



# Ditchmen

Online

Underground Utility Contractors of Florida, Inc.

SEPTEMBER 2012

## Orange County “Paid Sick Leave” Proposal *(See page 4 for details)*



## 2012 Constitutional Amendments *(See page 7 for details)*



**SAMPLE EMPLOYER POLICY ON  
DISTRACTED DRIVING**



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## [Company Name] Distracted Driving Policy

**Please read the Distracted Driving Policy, sign and return to your supervisor.**

In order to increase employee safety and eliminate unnecessary risks behind the wheel, [Company Name] has enacted a Distracted Driving Policy, effective [Date]. We are committed to ending the epidemic of distracted driving, and have created the following rules, which apply to any employee operating a company vehicle or using a company-issued cell phone while operating a personal vehicle:

- Company employees may not use a hand-held cell phone while operating a vehicle – whether the vehicle is in motion or stopped at a traffic light. This includes, but is not limited to, answering or making phone calls, engaging in phone conversations, and reading or responding to emails, instant messages, and text messages.
- If company employees need to use their phones, they must pull over safely to the side of the road or another safe location.
- Additionally, company employees are required to:
  - Turn cell phones off or put them on silent or vibrate before starting the car.
  - Consider modifying voice mail greetings to indicate that you are unavailable to answer calls or return messages while driving.
  - Inform clients, associates and business partners of this policy as an explanation of why calls may not be returned immediately.
- [Company consequences for failing to follow policy]

I acknowledge that I have received a written copy of the Distracted Driving Policy, that I fully understand the terms of this policy, that I agree to abide by these terms, and that I am willing to accept the consequences of failing to follow the policy.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Name (printed)





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# UUCF Plays Role in Thwarting Orange County “Paid Sick Leave” Proposal

On August 8, 2012, UUCF joined in support of local and statewide business organizations in filing a legal injunction against the Citizens for a Greater Orange County (CGOC) political committee relating to the CGOC’s petition drive to place a paid sick leave measure to appear on the November 6, 2012 ballot in Orange County. The petition would have required all Orange County businesses with 15 or more employees to provide up to 56 hours per year of sick pay to employees. Employers with less than 15 employees would not have to meet the above requirement; however, the employer cannot retaliate against a person who takes sick time.

A press release outlining the concerns of the business community and officially introducing the thirteen (13) Interveners (including UUCF), who joined the original six (6) Co-Plaintiffs in the legal injunction against CGOC was circulated to members of the Central Florida Media and to the Statewide Press Corps. At the heart of the legal injunction is the wording of the original petition. Language matters, and the language of this petition is misleading and deceptive,” said Jacob Stuart, president and CEO of the Central Florida Partnership. “As a result, the petition drive is unfaithful, so we are petitioning the judge for a legal remedy.” Similar efforts are or have been considered in Miami-Dade County, New York City, Portland and the state of Massachusetts.

On September 17, 2012 the Circuit Court issued a procedural writ

effectively saying the county has twenty (20) days to respond to the suit. Tuesday, September 18, 2012, was the deadline to print the ballots. This decision by the courts made it impossible for the Orange County Petition Drive for “Paid Sick Leave” to come before the Voters of Orange County on November 6, 2012.

With this ruling, the Co-Plaintiffs and Interveners have prevailed; since there will now be ample opportunity to clarify the unfaithful and misleading language used when it comes to the Orange County Petition Drive for “Paid Sick Leave.” The court’s decision reflects the ongoing confusion caused by a

political committee rushing this initiative through the process. The result of the ruling effectively ends any chance of the Orange County Petition Drive for “Paid Sick Leave” being placed on the ballot on Tuesday, November 6, 2012.

Look for this to be a legislative issue during the 2013 Legislative Session scheduled to start on Tuesday, March 5, 2013.

To view the Press Release, please [click here](#).

To view the Motion to Intervene as Plaintiff-Interveners, please [click here](#).

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# 2012 Ballot Constitutional Amendments

The following amendments will appear on the General Election ballot on November 6, 2012:

## **Amendment 1 : Health Care Services**

**Summary:** Proposing an amendment to the State Constitution to prohibit laws or rules from compelling any person or employer to purchase, obtain, or otherwise provide for health care coverage; permit a person or an employer to purchase lawful health care services directly from a health care provider; permit a health care provider to accept direct payment from a person or an employer for lawful health care services; exempt persons, employers, and health care providers from penalties and taxes for paying directly or accepting direct payment for lawful health care services; and prohibit laws or rules from abolishing the private market for health care coverage of any lawful health care service. Specifies that the amendment does not affect which health care services a health care provider is required to perform or provide; affect which health care services are permitted by law; prohibit care provided pursuant to general law relating to workers'

compensation; affect laws or rules in effect as of March 1, 2010; affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or an employer for paying directly for lawful health care services or a health care provider for accepting direct payment from a person or an employer for lawful health care services; or affect any general law passed by two-thirds vote of the membership of each house of the Legislature, passed after the effective date of the amendment, provided such law states with specificity the public necessity justifying the exceptions from the provisions of the amendment. The amendment expressly provides that it may not be construed to prohibit negotiated provisions in insurance contracts, network agreements, or other provider agreements contractually limiting copayments, coinsurance, deductibles, or other patient charges.

A "yes" vote means you want the Florida Constitution to include a provision that prohibits the government from requiring you to purchase health insurance.

A "no" vote means you do not want the Florida Constitution to include a provision that prohibits the government from requiring you to purchase health insurance.

## **Amendment 2: Veterans Disabled Due to Combat Injury; Homestead Property Tax Discount**

**Summary:** Proposing an amendment to Section 6 of Article VII and the creation of Section 32 of Article XII of the State Constitution to expand the availability of the property discount on the homesteads of veterans who became disabled as the result of a combat injury to include those who were not Florida residents when they entered the military and schedule the amendment to take effect January 1, 2013.

A "yes" vote means you want the state to give a property tax discount to disabled veterans who moved to Florida after entering the military.

A "no" vote means you do not want to extend the tax discount to disabled veterans who moved to

*(Continued on Page 6)*

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**UUCF**

# UUCF 2013 Convention

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Mark your calendar now for the UUCF 2013 Annual Convention which will be held on July 25–28 at the Boca Raton Resort & Club in Boca Raton, FL.

The UUCF 2013 Convention Chairperson is Kim Bryan with Petticoat–Schmitt Civil Contractors, Inc. in Jacksonville, FL.

*Watch for information on the 2013 Convention in future issues of the Ditchmen.*

## (2012 Ballot Constitutional Amendments Continued from Page 5)

Florida after entering the military.

