NATIONAL LEAGUE OF CITIES
CITIES STRONG TOGETHER

STATEMENT FOR THE RECORD

BEFORE THE HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE, SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

"Building a 21st Century Infrastructure for America: Water Stakeholders' Perspectives"
September 26, 2017
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Statement for the Record

on behalf of the
National League of Cities

Before the House Transportation and Infrastructure Committee,
Subcommittee on Water Resources and Environment

"Building 21st Century Infrastructure for America:
Water Stakeholders' Perspectives"

September 26, 2017

Thank you, Chairman Graves, Ranking Member Napolitano and Members of the Subcommittee for the opportunity to submit a Statement for the Record to share the local perspective on how the federal government can partner with cities to improve our nation's water infrastructure and address critical issues facing cities and local water utilities. We are pleased to offer our suggestions for policy proposals for inclusion in an infrastructure package. Additionally, attached to this statement is a recent letter to President Trump offering broader policy recommendations.

The National League of Cities (NLC) is the oldest and largest organization representing cities and towns across America. NLC represents 19,000 cities and towns of all sizes across the country. Our members are charged with protecting the environment and protecting public safety. As co-regulators, we play a vital role in implementing federal statutes such as the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA) among others, and our members take these responsibilities seriously. A partnership among federal, state and local governments is essential to achieving our mutual goals of clean water, which is the backbone of a modern society.

The nation's water infrastructure systems are significant assets that protect public health, as well as the nation's precious water resources. To the extent that America's water and wastewater infrastructure is properly maintained and can adequately meet the needs of our communities, it will help ensure the long-term vitality of our communities.

Today, local governments are at a crossroads. Local governments, our residents, and businesses must spend additional resources to comply with numerous environmental and non-environmental federal and state unfunded mandates, which further limits the money available for locallydetermined priorities. Furthermore, it is important to note that the capacity of local government to respond to federal demands is limited due to cities' and our citizen's limited financial resources, as well as state limitations on local ability to raise revenues. As city budgets struggle to recover from the Great Recession, many cities are making tough choices about the services and maintenance that they can afford and in some instances taking actions to borrow and finance funds to addresses critical needs.

NLC's recent *City Fiscal Conditions* survey of city finance officers from across the nation reveals the start of a fiscal contraction in the municipal sector following several years of post-recession growth. Several major findings taken together signal a slowdown on the horizon, including waning confidence of city finance officers, slowing local revenue and spending trends, and insufficient post-recession revenue recovery. We know cities are doing more with less—and have been for some time—cities' general fund revenues still have not fully recovered from the recession to pre-2007 levels. Moreover, proposed federal budget cuts to critical programs would further reduce the ability of local leaders to meet the everyday needs of their communities, as well as add to the burden that unfunded mandates have on cities.

Given the massive infrastructure needs in our country and the range of challenges facing cities with regard to water infrastructure, now is the time to make significant investments in critical water infrastructure programs to keep our economy moving forward.

As Congress works to develop an infrastructure proposal, there are six broad categories of challenges that cities are facing with regard to water infrastructure:

- **Aging Infrastructure** – Our nation's infrastructure is aging, with much of the infrastructure beyond its 50-75 year life span and some infrastructure up to 100-150 years old.
- **Unfunded Mandates** – Our nation's cities are facing an increase in federal and state unfunded mandates, with limited fiscal resources and often state preemption on local ability to raise revenue.
- **Affordability** – Low-income households pay a disproportionate amount of their incomes toward their water bills.
- **Climate Change Impacts** – Whether communities are facing "too much water" or "too little water," climate change will exacerbate current water infrastructure challenges, as well as create new challenges around both water quality and availability.
- **Pollution and Contamination** – Be it lead, nutrients, or pharmaceuticals etc. in drinking water and wastewater, cities are charged with providing clean and safe water for their communities.
- **Aging Workforce** – One-third of water and wastewater utility workers, and in some cases 50-60 percent of the water sector workforce, are eligible for retirement in the next 5-10 years, far exceeding workforce replacement needs in other sectors.

