July 18, 2017

The Honorable Lamar Alexander
Chairman, Senate Committee on Health, Education, Labor and Pensions
United States Senate
Washington, DC 20510

The Honorable Patty Murray
Ranking Member, Senate Committee on Health, Education, Labor and Pensions
United States Senate
Washington, DC 20510

Dear Chairman Alexander and Ranking Member Murray:

On behalf of Associated Builders and Contractors (ABC), a national trade association representing more than 21,000 members from construction and industry-related firms, we write in strong support of the confirmation of Marvin Kaplan and William Emanuel to serve on the National Labor Relations Board (NLRB). Kaplan and Emanuel both are extremely qualified to serve as members of the board and have the expertise to ensure the NLRB remains true to its mission of enforcing the National Labor Relations Act (NLRA) and serving as a neutral arbiter of labor law.

Under the Obama administration, the NLRB issued controversial, anti-business rulemakings seeking to inappropriately promote union organizing in the construction industry and elsewhere at the expense of employers and employees. In addition, the NLRB aggressively expanded its enforcement authority and issued dozens of precedent-reversing legal decisions impacting construction workplaces—including decisions on bannering, salting and other troubling tactics.

Specifically, the NLRB finalized its controversial “ambush” election rule, also known as Representation-Case Procedures, which significantly changes the union representation election process by reducing the amount of time between when a union files a representation petition and an election takes place. Additionally, in August, 2015, the Board issued its Browning-Ferris Industries decision, in which the NLRB overturned the traditional “joint employer” standard. This unprecedented change redefined who qualifies as a “joint employer” under the NLRA, which has the potential to create barriers to and burdens on the contractor and subcontractor relationship throughout the construction industry.

The president has nominated two highly qualified candidates who can restore balance to the NLRB. Mr. Kaplan, counsel to the commissioner of the Occupational Safety and Health Review Commission, and Mr. Emanuel, a shareholder at the law firm Littler Mendelson P.C. in Los Angeles, are experts in the field of labor relations. Together they have decades of experience interpreting the NLRA in a manner that is balanced and without favor to political party.

ABC fully supports the nominations of Marvin Kaplan and William Emanuel to serve on the NLRB. We encourage the Committee on Health, Education, Labor and Pensions to approve the nominees and move quickly to bring their nominations to the Senate floor for a vote.

Sincerely,

Kristen Swearingen
Vice President of Legislative & Political Affairs