August 2, 2010

Peter M. Rogoff
Administrator
Federal Transit Administration
U.S. Department of Transportation
1200 New Jersey Ave SE
Washington, DC 20590

RE: Docket Number FTA–2010–0009, New Starts and Small Starts Program

Dear Administrator Rogoff,

Thank you for the opportunity to provide feedback on this advance notice of proposed rulemaking (ANPRM) for the Federal Transit Administration's (FTA) New Starts / Small Starts program. The comments below are submitted jointly by Enterprise Community Partners, Habitat for Humanity International, the National Housing Conference and James J. Kelly, Jr., Asst. Prof. of Law, University of Baltimore School of Law. Collectively, we have considerable expertise in affordable housing and its connections to public transit and community and economic development. Appendix C provides more information on our organizations and qualifications in this area.

Based on our analysis of the New Starts /Small Starts Program, we offer the following recommendations:

1. WE SUPPORT FTA'S DECISION TO GIVE GREATER WEIGHT TO LIVABILITY FACTORS

We strongly supports the FTA's decision to refine its approach to evaluate projects for federal financial assistance under the New Starts / Small Starts Program to give greater weight to livability factors such as economic development and environmental benefits. This policy shift is critical both for implementing the congressional mandate for this program[1] and for advancing the six Livability Principles agreed upon by the Interagency Partnership for Sustainable Communities formed between the U.S. Department of Transportation (DOT), the U.S. Department of Housing and Urban Development (HUD), and the U.S. Environmental Protection Agency (EPA):

- Provide more transportation choices.
- Promote equitable, affordable housing.
- Enhance economic competitiveness.
- Support existing communities.
- Coordinate and leverage federal policies and investment.
- Value communities and neighborhoods.

[1] See 49 USC 5309(d)(2)and (3).

2. FTA SHOULD MODIFY THE NEW STARTS / SMALL STARTS REGULATIONS AND NOTICE OF FUNDING AVAILABILITY TO CREATE INCENTIVES FOR PRESERVING AND EXPANDING THE AVAILABILITY OF AFFORDABLE HOUSING NEAR PLANNED TRANSIT STOPS

The second of the six livability principles agreed to by the Interagency Partnership for Sustainable Communities is to "promote equitable, affordable housing," which the partnership defines as follows:

> **Promote Equitable, Affordable Housing.** Expand location- and energy-efficient housing choices for people of all ages, incomes, races, and ethnicities to increase mobility and lower the combined cost of housing and transportation.

There is much that FTA could do to advance this goal through modifying the criteria for awarding New Starts and Small Starts grants. Specifically, FTA should:

A. **Give jurisdictions partial credit toward the local match for qualifying investments in affordable housing within one-half mile of planned station stops** (for both New Starts and Small Starts) **and**

B. **Develop new rating factors that award greater points to jurisdictions that agree to make greater investments in affordable housing within one-half mile of planned transit stops** (for New Starts only)**.**

Before discussing our specific recommendations in detail, we want to first explain why they are essential for advancing the statutory goals of the New Starts / Small Starts Program.

How would these changes advance the goals of the New Starts / Small Starts Program?

Incentives to preserve and expand the availability of affordable housing near planned transit stations would advance multiple objectives of the New Starts /Small Starts Program.[2] Specifically:

1. By making it easier for low- and moderate-income families to access public transit, these incentives would improve mobility (49 USC 5309(d)(2)(B) and (d)(3)(D)(ii)) as well as access to public transit for the "transit-dependent population" (49 USC 5309(d)(3)(G)).

2. By increasing ridership for public transit, these incentives would help improve the cost-effectiveness of planned projects. See 49 USC 5309(d)(2)(B).

3. By increasing the number of low- and moderate-income families who can afford to live near planned public transit stations, the incentives proposed in this comment would allow more families to reduce or eliminate their reliance on a car, thereby advancing the goals specified in 49 USC 5309(d)(3)(D) of providing congestion relief and reducing air pollution, noise pollution

[2] Our statutory citations are all to the New Starts program. However, most of these goals also apply to the Small Starts program, including the goals of economic development, transit-supportive land use, and cost effectiveness.

and energy consumption.

4. By providing affordable housing options for low- and moderate-income families in transit-rich communities, these incentives would provide families with viable and attractive alternatives to the lower-cost housing now being built at the periphery of metropolitan areas, helping to reduce the costs of suburban sprawl (49 USC 5309(d)(3)(F).