To address these challenges and improve our nation's water infrastructure, NLC calls on Congress to pass legislation that will:

- Reauthorize and provide federal funding for water infrastructure improvements through the Clean Water and Drinking Water State Revolving Loan Fund (SRF) programs.

- Provide full appropriation to the Water Infrastructure Finance and Innovation Act (WIFIA) and permanently establish the program beyond a pilot program.
- Remove the federal volume cap on tax-exempt bonds for water and wastewater infrastructure projects.
- Establish a comprehensive and flexible integrated planning and permitting process for local water, wastewater and stormwater management.
- Clarify that rebates provide by local water utilities to homeowners for water conservation and water efficiency are not subject to a federal income tax.

As you know, cities pay for the bulk of America's infrastructure, with the federal partnership representing only $3 for every $7 local governments spend, according to the Congressional Budget Office. While the demands on America's infrastructure grow each year, federal funding has fallen to historically low levels, placing the economic and physical well-being of our cities and towns in jeopardy. Local governments invest $1.7 trillion annually on services such as transportation, public safety and education. This includes $1.5 billion on water and sewer infrastructure in 2014 alone, according the U.S. Census Bureau.

More than two-thirds of all public infrastructure projects in the United States are locally financed by municipal bonds. Moreover, the state and local tax deductions are essential to allowing cities to raise the revenue needed to provide essential services to citizens, including public safety, education and infrastructure. Both the tax exemption for municipal bonds and the state and local tax deductions must be preserved in order for cities to continue to make the improvements and investments necessary to grow our economy, create jobs, and address our nation's infrastructure needs.

Additionally, cities need a combination of creative financing tools and direct federal investment to tackle our infrastructure deficit. Direct federal investment to cities for innovative projects will streamline the project delivery process as well as provide better results for citizens and communities. City leaders are best positioned to identify where infrastructure needs are greatest and should have a stronger voice in how limited federal dollars are spent. Importantly, local decision-making should not be preempted, regardless of whether infrastructure is privately or publicly funded.

In conclusion, cities will continue to invest and pay for the bulk of their infrastructure but expect to have a steady partner in the federal government to keep existing national programs funded to keep the national economy growing. NLC supports private sector infrastructure engagement in mutually beneficial projects in addition to the existing tools of municipal bonds and direct grants to cities for innovative infrastructure projects that are essential to delivering better infrastructure to our citizens. Finally, NLC supports a streamlined infrastructure process with a central point of contact that leads to projects being delivered faster in direct partnership with cities.

Working together, a partnership between cities, states and the federal government is essential to modernizing our nation's infrastructure and growing our economy to the benefit of our communities, our businesses and our residents. The investments we make today in water infrastructure should be forward looking, sustainable and resilient to address today's needs and those of the 21st century.

NLC NATIONAL LEAGUE OF CITIES
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July 17, 2017

President Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Trump:

The National League of Cities (NLC) welcomes this opportunity to provide the White House with feedback as you work to invest in our nation's infrastructure. NLC is the nation's oldest and largest organization devoted to helping city leaders build better communities. In partnership with 49 state municipal leagues, we advocate for 19,000 cities, towns and villages representing more than 218 million Americans.

NLC and several mayors from across the country participated in an infrastructure discussion with you, White House officials, and Cabinet Secretaries in early June. The White House posed questions relating to incentivizing private investment and streamlining the regulatory process, and we look forward to working with you to identify ways to use public funds more efficiently to build an infrastructure network that supports a 21st century economy. Below are recommendations in these areas that would improve the federal-city partnership and help city leaders to use every tool at their disposal to stretch and leverage federal and local dollars.

