Statement of

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For

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to the

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Committee on Transportation & Infrastructure

For a hearing on

"Aligning Federal Surface Transportation Policy to Meet 21st Century Needs"

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AGC of America
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
Quality People. Quality Projects.

The Associated General Contractors of America (AGC) is the largest and oldest national construction trade association in the United States. AGC represents more than 26,500 firms, including America's leading general contractors and specialty-contracting firms. Many of the nation's service providers and suppliers are associated with AGC through a nationwide network of chapters. AGC contractors are engaged in the construction of the nation's commercial buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, levees, locks, dams, water conservation projects, defense facilities, multi-family housing projects, and more.

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Testimony of the Associated General Contractors of America

Presented by Al Stanley, Huntsville, Alabama

On the topic of

Aligning Federal Surface Transportation Policy to Meet 21st Century Needs

Chairwoman Norton, Ranking Member Davis and members of the House Transportation and Infrastructure Subcommittee on Highways and Transit, thank you for inviting me here today. My name is Al Stanley. I am a highway, site work and civil construction builder from Huntsville, Alabama. I am currently serving on the Board of Directors of the Associated General Contractors of America (AGC). AGC is a national organization representing 26,500 businesses involved in every aspect of construction activity in all 50 states, Puerto Rico and Washington, D.C. AGC members build the highway, bridge, airports, transit systems, rail facilities and other transportation projects that keep America running.

Infrastructure in general, and transportation infrastructure in particular, is an issue that has no partisan bounds. Transportation impacts our daily lives whether we live in rural American communities or in our great urban meccas. It impacts everything from our ability to get to work, the cost and availability of the products we rely on both in our personal lives and in our businesses, to the global competitiveness of our nation's economy.

Looking to the Future While Addressing Today's Needs

The vision of transportation and political leaders in the mid-20th century to imagine and invest in the Interstate Highway System (IHS) has paid and will continue to pay significant benefits to generations of Americans. The IHS was the leading factor in America's growth since World War II and made the United States the world's economic leader that it is today. The IHS has grown to not only provide the primary corridors for passenger and freight movement within large urban centers and between metropolitan and rural areas but it also provides the necessary connections between state and local roads systems and other transportation modes including, railroads, marine ports, airports, and public transit.

Today's transportation and political leaders are faced with new choices that can equally impact future generations. The first choice is to address the need for upkeep, maintenance and expansion of the existing transportation system to meet today's needs.

But just as important, choices need to be made to advance transportation to the next level by modernizing the system making the best use of available and upcoming technology developments. The transportation network is on the cusp of technological change that will impact how we plan, design and build projects; how we inventory and maintain our transportation assets; and how vehicles that use the system are driven and how they interact with each other and with the infrastructure.

Transportation investment drives these technology advances. Advances made in autonomous vehicle technology is driven by transportation needs and, once available commercially, will rely on a good transportation network to operate safely and efficiently.

There has been a technology boom in transportation construction that is increasing productivity and enhancing quality. Contractors are making widespread use of drones, estimating and project

management software, automated machine guidance systems on equipment, 3D modeling, paperless projects, e-construction, precast-slide in bridges and the list goes on. States are managing construction projects through e-construction and keeping track of asset conditions through electronic models. Most of this technology is developed and manufactured in the United States. New materials and treatments are being developed to lengthen the life of the infrastructure once put in place.

In the longer-term, these improvements will enhance economic competitiveness and improve quality of life by reducing travel delays and transportation costs, improving access and mobility, improving safety, and stimulating sustained job growth.

AGC commends Congress for its leadership in enacting into law the Fixing America's Surface Transportation (FAST) Act in December 2015. The FAST Act provided five years of stability that our federal-aid highway and transit programs had not seen since 2008. As we get closer to the expiration of the authorization, our nation's transportation infrastructure needs continue to grow. As a result of sustained economic growth, increased population, emerging technologies and aging infrastructure, it is critically important that the next reauthorization bill not only looks to the future but does not fail to address the needs that we are facing, and—in some cases—ignoring today.