5. By allowing low- and moderate-income families to share equitably in the economic development benefits associated with the construction of new transit lines and station stops, by creating jobs associated with the construction and rehabilitation of affordable housing and by improving access to jobs for low- and moderate- income families, these incentives would advance core "economic development" objectives. See 49 USC 5309(d)(2)(B) and 49 USC 5309(d)(3)(G).

The benefits of modifying the New Starts / Small Starts criteria to provide incentives for preserving and expanding affordable housing near transit are discussed in greater detail in Appendix A.

What changes are needed to the New Starts / Small Starts program to advance these goals?

To create incentives to preserve and expand affordable housing near transit, we recommend two modifications to the criteria for awarding New Starts / Small Starts funding:

A. Give jurisdictions partial credit toward the local match for qualifying investments in affordable housing within one-half mile of planned station stops (for both New Starts and Small Starts)and

B. Develop new rating factors that award greater points to jurisdictions that agree to make greater investments in affordable housing within one-half mile of planned transit stops (for New Starts only).

A. Partial Credit toward Local Match (for both New Starts and Small Starts)

One powerful incentive that FTA could offer to expand the availability of affordable housing near transit would be to allow jurisdictions to count new investments made toward affordable housing within one-half mile of planned stations as partial credit toward the local match required to receive New Starts / Small Starts funding. Specifically, we propose that FTA change the calculation of the "Non-Section 5309 Share" of a project's Financial Rating to include partial credit for new investments made toward affordable housing within one-half mile of planned transit stations.[3] This recommendation would have

[3] We recognize that some practitioners prefer to focus on the one-quarter mile area around public transit stops as the most marketable locations for transit-oriented development. We find this too restrictive and believe that the one-half mile radius provides a better measure of the area in which households can comfortably walk to the station. We also understand that some practitioners would like to count housing that is accessible to planned stations via bus routes. Our concern here is the difficulty measuring the quality of those bus connections, as well as the potential to use the availability of affordable housing via bus as an excuse to develop new station areas in a manner that excludes low- and very-low income families. By all means, we should link areas with affordable housing effectively to transit stations via bus, but this is no substitute for ensuring that families of all income levels can afford to live near proposed station stops.

no impact on the amount of the federal contribution to projects but, via the financial justification score, would elevate proposals that co-invest in affordable housing.

We would propose that jurisdictions receive partial credit for specific pledges of support for funding affordable housing in these locations as follows:

- 50 cents on the dollar for affordable housing that comes with long-term affordability covenants (as defined in Appendix B) designed to ensure the housing remains affordable over the long-term. (See the next section for a discussion of the importance of long-term affordability.)

- 33 cents on the dollar for all other affordable housing investments.[4]

The pledged support could include new commitments of federal, state or local housing funds and would be required to be spent in the ten-year period following submission of this application. Implicit subsidies, such as donations or below-market transfers of publicly owned land for affordable housing, or the adoption of inclusionary zoning – two transit-supportive land use decisions that also contribute to affordable housing objectives – would also be counted based on the projected subsidy equivalent of those policy choices over a ten-year period, again discounted to 33 or 50 cents on the dollar as specified above.[5]

To qualify, the affordable housing investments would need to produce, preserve, or rehabilitate housing affordable to homeowners with incomes at or below 100 percent of the Area Median Income and/or renters with incomes at or below 60 percent of the Area Median Income. Communities with high rent-to-income ratios would be able to use somewhat higher income limits.[6]

The rating factors proposed below are also critical incentives – and because the rating factors are more detailed and tailored than the match policy, one is not a substitute for the other – but when push comes to shove, there will be jurisdictions that will only agree to target affordable housing funds near transit if and to the extent they receive credit for the dollars they invest in it in measuring their overall financial contribution to a proposed project.

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[4] In other words, if a transit project costs $100M and the local share for transit capital is $50M but an additional $10M will be spent on affordable housing in transit station areas, the local contribution used to determine the "non-5309 share" score is ($50M + ($10*.33))/$100M, or 53.3%. If the affordable housing comes with long-term affordability covenants, the "non-5309 share" score would be ($50M + ($10*.50))/$100M, or 55%.

