sure that immunizations are up to date and physical exams are done regularly. If the child rides a school bus, ask about spacing and cleaning. If the child has special needs what preparations are needed for their safety?

There will be pressures to catch up from the confusion and the learning curve brought about by new methods of living in this situation and the educational challenges it presents. Some children will have fallen behind. That creates an emotional issue in the pressure to catch up. Parents need to be supportive and encourage their children's growth through today's challenges. We have not faced anything of this significance in modern history and we are all learning, each day, how to cope. Staying up with the latest reliable information, minimizing the influence of doomsday predictions and concentrating on the reality of the problem we all face with this situation, is the best way to maintain family health and safety. We will survive!



## 2020 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.

**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.

**Sold**

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

Sponsorship includes signage at event.

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

Sponsorship includes signage at the hole.

**Sold**

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

Sponsorship includes signage at event

### **\$450 Dinner Sponsor (~~limit four~~) (Two currently available)**

Sponsorship includes signage at event

### **\$450 Lunch Sponsor (~~limit four~~) (Two currently available)**

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**



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**Call us today so that we may serve you.**

**(904) 636-9700**





## **NUCA OF NORTH FLORIDA NEW MEMBERS**

Please join us in welcoming the following new members to the NUCA family.

### **D Armstrong Contracting**

Contact: Dennis Armstrong, Manager

9957 Moorings Drive, Ste 405

Jacksonville, FL 32257

Phone: (904) 351-6411

Website: [www.darmstrong.net](http://www.darmstrong.net)

Email: [dennis@darmstrong.net](mailto:dennis@darmstrong.net)

Membership: Contractor

Business: Excavation, Site Development, Sewer/Water Construction

### **PBM Constructors, Inc.**

Contact: William B. (Ben) Moore, President

PO Box 11089

3000 Faye Road

Jacksonville, FL 32239

Phone: (904) 714-6353

Email: [bmoore@pbmconstructors.com](mailto:bmoore@pbmconstructors.com)

Membership: Contractor

Business: Sewer/Water Construction, Treatment Plant Construction



## NOMINATIONS FOR 2021 BOARD OF DIRECTORS

The Nomination Committee of NUCA of North Florida is now accepting applications for the 2021 Board of Directors. You can obtain an application by calling the NUCANF office at 904/296-1230 or sending an email to [nucanf@gmail.com](mailto:nucanf@gmail.com). Deadline to submit your application is October 16th.

The board meets every other month usually on the third Thursday from 4:30 pm to 6:00 pm. Additional special meetings may be called if necessary. NUCANF has a number of committees. Board members, once elected, are expected to be active members of at least two committees. All members of the Board of Directors are encouraged to promote the NUCA of North Florida (NUCANF), our State Association, NUCAof Florida , and our National Association, NUCA. Recruitment of new members is essential to ensure the growth of this association.

Voting for the election of the 2021 Officers and Board of Directors will take place via email. A ballot will be emailed on November 2nd. Only one vote per member company.





## Is Your Company's Information Ready For The Industry's Buyer's Guide?

*Utility Contractor's* next issue is the annual NUCA Buyer's Guide. Make sure your contact information is up-to-date and accurate to help potential business find your company.

Log in to your NUCA member's account at **nuca.com** and update your online profile **before October 30, 2020.**

If you need assistance logging into your account, please contact NUCA's membership manager Meredith Leutbecker at 703-358-9300 or by email at [meredith@nuca.com](mailto:meredith@nuca.com).

2021 Annual Convention & Exhibit  
February 4-6, 2021  
Naples Grande Beach Resort - Naples,





## 2020 NUCANF FISHING SPONSORS



### Hat Sponsor

United Rentals Trench Safety

### Sleeve Sponsors

A.W.A. Contracting Co.

TB Landmark Construction Inc.

### Raffle Sponsor

Beard Equipment Company



### Event Sponsors

#### Associated Construction Products

Briggs JCB

C & B Piping

Core & Main

County Materials Corp.

Fortiline Waterworks

Gate Fuel Service

Great Southern Equipment

J.B. Coxwell Contracting, Inc.