The U.S. Transportation Infrastructure System's Needs Cannot Sustain a Status Quo Approach to Investment

Despite the importance of transportation investment to the U.S. economy, there remains a significant need for improvement and growth. The 2015 AASHTO Transportation Bottom Line Report found that annual investment in the nation's roads, highways and bridges needs to increase from $88 billion to $120 billion and from $17 billion to $43 billion in the nation's public transit systems, to improve conditions and meet the nation's mobility needs. The investment backlog for transportation infrastructure continues to increase, reaching $836 billion for highways and bridges and $122 billion for transit according to the U.S. Department of Transportation. The American Society of Civil Engineers (ASCE) has identified a $1.1 trillion funding gap for surface transportation between 2016 and 2025.

The Road Information Program (TRIP) reports that increases in vehicle travel since 2000 have resulted in a significant increase in wear and tear on the nation's roads. Vehicle travel growth, which slowed significantly because of the Great Recession and the subsequent economic recovery, has since returned to pre-recession growth rates. From 2000 to 2016, vehicle travel in the U.S. increased by 16 percent. The rate of growth in vehicle miles of travel has accelerated since 2013, increasing by six percent between 2013 and 2016. Travel by large commercial trucks, which place significant stress on paved road and highway surfaces, continues to increase at a rate approximately double the rate for all vehicles. And, it is anticipated to continue to grow at a significant rate through 2030. Travel by large commercial trucks in the U.S. increased by 29 percent from 2000 to 2016. The level of heavy truck travel nationally is anticipated to increase by approximately 56 percent from 2018 to 2045, putting greater stress on the nation's roadways.

From coast to coast, major streets and freeways in most U.S. communities are showing significant signs of distress. Reports provided by the Federal Highway Administration (FHWA), based on data submitted annually by state departments of transportation on the condition of major state and locally maintained roads and highways show that forty-four percent of America's major roads are in poor or mediocre

condition. One-third of the nation's major urban roadways – highways and major streets that are the main routes for commuters and commerce – are in poor condition. These critical links in the nation's transportation system carry 70 percent of the approximately 3.2 trillion miles driven annually in America. Forty-five percent of America's major urban interstates experience congestion during peak hours.

Based on Texas Transportation Institute calculations, TRIP estimates that traffic congestion in the U.S. in 2017 resulted in 7.3 billion hours of delays—an average of 45 hours annually per commuter—and costing the nation $176 billion in the value of lost time and wasted fuel. The nation expects to add another 60 million people over the next 20 years. Meanwhile, the value of goods shipped annually (in inflation adjusted dollars) is expected to increase by 104 percent by 2045—and by 91 percent for goods shipped by trucking. Without additional capacity, congestion can only be expected to increase. Americans rely heavily on motor vehicles for mobility. Travel in private vehicles accounts for 88 percent of all person miles of travel. Air travel accounts for eight percent of all person miles of travel, while transit (including buses and trains) accounts for one percent.

In fact, a 2017 global traffic congestion report by INRIX found that 16 out of the 100 most congested urban areas globally are in the U.S., with the most congested urban areas in order being Boston (8th), Washington, D.C. (19th), Chicago (23rd), New York (40th) and Los Angeles (47th).

Driving on roads in need of repair costs U.S. motorists $130 billion a year in extra vehicle repairs and operating costs, amounting to $599 per motorist. Nine percent or 54,259 of America's bridges are structurally deficient, meaning there is significant deterioration to the major components of the bridge. And most troubling, we have seen a significant increase in traffic fatalities, which have gone up 14 percent between 2014 and 2017 from 32,675 to 37,133. And the traffic fatality rate on the nation's non-Interstate rural roads is nearly two-and-a-half times higher than on all other roads.

Our transportation infrastructure needs do not discriminate between rural and urban America. Many of the transportation challenges facing rural America are like those in urbanized areas. However, rural residents tend to be more heavily reliant on their limited transportation network - primarily rural roads and highways - than their counterparts in more urban areas. Residents of rural areas often must travel longer distances to access education, employment, retail locations, social opportunities and health services. America's rural heartland plays a vital role in our economy as home to a significant share of the nation's population, many of its natural resources, and popular tourist destinations. It is also the primary source of the energy, food and fiber that supports America's economy and way of life.