Infrastructure Funding Tools and Incentives

The majority of American infrastructure is built, funded and maintained by local governments, with most of the financing coming from tax-exempt municipal bonds. Local and state governments leveraged the municipal bond market to raise more than $200 billion for new investments in infrastructure last year alone — and more than $2 trillion in the past decade. This remains the most critical tool in local toolboxes to build and maintain infrastructure, and the federal tax exemption for municipal bond interest must be maintained. If this exemption is limited or eliminated, the cost to build infrastructure projects will skyrocket, reducing the overall number of projects that can be taken on, as well as the economic boost from construction jobs and smoothly operating roads, bridges, and waterways.

Cities are the most valuable partner for the federal government on infrastructure, but America's infrastructure has aged and the people-to-infrastructure ratio has shifted. Cities now need direct federal investment more than ever to move significant public projects forward. The administration has proposed $200 billion in federal incentives to drive private investment in large-scale infrastructure projects. NLC welcomes this commitment to invest but relying primarily on private investment will not be sufficient to meet our infrastructure needs, especially in rural America. Cities are paying their significant share and are a working case study of what efficiency looks like in government, but they need a partner in the federal government to overcome the massive infrastructure need, currently estimated by the American Society of Civil Engineers to be $4.6 trillion by 2025. We would need to double our current investment pace as a country to fill the gap of aging airports, leaky pipes and broken waterways.

While NLC recognizes the need for innovative financing in infrastructure projects and welcomes the diversification and opportunity the public-private partnership (P3) model affords some local governments, many barriers are still in place nationwide that hinder a federalized P3 system. Currently, 32 states allow the limited use of P3s, with only 13 states authorized to use this model for all types of infrastructure. Automatically, this eliminates the opportunity for private investment in nearly half of the states without a change in state laws.

For a comprehensive infrastructure revitalization, P3s are an important part of the solution, but they will not fill the gap alone. These tools used in conjunction with municipal bonds, federal grants and state-match programs all are needed to assist in a full infrastructure modernization. This means fully investing in important existing federal tools, including the Highway Trust Fund, TIGER grants, Transportation Alternatives, the Surface Transportation Block Grant Program, New Starts, FASTLANE, the Clean Water and Drinking Water State Revolving Loan Funds, the Water Infrastructure Finance and Innovation Act (WIFIA), Community Development Block Grants, Choice Neighborhood Grants, and others. The major cuts to these and other programs proposed by the White House for FY2018 would deal a devastating blow to local budgets and local governments' investment in infrastructure, particularly in smaller and rural communities. The drawback of current federal programs when a doubling-down is needed may delay tangible, visual signs of progress on infrastructure projects that are vital to our economy.

Additionally, at the heart of the intergovernmental relationship is the state and local tax deduction. Residents are able to claim what they paid in state and local income taxes as well as local property taxes as a deduction on their federal income tax. This allows local governments the flexibility to raise revenues as they need without concerns of double taxing their residents. With state limitations on local government's ability to raise revenue, eliminating the state and local tax deduction would further preempt local control and invariably impact the ability to provide critical infrastructure, such as water and sewer systems, schools, hospitals, roads, bridges and public transportation systems.

Additional Infrastructure Considerations: Broadband and Workforce Development

As we reinvest in our nation's infrastructure, we should also consider components that have not traditionally been part of infrastructure packages, including broadband infrastructure and investment in the workforce needed to build these roads, bridges, water and broadband networks. The federal government should invest directly in broadband access, through modernization and support for Universal Service Fund programs. The federal government can also help spur private deployment of broadband infrastructure through common-sense changes, such as allowing federal transportation funds to be used for inclusion of conduit or dark fiber in transportation projects, lowering the cost for providers to enter regions and neighborhoods. The addition of broadband to other infrastructure projects adds minimal cost to the overall project, but it dramatically reduces the barriers to broadband investment for private companies by extending middle-mile infrastructure further into communities.