### **Amendment 3: State Government Revenue Limitation**

**Summary:** This proposed amendment to the State Constitution replaces the existing state revenue limitation based on Florida personal income growth with a new state revenue limitation based on inflation and population changes. Under the amendment, state revenues, as defined in the amendment, collected in excess of the revenue limitation must be deposited into the budget stabilization fund until the fund reaches its maximum balance, and thereafter shall be used for the support and maintenance of public schools by reducing the minimum financial effort required from school districts for participation in a state-funded education finance program, or, if the minimum financial effort is no longer required, returned to the taxpayers. The Legislature may increase the state revenue limitation through a bill approved by a super majority vote of each house of the Legislature. The Legislature may also submit a proposed increase in the state revenue limitation to the voters. The Legislature

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**(2012 Ballot Constitutional Amendments Continued from Page 6)**

must implement this proposed amendment by general law. The amendment will take effect upon approval by the electors and will first apply to the 2014–2015 state fiscal year.

A “yes” vote means you want the state to change the way it calculates its revenue limit.

A “no” vote means you do not want the state to change the way it calculates its revenue limit.

**Amendment 4: Property Tax Limitations; Property Value Decline; Reduction for Nonhomesteaded Assessment Increases; Delay of Scheduled Repeal**

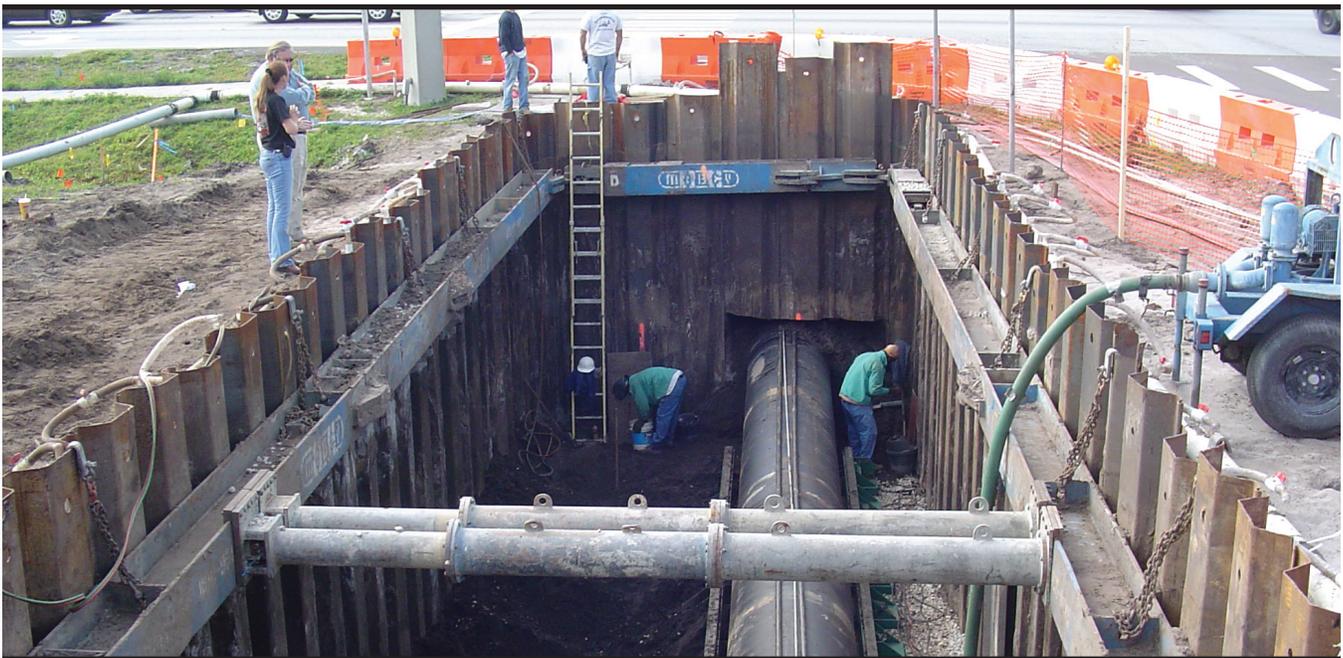
**Summary:** (1) This would amend Florida Constitution Article VII, Section 4 (Taxation;

assessments) and Section 6 (Homestead exemptions). It also would amend Article XII, Section 27, and add Sections 32 and 33, relating to the Schedule for the amendments. (2) In certain circumstances, the law requires the assessed value of homestead and specified nonhomestead property to increase when the just value of the property decreases. Therefore, this amendment provides that the Legislature may, by general law, provide that the assessment of homestead and specified nonhomestead property may not increase if the just value of that property is less than the just value of the property on the preceding January 1, subject to any adjustment in the assessed value due to changes, additions, reductions, or improvements to such property which are assessed as provided for by general law. This amendment takes effect upon approval by the voters. If approved at a special election held on the date

of the 2012 presidential preference primary, it shall operate retroactively to January 1, 2012, or, if approved at the 2012 general election, shall take effect January 1, 2013. (3) This amendment reduces from 10 percent to 5 percent the limitation on annual changes in assessments of nonhomestead real property. This amendment takes effect upon approval of the voters. If approved at a special election held on the date of the 2012 presidential preference primary, it shall operate retroactively to January 1, 2012, or, if approved at the 2012 general election, takes effect January 1, 2013. (4) This amendment also authorizes general law to provide, subject to conditions specified in such law, an additional homestead exemption to every person who establishes the right to receive the homestead exemption provided in the Florida Constitution within 1 year after purchasing the homestead property

*(Continued on Page 10)*

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# How to Pull a Rabbit Out of a Hat: Little Known Tricks that Might Save Your Lien Claim

## By — George E. Spofford, IV

GrayRobinson, P.A.  
Offices Statewide

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Everyone “knows” that in order to preserve a lien or a claim against a payment bond, certain notices have to be provided on time, and failure to provide all of the notices means the lien or bond claim is invalid. It should be no surprise that nearly every day we get calls from clients and acquaintances asking for help collecting money for work that was performed. What is surprising is that many times the call for help starts out with a statement along the lines of, “My secretary missed the Notice to Owner date or the Notice of Nonpayment date, so I know we can’t file a lien, but maybe there is something you can do...” Most of the time, a missed notice does mean the lien/bond claim is indeed dead, but sometimes we can pull a rabbit out of the hat (it’s magic!), and enforce a lien or bond claim even if a notice was missed. There are a number of loopholes in the lien/bond law that may mean a facially dead claim is still alive, but you need to know where to find the loopholes.

The first thing we try to do is obtain all of the facts regarding the project. For example, was it a public or private project? What type of project was it? What were the first work date and the last work date? Was a bond posted and was a copy provided to the claimant? Was the bond recorded? How much money is owed and of that amount, how much

is for retainage? Where does the claimant live in the food chain, i.e. a subcontractor, sub-subcontractor, etc.? Once we have all the facts, we can see if the facts will allow us to resuscitate what appears to be a dead claim.

The notice provisions specified by the Florida Statutes governing liens and payment bonds are fairly similar. Most statutes require some sort of notice at the start of the claimant’s work, followed by additional notice of non-payment or the filing of a lien after the work has been completed. For example, Florida Statutes, Chapter 713, requires a lienor who does not have a contract with the property owner to give the owner a Notice To Owner within 45 days of the lienor’s first work informing the owner that the lienor is on the project and expects to be paid. Chapter 713 also requires all lienors to record the lien within 90 days of last work date. Miss either and the lien is dead, right? Not necessarily.