US DOT reports that in 2015, 15 percent of the nation's major rural roads (arterials and collectors) were rated in poor condition, 21 percent were rated in mediocre condition, 16 percent were rated in fair condition and 48 percent were rated in good condition. In 2016, ten percent of the nation's rural bridges were rated as structurally deficient.

A concern in the rural areas of our country is motorist safety. As TRIP points out, "The higher traffic fatality rate found on rural, non-Interstate routes is a result of multiple factors, including a lack of desirable roadway safety features, longer emergency vehicle response times, and the higher speeds traveled on rural roads compared to urban roads." Many of the safety deficiencies on rural roads can be fixed. These include narrow lanes, limited shoulders, sharp curves, exposed hazards, pavement drop-offs, steep slopes and limited clear zones along roadsides.

The Economic Benefits of Transportation Infrastructure Investment are Well-Documented

The positive relationship between transportation capital investment, economic output and private sector productivity has been well documented for decades by business analysts, economists and the research community. A safe, reliable and efficient transportation network helps businesses increase access to labor and materials, increase market share and expand their customer base, reduce production costs, access global markets and foster innovation. A 2017 study performed for NAIOP – the Commercial Real Estate Development Association – by Professor Stephen Fuller of George Mason University found the $1.16 trillion in construction spending in 2016:

- Contributed $3.4 trillion to U.S. GDP.
- Generated $1.1 trillion in new personal earnings.
- Supported a total of 23.8 million jobs throughout the U.S. economy

Enhancing critical transportation assets will boost the economy in the short-term by creating jobs in construction and related fields. In the longer-term these improvements will enhance economic competitiveness and improve the quality of life by reducing travel delays and transportation costs, improving access and mobility, improving safety, and stimulating sustained job growth.

A Sustainable, Long-term Solution to Funding the Highway Trust Fund Must be a Priority

Prior to the expiration of the FAST Act next year, Congress must take the opportunity to fix the Highway Trust Fund and look at ways to enhance the existing federal transportation infrastructure programs. While the FAST Act was a welcome reprieve from the uncertainty created by the many delays and short-term extensions of authorization that led up to its passage, it still left a great deal of uncertainty about future surface transportation investments. The FAST Act temporarily stabilized federal highway and public transportation investment by transferring $70 billion from the general fund of the U.S. Treasury to supplement an estimated $208 billion in HTF revenue from existing sources over the five-year duration of the bill.

When the FAST Act expires, the Congressional Budget Office estimates that $159 billion in additional funding would be required to maintain current spending levels plus inflation from fiscal years 2022-2029. Failing to address the fund's ongoing revenue shortfall leaves open the possibility of disruptive uncertainty for states and the construction industry once the FAST Act expires. Without an extension and new revenue, AASHTO estimates that states will see about a 50 percent reduction in highway funding from FY 2020 to the following year and $47 billion to $23 billion in FY 2021. We urge you to act sooner rather than later. In the past failure to meet the deadline resulted in numerous short-term extensions that caused project cancellations, higher costs and delay of improvements affecting safety, efficiency and economic development

With the hope that the legislation will not just keep the country treading water but will instead provide the kind of investment needed to propel our economy into the future, AGC urges you to provide real, reliable, dedicated and sustainable revenue sources derived from the users and beneficiaries of the system for the Highway Trust Fund that supports increased federal surface transportation investments.

AGC's preferred method to address the solvency of the trust fund is an increase in the federal motor fuels tax – something that has not been done since 1993. Recognizing the growing number of electric and hybrid vehicles, we also recommend Congress consider imposing an annual registration on electric and hybrid vehicles.