Additionally, we need to ensure that jobseekers have the right skills to fill the positions that will be in demand and that these infrastructure projects are connected to workforce boards and the already successful job training and education programs as funded through the Workforce Innovation and Opportunity Act (WIOA). Through making this connection, we can make certain that jobseekers are trained and equipped with credentials that are stackable and create career pathways far and beyond the time-limited investment of this infrastructure proposal. By ensuring that we have a skilled workforce that can engage in these projects and beyond in this ever-changing workforce, we can strengthen our cities and economy while remaining competitive in the global workforce.

Regulatory Streamlining and Prioritizing Local Decision-making

Local flexibility and decision-making are of the utmost importance in this process. An important way to support decision-making at the level closest to the people is by getting funding directly to local governments as often as possible, especially when the assets are locally contained and operated. We urge you to ensure that ample opportunities are made for city governments of all sizes, particularly smaller communities, to access funding for infrastructure projects in their communities using vehicles like TIGER and FASTLANE to spur innovative and multimodal projects. Often, federal programs administered by or through states cut off cities from participating due to decisions made in state capitals, rather than in hometowns. Any federal program administered via state governments should include criteria to ensure that funding reaches local government intact, and that state allocation decision-making meets certain criteria.

Another way to keep infrastructure decisions in the hands of those most affected by them is to make it easier for local governments to participate in federal programs and to make their own infrastructure investments in compliance with federal requirements. For example, further technical assistance to prepare cities for upcoming grant opportunities and providing projects with a single federal point of contact to coordinate review obligations will help keep smaller communities from being left behind on funding opportunities or conflicting regulatory obligations. The federal government could also grandfather in projects that have already begun review processes when new regulatory requirements are introduced, to ensure that valuable time is not lost on additional review.

It remains critical that regulatory streamlining not preempt local governance. Recent efforts by the Federal Communications Commission to accelerate the deployment of cutting-edge broadband infrastructure to all Americans, a goal NLC supports, have focused on preempting and hamstringing local land use and police powers, as well as stripping local governments of their control of the property they own, including the public rights of way. Cities realize that the smart deployment of privately-funded infrastructure must carefully balance the needs of investors with the public health, safety and welfare concerns of communities, and preserve the unique character of the neighborhoods they have built.

The Burden of Unfunded Mandates

The question about how to streamline the federal government and balance the federal budget without shifting costs to local governments in the form of unfunded mandates remains an important one. Unfunded mandates impose additional disproportionate responsibilities on local governments without regard to the fiscal impact of those policies. As such, their impact on the division of power within the intergovernmental partnership ultimately moves us further from our foundational principles of federalism.

The Unfunded Mandates Reform Act of 1995 (UMRA) aimed to address this burden by requiring federal agencies to assess the costs and benefits of a final rule that may result in the expenditure by state, local, and tribal governments, in the aggregate, of $100 million or more. Under UMRA, this threshold amount also triggers the required intergovernmental consultation process between regulatory agencies and elected officials. A 1999 Executive Order further directed each federal agency to develop consultation processes to fulfill these obligations.

Under UMRA and the Executive Order, each federal agency adopted guidance for consulting with state and local governments on federal regulatory actions, but the consultation processes differ by agency, and as a result the Executive Order is applied inconsistently across the federal government.

While the federalism consultation process can be improved, it is an essential component of the intergovernmental process, and local elected officials value the opportunity to provide direct input into the rulemaking process before rules are even drafted. This early feedback and input helps the federal government develop rules that are effective, reasonable and implementable at the local level. We continue to urge the federal government to listen to and consider the perspective of local governments early and often during the rulemaking process.

In closing, we thank you for your invitation to participate throughout this process. Working together, cities and the federal government can craft a proposal that will modernize our nation's infrastructure and grow our economy to the benefit of our communities, our businesses and our residents.

I have asked Irma Esparza Diggs, Director of Federal Advocacy, to follow up with your staff to answer any questions regarding this letter. Irma may be reached directly at (202) 626-3176 or by email at diggs@nlc.org.

Sincerely,

Clarence E. Anthony
CEO and Executive Director
National League of Cities