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National Association of
City Transportation Officials

Linda Bailey
Executive Director

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RE: Docket EP-749-1 – Proposed Rulemaking to Limit NITU's to a Maximum of Six (6) 180-Day Extensions

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Dear Ms. Brown,

These comments, filed on behalf of the National Association of City Transportation Officials (NACTO) are in opposition to a proposed rule by the Surface Transportation Board to limit that the number of extensions of the trail use negotiation period to six. **We believe this limitation would be redundant with the STB's existing authority while placing an undue burden on municipalities and public agencies leading negotiations.**

NACTO is a coalition of 73 North American cities and transit agencies working to provide communities with safe, sustainable transportation choices that support a strong economy and high quality of life.

Recreational trails built along former rail corridors can restore vibrancy to abandoned areas while fulfilling a growing need for safe, multi-use public spaces. The practice of railbanking is essential towards preserving these corridors and cities have long been leaders in negotiating to transform unused rights-of-way for transportation and recreational purposes.

The proposal to impose a 3-year limitation on negotiations represents an arbitrary cutoff on cities that would greatly obstruct – and in some cases prevent – railbanking. Public entities acting as interim trail sponsors are legally required to negotiate financing, management agreements, and insurance coverage in addition to undertaking environmental reviews under NEPA or local statutes. The time taken to complete these legal requirements almost always exceed the 180 days initially allocated for negotiations for reasons outside public entities' control. Imposing an arbitrary cap on extensions undermines the ability of cities to contract with railroads to provide a public good. Smaller communities would be disproportionately impacted, since they typically have fewer resources at their disposal.

Additionally, **this proposed rule is redundant with STB's existing authority to evaluate extension requests.** The Board is already empowered to approve or deny a request for additional time to negotiate a trail use agreement. The burden of justifying extension requests already lies with the interim sponsor while the Board must take objections from opposing parties into account. Capping the number of extensions artificially impedes STB's authority while hindering thoughtful consideration of extension requests.

For the reasons enumerated, NACTO respectfully requests that this Board not revise 49 C.F.R. 1152.29 as set forth in the Proposed Rule.

Sincerely,

Linda Bailey
Executive Director, NACTO

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