[5] This incentive is designed to leverage new resources for affordable housing. Existing funding streams tied to housing already located in the area, such as public housing subsidies, would not be counted toward the match. However, credit would be provided for locating transit stations near existing subsidized housing (including public housing) under the second of the proposed rating factors described below.

[6] We would suggest that for station areas where the median gross rent of units within one-half mile of the proposed station exceeds 30 percent of the income of a household at 70 percent of the metro area median income, communities may receive credit for investments in rental units affordable to families with incomes up to 80 percent of the metro area median income.

B. New Rating Factors to Incent Affordable Housing Near Planned Stations (for New Starts Only)

In addition to giving applicants partial credit toward their local match, we recommend revising the rating factors for awarding New Starts funding to create incentives for applicants to preserve and expand affordable housing near planned transit stations. The rating factors complement the partial match by creating specific, detailed incentives to encourage communities to consider the full range of affordable housing policies needed to meet the housing needs of low- and moderate-income families. While the partial match discussed above would apply to both the New Starts and Small Starts programs, in order to streamline the Small Starts process, we would apply the rating factors below to the New Starts program only.

There are three specific outcomes that need to be incented to preserve and expand housing opportunities for families with a range of incomes near planned transit stations:

- Increases in residential development and density near planned stations.
- The long-term affordability to moderate-income families of a share of new development near planned stations.
- The preservation and expansion of deeply affordable housing near planned stations.

Regarding the first bullet above, the New Starts / Small Starts rating factors already include several measures designed to reward existing and incent increased development and density near planned stations.[7] These measures are basically sound. We would only recommend that FTA more explicitly call out "residential" development in these measures to make it clear that more housing units are needed, in addition to retail and commercial development, and clarify that communities may satisfy the residential density targets through policies that provide property owners with higher density in exchange for commitments to make a portion of the units affordable. These policies – known variously as incentive zoning, voluntary inclusionary zoning, and density bonuses – are used by a significant number of communities to incent greater affordability while also achieving higher residential densities.

For each of the remaining two outcomes that need to be incented, we recommend the addition of a new rating factor. We briefly summarize below the proposed factors and their justification. We provide more detail on how the factors could be implemented in Appendix B.

1. Proposed Factor: Affordability of New Residential Development Near Transit Stations

The purpose of this rating factor is to ensure that communities adopt a policy of ensuring that a share of new development within one-half mile of new station stops is affordable to moderate-income families. The most straightforward and least costly way to do this is to adopt an inclusionary zoning policy that requires that a specified share of new development be affordable to moderate-income families, while providing land owners with density bonuses, reduced parking requirements, or other 'offsets' to cover

[7] One of four Land Use factors rates applications on their current levels of population and employment in the transit corridor or surrounding the station area, and the six Economic Development factors reward applicants for promoting and making progress towards development near transit.

the foregone revenue associated with the below-market units. However, because inclusionary zoning can be controversial among certain constituencies and in certain communities, and because some jurisdictions may simply prefer another approach, we recommend focusing on incenting the *outcome* of ensuring that a significant share of new development is affordable, rather than any specific *means* to the outcome, such as inclusionary zoning.

Among many other possible strategies for ensuring that a share of new development is affordable to moderate-income families, communities may: use projected federal, state or local housing subsidies for development near proposed transit stations; use publicly owned land to develop affordable housing; require a share of proceeds from tax increment or tax assessment districts to be used for affordable housing near the proposed stations; adopt an employer-assisted housing policy; or use community land trusts or other shared equity homeownership mechanisms. Other options can and should be allowed so long as they are reasonably likely to lead to the desired outcome.

Appendix B spells out this in detail how we would propose to measure and score this rating factor. Below, we explain several of the key policy decisions implicit in the design of the rating factor:

- **Income targets**. Our proposed rating factor focuses on creating incentives to ensure that a share of new residential development is affordable to owners with incomes at or below 100 percent of the area median income and renters with incomes at or below 60 percent of the area median income. In areas where rents are high relative to incomes, we would give jurisdictions credit for rental housing affordable to families with incomes up to 80 percent of the area median income.[8] These targets are generally recognized as achievable with policies such as inclusionary zoning, tax increment set-asides, and low-income housing tax credits and do not generally require ongoing operating subsidies to maintain.

  To achieve deeper affordability for the lowest-income families, ongoing operating subsidies are likely to be necessary. Our second rating factor, below, focuses on creating incentives for communities to preserve existing affordable rental housing and target their supply of ongoing operating subsidies to units near planned stations to help ensure affordability to the lowest-income families.