If the work was part of improvements for a subdivision, then Chapter 713 also states that the 45 day Notice to Owner is not required. Subdivision improvements are defined by the statute to include, but not be limited to, grading, leveling, excavating and filling of land, including the furnishing of

fill soil; the grading and paving of streets, curbs and sidewalks; the construction of ditches and other area drainage facilities; the laying of pipes and conduits for water, gas, electric, sewage and drainage purposes. This is the type of work that all our members perform and if any new subdivisions are ever built again in Florida, then this loophole may be useful and you too can pull a rabbit out of the hat and save your lien claim.

Here is another potential “magic trick.” Florida Statutes, Section 713.23, allows a bond to be posted which will serve in the place of the dirt as security for the work performed improving the dirt. In other words, instead of attaching a lien to the property, if a 713.23 bond has been posted, then the claim is made against the payment bond. Sometimes private owners will require the prime contractor to post a 713.23 bond to keep liens off of their property. Section 713.23 states in part that, “a lienor is required, as a condition precedent to recovery under the bond, to serve a written notice of nonpayment to the contractor and the surety not later than 90 days after the final furnishing of labor, services or materials by the lienor.” The statute further states, “No action for the labor or materials or supplies may be

*(Continued on Page 10)*





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### **(How to Pull a Rabbit Out of a Hat: Little Known Tricks that Might Save Your Lien Claim Continued from Page 8)**

instituted or prosecuted against the contractor or surety unless both notices have been given.” Sounds pretty bleak—miss either notice and your claim is dead. That conclusion would be correct unless you know where to look for the loophole. Elsewhere, the statute states that if the claim is for retainage, then the 90 day Notice of Nonpayment is not required.

How about a situation where a subcontractor on a public works project has posted a bond? It’s rare, but it happens. The common mistake is that all bonds posted on public projects are “statutory bonds” and the strict notice provisions of Florida Statutes, Sections 255.05 or 337.18, or others apply. Miss one of the statutory deadlines, and your bond claim is dead. However, even though a bond is posted on a public project that does not mean the bond necessarily is subject to the statutory provisions of F.S. 255.05 or F.S. 337.18 which govern most public works projects. The notice provisions of F.S. 255.05 and F.S. 337.18 only apply to bonds posted by a prime contractor. Thus, a bond posted by a subcontractor, even on a public project, is not a statutory bond. Sections 255.05 and 337.18 require a prime contractor to post a bond, but say nothing about a subcontractor’s bond. Thus, the notice provisions of Sections 255.05 and 337.18 do not apply to a subcontractor bond. Instead, the notice provisions set forth in the bond itself control, and sometimes the provisions in the bond are much more lenient than the provisions in the statutes.

So, next time an owner or prime contractor tells you your lien or payment bond claim is dead, don’t be too quick to accept defeat. You

can always make a claim for breach of contract, and sometimes you can make some magic happen by pulling a rabbit out of your hat and revive what appeared to be a dead bond or lien claim.

*George Spofford is a shareholder in the Tampa office of the GrayRobinson law firm. Spofford has represented the construction industry since 1985 and serves as General Counsel to the UUCF. GrayRobinson, P.A. ([gray-robinson.com](http://gray-robinson.com)) is a full-service business law firm with over 270 attorneys and 10 offices across Florida. If any member has specific questions relating to this topic or any topic they would like to see addressed in future editions, please feel free to contact George at (813) 273-5000 or [george.spofford@gray-robinson.com](mailto:george.spofford@gray-robinson.com).*

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### **(2012 Ballot Constitutional Amendments Continued from Page 7)**

and who has not owned property in the previous 3 calendar years to which the Florida homestead exemption applied. The additional homestead exemption shall apply to all levies except school district levies. The additional exemption is an amount equal to 50 percent of the homestead property’s just value on January 1 of the year the homestead

is established. The additional homestead exemption may not exceed an amount equal to the median just value of all homestead property within the county where the property at issue is located for the calendar year immediately preceding January 1 of the year the homestead is established. The additional exemption shall apply for the shorter of 5 years or the year of sale of the property. The amount of the additional exemption shall be reduced in each subsequent year by an amount equal to 20 percent of the amount of the additional exemption received in the year the homestead was established or by an amount equal to the difference between the just value of the property and the assessed value of the property determined under Article VII, Section 4(d), whichever is greater. Not more than one such exemption shall be allowed per homestead property at one time. The additional exemption applies to property purchased on or after January 1, 2011, if approved by the voters at a special election held on the date of the 2012 presidential preference primary, or to property purchased on or after January 1, 2012, if approved by the voters at the 2012 general election. The additional exemption is not available in the sixth and subsequent years after it is first received. The amendment shall take effect upon approval by the voters. If approved at a special election held on the date of the 2012 presidential preference primary, it shall operate retroactively to January 1, 2012, or, if approved at the 2012 general election, takes effect January 1, 2013. (5) This amendment also delays until 2023, the repeal, currently scheduled to take effect in 2019, of constitutional amendments adopted in 2008 which limit annual assessment increases for specified nonhomestead real property. This amendment delays until 2022 the submission of an

*(Continued on Page 20)*



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*(Continued on Page 13)*

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<p><b>S</b> Safety <b>T</b> Training &amp; <b>C</b> Consulting</p> <p><b>CMC</b></p> <p>Ben Rice; CMSP, CHCM President; Principal Safety Consultant</p> <p>Bus: 877-782-2670 x 3 Cell: 863-581-7750 Fax: 813-737-5543 Email: brice@stcsafety.com</p> <p>P.O. Box 5770 Lakeland, FL 33807-5770 www.stcsafety.com</p>	<p><b>LEFTCOAST SURVEYORS, INC.</b> Your #1 Choice For <b>CONSTRUCTION SURVEYORS</b> In The Tampa Bay Region Office: 727-576-2877 Fax 576-6602 Email: Leftcoast@tampabay.rr.com</p>	<p><b>HORSES FIRST INC</b> <i>before the cart!</i></p> <p>P.O. BOX 1630 BRANDON, FL 33509-1630</p> <p>CPM Scheduling Services Phone: 813-662-5020 Fax: 813-662-5040 Cell: 813-393-6868 kcoffey@horsesfirstinc.com</p> <p><b>KATHLEEN A. COFFEY, PSP</b> PRESIDENT</p> <p><b>Planners Schedulers Consultants</b> Together the Winning Team</p> <p>WBENC • FDOT DBE • SFWMD SBE AAACE International Certified</p>
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**(Associate Member of the Month: United Rentals Trench Safety Continued from Page 12)**

for competent persons, confined space entry training, and operator certifications for equipment.