In 2009, the National Surface Transportation Infrastructure Commission concluded that the U.S. needs a new approach to transportation infrastructure financing, stating that "Direct user charges are the most viable and sustainable long-term, user pay option for the Federal government." The commission recommended moving to a vehicle mile traveled (VMT) fee or mileage-based user fee (MBUF). The VMT is a user charge based on miles driven in a specific vehicle as opposed to the current excise tax on fuel consumed. At its simplest, the fee would be cents per mile. A VMT would ensure that all users are paying their "fair share" to keep roads and bridges in a state of good repair regardless of the type of vehicle they drive.

To make it work on a national scale, a VMT system needs to be tested, piloted and refined at the state and local level. In the FAST Act Congress provided some $95 million to states to undertake pilot programs to look at implementation of a VMT fee. Thus far, 11 states have been awarded funds to enter into pilots, with many more states exploring VMTs. Many lessons are being learned from these pilots including privacy protection, equity by income, geography and vehicle type, cost of administration and complexity of implementation. If we are to transition to a VMT as an eventual replacement for the motor fuels tax it is imperative that a robust national pilot program is included in a reauthorization bill.

Public Private Partnerships (P3s) have been given much emphasis in the past few years. Clearly, there is a place for P3s in addressing current and future transportation needs. P3s bring additional financing options to the table to address transportation needs that would not be there without federal encouragement. In addition, P3s shift risk away from state DOTs and bring new players into the operations and maintenance mix. However, P3s are not the universal answer to the funding shortfall. Only certain types of projects are attractive to P3 development. These are primarily revenue generating projects and largely in dense urban areas. While encouragement for P3s should continue, it must be understood that they are an enhancement and not alone the solution to the funding shortfall.

Continued Federal, State and Local Partnership is Critical to the Success of our National Transportation System

The partnership between federal, state and local governments is critical to our transportation infrastructure. This partnership is as important as ever and must be continued for our country to meet the transportation needs of our growing economy. As such, state and local governments have taken it upon themselves to raise revenue to supplement their respective programs.

According to the USDOT's *2015 Conditions and Performance* report, state and local governments provided 80 percent of $217 billion invested in state and local road-related programs and 74 percent of $43 billion invested in transit-related programs compared to 20 percent and 26 percent, respectively, contributed by the federal government. States continue to make significant commitments to invest in transportation infrastructure as evidenced by successful enactment of transportation revenue packages in 33 states since 2012. Unfortunately, the federal government has not kept up its end of the bargain by failing to adjust the user fees that provide funding for much of our federal surface transportation investments.

Federal leadership and commitment are crucial ingredients for ensuring the continued success of this long-standing partnership. The certainty of federal investments help state departments of transportation (DOTs) make needed investments in the major freight corridors that drive national and regional economic growth. The 1 million miles of roadways eligible for the federal aid highway program account for 25 percent of total miles but carry 84 percent of all traffic. The 48,000 miles of the Interstate Highway System, which is the backbone of the U.S. economy, carries 25 percent of all traffic, including over half of the miles driven by freight trucks delivering goods across the country. Federal investment also accounts for 82 percent of rural and 64 percent of urban transit agency capital outlays, in infrastructure and rolling stock. Federal-aid funding remains critical to state-level capital investment in highways and bridges, averaging 52 percent of that state investment in recent years.

Highway accessibility was ranked the number one site selection factor in a 2017 survey of corporate executives by Area Development Magazine. Labor costs and the availability of skilled labor, which are both impacted by a site's level of accessibility, were rated second and third, respectively. Seventy-three percent of the $27.7 trillion worth of commodities shipped to and from sites in the U.S. is transported by trucks on the nation's highways. An additional 14 percent is delivered by rail, water, parcel, U.S. Postal Service or courier, which use multiple modes, including highways.

The formula-based distribution of funds through the federal-aid highway program has worked well over the years and should be maintained. In order to have a strong national system, it is important that all segments of the system receive support. The formula-based funding also garners political and public support. Support for transit investment has also come from the Highway Trust Fund. With the growing use of transit in many communities, the traditional 80-20 share of Highway trust Fund revenue between these two transportation modes should be maintained. However, additional revenue sources must be found to support transit infrastructure needs.