- **Long-term affordability.** The federal investments in new transit lines and stations are intended to provide lasting, permanent transportation solutions. To ensure that low- and moderate-income families have continual access to affordable housing within walking distance of transit, it is essential therefore that communities plan for long-term affordability. In many communities, affordable housing is developed with affordability periods that last a specific period of time, such as 15 or 30 years. While potentially appropriate in other contexts, such time-limits on housing affordability undermine the goal of ensuring that low- and moderate-income families have continual access to housing close to transit. Because land prices near transit are expected to rise over time, it is likely to be prohibitively expensive to replace any affordable housing units

[8] We would suggest that for station areas where the median gross rent of units within one-half mile of the proposed station exceeds 30 percent of the income of a household at 70 percent of the metro area median income, communities may receive credit for rental units affordable to families with incomes up to 80 percent of the metro area median income.

that are lost due to expiring affordability restrictions. For this reason, we would give jurisdictions credit only for housing that comes with covenants or other restrictions ensuring it remains affordable for the longest time-period permissible in the state. (See definition of long-term affordability covenants in Appendix B.)

- **Areas of poverty concentration**. Where poverty concentration is high and both rents and home prices are low, we may not want to incent the creation of additional affordable housing. For this reason, our proposed rating factor allows jurisdictions that propose stations in such areas to obtain credit under the rating factor without pledging to reserve a share of new residential development for affordable housing.

2. **Proposed Factor: Preservation and Development of Deeply Affordable Subsidized Housing and Siting of Proposed Stations Near Existing Subsidized Housing Developments.**

The first rating factor, discussed above, provides incentives for communities to adopt policies designed to ensure that a share of new development is affordable to moderate-income families. Many families in need of affordable housing, however, have much lower incomes. This second rating factor evaluates the commitment of applicants to preserving and expanding deeply affordable housing for the lowest-income families (i.e., families with incomes at or below 30 percent of the area median income) near proposed station stops. Because these families can be equally well served by both existing and newly created deeply affordable housing, this factor also gives jurisdictions credit for existing deeply affordable housing located within one-half mile of proposed stations.

Appendix B spells out this proposed rating factor in greater detail.

How much credit should these rating factors receive and under what category?

We understand that the Center for Transit-Oriented Development is recommending that affordable housing policies be considered in assessing the “economic development” impacts of a proposal and are comfortable with that classification. We would also be comfortable considering affordable housing under “land use,” however, if FTA chose to move in that direction. (Although not essential to our recommendations, we note in passing that we are not convinced these two issues can be separated quite as cleanly as suggested by the current criteria. Many of the economic development criteria actually involve land use issues and policies.)

In any event, we recommend that affordable housing be accorded 10 of the combined 40 points that the New Starts ranking process accords to land use and economic development.

Other recommendations

Our final recommendation is that FTA develop standards for public participation to better ensure that social equity and community perspectives are included early in the planning and alternatives analysis process. Applicants should be required to demonstrate that potentially affected community members had a voice in the process and an opportunity to be involved in the design of the proposed transit investment. One suggestion is to model plans for public participation after the provisions in SAFETEA-LU.

Appendix A

Why is it important to preserve and expand affordable housing near public transit?

There are several reasons why it is important to preserve and expand affordable housing near planned public transit stops:

First and foremost, it is necessary to ensure that low- and moderate-income families have **equitable and affordable access** to the new public transit stations. In many cases, the development or enhancement of public transit stations will increase property values within walking distance of the stations, leading to increases in rents and home prices and, subsequently, the potential displacement of low- and moderate income families. [9] By revising the New Starts / Small Starts criteria to create incentives for preserving and expanding affordable housing near planned public transit stations, FTA would help offset the property price increases and displacement that new transit lines cause and ensure that families of all incomes are able to afford to live within walking distance of new stations.[10]

As energy prices rise and the population ages, demand for transit-oriented development is likely to increase in many markets,[11] exacerbating the problem and further diminishing equitable access to public transit for low- and moderate-income families. These expected trends underscore the importance of FTA action to incent the preservation and creation of affordable housing for low- and moderate-income families near public transit stops.

