

Promoting Opportunity through Equitable Transit-Oriented Development (eTOD): Navigating Federal Transportation Policy

By Ahmad Abu-Khalaf



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ACKNOWLEDGEMENTS

We would like to thank the following people for their contributions and assistance:

Susan Anderson	Jenna Hornstock	Geeta Rao
Jeffrey Boothe	Andrew Jakabovics	Daniel Schned
Shaun-Dae Clark	Sarah Kline	Michael A. Spotts
Christopher Coes	Deron Lovaas	Abigail Thorne-Lyman
Devin Culbertson	Sarah Lovell	Bradley Weinig
Ron Golem	Odetta Macleish-White	Mariia Zimmerman
John Hersey	Melinda Pollack	

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INTRODUCTION

Transportation, housing and land use decisions that form the foundation of our development patterns are made at every level of government. While the local regulatory environment significantly impacts the amount and type of development that occurs, the federal government plays a major role in local development in both overt and hidden ways. Federal funding is the most obvious source of influence. However, this funding comes with a catch, as the incentives and regulations that govern funding programs can have a significant impact – both positive and negative – on the type of housing and transportation infrastructure that is built and how it is maintained over time.

What is eTOD?

This paper defines eTOD as compact, often mixed-use development with multi-modal access to jobs, neighborhood-serving stores and other amenities that also serves the needs of low- and moderate-income people. The preservation and creation of dedicated affordable housing is a primary approach to eTOD, which can ensure that high-opportunity neighborhoods are open to people from all walks of life. For this report, the terms “low-income” and “moderate-income” do not refer to specific income thresholds. The definition for these terms can vary by jurisdiction and government program. Some U.S. Department of Housing and Urban Development programs define low-income as households earning no more than 80 percent of area median income (AMI), while the federal Low-Income Housing Tax Credit program targets households at or below 60 percent of AMI. Various state and local standards are also set – in some cases reaching 120 percent of AMI for homeownership programs. In the context of eTOD, the target population for any intervention will depend on the specific needs of that community.

The federal ability to influence development patterns gives it both direct and indirect influence on a community’s strength and composition. Individual families, the local economy, municipal governments and the environment all benefit when well-located housing, jobs and other necessary resources are connected by efficient transportation and infrastructure networks. Equitable transit-oriented development (eTOD, see sidebar for definition) is an important approach to facilitating these connections. eTOD supports the achievement of multiple cross-sector goals, including regional economic growth, enhanced mobility and access, efficient municipal and transportation network operations, improved public health and decreased cost of living. For a full discussion of the benefits of eTOD, read *Promoting Opportunity through eTOD: Making the Case*.¹

In recent years, the federal government has taken several actions that are more conducive to fostering eTOD. Notable examples include the adoption of incentives for creating and preserving affordable housing near transit, the provision of planning and technical assistance resources to support eTOD, and the reduction of barriers to producing affordable housing on federally-funded property. However, a wide range of policies and incentives that do not explicitly address eTOD can also support or detract from the conditions that make such development possible.

Navigating Federal Transportation Policy is the third report in our Promoting Opportunity through eTOD research series. This report seeks to assist stakeholders involved in achieving eTOD, such as public entities, developers and practitioners, as they work to navigate the federal policy landscape, with a focus on Federal Transit Administration (FTA) policies and programs. These policies and programs generally offer several funding and technical assistance opportunities that can address eTOD (among a range of other uses), but housing practitioners may be less familiar with these resources and how to access them.

¹ John Hersey and Michael A. Spotts. *Promoting Opportunity through Equitable Transit-Oriented Development (eTOD): Making the Case*. Washington, DC: Enterprise Community Partners, 2015. www.enterprisecommunity.org/resources/promoting-opportunity-through-equitable-transit-oriented-development-etod-barriers.

THE FEDERAL INFLUENCE ON eTOD

Major transportation infrastructure investments have the ability to connect, but they can also divide. Efficient and equitable transportation projects can provide access to jobs, health care services, educational facilities and other essential services for households of a wide range of incomes. Despite this potential, many transportation investments have had detrimental impacts, disproportionately felt by lower income communities and communities of color. Historically, federal transportation policies had a substantial role in encouraging autocentric suburban development, often harming the ongoing health and/or the creation of new walkable mixed-use communities and by extension, eTOD. This history is inextricably linked to the discriminatory housing, infrastructure and planning policies and investments that shaped metropolitan development patterns in the 20th century.

The 1956 Federal Highway Act, which coincided with the provision of substantial federal mortgage subsidies, funded the construction of new higher-speed, limited-access roads to link urban cores to suburban neighborhoods, thus creating substantial incentives for more people to move to less-dense, often single-use suburbs and outlying areas of metropolitan regions. Households of color were largely unable to access mortgage credit and take advantage of these infrastructure investments due to discriminatory practices, such as rental discrimination, residential covenants, exclusionary zoning ordinances and the practice of discriminatory lending and disinvestment known as “redlining.”

These highways allowed middle- and upper-income households, the majority of which were white, to drive as quickly as possible from suburban neighborhoods – that were facilitated by federal support for mortgages and infrastructure – to more centrally located jobs. The paths of these highways were laid out in ways that undermined the existing urban fabric, resulting in a network of highways that cut through the core of virtually every major city across the country.²

The new highways gutted many long-established, low-income neighborhoods that were populated largely by households of color, disrupting and displacing communities. Furthermore, construction of the new highways was accompanied by urban renewal efforts that aimed at removing “urban blight” by razing housing and local business that often served low-income and/or minority communities, especially in areas adjacent to downtown business districts. These efforts displaced families and local businesses, created enormous areas of dead and vacant space in city cores, and devastated the tax base of cities – while subsidizing suburban commuters and creating and/or exacerbating patterns of racial and economic segregation.³

2 Joseph Stromberg, “Highways Gutted American Cities. So Why Did They Build Them?,” *Vox*, May 14, 2015, <https://www.vox.com/2015/5/14/8605917/highways-interstate-cities-history>.

3 Daniel Herriges, “The History of Urban Freeways: Who Counts?” *Strong Towns* (blog), February 21, 2017, <https://www.strongtowns.org/journal/2017/2/20/the-history-of-urban-freeways-who-counts>.