**Additional Support Services**

Successful projects depend on setting objectives and anticipating challenges. From the pre-planning stage forward, we can deliver cost-effective solutions along with superior equipment:

- Pre-planning and configuration assistance that will take into account the safety, site conditions, timing, environmental concerns and budgetary needs of the project.
- Onsite consultation and equipment service to maximize productivity.
- In-house engineering support to help you plan and organize with the assistance of experienced registered professional engineers.
- Delivery, including expedited

options, and precise equipment placement via crane service.

**Fleet Range**

Important new technologies have expanded the options for excavation support systems. Our equipment experts and engineering services work together to specify the best configuration for each set of conditions:

- Trench Shoring – Mega Brace systems, sheeting beam and plates, aluminum hydraulic shores and waler systems, and custom configurations.
- Slide Rail Systems – modular, dig-and-push shoring systems, an ideal way to protect adjacent structures or when vibration presents an issue.
- Trench Shielding (Trench Boxes) – aluminum panel shields, modular panel shields, steel trench shields, steel manhole shields and arch spreaders.
- Road Plates – an extensive inventory of steel and skid-resistant crossing plates.

- Bedding Containers – available to handle up to 12 cubic yards of gravel or washed rock.
- Pipe Testing Equipment – hydrostatic and vacuum test pumps, smoke testers, steel deflection gauges, leak locators, multi-size domeheads, Cherne Test.
- Ball® plugs and Cherne Rupture Discs™.
- Confined Space Equipment – rescue systems, ventilating blowers, harnesses and gas detectors.
- Surveying Equipment – the industry’s largest inventory of pipe lasers, levels, transits, rotating lasers and grade lasers.

For more information about our services in Northern Florida, contact:

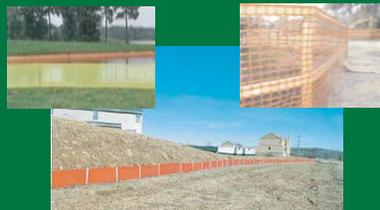
John Shiver  
United Rentals Trench Safety  
[jshiver@ur.com](mailto:jshiver@ur.com)  
(904) 786-3100  
5856 Mining Terrace  
Jacksonville, Florida 32257

**Best Management Practices**

*Erosion and pollution control practices employed during construction to protect surface waters and wetlands from construction activities*



Rollled Straw & Wattles as silt fence alternative, perimeter & sediment filtration on slopes



Orange & Green Barrier/Safety Fence for high visibility perimeter control & tree barricades



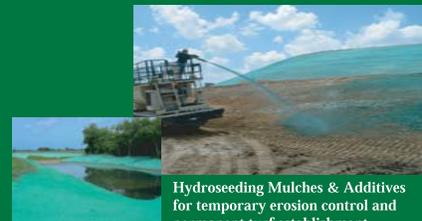
Wire-backed & Scrim Reinforced Silt Fence for site-specific applications



Floating & Staked Turbidity Barrier for controlling sediment transport in waterways, streams & creeks



Turbidity Reducing Polymers



Hydroseeding Mulches & Additives for temporary erosion control and permanent turf establishment



Curb Inlet Devices used for stormdrain protection



Dewatering Bag for containment of filtered sediment



Grate & Drop Inlet Devices for stormwater run-off

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7834 Depot Lane, Tampa, FL 33637 (813) 988-0200 Fax (813) 985-4533 [www.rhmooreassociates.com](http://www.rhmooreassociates.com)





# Not a Member of UUCF?

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## UUCF District 1

Brevard, Indian River, St. Lucie, Volusia County (East of I-95)

## UUCF District 2

Lake, Orange, Osceola, Polk, (East of Lakeland), Seminole, Volusia (West of I-95)

## UUCF District 3

Broward, Dade, Martin, Monroe, Palm Beach

## UUCF At Large

Alachua, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Marion, Suwannee, Taylor

Did you know that UUCF does not have an affiliated chapter in these counties? Did you know that membership with UUCF is only \$100 per year, per district?

For a list of What We Have Done For You, **please click here**. If you are interested in joining UUCF, **please click here** for a Membership Application.

## Registered Contractor License Renewal Reminder

Just a reminder that the Registered Contractor licenses from the Department of Business and Professional Regulation (DBPR) are up for renewal on August 31, 2013. Current law requires licenseholders to obtain 14 hours of continuing education with at least one hour in workplace safety, one hour in workers' compensation, one hour in business practices, one hour in the advance building code module, one hour in laws and rules (Chapter 489) and one hour in wind mitigation (this requirement only affects general, residential, building, roofing and glass and glazing contractors).

Don't forget to notify the DBPR office of any address change. Section 489.124(2) gives sole responsibility to the licensee for notifying DBPR in writing of the licensee's current mailing address and phone number.

Failure to notify the department of a change of address shall constitute a violation of this section. In addition, if your address changes and you do not notify the department, you may not receive important mailings from the department such as your renewal notice.

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ProView is how the entire construction industry sees – AND connects – with companies like yours when they log on to the industry's leading search engine, [thebluebook.com](http://thebluebook.com). Take a look at all the "business intelligence" your ProView includes:

- Complete Company Information/Branding
- Full-Color Photo Gallery of Your Projects/Products
- Name Brands and Products Installed/Supplied
- Year Established
- Geographical Areas Serviced
- Additional Locations
- Recently Completed Projects
- Structure Type/Work Type
- Current Licenses (including issuing agency)
- Trade Associations, Memberships and./ Govt. Certifications
- Leed/BIM Certification
- Email Links for Information and PreQual Requests
- Links to Specs, BIM, CAD and other "Related Files"
- Portable URL to support your marketing efforts

**Federico Plumbing and Heating**  
113 Blake St. Suite 1200  
Denver, CO 80202  
(303) 555-1212  
Contact: Deborah DiBelfano  
federico@unbrooks.com

Established: 1975  
No. Employees: 12  
Sector: Public and Private  
Labor Affiliation: Nonunion  
Leed Certification: Yes  
BIM Certified: Yes

**Commercial Plumbing Jobs**

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We did retail fit-outs for H&M, New Balance and Brooks Brothers. We were excited to work on several great restaurants, including King's Lounge, Royal Seafood's C Bar, and award-winning Wicked Pizza. We offer complete plumbing and heating contracting and are fully equipped in all phases of commercial establishments. We are staffed to handle any size job.

**Spec / Document Links**  
Company Brochure | Air & Chiller System Diagrams | Plumbing & Heating Specs

**Company Contacts**  
Name: Shawn Kenney | Title: Field Supervisor | Phone: (303) 555-1222 or (303) 555-1242

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Energy Management Systems & Equipment | Heating Contractors | Mechanical Contractors  
Plumbing Contractors | Solar & Wind Energy Systems | Radiant Heating Systems & Equipment

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Project Size: \$50,000 to \$500,000

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**Work Types:** Alterations, Interior Fit-Ups, New

**Geo. Areas Serviced:** Colorado, North Dakota, Idaho, South Dakota, Utah, Nebraska, New Mexico, Wyoming, Texas

**Licenses:** Connecticut

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# President's Message



The A to Z of the utility contracting business:

A – Asphalt is put down too thin here and too thick over there.  
 B – Bull Dozer track came off . . . again.  
 C – Change Order isn't signed yet, but just keep working. Gotta stay on schedule.  
 D – Dirt in the manhole, dirt in the pipe. Wasn't there a cleanout around here somewhere?  
 E – Excavator backed into a tree (no that was actually a loader).  
 F – Fuel is low on every machine this morning. Didn't know that yesterday when we left the job.

