

THE FLOW

Upcoming Events

January 12th

Safety Director's Forum
Northeast Florida Safety
Council
11:30 am

January 21st

Board of Directors &
Installation of Officers
Maggiano's
6:00 pm



JANUARY 2021

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PRESIDENT'S MESSAGE

Dear Friends,

By the time you are reading this message Christmas will have come and gone. We will be close to ringing in the new year. If you didn't get what you wished for, better luck next year!! I pray everyone had a Merry Christmas and has a wonderful New Year!

I want to say Thank You to everyone who has supported me to get this far. Thank You to the board of directors and members for allowing me to serve as President of this organization. I look forward to representing all of our members to the best of my ability and challenging the board to do the same.

Outside of industry issues and challenges that may arise during the next twelve months, there are a few issues that I would like to address during my year serving as President. Suicide Prevention and Industry Recognition. We cannot afford to push these issues to the back burner. The construction industry ranks #1 for suicide among all other professions. I was unaware of this until two months ago when it was brought to my attention. For more information see link below for a great podcast on this. As for industry recognition, we must get the next generation and the younger crowd interested in what we do. The average age of the construction worker is late forty's to early fifty's. That means during my working career, there will be a mass exodus of employees. Getting young people excited and educated about what we do and the potential earnings is a must!

I believe 2021 is going to be another strong year for both public and private sectors. I hope we all prosper and have another blessed year. Please join me in the fight to tackle these issues and make 2021 a wonderful year for the construction industry in Northeast Florida!!

Warm Wishes,

Gabe

Gabriel Powers
904-383-8721

<https://podcasts.apple.com/us/podcast/dirt-talk-by-buildwitt/id1494235724?i=1000498553544>

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CALENDAR OF EVENTS

Jan. 12th

Safety Director's Forum
NEFSC

Jan. 19th

DOT Class
A.J. Johns Training Center
12:00 to 2:00 pm

Jan. 21st

Board of Directors
& Installation of Officers

Feb. 4th to 6th

NUCA Convention
Naples Grande Beach Resort

Feb. 25th to 27th

NUCA of Florida/ASJMSF
Bass Fishing Tournament
Lake Okeechobee

Happy

New Year

The Law and Your Business

The Law and Your Business– Force Majeure/COVID-19

By Tony Zebouni, Lindell, Farson & Zebouni

If you are unable to perform construction services due to the COVID-19 pandemic, the language in your contract may hold the answer to your potential liability. While impossibility of performance is a defense recognized by most courts, the inclusion or exclusion language in a contract is important to read and understand. Many contracts do not contain a specific Force Majeure Clause and the interpretation of those documents will be left to a court or arbitration panel. The following represents sample language regarding the risk associated with a pandemic as defined in a Delay or Force Majeure Clause:

FORCE MAJEURE. Neither Party will be liable for any failure or delay in performing an obligation under this Agreement that is due to any of the following causes (which events and/or circumstances are hereinafter referred to as “Force Majeure”), to the extent beyond its reasonable control: acts of God, accident, riots, war, terrorist act, epidemic, pandemic, quarantine, civil commotion, breakdown of communication facilities, breakdown of web host, breakdown of internet service provider, natural catastrophes, governmental acts or omissions, changes in laws or regulations, national strikes, fire, explosion, generalized lack of availability of raw materials or energy; provided that the parties stipulate that Force Majeure shall not include the novel coronavirus Covid-19 pandemic which is ongoing as of the date of the execution of this agreement.

For the avoidance of doubt, Force Majeure shall not include (a) financial distress nor the inability of either party to make a profit or avoid a financial loss, (b) changes in the market prices or conditions, or (c) a party's financial inability to perform its obligations hereunder. (Bloomberg *Law*)

The AIA A201-2017 (AIA A201) General Conditions does not use the term “*force majeure*”. The AIA A201 contains language, including but not limited to the following: If the Contractor is delayed at any time in the commencement or progress of the Work by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions or other causes beyond the Contractor’s control; or other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

COVID-19 impacts could provide a legal defense in a case of non-, or delayed, performance but there have not been sufficient reported cases to state with certainty how. If any COVID-19 defense would be treated by the courts. You should negotiate the best language in your contract that best protects you from extraordinary events.