A Selection of Federal Housing Programs that Impact eTOD

The federal government supports individual homeowners through a series of tax deductions and exclusions. The Mortgage Interest Deduction (MID) allows homeowners to reduce their taxable income by the amount of interest paid on their mortgage for either a principal or secondary residence. In addition, the real estate property tax deduction allows homeowners to deduct their state and local property taxes from their annual federal taxes. An analysis of the connection between the MID and the size of purchased homes suggests that the MID is responsible for a 10.9 to 18.4 percent increase in the size of a purchased home, indicating that the MID can encourage purchasing larger homes, which are often in suburban locations.¹

The federal government has a significant footprint in the mortgage market through FHA-insured lending products in the residential, commercial and health sectors. In addition, the Federal Housing Finance Agency exerts considerable influence on the secondary mortgage market as conservator of Fannie Mae and Freddie Mac (collectively, the Government-Sponsored Enterprises or GSEs). Until recently, federally backed mortgages and programs promoted out-of-scale buildings in many communities by placing regulatory limits on the amount of nonresidential space allowed within mixed-use developments. Since these regulations and programs capped non-residential use in mixed-use projects at percentages that are too low for low-rise communities, they often promoted taller buildings that do not relate to the height of the surrounding buildings, as well as made it difficult to finance construction and/or renovation of three-to-four story buildings in many mixed-use, low-rise walkable neighborhoods.² For years, these regulatory restrictions created financial barriers to accomplishing mixed-use, small- and medium-scale eTOD, harming diversity of housing and retail/business choices in neighborhoods without market demand to support taller buildings. In 2016, Fannie Mae and Freddie Mac both began offering loan products that are more conducive to such development.³



The Low-Income Housing Tax Credit (Housing Credit) and New Markets Tax Credit (NMTC) provide incentives for private investors to make significant equity investments in affordable housing and community development. The Housing Credit has financed nearly 3 million apartments since 1986, providing affordable housing to roughly 6.5 million low-income households. The Housing Credit and NMTC provide important opportunities for financing affordable housing near transit and in transit-rich neighborhoods, which can support achieving eTOD. Between 2008 and 2013, the share of state agencies that adopted explicit standalone points for transit access and proximity in their Qualified Allocation Plans (QAPs) rose by 19 percent to 40 percent. These state agencies award points to housing developments that are located near transit, with the goal of encouraging the use of Low-Income Housing Tax Credits to preserve and/or develop affordable housing near transit.⁴

HUD's Section 8 Housing Choice Voucher and project-based rental assistance programs provide assistance to low-income households. Housing Choice Vouchers allow households to use rental assistance in any rental property that will accept it, and the project-based program provides rental assistance to private property owners to provide lower-cost housing at their housing developments. These programs could be used to counteract displacement risk in appreciating neighborhoods, if used intentionally for that purpose.

1 Andrew Hanson. (2012). *Size of Home, Homeownership, and the Mortgage Interest Deduction*. *Journal of Housing Economics*, 21(3). doi:195–210.

2 Christopher Jones and Sarah Serpas. *The Unintended Consequences of Housing Finance*. New York: Regional Plan Association, 2016. <http://library.rpa.org/pdf/RPA-The-Unintended-Consequences-of-Housing-Finance.pdf>.

3 Moses Gates, "New Options for Mixed-Use Housing," *RPA Lab* (blog). February 28, 2017, <http://lab.rpa.org/new-mixed-use-housing-finance-options/>.

4 Todd Nedwick and Kimberly Burnett. *How Can the Low-Income Housing Tax Credit Program Most Effectively be Used to Provide Affordable Rental Housing Near Transit?* Washington, DC: National Housing Trust, 2014. <http://www.prezcat.org/sites/default/files/How%20Can%20the%20LIHTC%20Program%20Most%20Effectively%20be%20Used%20to%20Provide%20Affordable%20Rental%20Housing%20near%20Transit.pdf>.

The federal policy landscape has changed substantially since the mid-20th century. Blatant discriminatory policies have been outlawed, but their legacy continues to influence both households and neighborhoods. Certain aspects of the federal policy landscape still push against the conditions that facilitate eTOD, and auto-centric infrastructure is still generally the path of least resistance. However, there has been significant, if sporadic, progress in enacting policy change.

The U.S. Department of Housing and Urban Development (HUD) administered Community Challenge Planning Grants⁴ as part of its Sustainable Communities initiative between 2011 and 2015, with the goal of reducing barriers to affordable housing and transit-oriented development. HUD also incorporated principles with an eTOD nexus into its Choice Neighborhoods grant program.

Furthermore, the Affirmatively Furthering Fair Housing rule (AFFH), released in 2015, requires local communities that receive HUD funding to examine their local fair housing landscape and identify and address legacy patterns of segregation and discrimination by conducting an Assessment of Fair Housing (AFH). In January 2018, HUD announced that it will delay the deadline for local governments to submit an AFH until 2020 at the earliest. However, it is important to highlight that the suspended AFH requirement promotes providing lower-income households with access to affordable housing in transit-rich, high-opportunity neighborhoods, which can support accomplishing eTOD in markets with high demand for TOD.

In addition, in recent years the FTA has adopted significant policy changes and introduced new programs that support a more sustainable, compact, transit-supportive development pattern. Current FTA policies and programs can play a significant role in promoting eTOD, including but not limited to the FTA's Capital Investment Grant program and TOD Pilot Planning Grants. In addition, the FTA guidance on Joint Development allows for the utilization of FTA-funded publicly owned parcels for eTOD.

Creating e-TOD requires effective coordination between housing and transportation policies and funding sources. However, navigating the nuances of transportation policy can add to the challenges housing practitioners face in planning for and implementing eTOD. This report will provide an overview of the following key leverage points in federal transportation policy:

- **Prioritization and planning**
- **Funding**
- **Utilizing publicly owned parcels**

For a brief overview of the application of housing programs in the eTOD context, see page 4.

⁴ "Regional Planning Grants and the SCI," SCI: Sustainable Communities Initiative, HUD Exchange, accessed August 21, 2017, <https://www.hudexchange.info/programs/sci/>.

The framework for federal transportation is set through the surface transportation authorization act and the associated regulations promulgated by the U.S. Department of Transportation (U.S. DOT). In December 2015, President Obama signed into law the Fixing America's Surface Transportation (FAST) Act, which reauthorized federal transportation spending totaling more than \$300 billion over five years.⁵ These funds are distributed by the U.S. DOT to states, regional metropolitan planning organizations (MPOs), municipalities, and other transportation-sector stakeholders through a combination of formula-determined block grants, competitive grant allocations and credit-support programs.

PRIORITIZATION AND PLANNING

In accepting federal transportation funds, grantees commit to a federally mandated planning process. Under the FAST Act, states and MPOs are required to develop transportation plans and transportation improvement programs through a continuing, comprehensive and cooperative (3-C) planning process to be eligible for federal transportation funding. In addition, the FAST Act requires states to cooperate with the MPOs in the metropolitan areas (or local elected officials who have the responsibility for transportation in nonmetropolitan areas) in developing transportation plans.⁶

This planning process is critically important. Many transportation funding programs are flexible, giving the recipient the choice of spending it on roads or transit. However, planners have a significant amount of discretion about how transportation funds will be used, even in the context of funding incentives and disparities. This process also decides much of the geographic allocation of resources: Are funds supporting multi-modal street improvements in the urban core, autocentric mixed-use arterials, or high-speed ring highways? Do buses circulate between the central business district and close-in neighborhoods, or do they provide rush hour commuter services to the suburbs?

