Testimony of

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on behalf of
The Associated General Contractors of America

presented to the

Committee on Environment and Public Works
United States Senate

on the topic of

Transportation Infrastructure Finance and Innovation Act

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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 26,000 firms, including 6,600 of America's leading general contractors, and over 9,300 specialty-contracting firms. More than 10,000 service providers and suppliers are associated with AGC through a nationwide network of chapters. Visit the AGC Web site at www.agc.org.

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My name is Jim Roberts and I am President and Chief Executive Officer of Granite Construction Incorporated. Granite is a California-based company that over the past 90 years has built thousands of roads, tunnels, bridges, airports and other infrastructure-related projects used by millions of people every day. Today, Granite is a $2 billion company working in 25 states for both public and private sector owners in the transportation, power, federal, tunneling, underground, industrial/mining and water resources markets. Granite is a leader in our industry, thanks to the commitment and contributions of our approximately 5,000 employees nationwide. I am here today representing the Associated General Contractors of America, a national association of 26,000 businesses involved in every aspect of construction, with 94 chapters representing members in every state.

AGC and Granite strongly believe that the Transportation Infrastructure Finance and Innovation Act (TIFIA) program expansion included in MAP-21 comes at a time when the nation's transportation network needs major capital investments. We also believe the program has a proven track record that can build on its success if the process is streamlined and accessible.

The TIFIA program is designed to provide federal credit assistance to eligible surface transportation projects, including highway, transit, intercity passenger rail, some types of freight rail, and intermodal freight transfer facilities. TIFIA has been successful in filling market gaps and leveraging private co-investment by providing eligible projects with supplemental or subordinate debt. Throughout its history, state and local governments, other public authorities, as well as private entities – including contractors – undertaking large scale construction projects have taken advantage of secured loans, loan guarantees, or lines of credit provided through TIFIA. Unfortunately, the budget authority provided to the program prior to MAP-21 was not enough to meet demand and, based on demand since MAP-21 passed; it probably still lags well behind overall needs.

Thankfully, through the bipartisan leadership of Chairman Boxer and the other members of the Environment and Public Works Committee, Congress provided the TIFIA program with a substantial increase in budget authority in MAP-21. The authorization provided the TIFIA program budget authority of $750 million for FY 2013 and $1 billion for 2014, which has the potential to provide $17 billion of lending capacity over fiscal years 2013 and 2014.[1] However, if project approvals do not come more rapidly, the potential of this program may unfortunately go unrealized. The possibility of injecting over $17 billion into the transportation construction market over the next two years is a very important potential source of infrastructure investment, considering the significant transportation infrastructure needs and the uncertainty of federal, state and local infrastructure spending.

Granite, like other contractors involved in the transportation construction market, relies on the predictability of the public sectors' bidding schedules to target opportunities that determine our resource and capital investment requirements throughout the country. Returning to a five-year, inflation indexed funding program in the upcoming reauthorization is critical to the continued build-out of the nation's surface transportation needs. Greater predictability in funding will enable contractors such as Granite to invest in hiring, training and developing our workforce to build our nation's infrastructure.

Like other construction companies in the transportation business, Granite supports continued federal investment in highway and public transportation. The level of investment that is currently provided from the Highway Trust Fund is in jeopardy. The Congressional Budget Office estimates show the Highway account revenues can support no more than $3.1 billion of new obligations in fiscal year 2015 – a 92 percent decrease from the $40 billion authorized level in fiscal year 2014. The Mass Transit

[1] U.S. Department of Transportation, Federal Highway Administration, TIFIA Questions and Answers

Account would be unable to fund any new transit obligations in FY 2015. These are real problems independent of the TIFIA program that Congress must address. While it is not central to this hearing, the funding uncertainty weighs heavily on the minds of the thousands of AGC members like Granite who have worked for decades to build the world's best transportation network.

Since the creation of the Interstate Highway System in 1956, the Highway Trust Fund has been supported by revenue collected from users. This 'pay-as-you-go' system has served America well, allowing States to plan, construct and improve America's surface transportation infrastructure. AGC has long-supported maintaining the user-fee model for providing Highway Trust Fund revenue – including taxes on gasoline and diesel fuel – and encourages Congress to act immediately to provide the revenue necessary to fill the Highway Trust Fund revenue gap we will face in fiscal year 2015 and beyond. User fees and taxes have not been increased in twenty years. For the past five years, the revenue going into the Highway Trust Fund has fallen short of what is needed to even maintain the existing investment levels. By the expiration of MAP-21, the Highway Trust Fund will have received over $53 billion in transfers from the general fund simply to meet its obligations.