Further Improving the Environmental Review and Permitting Process

AGC is very appreciative for the work this committee has undertaken in helping enact bipartisan environmental reforms in MAP-21 and the FAST Act. But more work can be done and improvements upon those enacted reforms can be made.

AGC members have pointed to a host of technical and procedural problems that government agencies face, in general, during document preparation and interagency reviews: they inevitably lead to inconsistencies in the environmental approval process, schedule delays and costs overruns. Such uncertainty spurs legal challenges, which can ultimately threaten the viability of the project. AGC has worked closely with the administration and supports its efforts to further improve the environmental review and permitting process. Additionally, we have shared our extensive environmental recommendations to the House and Senate in testimony or statements for the record[1].

Three of these reforms that would have substantial positive impacts are:

- First, require a merger of the National Environmental Policy Act and Clean Water Act 404 permitting processes with the U.S. Army Corps of Engineers issuing permits at the end of the process, using the NEPA-generated information;

- Second, allow the monitoring, mitigation and other environmental planning work performed during the NEPA process, and included the final Environmental Impact Statement / Record of Decision, to satisfy federal environmental permitting requirements, unless there is a material change in the project; and
- Third, develop a reasonable and measured approach to citizen suit reform to prevent misuse of environmental laws.

Improving Project Delivery Decreases Costs

Transportation improvement projects also face delays from a host of third-party impacts that occur leading up to or during construction. There is much room for improvement in this arena.

Coordination with Railroads:

Transportation construction projects that interface with railroad properties are often subject to significant restrictions and delays imposed by railroad owners. Obtaining fair and equitable railroad agreements as well as ensuring the commitments are made in a timely manner are often a struggle and add time and cost to transportation projects.

AGC recommends that USDOT be authorized to establish consistent requirements, commitments, and time frames with all public and private railroad owners to facilitate transportation work within and across railroad rights of way and provide USDOT the authority to enforce those provisions with the railroads. As such, we ask Congress to require USDOT to establish model agreements for standard activities conducted by the state DOTs in railroad right-of-way (and vice versa) and provide guidance on the establishment of agreements for special or more complex activities.

Utility Relocation:

Relocating underground utilities in highway right-of-way, while undertaking road improvement projects, continues to be one of the leading causes of delay in completing projects once the construction phase has started. Underground utilities that are unmarked or incorrectly marked pose a significant safety risk to the construction workforce, DOT employees and the public. Damage to utility facilities can be costly to all parties to the contract and negatively impact the collaborative spirit on jobs and lead to litigation. Current rules allow for states to be reimbursed with federal funds when the state pays for utility relocations for project construction. The Common Ground Alliance (CGA) is an outgrowth of a study conducted by USDOT—as directed by Congress—that has best practices in place nationwide to address these concerns.

AGC believes there are measures that can be taken to improve this situation including:

- Allow utility relocation to take place after a preferred alternative is identified but prior to NEPA completion with appropriate limitations to ensure the integrity of the NEPA process.

- Encourage state DOT involvement in efforts such as the CGA to promote shared responsibilities for utility protection and adopting their recommended best practices.

- Grant authority for state DOTs to participate in their local one-call systems or develop in-house capabilities to locate DOT owned facilities within the right-of-way (ROW).

- Look for ways to encourage that utilities located in highway ROW participate in preconstruction meeting with the DOT and contractor.

- Look at ways to maintain a repository of electronic "as built" 3D data of completed highway improvement projects to begin compiling an index of utility locations for future road improvement uses.

Simplify Buy America Requirements:

Buy America requirements have been part of the procurement process for construction projects funded through the federal-aid highway and the Federal Transit Administration's (FTA) grant program since the early eighties. FHWA has applied Buy America requirements to steel and iron products.

Generally, Buy America regulations require a domestic manufacturing process for steel and iron materials that are permanently incorporated into a federally assisted construction project. The requirement interprets domestic manufacturing process to include melting, rolling, cutting, welding, fabrication, and the process of applying a coating.

