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March 25, 2020

The Honorable Mitch McConnell
United States Senate
Washington, D.C. 20510

The Honorable Chuck Schumer
United States Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
United States House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
United States House of Representatives
Washington, D.C. 20515

RE: H.R. 748, the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*

Dear Leader McConnell, Speaker Pelosi, and Minority Leaders Schumer and McCarthy,

The Associated General Contractors (AGC) of America appreciates your effort in addressing the novel coronavirus (COVID-19) pandemic currently facing our nation. H.R. 748, the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* will provide construction employers and employees with critically needed access to capital, expedited cash-flow, worker benefit protection, and critical tax relief, among other things. The legislative provisions setting forth these initiatives are significant in these unprecedented times to the more than 27,000 member firms engaged in the construction industry that AGC represents.

Although we look forward to putting these provisions to work for our members, AGC realizes that our nation and the construction industry collectively face unapparelled uncertainty ahead for which additional legislative action will be necessary. As such, AGC will continue to work with you to ensure contractors receive financial compensation for COVID-19 related delays, the federal government broadly and robustly invests in America's infrastructure, and Congress maintains the viability of multiemployer pension and health plans for millions of participants, retirees, and contributing employees.

Amid construction delays and shutdowns, this bill provides critical tax relief and access to capital that will help contractors continue operations and pay their workforce.

As the federal government, states, and localities shut down public agencies and private businesses to mitigate the impacts of the COVID-19 outbreak, construction employers face delays and reduced revenues that jeopardize the jobs of many of their employees and solvency of their companies. The tax relief in this bill will help mitigate these impacts:

- Delaying the payment of employer payroll taxes through January 1, 2021, which will provide relief for businesses' cash flow during this crisis;
- Allowing companies to "carry back" their net operating losses for up to 5 years, which would inject much needed cash into struggling businesses;

- Suspending the limitation on pass-through business losses, which will allow owners of pass-through businesses to fully deduct any losses they incur this year;
- Suspending the application of the limitation on interest expense deductions, which will avoid penalizing businesses for borrowing during this crisis; and
- Fixing the so-called “retail glitch” from the Tax Cuts and Jobs Act, which unintentionally increased the cost of many construction projects, such as improvements for restaurants, retail establishments, or commercial office property.

Additionally, this legislation will provide needed liquidity for businesses facing dramatic, unexpected losses in revenue due to the government-mandated shutdown of some construction projects. In order for the new lending programs created in the legislation to work effectively—including the \$350 billion “Paycheck Protection Program” to provide funding for small businesses who maintain their payrolls and the \$500 billion economic stabilization program to provide loans to large and mid-size businesses—funding must be provided quickly through a broad network of lenders.

AGC has some concerns about whether lenders and borrowers will fully utilize these programs due to existing and newly created restrictions and regulations. Nevertheless, we are committed to working closely with Congress, the Small Business Administration (SBA), the Department of the Treasury, and the Federal Reserve to ensure that the money appropriated in this legislation gets into the hands of contractors who need it.

The bill provides funding to combat the immediate impacts of the COVID-19 outbreak on the Nation’s infrastructure.

Notably, the bill provides additional federal funding to certain non-federal partners through existing federal programs, such as the Airport Improvement Program, select federal transit programs, and select federal agencies, such as the Department of Transportation and the U.S. Army Corps of Engineers (USACE), to support their operations and address the immediate impacts of the outbreak on the nation’s infrastructure. Separately, the bill would allow the annual revenue deposited into the Harbor Maintenance Trust Fund to be appropriated in a subsequent fiscal year for its intended purposes of maintaining the nation’s ports and harbors.

Congress will need to address the shortcomings of this bill through additional relief legislation.

While the bill will help address some of the near-term economic and quality of life impacts of the COVID-19 outbreak, there is additional work to be done to further address those impacts and facilitate long-term economic recovery. These shortcomings should be addressed as quickly as possible through additional legislation. Some of the policies or revisions that AGC recommends include:

- Providing project schedule adjustments and financial compensation to contractors for losses incurred when federal, state, or local owners who utilize federal funding delay, terminate, or

limit access to projects as a result of any government directive in response to the COVID-19 outbreak.

- Increasing investments in the federal accounts and programs that improve the nation's infrastructure, including, but not limited to: the Highway Trust Fund; USACE Military Construction and Civil Works Programs; and Clean and Drinking Water State Revolving Fund Programs.
- Enacting long-term legislation to rebuild and modernize the nation's infrastructure, such as a highway and transit reauthorization bill and a water resources bill, which would provide the construction industry with the certainty needed to maintain and expand its workforce, and states and localities with the certainty needed to plan and carry out critical projects.
- Fully funding the backlog of authorized USACE Civil Works construction projects through a five-year, \$98 billion phased appropriation.
- Establishing a federal multi-year capital budget for all public works programs.
- Addressing the viability and funding of multiemployer pension and health and wellness plans by providing direct funding to the Pension Benefit Guaranty Corporation (PBGC), authorizing composite plans, and providing assistance to multiemployer health plans.

Again, AGC appreciates your effort in addressing this unprecedented pandemic our country is facing and looks forward to working with you to further ensure the construction industry is safeguarded from the effects of this outbreak.

Sincerely,

A handwritten signature in cursive script that reads "James V. Christianson". The signature is written in black ink and is positioned above the printed name and title.

James V. Christianson
Vice President, Government Relations