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MARYLAND ASPHALT ASSOCIATION



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February 16, 2022

Senator Guy Guzzone, Chair
Senate Budget and Taxation Committee
3 West, Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 507 – FAVORABLE – Procurement – Construction Contracts – Contract Modification Clause

Dear Chair Guzzone and Members of the Senate Budget and Taxation Committee:

The Maryland Asphalt Association (MAA) is comprised of 18 producer members representing more than 47 production facilities, 24 contractor members, 24 consulting engineer firms and 41 other associate members. We proactively work with regulatory agencies to represent the interests of the asphalt industry both in the writing and interpretation of state and federal regulations that may affect our members. We also advocate for adequate state and federal funding for Maryland's multimodal transportation system.

Senate Bill 507 requires all state procurement contracts for construction to include a clause providing for contract modification when there is a substantial increase in the price of materials required to complete the contract due to any one of several factors, including delayed notice of commencement by the procuring unit, acts or omissions by the procuring unit, changes in the work or sequencing of the work, the discovery of hazardous materials or other unknown conditions on the site, delays associated with pending disputes, and force majeure events. Under current law, our contractors and subcontractors take on great risks when entering into procurement contracts with the State for construction projects that often take years to complete—sometimes lasting through the volatility of one or more economic cycles. Material costs can fluctuate greatly over this time, so when companies are forced to estimate these expenditures up front just to even bid on the procurement, any significant change to material costs could place our member businesses in great financial risk with no recourse. Senate Bill 507 provides just that recourse by allowing the contract to be modified under those circumstances. By offering this opportunity to our contractors and subcontractors, we are better able to support our State's countless construction and transportation projects that are essential to our entire infrastructure network.

We appreciate you taking the time to address this important issue and we respectfully urge a favorable report on Senate Bill 507.

Thank you,

Marshall Klinefelter
President
Maryland Asphalt Association