Lippes & Bryan

Nimnicht Chevrolet

USI Insurance

Standard Precast Corporation

V.J. Usina Contracting

#### Registration Sponsor

#### Dinner & Door Prize Sponsors

Door Prize Sponsor

Trophy Sponsor

Kid's Prize Sponsor

Grand Prize Sponsor

Door Prize Sponsor

Weigh-in Sponsor

Dinner Sponsor

Door Prize Sponsor

Kayak Sponsor

Dinner Sponsor

Door Prize Sponsor

Door Prize Sponsor



**NOT A GOLFER?**  
Pamper yourself at the  
luxurious on-site spa at our  
reduced service rate.



**EVENT DATE:**

October 29-30, 2020

**EVENT LOCATION:**

Hammock Beach Golf Resort & Spa  
200 Ocean Crest Drive,  
Palm Coast, FL 32137

**2020 PRESIDENT'S CUP, CORN HOLE, & BOARD MEETINGS**

# SPONSORSHIP KIT

Come network with industry colleagues, mingle with NUCA of Florida board members and leadership at a reception, try your hand at Corn Hole, and then join your peers on the greens for the President's Cup.

**SCHEDULE**

**THURSDAY, OCTOBER 29TH**

Executive & Committee Meetings & Board Meeting  
(10:30 a.m.-5:30 p.m.)  
Reception & Corn Hole Tournament (6 p.m.-8 p.m.)

**FRIDAY, OCTOBER 30TH**

President's Cup Golf Event/Spa Day  
(7:00 a.m.-2 p.m.)

VISIT [WWW.NUCAFLORIDA.ORG](http://WWW.NUCAFLORIDA.ORG) OR

**CLICK HERE TO REGISTER OR SPONSOR**



Questions? Contact Karl Hebrank or Rebecca Brown at 850-224-1585 or email [khebrank@carltonfields.com](mailto:khebrank@carltonfields.com).



## ERICKSON AWARDED NUCANF MIKE ALLEN SCHOLARSHIP

This year's recipient of the Mike Allen Award is Ashton Erickson, daughter of Rick Erickson, Beard Equipment Company and Shannon Erickson. Ashton attends the University of Florida majoring in Marketing & Economics in the honors Program where she just completed her first year of studies. Ashton is also a member of the Undergraduate Research Scholars Program. While in college she has been active in Green Greeks as a delegate and Assistant Director of Panhellenic, Spirit Chair for Zeta Tau Alpha Fraternity, Assistant Director of Web Design for Gator Growl and Homecoming and URSP Student Researcher. Ashton received the J. Richard Baker Sr. Scholarship from our association last year.

The Mike Allen Scholarship award is given to a high school student, High School graduate, Undergraduate College Student or Graduate Student who is the daughter or son of a NUCANF member company employee or a member company employee and is enrolled or will be enrolling full or part time in an academic institution of higher education this summer/fall. The enrollment may be in any curriculum for any number of years. This may be a four-year college or a community college anywhere in the United States. The Mike Allen Scholarship is a \$1,000 one-time award.







**It has been a privilege to serve our  
customers over the last 50 years.**

**Thank you NUCA of North FL**

***LeeBoy***



**JOHN DEERE**

***Leica***  
**Geosystems**

**800-848-8563 | [beardequipment.com](http://beardequipment.com)**

**Jacksonville | Lake City | Palatka | Ocala | Perry | Tallahassee  
Freeport | Panama City | Pensacola | Mobile, AL**



## MORE FISHING PHOTOS



## SEPTEMBER FEATURED SPONSOR



John Woody, Inc., a Jacksonville based company concentrating on water, sewer, and reclaimed systems, was founded in 1979 by Weldon Woodall.

The company is a licensed Underground Utility and Excavation Contractor specializing in private, government and municipal work. JWI has complete projects throughout Florida and the Southeastern United States.

JWI is a family owned business and it is the family bond and willingness to do whatever it takes to get the job done that has made this company successful. Owner, Mike Woodall states, “I am the most blessed and luckiest person in the world. I have the greatest employees whose knowledge and expertise are unsurpassed in the industry. I, also, have the privilege of working with my lovely wife, Flo, my son, Jon and son-in-law, Mike Kivlin.”

John Woody, Inc. has always taken great pride in its reputation of performing quality work at a fair price.

JWI is proud to be long time member of NUCA, NUCA of Florida and NUCA of North Florida.