While perhaps overly simplistic, these hypotheticals illustrate the type of choices and trade-offs that transportation planners make. These planners also have some degree of influence over the integration of transportation and land use planning, though the latter decisions are primarily made at the local level. Finally, planning processes vary in the degree that they are inclusive and representative of a diverse range of perspectives, which can have a substantial impact on equity.

⁵ Michael A. Spotts and Kenny Marable, "New Transportation Bill: A Few Silver Linings to a Missed Opportunity," *Enterprise Community Partners* (blog), December 8, 2015, <https://www.enterprisecommunity.org/blog/2015/12/new-transportation-bill-few-silver-linings-missed-opportunity>.

⁶ "Statewide and Nonmetropolitan Transportation Planning; Metropolitan Transportation Planning," Rulemaking Documents, Federal Transit Administration, accessed February 23, 2017, <https://www.transit.dot.gov/regulations-guidance/rulemaking/2016-11964>.

Creating successful eTOD requires a comprehensive planning process that goes beyond planning for transportation and public infrastructure. In order to accomplish successful eTOD, planners must pay attention to smaller scale strategies, including but not limited to facilitating safe, walkable environments for pedestrians; integrating development with the urban fabric; designing adequate density and appropriate mixture of uses; establishing feasible affordability levels; and promoting multi-modal transportation networks that serve various demographics and geographic areas.⁷

While there has been considerable attention paid by planners to development along light rail corridors, it is essential to pay adequate attention to planning for eTOD near and around other modes of transportation as well, such as bus rapid transit (BRT) and express bus routes, to ensure that eTOD serves all transit users. For example, buses remain the primary mode of transportation for many, especially lower- and moderate-income households. According to data by the American Public Transportation Association (APTA), 47.5 percent of all passenger trips taken across all transit modes were taken by bus during the fourth quarter of 2016, compared to 5.3 percent for passenger trips taken by light rail.⁸ The data suggest that improving bus service and catalyzing development near and around bus rapid transit (BRT) and express bus routes and stations can provide an important opportunity for facilitating eTOD at scale.

In recent years, the FTA and the Federal Highway Administration (FHWA) have made incremental progress in supporting a more inclusive and outcome-oriented metropolitan planning process. In May 2016, FHWA and FTA jointly issued a final rule⁹ updating the regulations governing long-range statewide transportation plans and programs, the development of metropolitan transportation plans and programs for urbanized areas and the congestion management process.¹⁰

The final rule includes a structural change to the membership of the larger MPOs, establishing that the policy board of an MPO that serves a transportation management area – an urbanized area with a population over 200,000 – must include at least one official who is formally designated to represent the collective interests of the operators of public transportation, granting these officials equal decision-making rights and authorities as other officials on the policy board.

7 “Mariia Zimmerman, “In Successful TOD, It’s the Little Things That Count,” *MZ Strategies* (blog). March 4, 2013, <http://mzstrategies.com/blog/in-successful-tod-its-the-little-things-that-count>.

8 American Public Transportation Association. *Ridership Report*. Washington, DC: American Public Transportation Association, 2017. Accessed October 2, 2017, <http://www.apta.com/resources/statistics/Pages/ridershipreport.aspx>.

9 “Statewide and Nonmetropolitan Transportation Planning; Metropolitan Transportation Planning,” Rulemaking Documents, Federal Transit Administration, accessed February 23, 2017, <https://www.transit.dot.gov/regulations-guidance/rulemaking/2016-11964>.

10 Throughout the FHWA and FTA rulemaking process, Enterprise submitted detailed comments and feedback on supporting the strong and inclusive metropolitan planning process that is crucial to promoting long-term sustainability, vitality and opportunity in regions across the country: <http://www.enterprisecommunity.org/resources/comments-federal-highway-administration-fhwa-19327>. The final rule reflects many of these comments, including creating a more inclusive and representative metropolitan, nonmetropolitan and statewide transportation planning process and increasing accountability in the federal transportation program by linking spending decisions to performance measures that promote sustainable and equitable development.

This requirement is a step in the right direction. It aims to create a more inclusive metropolitan transportation planning processes by ensuring that public transportation has a voice at the MPO level. The inclusion of representatives of public transportation operators allows them to advocate for prioritizing and allocating sufficient funds to public transit projects in the MPO planning process, which is essential for supporting eTOD. However, the rule does not address issues of representation in regions that have several major providers of public transportation with different system needs. The rule also does not offer denser urban areas proportional representation reflective of their population and economic activity levels. Furthermore, the rule does not mandate the consideration of housing and community development in the MPO transportation planning process.

While the FAST Act encourages MPOs to consult with officials responsible for other types of planning activities, such as housing and public health, the rule does not require MPO policy boards to conduct outreach to affordable housing and community development stakeholders in the planning process, and neither encourages MPOs to include representatives of these sectors on their policy boards. However, it is important to highlight that several MPOs voluntarily involve housing stakeholders in the metropolitan planning process.

For example, the Metropolitan Transportation Commission (MTC), the transportation planning, financing and coordinating agency for the nine-county San Francisco Bay Area, convened the CASA committee in July 2017 with the goal of building a political consensus around increasing affordable housing production, preserving existing affordable housing and protecting vulnerable populations from housing instability and displacement across the region. The CASA Committee is structured around a steering committee and technical committee composed of leaders from the region's private, philanthropic, governmental and nonprofit sectors, including market-rate and affordable housing developers. The committee is expected to release a set of legislative, financial, policy and regulatory recommendations in 2018, and these recommendations will guide the formation of a regional housing implementation strategy.¹¹

The final rule also allows states to have a higher level of involvement with nonmetropolitan local officials by providing a process for the optional creation of regional transportation planning organizations. In addition, the final rule includes a mandate for states and MPOs to adopt a performance-based approach in planning and programming, allowing (though not requiring) them to adopt performance measures that are mode-neutral and support more efficient and equitable development patterns. Under the new performance-based approach, states, MPOs, and operators of public transportation are required to cooperate in establishing targets in key national performance areas, such as safety, environmental sustainability, infrastructure condition, congestion and system reliability, with the goal of documenting expectations for future performance.

¹¹ "About," Plans + Projects, Metropolitan Transportation Commission, accessed November 30, 2017, <https://mtc.ca.gov/our-work/plans-projects/casa-committee-house-bay-area/about>.



Many agencies have adopted the use of data and performance-based planning in transportation planning. For example, the Washington State Puget Sound Regional Council has adopted regional outcomes, such as improving health by providing physical activity options and enhancing access to opportunity for populations in need, to evaluate proposed transportation projects and plans.¹² In addition, the final rule provides new framework for voluntary scenario planning that can be used by MPOs during the development phase to inform decision-makers about the implications of various investments and policies on transportation system conditions and performance.