Second, studies confirm that low- and moderate-income families are more likely to ride public transit than other families.[12] By creating incentives for preserving and expanding affordable housing near planned public transit stations, the New Starts / Small Starts program would help to **improve ridership for public transit**, improving both the economic and societal return on investment of new transit lines.

Third, incentives for the preservation and expansion of affordable housing near public transit are needed to **minimize the extent and cost of sprawl and reduce traffic congestion, air pollution, and**

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[9] Immergluck, Dan. 2009. "Large Redevelopment Initiatives, Housing Values and Gentrification: The Case of the Atlanta Beltline." *Urban Studies* 46: 1723-1745; McMillen, Daniel P., and John McDonald. 2004. "Reaction of House Prices to a New Rapid Transit Line: Chicago's Midway Line, 1983-1999." *Real Estate Economics* 32(3): 463-486.

[10] It is true that low- and moderate-income families may be able to access the new station by bus or car, even if they are priced out of homes built in the immediate surroundings. But while these types of access should not be discounted, it is readily apparent that it would be inequitable to simply accept the fact that low- and moderate-income families will be excluded from the new transit-oriented and livable communities that we are seeking to create – especially when there are easy ways to prevent this outcome by restructuring the New Starts NOFA to create incentives for affordable housing development near transit.

[11] Reconnecting America's Center for Transit-Oriented Development. 2004, September. *Hidden in Plain Sight: Capturing the Demand for Housing Near Transit*. Washington, DC: Author.

[12] Nearly 66 percent of transit users had household incomes below $50,000 (in 2004 dollars). Neff, John, and Larry Pham. 2007, May. *A Profile of Public Transportation Passenger Demographics and Travel Characteristics Reported in On-Board Surveys*. Washington, DC: American Public Transportation Association.

emissions of greenhouse gases. Without an adequate supply of affordable housing near transit and other close-in locations, low- and moderate-income families are likely to leapfrog existing development in many cases and move to the fringes of metropolitan areas where they can better afford their housing costs. This will exacerbate sprawl and lead to increases in vehicle-miles traveled, air pollution, greenhouse gas emissions, and traffic congestion. The incentives we describe would lead to more affordable and compact development patterns that help mitigate these problems.

Finally, creating incentives for preserving and expanding affordable housing near transit would help **advance core economic development objectives**, including**:**

- **An equitable distribution of economic development benefits**. Economic development is not simply a measure of total economic impact, but rather a social objective that seeks to improve the stability and quality of life for residents of targeted areas. Large economic impacts that displace existing residents are known variously as gentrification or displacement, rather than economic development because they deprive existing residents of the benefits of the new development. By helping existing (and other) low- and moderate-income families to afford to continue to live near planned station stops, affordable housing incentives would help ensure that such families share equitably in the economic development benefits that new transit lines bring.

- **Job creation**. The preservation and new development of affordable housing would create jobs. A study by the National Association of Home Builders finds that a typical new 100-unit Low Income Housing Tax Credit property creates 122 local jobs during the construction phase, and new residents support an additional 30 jobs on an ongoing basis after construction is complete.[13] NAHB also estimates that every $100,000 spent on residential remodeling supports 1.11 new employment opportunities primarily in the construction field,[14] suggesting that preserving and rehabilitating affordable multifamily properties can also have a significant impact on the local economy.

- **Improved job access**. These incentives would also help to improve job access for low- and moderate-income families by ensuring these families have good access to transit.

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[13] National Association of Home Builders. 2010, March. *The Local Economic Impact of Typical Housing Tax Credit Developments*. Washington, DC: Author.

[14] Liu, Helen Fei, and Paul Emrath. 2008, October 7. "The Direct Impact of Home Building and Remodeling on the U.S. Economy." HousingEconomics.com. Washington, DC: National Association of Home Builders.

Appendix B

Proposed Rating Factors to Incent the Preservation and Expansion of Affordable Housing Near Planned Transit Stations

This appendix outlines specific proposals for considering the role of affordable housing in candidate New Starts projects. In keeping with current rating methodologies, both proposed factors would assign each application from one (1) to five (5) points.

1. Affordability of New Residential Development Near Transit Stations:

Overview: This factor measures the commitment of the applicant to ensure that a minimum share of new residential development around proposed transit stations is affordable to moderate-income families and will remain affordable for as long as the transit stations are in operation. Since the federal investments in new transit lines and stations are intended to provide lasting, permanent transportation solutions, the affordable housing investments must similarly include covenants ensuring that affordability will be maintained for the longest period permissible under state law.

