The National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) respectfully submit this statement for the record for the House Ways and Means Committee's March 6, 2019, hearing titled *Our Nation's Crumbling Infrastructure and the Need for Immediate Action*.

For more than 20 years, NMHC and NAA have partnered to provide a single voice for America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry's largest and most prominent firms. As a federation of 160 state and local affiliates, NAA encompasses over 75,000 members representing 9.25 million rental housing units globally. NMHC and NAA commend the committee for holding this hearing and for addressing the critical issue of infrastructure.

Changing demographics, economic factors and lifestyle preferences are spurring historic demand for apartment homes and uprooting the housing development patterns of the post-World War II period. Recent NMHC and NAA research finds that we need to build 4.6 million new apartments by 2030 to meet the nation's housing needs. The apartment industry stands ready to meet America's demand for rental housing, but our ability to succeed depends on robust and reliable infrastructure.

Infrastructure and housing are linked in significant ways. The existing supply and efficacy of housing is directly dependent on the condition of related transportation and other infrastructure assets. For example, access to multiple transportation options, safe and effective water and utility services, and broadband and telecommunications are all vital to the livability and, importantly, to the affordability of housing.

Likewise, our transportation system is vitally important to our nation's overall economic vitality. Economic growth is directly tied to transportation efficiency and reliability. But we are relying on investments made decades ago to sustain our growing and changing economy. The U.S. transportation network is aging and underfunded, and it needs new funding and support if we are to ensure continued and sustained economic growth across the various sectors of our economy.

Congress and the Administration must renew our national commitment to infrastructure and transportation, work together to fix and modernize this national asset, ensure a long-term stable revenue source and address the needs of the private sector.

Any major investment in the nation's infrastructure should recognize the important relationship between America's growing demand for rental housing and the industry's ability to meet it, by seeking to remove barriers to housing development and rehabilitation.

Before recommending specific proposals that the Ways and Means Committee could include in its title of infrastructure legislation, we observe that a cooperative approach to housing development and infrastructure planning maximizes community benefit and promote efficiencies in transportation, land use and public works. As policymakers consider infrastructure initiatives, we urge the inclusion of measures to support housing including those that would:

- Ensure a long-term and stable funding stream to provide state and local governments, and the private sector, with the certainty and resources they need to meet their infrastructure needs and make further infrastructure investments;
- Leverage federal spending to spur private sector investment through public- private partnerships and other programs;

- Promote multi-modal transportation options and encourage transit-oriented, high-density and infill development;
- Invest in rehabilitating existing communities;
- Promote improvements in affordable housing and stimulate new affordable development through density bonuses, fast-track review and by-right development; and
- Upgrade municipal infrastructure to accommodate growth and facilitate remediation of safety and environmental hazards that burden housing and new construction.

We believe that the Ways and Means Committee has a critical role to play in ensuring that the development and rehabilitation of multifamily housing represents a key component of infrastructure legislation. In this regard, we recommend that the Committee consider the following proposals within its jurisdiction as it develops infrastructure legislation:

Expand and Enhance the Low-Income Housing Tax Credit (LIHTC)

The Low-Income Housing Tax Credit (LIHTC) has a long history of successfully generating the capital needed to produce low-income housing while also enjoying broad bipartisan support in Congress. This public/private partnership program has led to the construction of over 3 million units since its inception in 1986 while serving 7 million households. It is the nation's principal driver of new affordable housing.

The LIHTC program allocates units to low-income residents while helping to boost the economy. According to a March 2018 Department of Housing and Urban Development study, *Understanding Whom the LIHTC Serves: Tenants in LIHTC Units as of December 31, 2015*, the median income of a household residing in a LIHTC unit was $17,470 with just under 80 percent of households earning 50 percent or less of area median income. Finally, the National Association of Home Builders reports that, in a typical year, LIHTC development supports approximately: 95,700 jobs; $3.5 billion in federal, state and local taxes; and $9.1 billion in wages and business income.

Given the nation's severe shortage of affordable housing, Congress in March 2018 rightly increased LIHTC authority by 12.5 percent for 2018-2021. Congress also sensibly authorized income averaging so that LIHTC could serve households earning up to 80 percent of area median income.

Congress should continue to invest in the LIHTC's success by making permanent the increase in program authority, as well as further augmenting credit authority by 50 percent. Additionally, Congress should establish a minimum 4 percent tax credit rate, akin to current law's minimum 9 percent credit rate -- so that investors may derive its full value. Under current law, the 4 percent credit rate floats and is worth considerably less due to low interest rates.

Enact the Middle-Income Housing Tax Credit (MIHTC) to Support Workforce Housing

Housing affordability is not limited only to families eligible for units financed by the LIHTC and other current programs. In fact, housing affordability is an issue threatening the financial wellbeing of solidly middle-income households. Consider that the median asking rent for an apartment constructed in 2017 was $1,550. For a renter to afford one of those units at the 30 percent of income standard, they would need to earn at least $62,000 annually. Accordingly, this is an issue impacting those supporting the very fabric of communities nationwide, including teachers, firefighters, nurses and police officers.