2020 TOP GOLF BENEFIT

We had a great turnout for our event at Top Golf to benefit NUCA of Florida. Guests were treated to a BBQ buffet, drink tickets for beer or wine and 3 hours of golf. It was a great time for members to get caught up before the holidays. We hope to have this event again next year!

Thank you to our awesome Bay Sponsors: **ECS Florida, John Woody, Inc., and United Rentals Trench Safety.**





NUCA of Florida Benefit Top Golf Bay Sponsors

ECS Florida

John Woody, Inc.

United Rentals Trench Safety





WRDA Bill To Focus on Corps of Engineers Projects; NUCA Strongly Opposes Approach

Congress aims to pass a new two-year reauthorization of the Water Resources Development Act (WRDA) during the lame-duck session, according to staff insiders on various committees. The revised bill may only focus on retaining about \$7.6 billion in Army Corps of Engineers projects and omit clean water funding. NUCA strongly opposes this approach and will continue to work with Congressional staff and through our extensive coalition and grassroots networks to keep the \$4 billion in clean water funding intact.

Coronavirus Stimulus Being Tied to FY2021 Government Funding Proposal

Congress may finally find common ground in a \$748 billion coronavirus relief bill that would include stimulus checks to taxpayers. The bill does not include COVID-19 liability protection for businesses, a top priority of Republican negotiators, but does include \$300 billion in relief for small companies. Chances of a deal being reached are increasingly being tied to an agreement on FY2021 government funding, which is set to expire on Friday, Dec. 18. [Read more here.](#)

PPP Business Tax Relief, CARES Funding May Trigger Senate Filibuster

PPP tax relief and funding and the issue of unspent CARES Act funding - both NUCA priorities - may be included in the \$748 billion compromise relief bill. Sen. Bernie Sanders (I-VT) and Sen. Josh Hawley (R-MO) have both threatened to filibuster on the Friday, Dec. 18 deadline should no vote be held on direct stimulus payments to Americans. [Read more here.](#)

NUCA Seeks CARES Act Extension to 2021

NUCA sent a letter Nov. 17th to Congressional leadership seeking an extension of the CARES Act resources allocated by Congress in March for coronavirus relief. Extending the deadline from this December to Dec. 31, 2021 will keep NUCA members on the job building new infrastructure such as expanded broadband services and other essential projects. Read our letter [here.](#)

NUCA/PAC Touts 100% Success in 2020 Election

NUCA/PAC, the political action committee of our association, is pleased to report that 100% of the Congressional candidates our industry supported won their 2020 election. Each of those U.S. Senate and House winners earned their backing by demonstrating strong support of the U.S. utility construction industry and NUCA's legislative program in Congress.

Back to the Beach: Register Now for NUCA's 2021 Annual Convention

NUCA is headed back to the Naples Grand Beach resort for our 2021 annual meeting & convention, Feb. 4-6, 2021. We are excited to revisit an amazing location on the beautiful beaches of Florida for another memorable NUCA convention! Get out of the house and come network with your fellow NUCA members and industry professionals in a beautiful setting. [Learn more here.](#)

NUCA WINS: A Best Practice in Your Reporting

NUCA's Workplace Incident Notification System (NUCA WINS) is a damage incident recording app that employees' can easily operate on their mobile device to document the situation at the point-of-occurrence. In a matter of a few minutes' incidents can be easily and completely documented, including: injuries and illnesses; property, liability, and utility strikes; near misses; safety observations; and more. Learn more [here.](#)

SAFETY NEWS

By Jeff Blomgren
Safety Director at Petticoat-Schmitt Civil Contractors

COVID! WHEN WILL IT EVER END?