Ranking Factor: Applicants must demonstrate they have a policy in place to ensure that a minimum specified share of new residential development within one-half mile of proposed transit stations will be affordable to renters with incomes at or below 60 percent of the Area Median Income or to owners with incomes at or below 100 percent of the Area Median Income. Such housing must come with long-term affordability covenants, as defined below. In areas where rents are high relative to incomes, jurisdictions would receive credit for rental housing affordable to families with incomes up to 80 percent of the area median income.[15]

Points will be assigned based on the share of new residential units that the applicant agrees will be subject to long-term affordability covenants:

a. 20% or higher (5 points)
b. 15-19.9% (4 points)
c. 10-14.9% (3 points)
d. 5-9.9% (2 points)
e. Less than 5% (1 point)

Applicants' policies may rely on any means reasonably likely to achieve the pledged outcome, including, but not limited to: using projected federal, state or local housing subsidies for development near proposed transit stations; using publicly owned land to develop affordable housing; requiring a share of proceeds from tax increment or tax assessment districts to be used for affordable housing near the proposed stations; adopting an inclusionary zoning policy with appropriate density or other offsets for property owners; providing density bonuses to owners that agree to include affordable units; adopting

[15] For station areas where the median gross rent of units within one-half mile of the proposed station exceeds 30 percent of the income of a household at 70 percent of the metro area median income, communities may receive credit for rental units affordable to families with incomes up to 80 percent of the metro area median income.

an employer-assisted housing policy; or using community land trusts or other shared equity homeownership mechanisms.

The applicant must agree to apply this policy to all residential development permitted within at least a 20-year period beginning on the date of approval of the New Starts application. Because land prices may escalate upon submission and approval of the New Starts application, however, jurisdictions are urged to start assembling land and putting policies in place even before they submit their New Starts applications; this will make it easier and less expensive to achieve the desired affordable housing goals. Jurisdictions are also urged to continue to operate these policies on a voluntary basis after the conclusion of the 20-year compliance period.

Variation Among Proposed Transit Stations. Applicants are not required to adopt the same housing policy or target for each proposed station. Where different affordability targets are pledged for different stations, the score for this ranking factor will be based on the average of the pledges, weighted based on the projected number of new housing units within one-half mile of each station within the 20-year period from the date of application.

Exceptions for Areas with High Poverty Concentration and Low Housing Costs. For a proposed station area with very low housing costs and very high poverty levels, additional investments in long-term affordable housing may not be warranted. Where rents, housing sale prices and poverty rates within a one-half mile of a proposed station all fall in the bottom quartile (i.e. very low rents and sale prices and very high poverty rates) of existing station areas in the metropolitan area, the applicant has the option of being excused from planning for additional affordable housing near that station and be awarded three (3) points for that station.[16] Each station area will be considered separately and applicants wishing to score well under this ranking factor will still be expected to adopt policies for proportional affordability of new units near station areas that do not qualify for the exception. The final score under this ranking factor will be determined through the weighted average approach described above.

Definitions: For purposes of this ranking factor, **new residential development** includes both new construction and the substantial rehabilitation of existing stock.

Long-term affordability covenants are covenants or other legal protections designed to ensure the housing remains affordable to and occupied by members of the target income group for the lesser of: (a) at least 99 years or (b) the longest period permissible under state law. To the maximum extent feasible, such covenants shall be renewed upon transfer of the property to new owners. For owner-occupied units, the resale formula specified in the covenant or other legal protection should balance the goals of long-term affordability and individual asset-building, striving to maintain long-term affordability while also providing families with a substantial return on their downpayment investment.

[16] We are currently conducting an analysis to test the application of this and other alternative specifications to a sample of metro areas. Contact Keith Wardrip at kwardrip@nhc.org for updated results of this analysis.

