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**Testimony of:**

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Co-Owner and President of JA&M Developing Corp.  
On behalf of Associated Builders and Contractors

**U.S. House Small Business Committee Subcommittee on Contracting  
and Infrastructure Hearing:  
“Utilization of Small Contractors in the Infrastructure Plan”**

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**June 10, 2021**

Chairman Mfume, Ranking Member Salazar and members of the U.S. House Small Business Subcommittee on Contracting and Infrastructure:

Thank you for holding this hearing on the “Utilization of Small Contractors in the Infrastructure Plan”, and for the invitation to discuss the vital role of small construction contractors in infrastructure.

My name is Dr. Annie Mecias-Murphy, and I am the co-owner and president of JA&M Developing Corp. We are a family-owned construction business and subcontractor in the areas of concrete, masonry, structural steel, rough carpentry, stucco, etc. We also conduct general contracting work in the private and public sectors serving the South Florida market. JA&M is a small and woman-owned business with 26 full-time employees.

It is because of the construction industry that I am able to be here to share my story with you today. I was born to immigrant parents who chose to flee religious and political persecution by the Cuban government just 90 miles south of Florida. It is because of their bravery, and a belief in greater freedom, that I have the countless opportunities I do in this country, such as owning and operating a business in the construction industry.

When my father came to this country in 1969, he entered the construction workforce with nothing except the clothes on his back. Construction was part of our daily lives while I was growing up. My initial career focus was a career in education; I earned my doctorate in philosophy and worked in the teaching and counseling fields for close to 15 years. I assisted my father with his construction company, and in 2005, my siblings and I founded JA&M. It was then that our family came together to work full time in the construction industry.

I am testifying today on behalf of Associated Builders and Contractors, a national construction industry trade association established in 1950 that represents more than 21,000 members across the country. Founded on the merit shop philosophy, ABC and its 69 chapters help members develop people, win work and deliver that work safely, ethically and profitably for the betterment of the communities in which its members live and work.

I am currently on the ABC Florida East Coast Chapter board of directors, serving as the treasurer. ABC is the largest commercial construction association in Florida. The ABC

East Coast Chapter represents general and specialty contractors, associate and supplier members from Key West to Brevard County who share ABC's belief in open and competitive processes, in the importance of industry education, training and safety services, and in the role the association plays in these areas.

The construction industry is fueled by small businesses; in fact, 99% of United States construction firms employ fewer than 100 workers, according to the U.S. Census Bureau 2019 County Business Patterns. The majority of ABC's general contractor and subcontractor members qualify as small businesses as defined by the Small Business Administration. This is consistent with the SBA's findings that the construction industry has one of the highest concentrations of small business participation. Additionally, many of ABC's large member companies not only contract directly with the federal government to successfully build large-scale projects that are subject to federal acquisition regulations, but they also subcontract work to qualified small businesses and meet federal agency small business goals.

Improvements to infrastructure can play a huge role in enhancing the opportunities for small business like ours to be able to bid so that we may win work and diversify our experience. These types of projects are critical for the future livelihood of small business in the construction industry. While I appreciate the conversation taking place, and a public commitment to infrastructure improvements, it is my concern that the funding directed towards construction of our nation's most critical infrastructure under the president's American Jobs Plan is limited and contains restrictive policies that could inhibit small businesses from bidding on these projects. Construction can help spark economic resurgence but excluding a majority of our construction businesses from these important projects would hinder our nation's economic growth and recovery.

While a significant investment in America's infrastructure would impact my small business and other businesses like mine, this subcommittee and Congress must avoid enacting partisan, restrictive policies referenced in President Biden's American Jobs Plan like the Protecting the Right to Organize Act, government-mandated project labor agreements, and one-size-fits-all approaches to our workforce development. The inclusion of these policies, and others like them, would significantly limit the success of

any potential infrastructure bill, as they would prevent qualified, merit shop contractors and their skilled and diverse workforce from participating in rebuilding their communities. Finally, I would also like to highlight the negative impact that proposed tax increases from the majority in Congress and the White House would have on small and family-owned businesses.