The solution to meeting our transportation infrastructure needs is twofold. First, Congress and the Administration must work together in a bipartisan way to increase user fees and identify new revenue sources to address our Highway Trust Fund solveny, both now and in the future. The simplest, quickest, and most efficient way to generate the revenue needed for the federal highway and transit programs would be to increase the federal tax on gasoline and diesel. Sadly, this obvious option is often dismissed by some leaders in Washington. AGC and other transportation stakeholders are currently engaged in lobbying efforts to include an injection of revenue into the Highway Trust Fund as a component of comprehensive tax reform. Whether it is tax reform, deficit reduction or debt ceiling packages, Highway Trust Fund solvency must be a component of any final deal. Second, there must be more private-sector involvement in the construction of transportation projects. There is a growing interest in public-private partnerships (P3s) and other innovative financing tools that can help deliver many of our nation's most challenging transportation needs, and federal credit programs like TIFIA can help attract private investors for these projects. It must be stressed; however, that P3s and programs like TIFIA should never be considered as a substitute for the "user pays" funding system. The number one priority for Congress and the Administration must be to ensure the short-term and long-term solvency of the Highway Trust Fund.

In addition, the TIFIA program is an important tool in the proverbial toolbox and has been tested over the last 15 years. It has a great opportunity to expand its impact on transportation infrastructure investment. Since the TIFIA program was created, it has helped finance mostly large construction projects. To date, 33 construction projects throughout the country have received TIFIA credit assistance. The cumulative cost for the projects is $43.8 billion, and the financing credit provided from TIFIA amounts to over $11 billion. The majority of these projects are highway projects with seven being transit and five being intermodal. It should be noted, however, that only 2 projects have received TIFIA credit assistance since MAP-21 was approved last year.

Granite is proud to have supported the construction of various TIFIA-facilitated projects since the inception of the program, including the Central Texas Turnpike System and the 183-A projects in Texas, the Reno Re-Track in Nevada, the Triangle Expressway in Raleigh-Durham, North Carolina, and the Intercounty Connector in Maryland. TIFIA credit assistance on these efforts totaled $2.4B, which generated $9B of work. We are currently on teams building the IH-35E (LBJ Freeway) for TxDOT in Dallas ($845MM), the Tappan Zee Bridge in NY ($3.1B), and the US-36 Managed Lanes between Denver and Boulder, CO ($359MM) – all of which are currently seeking TIFIA financing.

Other major projects supported by TIFIA include Denver Union Station, Port of Miami Tunnel, I-495 HOT lanes in Northern Virginia, and the Cooper River Bridge in Charleston, SC. It is clear that TIFIA also attracts other private investment in these large-scale projects. According to the Government Accountability Office, as of April 2012, roughly one-third of the 33 approved projects that included a TIFIA credit agreement are P3s that include private equity investments. For these projects, private equity accounts for about 17 percent of total project costs. In simpler terms, 17 projects with TIFIA credit agreements include either private equity or debt. The average private investment for these projects is 37 percent of total project costs.[2]

As I mentioned earlier, the money in the Highway Trust Fund is not meeting the needs and demands of our national transportation system. States can barely provide simple maintenance, let alone add capacity or fund projects of regional or national significance. TIFIA credit agreements coupled with private and other sources of funding and financing, helps states better prioritize their funding to focus on their respective transportation needs.

In the last Congress, there was bipartisan recognition of the benefits of TIFIA. By increasing the budget authority of TIFIA, MAP-21 began laying the foundation for the approval of more TIFIA loans. In addition to the increase in budget authority, MAP-21 made meaningful reforms to TIFIA with the goal of streamlining the application process and expanding the pool of eligible projects. These reforms included: increasing the coverage of eligible costs that can be financed through TIFIA from 33 percent to 49 percent; rolling the application process; eliminating selection criteria; and adding eligibility for rural infrastructure projects.

These and other reforms to TIFIA appear to be very helpful and would likely result in greater opportunities for companies like Granite to work on major projects; however, there has been very little guidance from DOT on how the program has changed since MAP-21. For example, just last week DOT provided on the TIFIA website the new application and Letter of Interest process. More guidance from the agency on these reforms would greatly help states understand the process. The criteria in MAP-21 for TIFIA assistance was simple, clear and flexible enough to allow a variety of different projects to be approved. But in order for the program to succeed, grow, and gain more credibility - as was the intent of MAP-21 - it would also be very helpful if there is significant geographic diversity and transparency in the project selection process.

