

January 8, 2009

President-elect Barack Obama
451 6th Street, NW
Washington, DC 20001

Dear Mr. President-elect:

On behalf of the building design and construction industry, we are writing to express our appreciation of your support for an economic recovery program that would create jobs and stimulate new economic activity through investment in our nation's infrastructure. Specifically, we are writing to urge you to include targeted tax provisions in any economic recovery package that would incentivize private infrastructure investment and leverage public infrastructure spending, especially in areas hard hit by the economic downturn.

In a strong economy, the construction industry employs more than 7 million people and represents more than \$1 trillion annually in economic activity, including \$500 billion for materials and supplies and \$36 billion for new equipment. The recent economic downturn however, has put over 770,000 construction workers out of work, while forcing significantly less spending on building materials and construction equipment. A significant boost to construction in the form of increased infrastructure investment—particularly in buildings and facilities—along with targeted tax provisions, would improve efficiency, increase employment, and boost capital spending.

Tax Incentives to Stimulate the Economy, Improve Energy Efficiency, and Create Job Opportunities

While new federal infrastructure funding will put more design and construction professionals to work, targeted tax provisions would incentivize private investment in infrastructure. There is an estimated \$1.6 trillion needed to improve our nation's public infrastructure over the next five years. In an increasingly connected world, our decaying infrastructure threatens the competitiveness of American employers, from our large manufacturers to the small businesses that are the bedrock of our communities. Infrastructure stimulus legislation would begin to address these challenges to America's global competitiveness and provide a solid foundation for the U.S. economy to flourish in the years ahead.

Depreciation Bonus and Section 179 Expensing Levels – We support an extension of the Economic Stimulus Act's capital investment incentives, including the depreciation bonus and increased Section 179 expensing levels. The Economic Stimulus Act enacted in February 2008 created a 50 percent depreciation bonus and increased the amount that small business can expense to \$250,000. These provisions were designed to incentivize business capital investment this year; however, the depreciation bonus expires at the end of 2008 and the higher Section 179 levels apply only to 2008 tax years. We support an extension of these incentives for at least one year.

3 Percent Withholding Tax – We support a permanent repeal of the 3 percent tax withholding law. Section 511 of P.L. 109-222 requires a 3 percent tax withholding on all government payments, which affects all government contracts as well as other payments, such as Medicare, grants, and farm payments. While this requirement is not set to go into effect until January 1, 2011, companies, as well as federal, state, and local governments are expending funds to prepare for implementation now. These could be needless preparation expenses, particularly during rough economic times, for a requirement that most believe should never have been enacted and should be repealed. The Department of Defense, for instance, estimated that the costs to comply with the 3 percent withholding requirement will be in excess of \$17 billion over the first five years, which is far more than any estimated revenue gains. Moreover, \$17 billion is only one federal agency's portion of the

additional costs with which federal, state, and local governments as well as the private sector will be burdened.

Conversion of Energy-Efficient Buildings Deduction into a tax credit– Current law allows taxpayers to deduct the cost of energy-efficient property installed in commercial buildings. The amount of the deduction is up to \$1.80 per square foot of building floor area achieving a 50 percent energy savings target. We appreciate Congress' action last year to extend the deduction for five years, through December 31, 2013. However, we support converting the deduction to a tax credit to stimulate additional energy efficiency improvements during these difficult economic times.

Alternative Minimum Tax on Airport Bonds – We propose that Congress provide the same assistance to private activity bonds for infrastructure projects as was provided to the housing industry in July 2008 in the Housing and Economic Recovery Act of 2008. Effective August 2008, housing bonds are now a special class of non-AMT bonds, where interest is not subject to AMT. We support a provision that would exempt all private activity bonds from the AMT to reduce borrowing costs for airport construction.

15-Year Straight-Line Cost Recovery for Qualified Leasehold, Restaurant, and Retail Improvements – In 2004, Congress shortened the cost recovery of certain leasehold improvements and restaurants from 39 to 15 years. Last year, Congress extended the provision for one year through 2009. Retail owners and new restaurants receive the shortened recovery for 2009 only. We support a change in the law that would allow taxpayers to benefit from the provision if the improvements are initiated or placed in service during the eligible tax years, rather than solely requiring the improvements to be placed in service during the applicable tax year. We believe that such a change would incentivize new renovation and improvement projects in 2009.

Expensing of Brownfields Environmental Remediation Costs – Congress recently extended the provision that allows for the expensing of costs associated with cleaning up hazardous sites through 2009 for property placed in service after December 31, 2007. We support changing the law to allow remediation costs incurred through 2009 to be eligible for expensing regardless of whether the property is placed in service prior to the end of 2009.