¹² “Regional Outcomes,” Our Work, Puget Sound Regional Council, <https://www.psrc.org/our-work/regional-planning/transportation-2040/regional-outcomes>.

Federal Transportation Programs that can Boost TOD

The Transportation Infrastructure Financing and Innovation Act (TIFIA) program provides credit assistance in the form of direct low-interest loans, loan guarantees and standby lines of credit to public and private entities seeking to finance, design, construct, own or operate an eligible surface transportation project that is included in the applicable State Transportation Improvement Program (STIP). This includes transit-oriented developments, with the goal of leveraging limited federal resources and stimulating capital market investment in transportation infrastructure.

("Overview," Build America Bureau, U.S. Department of Transportation, last updated April 14, 2017, <https://www.transportation.gov/buildamerica/programs-services/tifia/overview>.)

The Railroad Rehabilitation and Improvement Financing (RRIF) program provides direct federal loans (for up to 100 percent of the project cost) and loan guarantees to finance the development of railroad infrastructure. Eligible projects include acquiring, improving or rehabilitating intermodal or rail facilities that include commercial and residential development.

("Railroad Rehabilitation and Improvement Financing (RRIF) Program Fact Sheet," Federal Railroad Administration, U.S. Department of Transportation, accessed October 25, 2017, <https://www.fra.dot.gov/elib/Details/L04476>.)

The Capital Investment Grants program is FTA's primary grant program for funding major transit capital investments, including heavy rail, commuter rail, light rail, streetcars and bus rapid transit. It is a highly competitive, discretionary grant program that requires projects seeking funding to complete a series of steps over several years to be eligible for funding, and to be rated by FTA at various points in the process according to statutory criteria evaluating project justification and local financial commitment.

("New Starts, Small Starts and Core Capacity Improvements," Capital Investment Grants Program, Federal Transit Administration, <https://www.transit.dot.gov/funding/grant-programs/capital-investments/capital-investment-grants-program>.)

FUNDING

Accomplishing eTOD requires effective transit. The simple availability of federal funding resources influences the type of transportation infrastructure that is built. While state, regional and local transportation entities are not precluded from financing and building transportation infrastructure without federal support, federal funding and incentives create a "path of least resistance" that can either encourage eTOD or make it more difficult. Often, the latter is the case.

Federal transportation policies generally prioritize spending on highway projects. The federal government provides significantly more resources to highways than it does for transit. For example, between 2005 and 2014, total federal spending for highways was approximately \$492.59 billion (in 2014 dollars), compared to \$126.20 billion for mass transit.¹³ In addition to receiving fewer federal resources, transit projects and investments generally face a higher matching (cost sharing) requirement, necessitating larger state and local contributions. The federal share for a highway project is typically 80 percent, matched by 20 percent state and local funding; however, the federal share for a transit project is often around 50 percent. Furthermore, since 2002, the U.S. DOT annual appropriations have included a provision directing the FTA not to sign funding grant agreements that provide transit capital projects with a federal share of more than 60 percent, favoring applications that request less than the maximum federal share.¹⁴

However, in recent years, the federal government has adopted significant policy changes that go beyond building the baseline infrastructure and actively support eTOD. First, the FAST ACT includes provisions that can boost transit-oriented development, expanding two financing programs administered by the U.S. DOT. The FAST Act expanded the Transportation Infrastructure Financing and Innovation Act (TIFIA) program,

¹³ Congressional Budget Office, *Public Spending on Transportation and Water Infrastructure, 1956 to 2014*, Washington, DC: Congressional Budget Office, 2015. <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/49910-infrastructure.pdf>.

¹⁴ Transportation for America. *Transportation 101: An Introduction to Federal Transportation Policy*. Washington, DC: Transportation for America, 2011. <http://t4america.org/maps-tools/transportation101/>.

which provides credit assistance for large-scale, surface transportation projects, to include TOD-supportive infrastructure projects located within walking distance of, and accessible to, transit facilities, such as passenger rail stations and intercity bus stations.

The TIFIA program provides an opportunity to finance TOD-supportive infrastructure projects, such as property acquisition, site preparation and construction, renovation and improvement of intercity bus and intercity rail stations¹⁵; however, applicants seeking funding for smaller TOD projects often face challenges in applying to this program. To start, TIFIA requires a capital cost of at least \$10 million for TOD, which makes smaller TOD projects ineligible for TIFIA funding. Furthermore, the program's credit assistance and loans are capped at 33 and 49 percent, respectively, of the total eligible project costs.¹⁶ Finally, recipients are required to cover costly application review and legal fees, which are conducted by external legal counsel and financial advisors, and those fees typically range between \$400,000 - 700,000.¹⁷

In addition to expanding the TIFIA program, the FAST Act expanded the Railroad Rehabilitation and Improvement Financing (RRIF) program, which provides direct loans and loan guarantees used to finance development of railroad infrastructure, to now allow the use of these loans to finance commercial and residential development near passenger rail and multimodal stations.¹⁸ The RRIF program provides an opportunity to finance up to 75 percent of the total cost of TOD projects that are located near, or are functionally related to, a passenger rail or multimodal station. However, the TOD provision of the RRIF program, unless renewed, will sunset in December 2019, and the provision of low-interest loans to TOD projects near passenger rail and multimodal stations will be discontinued.¹⁹

Second, the FTA revised the rating system for its Major Capital Investment Projects program (also commonly known as New Starts) in 2013²⁰ and again in 2015, to measure a wider range of outcomes, including the extent to which affordable housing is preserved or created within new station areas. The FTA uses a five-level rating system (low, medium-low, medium, medium-high,

15 Kira Hibbert, "FAST Act Contains New Ways to Finance Transit-Oriented Development," Smart Growth America, December 7, 2015, <https://smartgrowthamerica.org/fast-act-contains-new-ways-to-finance-transit-oriented-development/>.

16 "Transportation Infrastructure Finance and Innovation Act (TIFIA)," Fact Sheets, Federal Highway Administration, U.S. Department of Transportation, accessed October 25, 2017, <https://www.fhwa.dot.gov/fastact/factsheets/tifiafs.cfm>.

17 "Chapter 4: Application Process," TIFIA, Policy Initiatives, U.S. Department of Transportation, last modified March 31, 2017, <https://www.transportation.gov/tifia/chapter-4-application-process>.

18 Kira Hibbert, "FAST Act Contains New Ways to Finance Transit-Oriented Development," Smart Growth America, December 7, 2015, <https://smartgrowthamerica.org/fast-act-contains-new-ways-to-finance-transit-oriented-development/>.

