

The Honorable Stephen F. Lynch  
United States House of Representative  
2109 Rayburn House Office Building  
Washington, DC 20515

February 24, 2021

**Subject: Request from the New England Mechanical Contractors Association (NEMCA) for support of Composite Plans in Multiemployer Pension Plan Reform – and- Consideration of an Equitable COVID Cost Recovery Fund on Direct Federal Construction Contracts**

Dear Congressman Lynch,

The New England Mechanical Contractors are very appreciative of the consideration you and your office have extended to our construction industry issues and concerns over your impressive term of service to us and your other constituents in the greater Boston area. We share the view of the overwhelming majority of your constituents expressed last November that your service to our district and communities has been and will continue to be exemplary.

We have two issues of significant importance to NEMCA and our national Mechanical Contractors Association of America (MCAA) that we would like to ask for your consideration of in your work on both the House Oversight and Reform and Transportation and Infrastructure Committees.

1. ***Comprehensive multiemployer pension reform, including new Composite Plan options for trustees to consider adopting*** – As you no doubt are aware because of you work in the Labor and Working Families Caucus, multiemployer pension reform is a pressing issue for pensioners, plan participants, and contributing employers in NEMCA and the MCAA. Construction industry labor and management have closely aligned, mutually shared, strong interests in building new sustainable defined benefit pension plans, like Composite Plans, for our workers' retirement security going into the future. In the view of many credible experts, Composite Plan designs are far more resilient and sustainable for workers and their employers than traditional defined benefit plan designs, and so are far better for the long term management and labor mutual interests in sustaining reliable lifetime benefit plans for the retirement security for our workers and their families and communities.

As you also may be aware, the HEROES Acts that passed the House twice last year had very positive pension reforms that called for funding for Pension Benefit Guaranty Corp

partitioning of the 120 or so critical and declining plans, and called for enacting the new sustainable plan designs called Composite Plans for plan trustees to consider adopting going forward. The Composite Plan part of the measure enjoyed bipartisan support in the Senate too, as Composite Plans had been called for in the Grassley/Alexander Senate compromise proposal.

***In the 117<sup>th</sup> Congress, with the Reconciliation process breaking up the HEROES pension proposal into separate items, we would ask your continued strong support for making sure Composite Plans remain an essential part of comprehensive pension reforms as the issue moves through Congress this year.***

- 2. Direct Federal Construction Contract COVID Cost Recovery Fund for Projects bid and awarded pre-COVID and performed post-COVID*** – MCAA, the National Association of Minority Contractors in the New York Tri-State Region, along with MCAA affiliates in Boston, New York, Maryland and the DC/Northern Virginia area, where direct Federal construction work is a big part of the construction market, are calling for legislation adopting of the Federal contracting equitable recovery doctrine for cardinal changes to Federal construction contracts/projects.

As you are no doubt aware from your experience as a manager in the construction field and construction management training, projects bid and awarded pre-COVID, but performed post-COVID under stringent CDC/OSHA work protocols are undergoing significant unanticipated project site conditions and work performance constraints – from job site transportation and social distance on lifts and conveyances, PPE and work tool cleaning, and unanticipated and extra normal unplanned absences and crew workarounds, and other social distancing productivity impacts that can be crushing on big jobs in urban areas with high peak workforce loads in mid project performance.

MCAA, NEMCA, MCA DC and MCA Maryland, and NAMC submit that good-government public contract administration principles dictate that Congress should legislate a robust equitable adjustment fund for COVID cost impact adjustments, both time extensions and cost increases fully in line with established Federal contracting cardinal changes policy.

Simply put, is not equitable for the government contracting agencies to insist on the benefit of the bargain on projects let pre-COVID, taking the full benefit of performance of the project awarded pre-COVID, while denying full compensation for the unanticipated, unforeseen changed conditions wrought by the pandemic post award.

While Congress is providing relief to other industries as a matter of sound social and economic policy, it should not at the same time allow contracting agencies to drive a

harder bargain as proprietor of Federal projects by denying full equitable relief to the many small and medium and some large size prime contractors and subcontractors, small and DBE firms as well, on affected projects.

Many NEMCA contractors perform work as primes and subs on the various VA, USPS, and other Federal installations in the Boston area and across New England, and so assert a strong constituent interest in respectfully requesting your full and fair consideration of our position on equitable recovery of COVID cost impacts on affected projects in New England and nationally.

Attached below is a similar letter to this effect to Oversight and Reform Committee Chair Carolyn Maloney and a two-page summary of our position as outlined above.

Thank you again Congressman Lynch for your exemplary service to us, your constituents, and for your usual thoughtful review of our positions outlined above.

Best regards,

A handwritten signature in black ink, appearing to be "John P. ...", written over a horizontal line. The signature is stylized and somewhat illegible.

Executive Vice President