Temporary Extension of the Carry Back Period – We are proposing an extension of the carry back period for net operating losses from 2 to 5 years through 2009 and waiving the 90 percent limitation for AMT. Businesses with current losses may carry back these losses for 2 years, but if losses exceed profits in these years, they must carry the losses forward to offset future income. Extending the carry back period from 2 to 5 years and temporarily waiving the limitation on use of net operating losses against AMT (as was done in 2002) would enhance liquidity of businesses with current losses and in some cases keep businesses from failing.

Investment Tax Credit – We are proposing an investment tax credit for new investments. First proposed under the Kennedy Administration, an investment tax credit of 10 percent was applied to most equipment purchases by businesses until 1986. This provision would help leverage public spending in infrastructure by encouraging companies with prospects of new work to make needed equipment purchases that may otherwise have been put on hold.

Worker Training Tax Credit for Employers – We are proposing a tax credit that would offset the cost of training provided to new workers in construction. This provision would help companies engaged in building design and construction improve worker skills to meet future labor needs, especially as more work becomes available.

New Clean Renewable Energy Bonds (“CREBs”) – Congress recently approved \$800 million of new clean renewable energy bonds to finance facilities that generate electricity from wind, close-loop biomass, open-loop biomass, geothermal, small irrigation, qualified hydropower, landfill gas, marine renewable and trash combustion facilities. To encourage additional investment in this area, we support increasing the cap above \$800 million.

Qualified Energy Conservation Bonds – Congress recently approved a new category of tax credit bonds to finance state and local government initiatives designed to reduce greenhouse gas emissions. There is a national limitation of \$800 million, allocated to states, municipalities, and tribal governments. To encourage additional investment in this area, we support increasing the cap above \$800 million.

Qualified Zone Academy Bond (QZABs) – The QZAB provision expired on December 31, 2007. Congress recently extended the provision to the end of 2009. Another \$400 million of issuing authority to state and local governments is allowed for 2008 and 2009. To encourage additional investment in school construction and repair, we support increasing the cap above \$400 million, as well as allowing school design and construction to be eligible for the QZAB program.

Other Targeted Tax Incentives for Areas of High Unemployment

In addition to the recommendations above, we also suggest enacting tax provisions similar to those included in the Emergency Economic Stabilization Act for natural disaster areas that would apply in areas within the United States with exceptional unemployment. We propose using this model to address economic disasters as Congress has addressed natural disasters in the past. Examples of these provisions modified for “Economic Crisis Zone” (e.g., areas with unemployment rates above 10 percent in any two consecutive months) include the following:

Tax-Exempt Bonds for “Economic Crisis Zone” – We propose the creation of a special class of qualified private activity bonds, called “Economic Crisis Zone Bonds”, outside of the state volume caps that could be used to pay for the acquisition, construction, and renovation of nonresidential real property, qualified low income residential rental housing, and public utility property located in the crisis zone. Interest payments on bonds should not be subject to the AMT. The authority to issue the bonds could extend through December 31, 2010.

Expensing Property – Current law permits certain small businesses to deduct up to \$250,000 of the cost of property used in the business. We propose that the amount be increased to \$350,000 for qualifying expenditures made in the Economic Crisis Zone through December 31, 2011, or December 31, 2012, for nonresidential real property and residential rental property. The provision should apply to property initiated in the crisis zone area after the date of the applicable economic crisis declaration.

Conclusion

Construction has always been an engine of economic stimulus and can play that role once again. Increases in infrastructure investment can be quickly put to work and will have a direct, immediate and dramatic impact on the economy—approximately 28,500 jobs are created or sustained for every \$1 billion investment. The long-term economic benefits that will come from these investments are an extra incentive that should not be overlooked. Given the challenges our economy faces, the benefits of increased investment would save jobs that may otherwise be at risk, create job opportunities nationwide, stimulate the economy, and improve the overall state of the nation's infrastructure. We believe tax incentives will play an important role in economic recovery by encouraging private investment in building construction and leverage other business investments in the industry.

We stand ready to be part of the economic recovery. Nothing is more important to our members than enacting legislation that will increase investment in America's infrastructure.

Sincerely,

Air Conditioning Contractors of America
American Institute of Architects
American Subcontractors Association
Association of Equipment Manufacturers
Associated General Contractors of America
Association of the Wall and Ceiling Industry
Center for Environmental Innovation in Roofing
Construction Owners Association of America
Finishing Contractors Association
International Union of Painters and Allied Trades
Mechanical Contractors Association
National Electrical Contractors Association
National Insulation Association
National Ready Mixed Concrete Association
National Roofing Contractors Association
Plumbers and Fitters International Union – UA
Plumbing Heating and Cooling Contractors
Portland Cement Association
Sheet Metal and Air Conditioning Contractors National Association, Inc (SMACNA)