19 Christopher Coes, "FAST ACT: New Financing Opportunities for Walkable Communities and TOD" (presentation, LOCUS National Leadership Summit, Boston, MA, June 13-15, 2016).

20 Michael A. Spotts. *New Starts: Leveraging the New Transit Policy Guidance to Create Inclusive Communities of Opportunity*. Washington, DC: Enterprise Community Partners, 2013. <https://www.enterprisecommunity.org/resources/new-starts-leveraging-new-transit-policy-guidance-create-inclusive-communities>.



high) for its analysis of proposed projects, and a project sponsor's overall rating is derived from separate, equally weighted assessments of the Project Justification and Local Financial Commitment criteria.

Applicants must score a medium on both the Project Justification and Local Financial Commitment criteria to be considered for Capital Investment Grant program funding. All affordable housing-related project elements are covered under the Project Justification criterion, which is further broken down into six rating factors, all equally weighted:

- **Congestion Relief**
- **Cost Effectiveness**
- **Economic Development Effects**
- **Environmental Benefits**
- **Land Use**
- **Mobility Improvements**

The revised evaluation rating system includes incentives to expand transit access to low-income communities, as well as preserve existing affordable housing and develop additional affordable units near new stations. In addition, the revised evaluation rating system includes incentives for grantees to work with both local policymakers and housing stakeholders to coordinate plans, policies, tools and investments. Under the revised evaluation and rating system, the FTA assesses a proposal's

impact on low- and moderate-income families in several ways. The FTA analyzes the degree to which the proposed project will reach existing lower income and transit dependent populations:

- As part of the Land Use rating factor, the FTA assesses the proportion of existing “legally binding affordability restricted” housing within ½-mile of proposed station areas to the proportion of “legally binding affordability restricted” housing in the counties through which the project will travel.
- The Mobility Improvements rating factor assesses the number of incremental trips taken on the proposed project, and assigns additional weight to “transit-dependent persons.”

The FTA also assesses the neighborhood change that often accompanies transit investments.

- As part of the Economic Development Effects rating factor, the FTA assesses the “plans and policies to maintain or increase affordable housing” in the project corridor. The FTA also considers the level of developer activity in the corridor, as well as the extent to which the project sponsor has coordinated with local policymakers, housing agencies, and the development community to:
 - Evaluate corridor-specific housing needs and the existing affordable housing stock.
 - Adopt plans, policies and financial tools designed to both preserve the existing affordable housing stock and develop new affordable units.
 - Promote activities that support long-term affordability and address the needs of very- and extremely-low-income households.

In addition, the Economic Development Effects assessment of “tools to implement transit-supportive plans and policies” encourages project sponsors to establish and implement a joint development program, which provides an opportunity for transit agencies to establish policies and enter into partnerships that promote affordable housing and community development on FTA-funded property.

Furthermore, the FTA removed a barrier to incorporating project elements related to sustainability and affordable housing. Previously, the Cost Effectiveness rating factor assessed the total project costs against a measure of mobility benefits provided by the project. By this standard, any project element that added cost but did not directly and measurably increase the number and length of trips on the new project reduced its competitiveness. The revised rating system provides a list of enrichments, which are elements above and beyond those needed to deliver the mobility benefits of the project, excluding at least a portion of the cost of enrichments from the cost effectiveness

calculation, and thus removing the disincentive to incorporate such elements. The list of enrichments includes sustainability-related project features, such as energy-efficiency measures, as well as the incremental costs of joint development.

It is important to highlight that the Capital Investment Grant program was the first federal transportation program to explicitly address affordable housing, marking a crucial first step in preventing or mitigating additional cost burden and displacement of low- and moderate-income families as property values rise near transit. Furthermore, the revised rating system for the program has successfully incentivized applicants to work with housing stakeholders to coordinate plans, policies and investments. One example is the corridor housing strategy for the Twin Cities' Southwest Light Rail Transit (LRT) project,²¹ a proposed Capital Investment Grant project that would extend the METRO Green Line from downtown Minneapolis to the suburbs of Hennepin County.

In January 2016, the housing workgroup for Southwest LRT Community Works, which includes staff from all six corridor cities, Hennepin County, Family Housing Fund, Minnesota Housing and the Metropolitan Council, released the housing strategy with the goal of creating a plan to support and encourage a full range of housing choices in METRO Green Line Extension station areas. The housing strategy, which includes an inventory of existing housing options in the corridor and a housing gap analysis that examines each station area and suggested development scenarios, enabled the Southwest LRT project to receive a "high" ranking based on coordination and planning efforts around affordable housing in the latest FTA rating that occurred in November 2016.

Finally, the FTA has undertaken efforts to break down the silos between eligible uses of transportation and housing funding sources, with the goal of providing the necessary resources to plan both transit projects and development in the surrounding communities. FTA's Pilot Program for TOD Planning,²² which was established in 2011, provides funding to potential and recent recipients of the Capital Investment Grant program to plan for supportive development along the proposed transit corridor, including examining ways to foster multimodal connectivity and accessibility, support affordable housing, address residential and commercial displacement and enable mixed-use development near transit stations. The FTA awarded \$19.5 million to 21 project sponsors in 2015 and \$14.7 million to 16 project sponsors in 2016 in TOD planning grants. While

21 Hennepin County Southwest LTR Community Works. *Corridor Housing Strategy: A Plan to Support and Encourage a Full Range of Housing Choices in METRO Green Line Extension Station Areas*. Minneapolis, MN: Hennepin County Southwest LTR Community Works, 2016.
<https://www.swlrtccommunityworks.org/-/media/SW-Corridor/Document-Archive/housing/sw-corridor-housing-strategy-final-draft.pdf>.

22 "Pilot Program for Transit-Oriented Development Planning - 5309," Transit Oriented Development, Federal Transit Administration, last modified November 10, 2015,
<https://www.transit.dot.gov/TODPilot>.

the program offers an opportunity to fund efforts to integrate land use and transportation along transit corridors, it is limited in scope and only provides funding to potential and recent recipients of the Capital Investment Grant program.

The TOD Pilot Planning Program does not require applicants to conduct housing studies and analyze the potential impacts of TOD projects on housing affordability; however, it does allow applicants – who are generally transportation entities that often do not have dedicated resources for housing or land use authorities that are necessary for eTOD – to form cross-sector partnerships, providing an opportunity to bridge the gap between the transportation and housing sectors. For example, in 2016, the FTA awarded Metro, the metropolitan planning organization for the Oregon portion of the Portland metro area, \$895,000 to create an equitable economic development and housing strategy for the Southwest Corridor, where a proposed MAX light rail line could connect downtown Portland to the nearby cities of Tigard and Tualatin.