The FTA is also subject to Buy America and requires that for manufactured products, regardless of the material they are made from, the manufacturing processes must take place in the United States and all components of the product must be of U.S. origin regardless of the origin of its subcomponents.

While the industry has been able to meet these requirements and produce high quality projects Buy America requirements can significantly delay projects and add to overall cost because of their complexities.

AGC recommendations for Buy America implementation include:

- Manufactured products that consist of 90 percent or more of steel should be U.S. produced. Waivers should be available for commercially available off-the-shelf (COTS) products with iron and steel components and manufactured products that contain a variety of different components made of a variety of different materials, including steel, and in different amounts.
- Small, incidental products such as bolts, screws, connectors, etc., should be considered de minimus and excluded from the requirements. The cost and time required to trace and document these products can far outweigh their de minimis financial impact to the project's total value.
- Allow for the minimum use exclusion as currently implemented by FHWA to increase from one tenth of one percent to one percent or a ceiling of $20,000 from the current $2,500 limit.
- Buy America requirements should be limited to steel and iron products and not expanded to other construction products not generally manufactured, such as cement.
- The waiver application process with FHWA should be timely and should not become a barrier to efficient project delivery or related decision-making by the owner and contractor.
- Utility and railroad facilities relocated as part of a federal-aid highway project should not be covered by the project.
- On FTA funded projects, the construction industry and grant recipients are looking for clearer and more consistent direction from the FTA. Clear cut guidance on how to categorize end

products, components and subcomponents is needed. FTA needs to provide guidance clarifying how Buy America content in the end project, components, subcomponents and sub-sub components is to be determined. Directing FTA to develop a standardized audit or certification program for suppliers may help resolve these issues.

- A standardized template to assist suppliers in providing relevant product information and accurately calculating percentage costs might help, especially related to Rolling Stock materials.

Building Resilience in Infrastructure

In 2014, AGC was one of 21 building-related national organizations and professional societies to sign the Industry Statement on Resilience, which defines resilience based on National Research Council work as the ability to prepare and plan for, absorb, recover from, and more successfully adapt to adverse events. That group continues to look for ways to address the issue. But, simply put, in the design of infrastructure, resilience to natural disasters that hit in specific areas should be part of the design criteria. Retrofitting structures where possible should be considered. Resilient adaptation decisions for roadways can include elevation, decisions on bridge size and elevation, material choices, and drainage. Rebuilding substandard infrastructure is an opportunity to address resilience.

Workforce

Workforce shortages have been a problem facing many industries and the construction industry, in particular. AGC worked with FHWA and AASHTO on a highway construction worker pilot program to identify, train and place workers in highway construction careers. The Department of Labor cooperated in encouraging local and state work force development boards to participate as well. For the pilot program the group identified 12 areas, six states and six urban areas where the state DOT, FHWA Division office and the AGC chapter can work with the local or state Workforce Investment Board to identify individuals with the interest and motivation to work in highway construction. FHWA has made grant funds available to support these pilots. Using the lessons learned from these pilots and providing additional grant funding to support the initiatives could pay big dividends for workers looking for well paying career as well as supporting the workforce needed to deliver the transportation infrastructure projects.

Conclusion

Madame Chairperson, thank you again for convening today's hearing and for allowing AGC to participate. The role of our national transportation system in supporting U.S. competitiveness and our quality of life cannot be understated. Transportation impacts the daily lives of citizens and businesses in every state in the Union. The American public recognizes the need to improve our system and bring it back to world class status. A golden opportunity is before you. At a time when it seems there is little we all agree on infrastructure may prove to be the missing link. I urge you to take advantage of this opportunity.

An important step Congress can take is to fix the Highway Trust Fund. Providing a reliable, dedicated and sustainable revenue source derived from the users and beneficiaries of the transportation system to not only address the annual shortage but allow for robust future investments is key. Please do not put off this debate until later. The longer you wait the more difficult the solution becomes. You have shown

great leadership in not waiting until the new Congress convenes before holding this hearing. Continue that leadership and allow the legislation to move forward. Again, thank you for your time and consideration.