**Infrastructure Plan Should Expand Workforce Development Opportunities:**

As a small business in the construction industry, JA&M faces the ongoing challenge of hiring the skilled workforce we need to be competitive. Any infrastructure proposal should make it easier for private employers to educate tomorrow's craft professionals through a variety of workforce development options, including industry-tested and -recognized craft training programs and registered apprenticeship models.

I am proud that ABC delivers construction education through 800 education programs at 1,400 locations nationwide, including innovative and flexible earn-while-you-learn models and industry-recognized apprenticeships in more than 50 professions, plus more than 300 U.S. Department of Labor and equivalent state government-registered apprenticeship programs across 20 different occupations. ABC contractor members invested \$1.3 billion in workforce development initiatives in 2020, providing craft, leadership and safety education to 500,000 course attendees to advance their careers in commercial and industrial construction. Unfortunately, the plans coming out of the majority focus on restrictive, one-size-fits-all workforce development programs favoring registered apprenticeship programs and union apprenticeship programs, like the recently considered National Apprenticeship Act, which fail to expand construction industry career opportunities and support sufficient workforce development pipelines for all of America's workers.

At the local level, more can be done to expand and improve the pipeline of workers that enter the industry. As a small business owner, I am concerned that expanding restrictive labor and regulatory requirements on contractors, as President Biden's plan would, places an additional burden on small businesses that may already be faced with a limited number of resources. My company does both public and private work, and I can tell you, that the burdensome regulations and requirements that are often tied to public projects,

can be overwhelming and difficult to navigate. The President's American Jobs Plan, as proposed, could create a scenario that is so overly burdensome, that it serves as a barrier to entry for small businesses to even compete for these critical taxpayer-funded projects. In my company's experience these unnecessary regulations will result in additional costs to a small business both in manpower to track and adhere to mandates but then also in increased overhead not contemplated by companies still struggling from the pandemic. For some companies, these increased costs will be too much to bear.

JA&M's challenge attracting skilled workforce is an issue that is mirrored nation-wide. According to an analysis of U.S. Bureau of Labor Statistics data released by ABC, in 2021, construction companies will need to hire 430,000 more workers than they employed in 2020. The analysis also revealed that every \$1 billion in extra construction spending generates an average of at least 5,700 construction jobs. This proves that a significant investment in infrastructure can lead to incredible job creation. However, Congress should be cautious to add any policies that would limit the pipeline of workers entering the industry, as the current shortage of workers would only be exacerbated by an increase in the money spent on infrastructure.

President Biden's plan also urges Congress to tie infrastructure investments funded under this plan to ABC-opposed government-mandated project labor and community workforce agreements that discriminate against our nation's small, women-, veteran-, and minority-owned businesses; supports inaccurate prevailing wage rates for construction projects; and fails to establish an all-of-the-above approach to workforce development in construction and infrastructure. These policies are likely to increase costs, reduce job creation, decrease the number of infrastructure projects and discourage the merit shop construction industry and their skilled local workforce from competing for taxpayer-funded construction projects to rebuild their own communities.

I urge Congress to consider investing in America's infrastructure, and ensuring that small construction businesses are not excluded from the competitive bidding process for federal infrastructure projects. Importantly – Congress must realize that most small businesses in the construction industry are not signatory to a construction union. When governments mandate project labor agreements on a federal or federally assisted taxpayer-funded

project, small businesses are disproportionately harmed, as they drive up the cost of construction projects by 12% to 20% and discriminate against the 87.3% of U.S. construction workers who choose not to join a union.

**New and Expanded Labor and Regulatory Requirements on Contractors:**

Unfortunately, the American Jobs Plan also calls on Congress to pass the PRO Act, a draconian rewrite of America's labor and employment laws. Congress should also steer away from restrictive new labor policies such as the PRO Act, which would limit the opportunities for small businesses to compete and recover from the pandemic. The PRO Act would enact harmful policy changes that would eliminate right-to-work protections in 27 states - including Florida, violate employees' privacy, upend the business community and devastate the economy at a time when small businesses and the economy as a whole are struggling to recover from the COVID-19. As a small contractor, if enacted, this bill would be a disaster for my chances to compete.