The traveling public and the construction industry benefit because TIFIA financial assistance often provides that critical component that allows transportation projects to move forward. Many of the projects that receive TIFIA financing have been built using the design-build contracting method. Under design-build, contractors are selected based on a technical proposal and price. The “up front” costs a contractor undertakes in putting together a complex design-build project are significant and can easily reach $2 million on a $100 million project. If the project does not move forward because of lack of funding, the contractor’s initial investment is lost. Repeated losses will eliminate qualified contractors from pursuing the work, thereby decreasing competition.

Granite has established processes for identifying, tracking and selecting opportunities that fit its business model and risk profile. Project funding is a key, significant factor in the process. Dedicated financing sources such as TIFIA demonstrate to us that the owner is committed to awarding the project. Granite has pursued projects that contained TIFIA commitments already in-place, pre-bid, as well as projects such as the Tappan Zee Bridge Replacement, the IH 35E (LBJ Freeway), and the I-4 Ultimate in

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[2] GAO Surface Transportation Report 12-641

which the owner has submitted a TIFIA Letter of Intent. In each of these events, the design-build team feels confident in commiting to the project because the discipline imposed by the TIFIA process assures that the Owner will fully fund the project.
In order to get the best proposals from the industry, it is important that there is some certainty that projects will move forward. AGC believes that TIFIA reduces the uncertainty and therefore adds to the likelihood that P3 projects will move forward. Streamlining the approval process using concurrent reviews as proposed in other sections of MAP-21 would enhance project delivery.

Despite the clear priority that was given to the TIFIA program in MAP-21, AGC is concerned that there has been a noticeable slowdown in the award of TIFIA financing since MAP-21 was enacted. It appears that DOT is being extremely cautious in approaching the approval of TIFIA financing. AGC recognizes that DOT must take seriously its fiduciary responsibility in managing the funds in this program and overseeing projects that are awarded TIFIA financing. Awarding financing to a project that ultimately has financial problems and puts the government at risk for a financial loss is not in the best interest of the program. However, it is equally problematic to be overly cautious, slow, and bureaucratic in making the financing decision. The past success of the TIFIA program and the promise that it provides in the future should not be undermined by an inefficient process. AGC believes some adjustments can be made to the program so that it operates more efficiently, such as:

- DOT should redirect more personnel to the TIFIA review team.
- DOT should not hold all decisions on TIFIA awards until a record of decision on the project has been issued. This, in particular, seems to be contrary to the concurrent review requirement that is found elsewhere in MAP-21.
- More states need to take part in this program. DOT should develop educational tools and train technical advisors that will help states in applying for this assistance.
- There must be full transparency in the project selection process to encourage states to continue to continue applying. If there are any credibility concerns with project selection, it will undermine the entire program. Also, project selection should not be overly politically influenced.
- There should be a one-to-one-correspondence effort made to make project approvals and project starts get underway in a single construction season.
- TIFIA should be available to help establish an investment grade rating for projects that are close to meeting that rating but ultimately unable to do so on their own.
- The TIFIA program guide on the agency website needs to be finalized for all projects so that individuals have confidence that they can act on the guidance.

It cannot be overstated as to how important it is that the expanded TIFIA program demonstrate success as Congress begins looking at the reauthorization of MAP-21. The fact that 31 Letters of Interest have been submitted to DOT and only two have been approved since the enactment of MAP-21 last summer is of deep concern to those of us who want the program to succeed and grow.

AGC believes that the improvements to the TIFIA program made in MAP-21, including the significant increase in available credit assistance, are important strides in bringing non-traditional financing to the table and assisting states in addressing their overall transportation funding needs. We also believe that expediting project approvals on transportation projects is another hallmark of MAP-21. We hope that the combined benefit of those efforts will lead to a process for reviewing and approving TIFIA financing requests that is quick enough to both protect the public and provide critical infrastructure. We hope that the rural component builds up a track record that shows that the program is not too cumbersome for small projects. We also hope that the transparency of the project selection process works to enhance the credibility of the program.

AGC encourage DOT to adopt the recommendations we have made. This will benefit the nation's economy and create jobs by moving vital projects to construction and addressing some of the Nation's overwhelming transportation needs. While it is still critically important that Congress and the Administration address the long-term solvency of the Highway Trust Fund, we must also assure that programs like TIFIA, which provide the financing to fill some of the funding shortfall, are operated as efficiently as possible.