



# ***CONSTRUCTION ADVISORY***

**January 10, 2012**

## **UTCA's "OWNER SOIL CERTIFICATION" LEGISLATION INITIATIVE IS APPROVED BY STATE SENATE – HEADS TO THE GOVERNOR**

A measure developed by UTCA's Legislative Committee, requiring public owners to certify the condition of soil on projects governed by Local Public Contracts Law, was approved by the State Senate yesterday on a strong bipartisan basis and, afterwards, cleared a procedural Concurrence Vote in the General Assembly, paving the way for final enactment by the Governor.

UTCA's bill (S-3007/A-3633) sponsored by Senator Kip Bateman (R-16), Senator Bob Gordon (D-38), Assemblywoman Mila Jasey (D-27), and Assemblyman John McKeon (D-27) will increase transparency on construction projects that require the excavation and off-site disposal of soil. While the material to be removed is not always contaminated, a public owner rarely provides much detail in the bid specifications about the condition of the soil. Often contractors and subcontractors have no documentation from project owners to certify or guarantee that the soil is "clean" and, therefore, meet the standards for acceptance at off-site facilities. This information gap creates major problems for contractors and subcontractors that often lead to increased project costs during construction.

Members of the UTCA Board of Directors, along with staff, developed this legislation last year to increase transparency and cut down on costly litigation. The bill stipulates that in cases where soil has to be removed from a site, the owner will be required to have the material tested pre-bid, or provide an allowance for testing and an allowance for removal in the bid proposal, if found to be contaminated. The measure is now on the Governor's Desk awaiting his signature.

## **U.S. SENATE MAJORITY LEADER REID TAGS HIGHWAY REAUTHORIZATION BILL AS TOP PRIORITY**

The U.S. Senate's most influential member, Senate Majority Leader Harry Reid, has decided that the reauthorization of the nation's aviation and surface transportation programs are among the top priorities for the Senate when that body reconvenes in Washington, D.C. on January 23, 2012. The federal aviation program is currently operating under a continuing resolution that expires on January 31, 2012, and the federal transportation program is operating under an extension that expires on March 31, 2012.

The Senate reauthorization bill, "Moving Ahead for Progress in the 21<sup>st</sup> Century" (MAP-21), will provide \$85 billion for a 2-year federal highway program for federal fiscal years 2012 and 2013. MAP-21 is sponsored in the Senate by both Republican and Democrat leaders. The Highway Trust Fund is currently funded at the \$41 billion level, while MAP-21 will provide for inflation adjusted funding levels of \$42.3 billion in federal FY 2012 and \$43.96 billion in federal FY 2013. MAP-21 also provides for administrative policy reforms including consolidation of FHWA's 87 current programs to 21 programs, streamlining environmental approvals and other program improvements.

The Senate Environment and Public Works Committee unanimously approved MAP-21 last November, and the Senate Commerce Committee approved its section of the bill last December. The Senate Finance and Banking Committee is developing a plan to generate the additional \$12 billion - \$13 billion of revenue needed to fully fund MAP-21 at the proposed funding levels identified in the bill. It is anticipated that the Senate Finance and Banking Committee will begin its committee work in late January or early February.

House Transportation and Infrastructure Chairman John Mica and House Speaker John Boehner have indicated support for a 6-year surface transportation bill at current funding levels. The House Republican proposal establishes fees on imports through our nation's ports to fund the additional revenue need to fund the transportation program.