**American Jobs Plan's Proposed Tax Increases Harm Small Businesses:**

Lastly, the proposed tax hikes on small businesses proposed in the American Jobs Plan will also hurt our business and our employees. In the last three years we have doubled the number of employees hired, raised employee bonuses, offered health and 401K benefits, and expanded our business. Close to a third of our employees have purchased their first homes ever during this period as well. If taxes increase, we are concerned about the impact it could have on the number of workers we are able to employ and the additional benefits that we offer our employees. Simply put, significant tax increases could potentially bring our company down.

The Tax Cuts and Jobs Act has a significant impact on our industry before the COVID-19 pandemic, and it is critical that these tax policies are maintained as we work to recover from the devastation caused to many small businesses during the pandemic. The tax proposals included in President Biden's American Jobs Plan and American Families Plan would hinder our recovery efforts and make it harder for our small businesses to thrive.

The American Jobs Plan's proposal to hike the corporate tax rate from 21% to 28%,

would affect the ability of America's companies to compete globally and impact the approximately 1.4 million small businesses with 500 or fewer employees that are officially organized as C-Corporations.

President Biden's American Families Plan would impose harmful tax policies on small, family-owned businesses, like mine. According to the Main Street Employers Coalition, the Biden proposal taxing capital gains at death would impose a new, 43.4% tax on the appreciated value of a business when the owner dies, and then tax those same assets again with the 40% estate tax. The combined hit would force many families to sell the business just to pay taxes and make it nearly impossible to keep family-owned businesses in the family.

The deduction for qualified business income (QBI) under Section 199A is unquestionably the most important provision in the Tax Cuts and Jobs Act for the majority of ABC members, just as is for the overwhelming majority of construction companies, 94 percent of whom are organized as pass-through businesses according to analysis by the Tax Foundation. A domestic S-Corporation that receives the full 20 percent deduction can see a 31.9% effective rate, competitive with the average C-Corporation rate of 30.6%.

However, this delta grows sharply under current law, before exploding in 2026 and beyond, when the provision is slated to expire. It is therefore crucial that Congress work to make this deduction permanent through the passage of H.R. 1381 and S. 480, the Main Street Tax Certainty Act of 2021. The proposal's cap on Section 1031 regarding like-kind exchanges would also severely impact the construction industry. Internal Revenue Code Section 1031 permits the deferral of capital gains on certain real estate transactions, and President Biden has proposed abolishing these exchanges on real-estate profits of more than \$500,000 as a pay-for in his \$1.8 trillion American Families Plan.

Additionally, Section 1031 encourages turnover and investment of new capital in properties that can serve as an important source of jobs for contractors. It is estimated that like-kind exchanges are expected to generate 568,000 jobs this year. The 1031 tax provision also encourages investment and expansion during economic downturns and will assist in our nation's recovery from the COVID-19 pandemic.

**Conclusion:**

Construction is an industry that gave my family its start, was our shining light of opportunity and continues to provide for my family and my employees. It has been an industry that has allowed us to give back, to improve the lives of others, and to become a supporting role in our local community.

The industry has responded to the skilled worker shortage by increasing wage rates and improving benefit packages. In Florida we are fortunate to participate in partnerships between Associated Builders and Contractors and groups like the Boys and Girls Club where we can speak to students about the benefits of a career in construction. Through pre-apprenticeship and apprenticeship programs, we continue to work to expand the numbers of people educated and upskilled in the trades.

The American dream and the construction industry go together. It is through construction that we can provide for our family, create jobs for workers and give back to our communities. I cannot imagine what this legislation will do to all the families that depend on JA&M, let alone all the millions of families around the country that depend on small businesses for their survival.

I plead with you to help us preserve the construction industry for the next generation. Without you, there may not be a future for countless potential craft professionals. I thank you for your time and consideration of this testimony, as a representation of a small merit shop contractor.