The planning effort includes identifying housing, workforce and economic development needs in the growing area, and developing strategies that improve access to economic and educational opportunity along the proposed light rail line and related transportation investments.²³ Similarly, the FTA has awarded the city and county of Denver and the Regional Transportation District (RTD) \$1.35 million to fund planning for TOD along the East Colfax Avenue corridor, including conducting displacement risk assessment and affordable housing preservation and development opportunity analysis.²⁴

In addition to providing financial resources for TOD planning, the FTA has established the Transit-Oriented Development Technical Assistance Initiative,²⁵ which supports TOD projects and policies in communities by providing resources and support through online and on-site assistance. The FTA, in partnership with Smart Growth America, offers technical assistance opportunities to communities, including planning and analysis tools, a comprehensive online database of TOD information and a peer-to-peer information exchange. Communities may also apply, through a comprehensive selection process, for on-site assistance that can help them plan for TOD, including managing economic growth and preserving affordable housing near transit. In 2016, FTA provided technical assistance to nine communities across the country, and five were selected to receive assistance in 2017.

23 “Metro Receives \$895K Grant to Expand Jobs and Housing Opportunity in Southwest Corridor,” Metro News, Metro Council, October 11, 2016, <http://www.oregonmetro.gov/news/metro-receives-895k-grant-expand-jobs-and-housing-opportunity-southwest-corridor>.

24 Denver Mayor’s Office, “Denver Awarded \$1.3 Million for Colfax Corridor Connections,” (Press Release, October 6, 2016). <https://www.denvergov.org/content/denvergov/en/mayors-office/newsroom/2016/denver-awarded--1-3-million-for-colfax-corridor-connections.html>.

25 “Transit-Oriented Development Technical Assistance,” Transit Oriented Development, Funding, Federal Transit Administration, last modified September 14, 2017, <https://www.transit.dot.gov/funding/funding-finance-resources/transit-oriented-development/transit-oriented-development-0>.

While federal funding is critical for creating eTOD, it is important to acknowledge the importance of state and local funding for eTOD planning and construction. First, states and local governments provide substantial funding to public transportation projects and operations. For example, total state and local spending on mass transit was approximately \$607 billion (in 2014 dollars) between 2005 and 2014. Second, the local match requirement for any federally funded transit project is often around 50 percent, which requires substantial state and local contributions to transit investments. Finally, state and local governments have several tools at their disposal to financially support eTOD, including adopting bills that allow for raising funds and providing incentives for eTOD. For example, Minnesota's Livable Communities Act permits the Twin Cities Metropolitan Council Livable Communities Program to raise property tax revenue to fund eTOD-supportive grants for the creation of publicly accessible infrastructure, site remediation and other activities related to affordable housing.²⁶ Furthermore, Measure JJJ, which was passed by Los Angeles voters in November 2016, allows for the provision of incentives, such as reduced parking requirements and additional building height, to developers of TOD near transit stops, in return for creating affordable housing units in their developments.²⁷

²⁶ "Livable Communities Grants," Communities, Metropolitan Council, accessed October 20, 2017, <https://metro council.org/Communities/Services/Livable-Communities-Grants.aspx>.

²⁷ Elijah Chiland, "LA Has New Incentives to Encourage Affordable Housing near Transit," Curbed LA, March 14, 2017, <https://la.curbed.com/2017/3/14/14928306/los-angeles-incentives-affordable-housing-transit-jjj>.

UTILIZING PUBLICLY OWNED PARCELS

The most direct way for public agencies to support eTOD is to make publicly owned parcels around and near transit available for affordable and mixed-income housing development. Transit agencies are particularly well-placed to utilize publicly owned parcels for eTOD.²⁸ By definition, most of their sites include a core component for advancing opportunity through expanding access to multi-modal transportation. In addition, many have significant amounts of legacy properties available for development, including vacant parcels, under-utilized park-and-ride lots and air rights above transit stations. They may also be preparing for site acquisition associated with new transit development. However, when these properties have been purchased in full or in part with FTA funds, it triggers numerous regulatory requirements that protect the federal interest²⁹ in the property. In addition, state and local restrictions governing the use and sale of publicly owned properties may also apply. In general, the most restrictive of the FTA, state and local rules apply as it pertains to regulations regarding sale or lease terms.

FTA grantees have several paths for disposing of or developing property with a federal interest. The most appropriate path depends on the regulatory conditions that apply to the property, and the agency's priorities for a given development. Here are three particularly relevant considerations, in no particular order:

- Agencies must decide whether they prefer to sell or lease the site.
- Agencies must decide whether to seek maximum revenue from the sale or lease of the site, or to provide property at discounted prices to facilitate affordable housing or other community benefits.
- Agencies preparing for site acquisition associated with new transit development must decide whether they intend to acquire property of sufficient size to maximize real estate development opportunities, or just the minimum required for transit facility construction and operation.

²⁸ Michael A. Spotts, Ahmad Abu-Khalaf, and Genevieve Hale-Case. *Public Benefit from Publicly Owned Parcels: Effective Practices in Affordable Housing Development*. Washington, DC: Enterprise Community Partners, 2017. <https://www.enterprisecommunity.org/resources/public-benefit-publicly-owned-parcels-19782>.

²⁹ The federal interest in a property applies proportionally, i.e., if the land was purchased as part of a build out of a new corridor, and 20 percent of the project was funded by federal dollars, the applicable federal interest for any land purchased as part of that project would be 20 percent.

Public Benefit from Publicly Owned Parcels

Public agencies can derive significant benefits from redeveloping the vacant and/or underutilized sites under their control. Vacant sites have direct costs (basic upkeep and security), as well as significant opportunity costs in the form of foregone property taxes and the potential harms that vacancy can create for a community. In a constrained financial environment, publicly owned parcels represent a rare opportunity to provide a range of benefits to both public agencies and broader communities. In strong markets, creative use of public sites can expand opportunities for affordability in an environment in which mission-driven developers struggle to compete for sites against better-funded market-rate developers, increasing low- and middle-income households' access to high-opportunity neighborhoods. In struggling markets or neighborhoods, publicly owned parcels offer an important opportunity to catalyze development and seed revitalization activities.

Publicly owned parcel development can take many forms and is impacted by a range of factors, including but not limited to:

- Federal, state and/or local regulations governing the use and disposition of public sites
- Site characteristics such as size, shape and topography
- Existing infrastructure (or the lack thereof)
- Current zoning and use restrictions, and the likelihood of potential changes to code
- The use, form and scale of the surrounding parcels and neighborhood

These and other factors influence the development possibilities on a given site, the range of potential community benefits and the approach taken by the public agency.

While publicly owned parcels are assets for creating affordable housing and other community benefits, there are significant challenges associated with the planning, solicitation and development process. Developers working on public sites generally must overcome the same challenges that are inherent in multifamily, mixed-use and/or affordable housing development, which can add time, cost and complexity to the development process. These challenges for publicly owned parcels are often exacerbated by the real and perceived differences between the goals and strategies of the public and private sector.