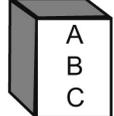


G – Gas can has dirt in it; and for some reason, the compactors won't run.  
 H – Hillman is sick today so the Foreman is working double

duty and doesn't have time to read the sports section.  
 I – Inspector said we had to paint the water main fittings blue . . . the buried ones.  
 J – Joined the contractor's association. Was the best decision so far this year.  
 K – Knock the dirt of your boots before going into your field office but not the Owners.

L – Low bidder out of 23. Only left 17% on the table.  
 M – Milled all of Oak Street yesterday in record time. What? It was supposed to be Oak Drive?  
 N – None of the densities will pass. The harder the head of the geotech, the softer the soil.  
 O – OSHA showed up today, and we told them to get the hell out of here until they had a warrant.  
 P – Partnering meeting went well. The contractor wasn't invited.  
 Q – Quality Assurance/Quality Control plan has to be provided before the Owner releases the final check.  
 R – Release of lien has to be signed for the "next" month's pay

*(Continued on Page 22)*

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 <p>www.abcutting.com aspblkcon@aol.com</p> <p><b>ASPHALT BLACK CONCRETE</b></p> <p><b>CUTTING CONTRACTORS, INC.</b> 1571 Main Street, Atlanti Beach, FL 32233</p> <p><b>JONTHAN "CHIP" BOYD</b> (904) 246-1656 • FAX (904) 246-7084 • TOLL FREE 1-888-254-9751</p>	<p>Safe digging is no accident. Always call 811 before you dig.</p>  <p><b>811 Know what's below. Call before you dig.</b></p> <p>www.callsunshine.com</p>	<p><b>YOUR SOLUTIONS PROVIDER</b></p> <ul style="list-style-type: none"> <li>• N-12" Pipe</li> <li>• Nyloplast®</li> <li>• Low Head Irrigation Pipe</li> <li>• Geosynthetics</li> <li>• SaniTite® Pipe</li> <li>• StormTech®</li> <li>• Arc™ Leachfield Chambers</li> <li>• MEGA GREEN™ Recycled Pipe</li> </ul>  <p><b>1-800-821-6710</b> www.ads-pipe.com</p>
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# Distracted Driving is an Epidemic

Each year the leading cause of work-related fatalities in the U.S. is motor vehicle crashes. A large portion of these deaths are caused by distracted drivers.

The leading driver distractions are the use of electronic devices while driving. Reaching for a cell phone or using a hands-free device takes a driver's focus off the road.

Distracted driving is an epidemic that threatens your workers, their families, your business and the public. Insurance claims from distracted drivers increase both worker's compensation and auto liability insurance costs. Employers that implement a Distracted

Driving Company Policy create "safe driving" awareness for their employees and reduce the probability of a severe financial loss

To view a sample Distracted Driving Policy for your review, please go to **Page 2** in this issue of the *Ditchmen*. We encourage employers to adopt some form of electronic device usage policy. (Please review the sample Distracted Driving Policy with your legal Council prior to implementation).

### Statistics

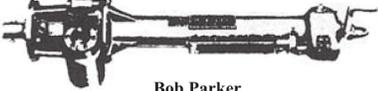
The National Highway Safety Administration reports that Florida is the third deadliest state for automobile fatalities. In 2010, the

state of Florida had 2,445 fatalities, behind California with 2,715 and Texas with 2,998 fatalities. Approximately 35 million Americans are cell phone users. Distracted drivers are the number one cause of accidents in America.

According to a study conducted by the University of Toronto, people driving while on a cell phone are four times more likely to be involved in traffic accidents. The study also concluded that texting while driving has a greater probability of an accident than driving while drunk.

The National Highway Safety

*(Continued on Page 26)*

<p>Linkhorst &amp; Hockin, P.A. Attorneys at Law</p>  <p><b>ADAM C. LINKHORST</b> Board Certified Construction Law Attorney</p> <p>4495 Military Trail, Suite 106 Jupiter, FL 33458 Tel. 561-626-8880 Fax. 561-626-8885</p> <p>Tel. 954-776-5990 Cell. 954-562-9199 acl@FloridaHardhatLaw.com www.FloridaHardhatLaw.com</p>	<p><b>Your Business Card Could Be Here!</b></p> <p><b>Call (407) 830-1880</b></p>	<p>Don't adjust your manholes with bricks anymore! Use precast concrete grade rings! Do the job faster- easier! Call for pricing! Delivery Available!</p>  <p>3702 OLSON DRIVE DAYTONA BEACH, FL 32124</p> <p>OFFICE 386-238-6020 FAX 386-258-3788</p> <p>SOUTHEAST CONSTRUCTION PRODUCTS</p>
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# Division of Workers' Compensation Offers Free Classes

The Florida Department of Financial Services, Division of Workers' Compensation, is offering free classes regarding Florida's workers' compensation laws and workplace safety to business owners, licensed contractors and employers.

Workers' compensation topics covered include:

- Review of Key Statutory Definitions
- Contractor Responsibilities
- Exemptions
- Insurance Coverage Requirements
- Enforcement Provisions

Workplace safety topics presented by OSHA (U.S. Dept. of Labor, Occupational Safety and Health Administration) include:

- Direct and Indirect Costs
- Inspections
- Florida Fatalities

The following is a list of class dates and times for future sessions:

### **October 17, 2012**

2:00 p.m. – 3:00 p.m. EST  
Workers' Compensation  
WEB Based class

### **October 18, 2012**

2:00 p.m. – 3:00 p.m. EST  
Workplace Safety  
WEB Based class

### **November 14, 2012**

2:00 p.m. – 3:00 p.m. EST  
Workers' Compensation  
WEB Based class

### **November 15, 2012**

2:00 p.m. – 3:00 p.m. EST  
Workplace Safety  
WEB Based class

### **December 12, 2012**

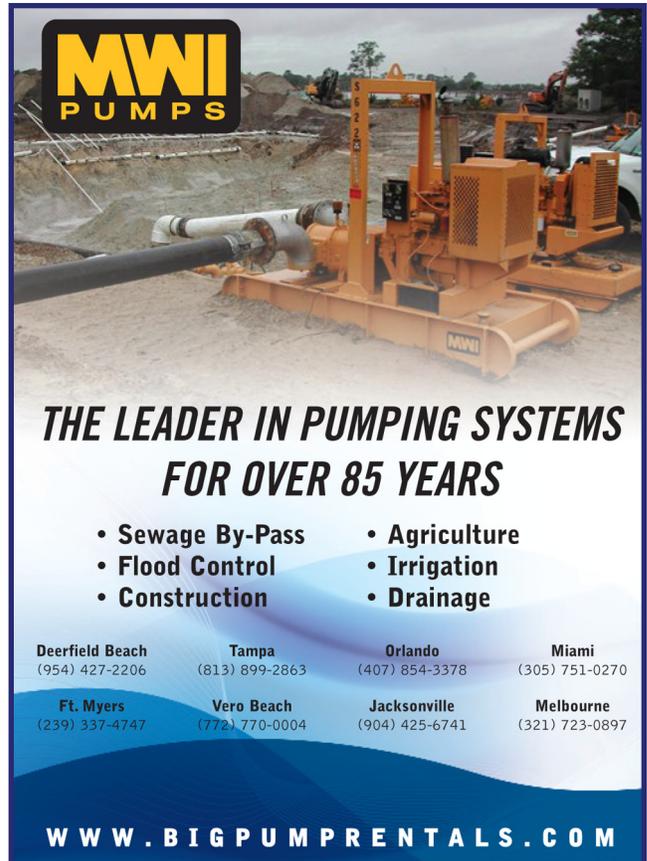
2:00 p.m. – 3:00 p.m. EST  
Workers' Compensation  
WEB Based class

### **December 13, 2012**

2:00 p.m. – 3:00 p.m. EST  
Workplace Safety  
WEB Based class

The Division of Workers' Compensation is an authorized provider (Provider Number: 0004354) for continuing education purposes through the CILB. Course Number: 0010118 – one hour satisfies the workers' compensation requirement and Course Number: 0010630 – one hour satisfies the workplace safety requirement.

The form is available on the Division's website at [www.myfloridacfo.com/WC](http://www.myfloridacfo.com/WC). For additional information, e-mail [bocseminars@MyFloridaCFO.com](mailto:bocseminars@MyFloridaCFO.com), or call (813) 221-6518.



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September 30, 2012

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Chapter: UUCF District 2

### **Turner Lining Company, LLC**

Wayne Turner  
DeLand, FL  
Phone: 386/736-7015  
Associate  
Chapter: UUCF District 2





# Calendar of Events

## UUCF 2012

Nov. 2.....Board of Director’s Meeting, Orlando

## 2013

July 25.....Board of Director’s Meeting,  
Boca Raton Resort & Club, Boca Raton  
July 25–28 .....Annual Convention,  
Boca Raton Resort & Club, Boca Raton

### NUCA of North Florida

Oct. 9 .....Executive Committee Meeting  
Oct. 13 .....Fishing Tournament,  
Sister’s Creek Marina  
Nov. 6.....Executive Committee Meeting  
Nov. 15.....Election of Officers  
Dec. 10.....Executive Committee Meeting  
Dec. 8.....Holiday Party

### NUCA of Northwest Florida

Oct. 11 ..... Board of Director’s Meeting, Pensacola  
Oct. 27 ..... Equipment Rodeo, Pensacola  
Nov. 8..... Board of Director’s Meeting, Pensacola  
Nov. 10.....Annual Meeting/Installation of Officers,  
Pensacola

### NUCA of Southwest Florida

Oct. 25 ..... Trade Show,  
Harborside Event Center, Downtown Fort Myers  
Dec. 1.....Christmas Party,  
Holiday Inn Gulf Coast Town Center

## SUCA

Oct. 4 .....Annual Membership Meeting & Elections  
Nov. 1.....General Membership Meeting  
& Installation of 2012 Officers & Directors  
Nov. 10.....Clay Shoot, Tampa Bay Sporting Clays,  
Land O’ Lakes  
Dec. 1.....Holiday Banquet, Tampa Club, Tampa

### National Utility Contractors Association (NUCA) 2013

Feb. 11–15.....Convention,  
Sheraton Phoenix Downtown Hotel, Phoenix, AZ  
Oct. 2–6.....Fall Board of Directors and Leadership  
Meeting, El Conquistador in Las Croabas, Puerto Rico

### Sunshine 811 Meetings

Oct. 16 .....Executive Committee Meeting,  
DeBary/Conference Call

Nov. 15.....Committee Meetings, DeBary Call Center  
Nov. 16.....Board of Director’s Meeting,  
DeBary Call Center

### Construction Industry Licensing Board (CILB) Meetings

Oct. 10–12.....Embassy Suites Orlando–North,  
Altamonte Springs  
Nov. 14–16 .....Embassy Suites Tampa/USF,  
Tampa

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### (2012 Ballot Constitutional Amendments Continued from Page 10)

amendment proposing the abrogation of such repeal to the voters.

A “yes” vote means you favor the enhanced tax breaks being proposed.

A “no” vote means you are against the enhanced tax breaks being proposed

### Amendment 5: State Courts

**Summary:** Proposing a revision of Article V of the State Constitution relating to the judiciary. The State Constitution authorizes the Supreme Court to adopt rules for the practice and procedure in all courts. The constitution further provides that a rule of court may be repealed by a general law enacted by a two-thirds vote of the membership of each house of the Legislature. This proposed constitutional revision eliminates the requirement that a general law repealing a court rule pass by a two-thirds vote of each house, thereby providing that the Legislature may repeal a rule of court by a general law approved by a majority vote of each house of the Legislature that expresses the policy behind the repeal. The court could readopt the rule in conformity with the public policy expressed by the Legislature, but if the Legislature determines that a rule has been readopted and repeals the readopted rule, this proposed revision prohibits the court from further readopting the repealed rule without the Legislature’s prior approval. Under current law, rules of the judicial nominating commissions and the Judicial Qualifications Commission may be repealed by general law enacted by a majority vote of the membership of each house of the Legislature. Under this proposed revision, a vote to repeal those rules is changed to repeal by general law

(Continued on Page 21)





**(2012 Ballot Constitutional Amendments  
Continued from Page 20)**

enacted by a majority vote of the legislators present. Under current law, the Governor appoints a justice of the Supreme Court from a list of nominees provided by a judicial nominating commission, and appointments by the Governor are not subject to confirmation. This revision requires Senate confirmation of a justice of the Supreme Court before the appointee can take office. If the Senate votes not to confirm the appointment, the judicial nominating commission must reconvene and may not renominate any person whose prior appointment to fill the same vacancy was not confirmed by the Senate. For the purpose of confirmation, the Senate may meet at any time. If the Senate fails to vote on the appointment of a justice within 90 days, the justice will be deemed confirmed and will take office. The Judicial Qualifications Commission is an independent commission created by the State Constitution to investigate and prosecute before the Florida Supreme Court alleged misconduct by a justice or judge. Currently under the constitution, commission proceedings are confidential until formal charges are filed by the investigative panel of the commission. Once formal charges are filed, the formal charges and all further proceedings of the commission are public. Currently, the constitution authorizes the House of Representatives to impeach a justice or judge. Further, the Speaker of the House of Representatives may request, and the Judicial Qualifications Commission must make available, all information in the commission's possession for use in deciding whether to impeach a justice or judge. This proposed revision requires the commission to make all of its files available to the Speaker of the House of Representatives but provides that such files would remain confidential during any investigation by the House of Representatives and until such information is used in the pursuit of an impeachment of a justice or judge. This revision also removes the power of the Governor to request files of the Judicial Qualifications Commission to conform to a prior constitutional change. This revision also makes technical and clarifying additions and deletions relating to the selection of chief judges of a circuit and relating to the Judicial Qualifications Commission, and makes other nonsubstantive conforming and technical changes in the judicial article of the constitution.