2. Proposed Factor: Preservation and Development of Deeply Affordable Subsidized Housing and Siting of Proposed Stations Near Existing Subsidized Housing Developments. This proposed factor rewards New Starts applications that serve areas with existing subsidized housing and that plan to preserve this important resource after the transit investment is made. This factor also favors applications that recognize the importance of creating and preserving deeply subsidized housing for households with the lowest incomes. Points will be awarded as specified to applications that include the following elements:

a. A comprehensive strategy to preserve the affordability of existing subsidized rental housing within one-half mile of proposed stations when current contracts expire for the longest-possible period and an identified funding source to carry out preservation activities. (2 points)

b. Concrete plans for the near-term development of deeply subsidized rental housing or deeply affordable owner-occupied housing within one-half mile of proposed stations (1 point)

c. Deeply subsidized rental housing constitutes a higher percentage of total housing units within one-half mile of proposed stations than in the metropolitan area as a whole (1 point)

d. Subsidized rental housing constitutes a higher percentage of total housing units within one-half mile of proposed stations than in the metropolitan area as a whole (1 point)

Definitions: Subsidized rental housing includes properties that are assisted or insured by HUD or the Department of Agriculture, funded through the Low-Income Housing Tax Credit, or funded through similar federal, state or local programs. Units with tenant-based rental assistance are counted only when the owners of those developments have contractually agreed to give a priority for admission to families with tenant-based rental assistance and agree to maintain that preference for at least twenty years.

Deeply subsidized rental housing is a subset of subsidized rental housing that includes only those units affordable to families with incomes at or below 30 percent of the area median income.

Deeply affordable owner-occupied housing refers to owner-occupied housing units that are subject to long-term affordability covenants and affordable to families with incomes at or below 50 percent of the area-median income. (See prior rating factor for definition of long-term affordability covenants.)

Appendix C

About the Organizations Submitting these Comments

Enterprise Community Partners (Enterprise). Enterprise is a national nonprofit organization. Enterprise creates opportunity for low- and moderate-income people through fit, affordable housing in diverse, thriving communities. Enterprise provides financing and expertise to community-based organizations for affordable housing development and other community revitalization activities throughout the U.S. In over 25 years, Enterprise has invested over $10 billion to create more than 270,000 affordable homes and strengthen hundreds of communities across the country.

Habitat for Humanity, International (Habitat). Habitat is an ecumenical Christian ministry that welcomes to its work all people dedicated to the cause of eliminating poverty housing. Since its founding in 1976, Habitat has built, rehabilitated, repaired or improved more than 350,000 houses worldwide, providing simple, decent and affordable shelter for more than 1.75 million people. For more information, visit www.habitat.org.

National Housing Conference (NHC). Since 1931, NHC has been dedicated to ensuring safe, decent and affordable housing for all Americans. NHC has earned its strong reputation as the *United Voice for Housing* by actively engaging and convening its membership in nonpartisan advocacy for effective housing policy solutions at the local, state and national levels. Our comments are grounded in the work of our research affiliate, the Center for Housing Policy, which has an ongoing research program focused on the intersection of housing and transportation policy.[17]

James J. Kelly, Jr. is an Assistant Professor of Law and the Director of the Community Development Clinic at the University of Baltimore School of Law. Professor Kelly has published several law review articles on land banking and land trusts. His experience with the use of community land trusts for the creation of permanently affordable homeownership dates back to his role in the founding of Washington, D.C.'s New Columbia Community Land Trust in 1990. Most recently, he led the advocacy effort in Maryland to enact the Affordable Housing Land Trusts Act, which was signed into law by Governor Martin O'Malley on May 20, 2010.

[17] The Center for Housing Policy, with co-authors the Urban Land Institute Terwilliger Center for Workforce Housing and the Center for Neighborhood Technology, has written a series of papers documenting the combined costs of housing and transportation in several regions: *The Boston Regional Challenge: Examining the Costs and Impacts of Housing and Transportation on Area Residents, their Neighborhoods, and the Environment* (2010); *Bay Area Burden: Examining the Costs and Impacts of Housing and Transportation on Bay Area Residents, Their Neighborhoods, and the Environment* (2009); and *Beltway Burden: The Combined Cost of Housing and Transportation in the Greater Washington, DC, Metropolitan Area* (2008). See also Lipman, Barbara J. 2006, October. *A Heavy Load: The Combined Housing and Transportation Burdens of Working Families*. Washington, DC: Center for Housing Policy; and Lubell, Jeffrey, and Emily Salomon. 2010, January. *How Transportation Reform Could Increase the Availability of Housing Affordable to Families with a Mix of Incomes Near Public Transit, Job Centers, and Other Essential Destinations*. Washington, DC, and Chicago, IL: Center for Housing Policy and the Metropolitan Planning Council.