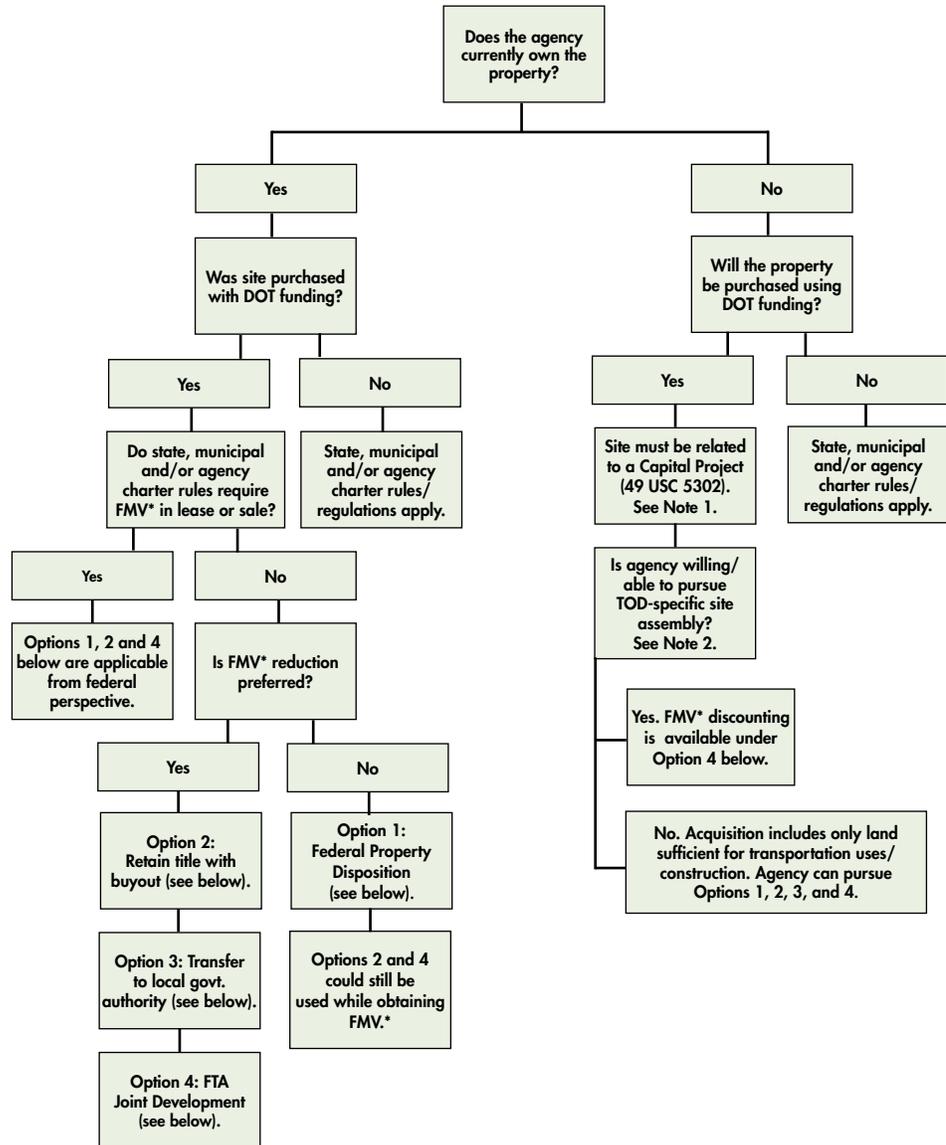
In June 2017, Enterprise released a report, *Public Benefit from Publicly Owned Parcels: Effective Practices in Affordable Housing Development*, identifying leading practices and recommendations for overcoming challenges to the creation of affordable housing and other community benefits through the publicly owned parcel development process. The leading practices and recommendations include:

- Adopting general policies that balance agency goals, community benefits and efficient real estate development practices.
- Streamlining the process for developing, responding to and evaluating solicitations for publicly owned parcels.
- Supporting efficient inter-jurisdictional and cross-sectoral collaboration.
- Facilitating a robust yet efficient community outreach and engagement process.
- Aligning affordable housing resources with the solicitation process.

For more information on the effective utilization of publicly owned parcels, read the full report (http://bit.ly/Publicly_Owned_Parcels).

The following chart provides detailed information regarding the choices that transit agencies can undertake when determining the most efficient path for the utilization of transit agency-owned property with FTA interest, including information on the federal regulatory provisions³⁰ related to site acquisition and sales/lease terms that would apply in different contexts.

Options for Utilizing Transit Agency-Owned Property with FTA Interest



* Fair Market Value (FMV) is the amount for which property would sell on the open market if put up for sale in the ordinary course of business. Source: <https://definitions.uslegal.com/f/fair-market-value/>

30 Other state and/or local regulatory provisions may apply.

If the specific parcel will be acquired by a public agency using FTA and/or DOT funding, the purchase of the parcel must be related to a Capital Project, as defined under 49 USC 5302.³¹ FTA/DOT funding can be utilized for the acquisition of the site that will eventually host a public transportation facility, as well as the land necessary to facilitate construction (including temporary uses) and continued transportation operations.

Public agencies can acquire additional land that meets FTA requirements to support eTOD, as the FTA definition of Capital Project explicitly includes Joint Development, allowing FTA/DOT funds to be used for site acquisition for this purpose. One type of Joint Development is real estate development that meets a number of standards, including “Provid(ing) a public transportation benefit by either: (a) enhancing the effectiveness of a public transportation project and relating physically or functionally to the public transportation project, or (b) establishing new or enhanced coordination between public transportation and other transportation.”

For example, a mixed-use development that attracts users of and brings additional ridership to the transit network would meet this standard. This means that sites can be acquired for the Joint Development itself, not just for the actual public transportation facility. If the agency chooses this approach and complies with all statutory and regulatory provisions, it has the option of purchasing additional land beyond what is necessary for constructing the actual transportation project. For example, if the land necessary for staging construction is insufficiently large to support transportation-supportive real estate development, the agency may acquire an adjacent parcel as long as the resulting development qualifies as a Joint Development.³²

Furthermore, when applying for funding under the FTA’s Capital Investment Grant program (49 USC 5309),³³ such activities could qualify as “enrichments,” and the incremental cost associated with the Joint Development would not be counted against the applicant’s rating of “Cost Effectiveness.”³⁴ See pages 13-14 of the report.

31 Definitions, 49 U.S. Code § 5302.

32 For more information, please refer to Federal Transit Administration Guidance on Joint Development – FTYA Circular 7050.1A

33 Fixed guideway capital investment grants, 49 U.S. Code § 5309. Office of Planning & Environment, *Capital Investment Program Regulations & Guidance*, Washington, DC: Federal Transit Administration, 2016.