A "yes" vote means you want the Senate to have confirmation power over Supreme Court appointees, and some authority over changes to the rules that govern the state's courts. You also want to grant the House access to Judicial Qualifications Commission's investigative files on judges.

*(Continued on Page 23)*

# Sunshine 811 2012 Holiday Calendar

Thanksgiving Day .....	11/22/12
Day after Thanksgiving Day .....	11/23/12
Christmas Eve .....	12/24/12
Christmas Day .....	12/25/12

# 2013 Holiday Calendar

New Year's Day .....	01/01/13
Martin Luther King Day .....	01/21/13
Memorial Day .....	05/27/13
Independence Day .....	07/04/13
Labor Day .....	09/02/13
Thanksgiving Day .....	11/28/13
Day after Thanksgiving Day .....	11/29/13
Christmas Eve .....	12/24/13
Christmas Day .....	12/25/13

Sunshine 811's business hours are Monday through Friday from 7:00 a.m. to 5:00 p.m. **Please keep the above dates in mind when calling for locates two business days prior. The law now requires two full business days prior to digging.**



## 2012 FDOT Letting Date

September 26  
October 31  
December 5

## 2013 FDOT Letting Date

January 30  
February 27  
March 27  
April 24  
May 22  
June 19





# Chapter News

## NUCA of North Florida

This past month, we had a very informative Bettering Your Business Luncheon meeting with guest speaker Anthony Corocco from MetroStudy, a data collection agency on land development and new home construction. Anthony gave us a brief overview on local and national economic conditions and an in depth analysis of the Jacksonville housing market including a review of activity, pricing, inventory and top projects. GrillBilly's provided an outstanding BBQ lunch of chicken and delicious beef brisket followed by banana pudding. We thank Mike Gruber and Ellis & Associates for hosting this meeting.

On September 10, members of our chapter attended a membership drive training provided by The Oliver Group. This day long training will prepare our chapter to host a Direct Drive on October 24 and 25. If your chapter is interested in having a similar drive, please contact Bill Hillman at NUCA to discuss.

We held our first Annual Sporting Clay Challenge on September 13 at W.W. Sporting Clays. We had 12 teams participate. We are grateful for the following sponsors: **Platinum Sponsors** - Accurate Utility Services and Linder Industrial Machinery. **Beverage Sponsor** - Beard Equipment Company. **Station Sponsors** - Advanced Drainage Systems, Inc.; Ford Meter Box; HD Supply Waterworks; Iron Planet; Sigma Corporation and Star Pipe Products. **Door Prizes** were donated by Ferguson Waterworks; Beard Equipment Company and A. J. Johns, Inc. This event would not be possible without our committee: Chairman John Kirkland, Ed Porter, Rob Pinkston, Donnie Wynn, Billy Hood and Tony Bradley.

We will be holding our Annual Fishing Tournament on Saturday, October 20 at Sister's Creek Marina. Sponsorship levels begin at \$125 and continue to \$1,500. This is a great event to bring your customers, business associates, employees, family and friends. Contact Kathy at (904) 296-1230 to get a registration form or to sign up as a sponsor.

We are pleased to announce that Staff Zone recently joined our chapter. Our contact is Josh Dyer, Marketing Manager. Josh can be reached at [jdyer@thestaffzone.com](mailto:jdyer@thestaffzone.com) or (904) 634-0052. Staff Zone is located at 2800 North Main Street, Jacksonville, FL 32206.

Did you know the dates have been set for NUCA Convention 2013? Next year's convention will be held February 11-15 at the Sheraton Phoenix Downtown Hotel in Phoenix, Arizona.

## NUCA of Northwest Florida

Our Second Annual Equipment Rodeo will be held on October 27 at the Equestrian Center. There will be Individual, Team and Ladies Competitions along with events for the kids. Concession Sponsored by Saltmarsh, Cleveland & Gund, CPA.

There will be a Kubota Mower Raffle. Tickets are \$20 each or six tickets for \$100. The prize is a new Kubota ZG222A-48, Zero Turn, 22 HP mower, over head valve, air cooled, gas engine, direct drive from transmission to deck and PTO, 48" Pro-commercial deck and hydraulic deck lift. The retail value is \$8,600. The drawing will be held on October 27 at 4:00 p.m. For more information or to purchase raffle tickets, please contact the NUCA of Northwest Florida office at (850) 434-8328.

Our Annual meeting is fast approaching, and I am making plans for a great evening of a Murder Mystery Dinner. It will be held on November 10 at the Museum of Commerce. Make plans to join us.

We would like to thank our current 2012 Sponsors: Brown Construction Company, Ford Meter Box, Kelson Electric Company and Southeastern Pipe.

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## (President's Message Continued from Page 15)

application to get the check from two months ago.

S - Shop drawings still aren't approved, but all the structures are in the ground.

T - Tires on the dump truck were stolen last night, or was that the night before?

U - Utility locates were called in yesterday so we thought we could dig today.

V - Vibratory rollers can break pictures, pools and grandpa's urn from 100 yards.

W - Wellpoint pump was turned off last night by that guy over there in the teal green house.

X - Xeriscape means you don't have to restore that yard. Just leave it like it is.

Y - Yards with Bahia sod get St. Augustine, yards with St. Augustine sod get Bahia.

Z - Zero accidents before lunch is our goal every day.

*Sincerely,*

*Bruce Wendorf  
UUCF President*





**(2012 Ballot Constitutional Amendments Continued from Page 21)**

A “no” vote means you do not want these proposed changes made to the state’s judiciary.

**Amendment 6: Prohibition on Public Funding of Abortions; Construction of Abortion Rights**

**Summary:** This proposed amendment provides that public funds may not be expended for any abortion or for health-benefits coverage that includes coverage of abortion. This prohibition does not apply to an expenditure required by federal law, a case in which a woman suffers from a physical disorder, physical injury, or physical illness that would place her in danger of death unless an abortion is performed, or a case of rape or incest. This proposed amendment provides that the State Constitution may not be interpreted to create broader rights to an abortion than

those contained in the United States Constitution. With respect to abortion, this proposed amendment overrules court decisions which conclude that the right of privacy under Article I, Section 23 of the State Constitution is broader in scope than that of the United States Constitution.

A “yes” vote means you support putting the existing federal ban on the use of public funds for abortions into the state constitution; and you support eliminating the state’s privacy right with respect to a woman’s right to choose.

A “no” vote means you are against placing the existing federal ban on using public funds for abortions into the state constitution; and you are against eliminating the state’s privacy right with respect to a woman’s right to choose.

