October 28, 2018

The Honorable Steven Mnuchin
Secretary of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220
Via Email: CC.ITA.Section.1400@irscounsel.treas.gov

Re: Comments/recommendations regarding the implementation of Opportunity Zones as authorized by the Tax Cuts and Jobs Act of 2017, H.R. 1 (115)

Dear Secretary Mnuchin:

As the U.S. Treasury Department begins the process of implementing Opportunity Zones under the Tax Cuts and Jobs Act of 2017, *[insert organization name]* offers pertinent recommendations ensuring this new initiative embodies equity and full inclusion for the vulnerable. to fully participate, prosper, and reach their full potential.

We particularly seek to ensure that Opportunity Zones and Opportunity Funds meet their stated purpose of benefiting low-income community residents and small businesses within the Zones and protect the interests of those most susceptible to displacement pressures that too often result from private investment. We see Opportunity Zones as a chance to target large amounts of private capital for the long-term needs of struggling families. And while doing so, those investments must be integrated carefully into the community in ways that improve the lives of the estimated 19 million people living in or near 200 percent of the federal poverty within Opportunity Zones. The investments must allow residents

Our organization works to improve communities that have long been neglected, and we are encouraged by the potential benefits that could emerge from private investment in low-income communities across the nation. However, we are also deeply concerned about the risks and dangers of misguided investments that do not place the needs of the most vulnerable as the top priority.

Guiding Principles for Equitable Development and Investments

While the intent for Opportunity Zones is to attract much needed investment in low-income communities that have suffered neglect for decades, that intent will not be met, and unintended harmful consequences could result if equitable and inclusive community development practices are not embedded within the rules and regulations for those investments. Therefore, we recommend that the U.S. Treasury consider the following ***Guardrails for Opportunity Zones*** across the estimated 8000+ communities that will be impacted:

1. **Allow local and state governments to configure additional guidelines for Opportunity Zones.** The U.S. Treasury should grant flexibility to local and state governments to issue additional guidelines as needed to ensure that investments benefit local communities, residents, and small businesses to prevent unintended consequences or harm, such as those stemming from housing and commercial displacement.

2. **Ensure that investments do no harm to low-income residents and small businesses.** Require fund managers to demonstrate, through assessment of localized data and public input, that investment strategies will not place additional displacement risks on low-income renters, low-income/at-risk homeowners, local small businesses, and cultural districts and institutions.

3. **Specifically define abuse in the regulations.** Define "abuse" in the regulations to include projects that result in eviction of tenants or small businesses, dramatically increased rents, or the loss of deed restricted or naturally-occurring affordable housing.

4. **Require declaration of intent in order to certify Opportunity Funds.** To be certified by the U.S. Treasury as an Opportunity Fund, the agency should require Opportunity Funds to declare their investment intentions and commit their investments to specific **community benefit** outcomes (i.e. equitable growth, development without displacement and healthy communities of opportunity) as a condition of certification.

5. **Set performance measures for Opportunity Zones.** Building on the measures outlined in the *Tax Cuts and Jobs Act of 2017 Conference Report*—related to job creation, poverty reduction, and new business starts—we recommend the following measures be assessed and reported within zones: living wage jobs created, the number of dedicated affordable housing units (60 percent of area median income or less, or as determined based on local housing needs) created or preserved, investments in minority/disadvantaged/women-owned businesses, vacant structures repurposed, and critical services available to vulnerable populations.

Reporting Requirements

Over the last decade across America, large parts of our country have faced intense and increasing displacement pressures that have led to an alarming rise in evictions of residential tenants and small businesses, as well as home foreclosures amongst vulnerable seniors and long-term residents. These issues have led to destabilization of families, disruption of community institutions, a weakening of the fabric of neighborhoods, and re-segregation of communities.

We recommend that the U.S. Treasury submit annual reports to Congress detailing the metrics related to community and resident benefits in each qualified Opportunity Zone, and that such reports be published on the U.S. Treasury department's website. In addition to the metrics outlined in the Congressional Conference Report related to job creation, poverty reduction, and new businesses, **we recommend that reported metrics include the following to ensure vulnerable residents are protected:**

1. **The number of good jobs created and held by residents** of Opportunity Zones. At a minimum, the jobs created must pay a living wage, and offer worker protections and full benefits that support families. It will be critical to ensure that the creation of new businesses and new jobs are benefiting residents to adequately measure whether the investments are meeting the legislative intent.

2. **The number of dedicated affordable housing units** (60 percent of area median income or less, or as determined based on local housing needs) created or preserved. This will allow the U.S.

Treasury to monitor the ability of residents to remain in their homes even while growth and development occur.

Thank you in advance for your attention to this letter. If further information is needed, please contact me.

3. **Number/percentage of investments in minority/disadvantaged/women-owned businesses**, providing an equity framework that ensures investments are available to such businesses. Establishment of technical assistance to such businesses and to establish such where certain " leakages" have been ascertained by data collection, anecdotal data, and historical accounts, since data demonstrates that the " **black community in Asheville lost over 600 acres during Urban Renewal – the largest loss of land, capital, and wealth of any city in the Southeastern USA."**

4. **Revitalization of neighborhoods suffering from delapidated, vacant structures, publicly owned facilities and disinvestment**. By measuring the number of vacant properties or structures, for example, along with the deferred maintenance of publicly owned facilities like parks, pools, etc., can determine what kinds of investments are most needed within these distressed census tracts.

5. **Increase in the number of critical services available to vulnerable populations** such as transportation options, health care facilities, healthy food retail, quality education services, all of which are necessary to build communities of opportunity.

Opportunity Fund Certification

As part of the certification process for Opportunity Funds, we recommend that the U.S. Treasury require each proposed Opportunity Fund to identify and commit their investments to specific community benefit outcomes, as detailed in the above metrics. This includes making the above reporting requirements publicly available prior to designating Opportunity Funds so that the Funds can tailor their investment models to best meet the community benefit metrics emphasized by Treasury. This would ensure that these new investment funds are structured with an eye towards equitable community investments from the beginning. We also recommend that the U.S. Treasury require Opportunity Funds to share their intentions for investing in geographic areas, investment types, and asset classes prior to receiving certification. We recommend that the U.S. Treasury make this information publicly available to assist investors and developers seeking to work with an Opportunity Fund in certain census tracts and to provide the information necessary for the community and the public at large to hold the Opportunity Fund accountable for the investments made.

We appreciate the opportunity to comment and encourage full consideration of the above guiding principles, recommendations, reporting requirements, and certification guidance in the implementation of Opportunity Zones.

Sincerely,

[Organization Principal]

Sincerely,

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