Who would have ever thought the trademark for 2020 would be the facemask? Our lives have changed significantly since this all began. Some of us have lost friends and neighbors and most of us have been impacted in some way or another. Holidays, travel, communication, casual interactions, education, social interactions, and on and on it goes. We wear a mask and walking through the grocery store we try not to cough because if you do, you can bet your aisle neighbor will think you have just contaminated the environment single handed. As Americans, we balk at being told what we HAVE to do. What ever happened to choice?

Today, our choice is to comply, not for ourselves as much as for our friends and neighbors. The facemask has become a symbol of our willingness to give up a small part of our freedom for the common good. Americans have always been willing to sacrifice if the cause is just. There are so many arguments about whether masks are effective or not and questions about who the mask protects, the wearer or the person you come in contact with? In safety, we always would rather err on the side of caution and prevention. Saying all that, here's some hints when wearing a mask:

Be aware that the person you are talking to may have trouble understanding you. You may get a cheeseburger when you order a fish sandwich. Interactions may be frustrating when you have to repeat yourself. "What" becomes a key word and when you are at the store and your spouse asks you to go get apples and you come back with scrapple, she may be suspecting your ability to understand her and schedule an appointment at the hearing clinic. Speak up but don't shout. A common mistake when people have to communicate with someone that doesn't speak our language is to talk louder. The same thing happens when we have a problem understanding what someone is having difficulty hearing what we are saying. Yelling might work with your teenager but not too well with others. To summarize, be patient. All this will someday be a memory. In the overall scheme of life we may all be asking someday, "Who was that masked man?"



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NUCA's quick lobbying in 2020 to obtain official federal government designation of our industry as "essential" kept our member's businesses open during a very tough economic year.

Accomplishments 2020

"Essential To Continued Critical Infrastructure Viability."

NUCA's lobbying and outreach to the U.S. Dept. of Homeland Security (DHS) was essential in obtaining this official relief for our members and their communities. Early in the pandemic flu crisis, NUCA was at the forefront of insuring that the American utility construction industry remained identified as an "essential" component of our national infrastructure sector, keeping the industry in the trenches and our employees working.

NUCA Advocacy For Industry Economic Relief. Once President Trump declared a national emergency on March 13, NUCA immediately began lobbying Congress seeking relief and help for our businesses and their employees. Congress listened, passing in the last week of March a massive \$2 trillion package assisting American businesses towards economic recovery. NUCA continued to lobby Congress throughout the year in three more rounds of economic relief legislation, securing Paycheck Protection Program (PPP) loans for our members.

Membership Growth. NUCA's compelling value to the industry reflected in a 3% growth in membership in 2020. NUCA's many safety, education, social, advocacy, and Chapter programs continue to offer the utility construction industry a significant return on their NUCA membership investment.

NUCA Chapters Step Up Efforts. NUCA's 31 state/regional Chapters stepped up to help their members navigate the uncertainty of an escalating viral pandemic. Along with providing members with a steady stream of vital resources, they fought to keep their "essential" utility construction businesses operating. Virtual events and webinars emerged as favorite methods for member networking opportunities.



Utility contractors in Knoxville came together to start NUCA of East Tennessee in early 2020, growing to 40 member companies by the end of the year.

NUCA Pandemic Resource Center. NUCA created several webpages on how members could mitigate the emerging pandemic crisis, first releasing on February 5 a sample company pandemic flu policy for members to use to protect their employees. Throughout 2020, NUCA regularly posted the latest business recovery tools and information on its www.nuca.com/panflu website.

Webinars On Latest Industry News. NUCA conducted a number of webinars from industry experts and our government affairs department to keep members informed about the latest economic relief plans from Washington. These webinars evolved into our continuing monthly Webinar Wednesday series on industry topics.

NUCA's Growing Chapter Network. NUCA welcomed new chapters in New Jersey and East Tennessee, with Kentucky's budding chapter forming its leadership cadre and petitioning NUCA National for full Chapter status.

Thanks to our 2020 National Partners for their generous support throughout the year!



NUCA WINS App. NUCA introduced NUCA WINS, a new incident recording app that employees can easily operate on their smartphones to document utility strikes and safety information at the point-of-occurrence. The NUCA WINS app (nucawins.com) can eliminate the inaccuracy of completing incident reports at the end of the day or week when memories have faded.