**Amendment 7:** This proposal was known as Amendment 7 until a

legal challenge by opponents led to the rewriting of some of the ballot language and its reinstatement on the ballot as Amendment 8. This is the reason there is no Amendment 7 on the 2012 ballot.

**Amendment 8: Religious Freedom**

**Summary:** Proposing an amendment to the State Constitution providing that no individual or entity may be denied, on the basis of religious identity or belief, governmental benefits, funding or other support, except as required by the First Amendment to the United States Constitution, and deleting the prohibition against using revenues from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

A “yes” vote means you want to remove from the Florida

*(Continued on Page 28)*



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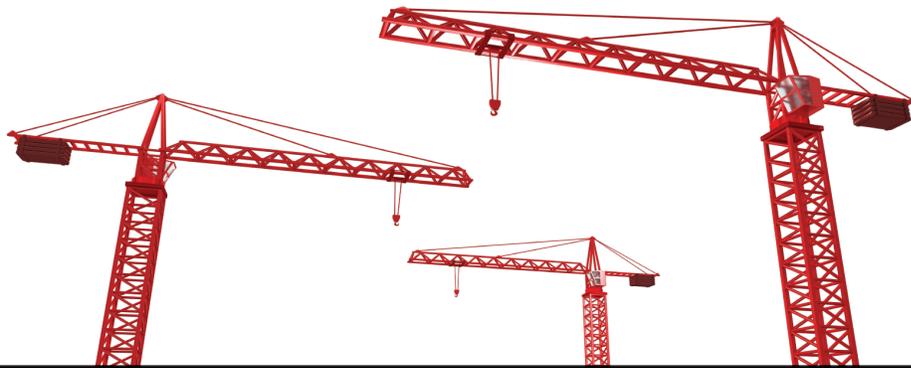
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# 2012 Legislature Addresses Lack of Recorded Bonds for Public Projects By — Deborah Lawson, Governmental Affairs Consultant

Best estimates are that 40–50 percent of all bonds for public construction projects are not properly recorded in the public records as required by statute. The 2012 Legislature acknowledged this deficiency and imposed a penalty on the general contractor for failure to record the payment and performance bond(s).

HB 897 by Moraitis provides that the public entity may not make payment to the contractor until the contractor has delivered a certified copy of the recorded bond to the public entity. This provision applies regardless of other laws or contractual provisions regarding the timing of payment to the contractor, and applies to all contracts entered into on or after October 1, 2012. See, s. 255.05(1)(b), *Florida Statutes 2012*.

Why is this important? The bond information is critical to all subcontractors and suppliers working on your public projects. The payment bond is their only protection if payment is not properly made by the general contractor. A side-benefit for public entities — if payment bonds are properly recorded and available in the public records, direct requests to public entities for copies of bonds should be substantially reduced, benefitting all involved.

Section 255.05(1), Florida Statutes, sets forth the requirements for contractors to obtain payment and performance bonds, record them and provide them to the public entity. The section also sets forth in detail what information must be contained on the front page of the bond which includes correct names, phone numbers and

addresses for the owner, contractor and surety; the contract number assigned by the public entity; the bond number; a descriptions of the project and the improvement; and a legal description or street address for the property being improved. This information is intended to aid subcontractors and suppliers in identifying the correct bond for the correct project.

Florida law still requires public entities to provide copies of bonds upon request, but it is our hope that this will become less and less necessary and recording of bonds in a timely manner becomes the norm.

*Deborah Lawson is a governmental affairs consultant who lives and works in Tallahassee, Florida. She specializes in representing construction subcontractors and material suppliers before the Florida Legislature and State agencies.*

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## **(Distracted Driving is an Epidemic Continued from Page 16)**

Council reports that there were 2.24 Million people injured in motor vehicle accidents in 2010. Evidence illustrates that texting while driving is a major loss driver for both bodily injury and property damage on our highways throughout America.

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**(2012 Ballot Constitutional Amendments Continued from Page 23)**

Constitution a prohibition against the state funding religious institutions and replace it with a provision that prohibits the state from denying funding to institutions based on religious affiliations.

A “no” vote means you want to retain the provision in the Florida Constitution that prohibits the state from funding religious institutions.

**Amendment 9: Homestead Property Tax Exemption for Surviving Spouse of Military Veteran or First Responder**

**Summary:** Proposing an amendment to the State Constitution to authorize the Legislature to provide by general law ad valorem homestead property tax relief to the surviving spouse of a military veteran who died from service-connected causes while on active duty or to the surviving spouse of a first responder who died in the line of duty. The amendment authorizes the Legislature to totally exempt or partially exempt such surviving spouse’s homestead property from ad valorem taxation. The amendment defines a first responder as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic. This amendment shall take effect January 1, 2013.

A “yes” vote means you want the state to grant the full homestead exemption to the surviving spouses. A “no” vote means you do not want the state to grant the full homestead exemption.

**Amendment 10: Tangible Personal Property Tax Exemption**

**Summary:** Proposing an amendment to the State Constitution to: (1) Provide an exemption from

ad valorem taxes levied by counties, municipalities, school districts, and other local governments on tangible personal property if the assessed value of an owner’s tangible personal property is greater than \$25,000 but less than \$50,000. This new exemption, if approved by the voters, will take effect on January 1, 2013, and apply to the 2013 tax roll and subsequent tax rolls. (2) Authorize a county or municipality for the purpose of its respective levy, and as provided by general law, to provide tangible personal property tax exemptions by ordinance. This is in addition to other statewide tangible personal property tax exemptions provided by the Constitution and this amendment.

A “yes” vote means you want to double the tangible personal property tax exemption and allow cities and counties to expand the exemptions beyond that.

A “no” vote means you do not want to double the tangible personal property tax exemption and you do not want to allow cities and counties to expand the exemptions.

**Amendment 11: Additional Homestead Exemption; Low-Income Seniors Who Maintain Long-Term Residency on Property; Equal to Assessed Value**

**Summary:** Proposing an amendment to the State Constitution to authorize the Legislature, by general law and subject to conditions set forth in the general law, to allow counties and municipalities to grant an additional homestead tax exemption equal to the assessed value of homestead property if the property has a just value less than \$250,000 to an owner who has maintained permanent residency on the property for not less than 25 years, who has attained age 65, and who has a low household income as

defined by general law.

A “yes” vote means you think cities and counties should have the authority to grant a full property tax discount to eligible seniors.

A “no” vote means you do not think that cities and counties should have the authority to grant a full property tax discount to eligible seniors.

**Amendment 12: Appointment of Student Body President to Board of Governors of the State University System**

**Summary:** Proposing an amendment to the State Constitution to replace the president of the Florida Student Association with the chair of the council of state university student body presidents as the student member of the Board of Governors of the State University System and to require that the Board of Governors organize such council of state university student body presidents.

A “yes” vote means you want the state create a new council of university student presidents from which the student representative to the Board of Governors will be chosen.

A “no” vote means you want to keep the current system of selecting the student representative to the Board of Governors.

**Don’t forget to vote on November 6!**





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