To this end, incentives to develop multifamily housing targeted to middle-income Americans should be a part of any infrastructure bill. We would urge the Committee to strongly consider the *Middle-Income*

Housing Tax Credit Act of 2018 (S. 3365) that Senate Finance Committee Ranking Member Ron Wyden introduced during the 115th Congress to address the shortage of workforce housing available to American households. A worthy complement of measures to expand and improve LIHTC, the Middle-Income Housing Tax Credit (MIHTC) takes over where LIHTC leaves off. LIHTC is currently designed to serve populations of up to 60 percent of area median income. MIHTC is designed to benefit populations earning below 100 percent of area median income.

Enhance Opportunity Zones to Incent Rehabilitation of Housing Units

Enacted as part of tax reform legislation in 2017, Opportunity Zones are designed to provide tax incentives for investments in distressed communities. We believe that Opportunity Zones hold great promise for the development of multifamily housing. Under the new program, Governors have designated over 8,700 qualified low-income census tracts nationwide as Opportunity Zones. Up to 25 percent of a state's qualified census tracts may qualify as Opportunity Zones, with each state having to designate a minimum of 25 Zones.

While we expect the Opportunity Zones program to be beneficial in spurring the production of new multifamily housing, we believe it could be improved to incent the rehabilitation of existing multifamily units. Current law requires that an Opportunity Fund double the basis of an acquired property within 30 months to qualify for Opportunity Zone purposes. Although the Treasury Department in October 2018 proposed regulations to attempt to address this issue by excluding the basis of land from the required improvement threshold, there is a strong argument to be made that even with an exclusion of the basis of land, it could still prove challenging to double the basis of the structure.

To incentivize additional multifamily rehabilitation projects and address our nation's workforce housing shortage, NMHC/NAA urge Congress to support statutory modifications to reduce the basis increase necessary to qualify a multifamily rehabilitation project for Opportunity Zone purposes. It is noteworthy that to qualify for an allocation of Low-Income Housing Tax Credits, owners must commit to rehabilitations valued at the greater of: (1) 20 percent of adjusted basis of a building; or (2) $6,000 per low-income unit (Internal Revenue Code Section 42(e)(3)(ii)).

Repeal Foreign Investment in Real Property Tax Act

In 1980, Congress passed the Foreign Investment in Real Property Tax Act (FIRPTA) to tax foreigners' gains on the income they earn from, and then the sale of, U.S. real estate and other real property. In doing so, FIRPTA imposes significant costs on foreign investors in U.S. real estate, thereby serving as a significant barrier to such investment.

By treating foreign real estate investments differently than other U.S. investments foreigners can make, the tax code discourages such investments. For example, foreign investors do not have to pay capital gains taxes when they sell stocks and bonds in non-real estate U.S. companies. Foreign investors can avoid U.S. taxes and reduce their worldwide tax burden simply by investing in U.S. equities instead or in real estate outside the U.S. The discriminatory and punitive tax regime created by FIRPTA precludes U.S. real estate companies from tapping into an important source of capital for developing, upgrading and refinancing properties. Ultimately, it does so to the detriment of job creation and the overall economy.

As part of tax legislation enacted in late 2015, Congress reduced FIRPTA's negative impact on U.S. real estate investment by increasing from 5 percent to 10 percent the ownership stake that a foreign investor may take in a U.S. publicly traded REIT without triggering FIRPTA. Congress also removed a tax penalty FIRPTA imposed on foreign pension funds investing in U.S. real estate.

While these provisions represent real progress, repealing FIRPTA or enacting additional reforms could unlock billions in foreign capital that could help to refinance real estate loans and drive new investment. NMHC/NAA strongly support FIRPTA repeal legislation, *Invest in America Act* (H.R. 6726), introduced by Rep. Kenny Marchant during the 115th Congress and believe it would represent a beneficial component of any future infrastructure package.

The Rosen Consulting Group in a July 2017 report, *Unlocking Foreign Investment in U.S. Commercial Real Estate*, concluded that FIRPTA repeal would generate between $65 billion and $125 billion in international investment in U.S. commercial real estate. This capital would translate into between $26 billion and $49 billion of economic activity and support an additional 147,000 to 284,000 jobs. As FIRPTA repeal could lead to billions of dollars in U.S. commercial real estate investment, it is critical that it be included in any forthcoming infrastructure legislation.

NMHC/NAA thank you for considering our views. We look forward to working with the House Ways and Means Committee and entire Congress on improving the nation's infrastructure and, in particular, ensuring that enhancing the production and rehabilitation of multifamily housing represents a key component of any legislative effort. Please contact Cindy Chetti, NMHC's Senior Vice President of Government Affairs, at 202 974-2300 or Greg Brown, NAA's Senior Vice President of Government Affairs, at 703-518-6141, with any questions.