First-Ever "Virtual" Washington Summit.

In response to the continuing need to advocate for infrastructure resources and relief funds, NUCA rescheduled its spring Washington Summit to September 23—and held it online. And this novel approach worked: over 140 attendees met with almost 80 Congressional offices, discussing their local infrastructure needs with lawmakers and their staffs.

NUCA 2020 Convention & Exhibit. Held in February at the beautiful Loews Ventana Canyon Resort in Tucson, Arizona, this event turned out to be the last regularly held event for NUCA members before the full force of the pandemic hit in March.

2020 Trench Safety Stand Down (TSSD) Week.

While the results of the 2020 TSSD Week, June 15-19, sponsored by NUCA and the Safety Ambassadors Club, were lower than the previous year due to the pandemic, the number of people who took part was still remarkable. More than 32,000 workers on more than 3,500 jobsites from 238 organizations participated this year.

Scholarships. NUCA awarded \$15,000 in three new scholarships and prior award commitments to students of industry members through its Foundation for Education and Research.

NUCA Staff. NUCA's new CEO Doug Carlson joined the association in January, taking the association across this year's rough waters to a safer harbor. Carl Vasquez, ASP was hired as the new director of safety and education to replace retired industry safety legend George Kennedy.

We're glad you're part of America's premier utility contractor industry association!



The 2020 Convention welcomed new leadership to NUCA.

As a NUCA member, you have access to a vast amount of industry news and information. Please visit our Website, www.nuca.com. We're also on Twitter (@NUCA_National), Facebook (NUCA1964), LinkedIn (NUCA National), Instagram (NUCA_National), and YouTube (NUCA National).

NUCA's membership department can be reached via 703-358-9300, or by e-mail to Meredith Leutbecker, meredith@nuca.com. We want to make sure you get the most out of your NUCA National and Chapter membership in 2021 and the years beyond.

2021 INSTALLATION OF OFFICERS & ANNUAL MEETING

Please join us on Thursday, January 21st at 6:00 pm at Maggiano's as we install our new board, recognize our sponsors, hand out awards and recognitions. Our guest speaker will be Representative Clay Yarborough,

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Beard Equipment product lines include John Deere Construction & Forestry Equipment, Commercial Worksite Products, Commercial & Consumer Equipment, Golf Equipment, STIHL, LeeBoy, and many other allied equipment suppliers - some products vary by location. Beard is also the exclusive dealer for Leica Geosystems construction products throughout the state of Florida and south Alabama. Leica Geosystems provides cutting edge machine and job site technology coupled with Beard's industry leading support.

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Beard Equipment is a proud member of the NUCA, NUCA of North Florida, NUCA of Northwest Florida chapter, the Florida Transportation Builders Association, the Asphalt Contractors Association of Florida, and Alabama Utility Contractors.



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"Woody" was a strong force in the start up of the Utility Contractors Association of North Florida in 1989. The JWI family continues to play an active roll in the leadership of NUCA of NF and NUCA of FL.

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ABOUT OUR COMPANY

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Florida: ECS Florida, LLC is one of the operating entities of the ECS Group of Companies with office locations in Jacksonville, Gainesville, Daytona, Orlando, Tampa, West Palm Beach, Fort Myers and Brunswick, Georgia. With more than 170 employees, ECS Florida, LLC is equipped to help projects from conception through construction for both the private and public sectors.

Company: Founded in 1988, ECS currently operates in over 65 locations throughout the Mid-Atlantic, Midwest, Southeast and Southwest. Utilizing the strengths, experience and expertise of more than 2,000 staff across the company, ECS is able to save our clients time and money.

OUR VALUE

ECS embodies its philosophy of "Helping you build while helping you save" by using technology and experience to assist clients in the development of cost-effective and practical solutions. For over three decades, our value engineering consulting has resulted in our clients saving millions of dollars on projects.

CONTACT US

We have been a proud member of NUCA since 1990. For more information about ECS' services or to discuss your next project, please contact:

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