34 Michael A. Spotts. *New Starts: Leveraging the New Transit Policy Guidance to Create Inclusive Communities of Opportunity*. Washington, DC: Enterprise Community Partners, 2013. <http://www.enterprisecommunity.org/resources/new-starts-leveraging-new-transit-policy-guidance-create-inclusive-communities>.

The simplest means of utilizing transit agency-owned land with federal interest for development is **property disposition**. If a property is deemed to be surplus (in this context, does not support an ongoing transportation purpose), it must be sold through the property disposition process, which requires the receipt of fair market value (FMV). However, lease structures are not an option under this approach. The transit agency liquidates the federal interest by remitting payment to the FTA and the balance of the proceeds is retained by the transit agency. At this point, FTA restrictions no longer apply to the property.³⁵

Property disposition can provide more flexibility in the development process by eliminating the FTA restrictions that apply to the property. However, it can create barriers to eTOD, especially in hot markets, as it requires the receipt of the FMV and does not allow for lease structures. Furthermore, when a transit agency follows this option, it cannot dictate the desired development outcome or require developing eTOD on the disposed land.

Another option is **retaining title with buyout**. This option is similar to property disposition but without requiring the outright sale of property at the FMV. The transit agency liquidates the federal interest by remitting payment to the FTA using its own assets. The federal interest would likely need to be based on a current assessment of the FMV. At this point, FTA restrictions would no longer apply to the property, and the transit agency could negotiate agreements for development at discounted sale or lease terms in support of affordable housing.³⁶ While this option can create opportunities for accomplishing eTOD by offering property at discounted prices, it relies substantially on transit agencies' disposition policies, and if they are willing to offer the sale or lease of their property at discounted prices to support eTOD.

A third option is to **transfer the land asset to a local government authority**. A transit agency can transfer property to a local governmental authority for a public purpose at no cost and with no reimbursement to FTA. Certain terms and conditions apply under this approach, including the requirement that the overall benefit accruing to the government through the transfer must be greater than the federal interest. However, FTA regulations note that this transfer is subject to a "competitive process, and there is no guarantee that a particular agency will be awarded" the property.³⁷ This option can advance eTOD, especially when the mission of the receiving agency is

35 For more information, see FTA Circular 5010.IE: Award Management Requirements (Chapter IV) and 49U.S.C., 5334(h)(1)–(h)(3).

36 Ibid.

37 Ibid.

expanding affordable housing and access to opportunity, one example is transferring property to a housing authority or a municipality's housing department. However, there is a great amount of uncertainty under this option, as the transfer would be subject to a competitive process that generally requires lengthy negotiations between agencies.

Transit-agency-owned land does not need to be deemed surplus to be developed. Under FTA regulations, FTA-assisted joint development,³⁸ which is a collaboration between a transit agency and one or more partners to develop TOD using FTA funds or property acquired with FTA funds, is a transportation purpose that frees the agency from having to sell the property outright, but also carries additional regulations. Among other rules, such as proposing a joint development that provides a public transportation benefit and relates physically or functionally to a public transportation project, sale/lease terms and conditions must conform to FTA's "fair share of revenue" standard, which is distinct from "fair market value."

- **Fair share of revenue:** This amount is equal to the original federal investment in the property, without adjustment for inflation or increases in property value, which allows for discounting of the sale or lease costs below the FMV.
- **Exceptions to fair share of revenue rule:** The amount of revenue generated and received by the project sponsor may be lower for community service, publicly operated projects or affordable housing, which allows sale/lease costs to be based on the actual revenue generated by the project. The amount of revenue received must still be based on the amount of revenue generated by the development. For example, a supportive housing development serving formerly homeless individuals may be eligible for a deeper reduction in the fair share standard than a mixed-income development focused on moderate-income households, depending on the capital structure and cash flow of the respective properties. Project sponsors are expected to exercise due diligence in conducting baseline market analyses to determine the fair share of revenue.

³⁸ For more information on FTA Joint Development, visit the program webpage at: www.transit.dot.gov/jointdevelopment. Resources include official program guidance and other documents, as well as a recording, presentation and transcript from the agency's February 9, 2017, Joint Development webinar, which explicitly addresses the affordable housing exception to the fair share of revenue rule.



The FTA Joint Development policy provides an important opportunity for discounting property with a federal interest (acquired with FTA funding) to create eTOD, as the fair share of revenue for joint development projects that include affordable housing can be less than the amount of the original FTA investment contributed to the project. In order to go through the FTA approval process and negotiate a joint development agreement that would facilitate the creation of eTOD, project sponsors are required to conduct baseline market analysis to determine the fair share of revenue, submit a joint development project request form, a certificate of compliance and a proposed joint development agreement to the FTA regional office within the respective geographical area.

The FTA offers project sponsors an opportunity to submit their proposed joint development projects for a preliminary FTA review, which allows project sponsors who have limited experience with joint development projects to ensure that they do not commit to proposal terms that may be unacceptable to the FTA. Submitting a joint development project request form for preliminary review assists project sponsors in framing how FTA requirements may be satisfied and in identifying the explicit terms and conditions of a joint development agreement, which can expedite the formal FTA review and address challenges related to time, cost and coordination between approvals and funding timelines.

It is important to note that advancing the utilization of property with FTA interest for eTOD relies substantially on transit agencies and whether they adopt e-TOD supportive policies. For example, property in hot markets with high demand for TOD will remain out of reach for mission-driven developers, unless transit agencies consider offering further property discounts and incentives or holding land for future development to address the expected increase in land value over time.

In 2017, Enterprise released a national report titled *Public Benefit from Publicly Owned Parcels: Effective Practices in Affordable Housing Development*,³⁹ which identifies leading practices and recommendations for overcoming challenges to creating affordable housing and other community benefits through the publicly owned parcel development process. Public entities, including transit agencies, can use this report to identify leading practices for adopting policies that balance agency goals, community benefits and efficient real estate development practices, supporting efficient inter-jurisdictional and cross-sectoral collaboration, facilitating a robust yet efficient community outreach and engagement process, and aligning affordable housing resources with the publicly owned parcel development process. In addition, related publications and resources can be found on the Public Parcels for Homes website (<http://publicparcelsforhomes.org/>).

³⁹ Michael Spotts, Abu-Khalaf, and Genevieve Hale-Case. *Public Benefit from Publicly Owned Parcels: Effective Practices in Affordable Housing Development*. Washington, DC: Enterprise Community Partners, 2017. <https://www.enterprisecommunity.org/resources/public-benefit-publicly-owned-parcels-19782>.

CONCLUSION

Enterprise's Promoting Opportunity through eTOD research series, which includes *Making the Case* and *Barriers to Success and Best Practices for Implementation*, demonstrates that creating successful eTOD provides an important opportunity for achieving multiple cross-sector goals, including enhanced mobility and access, efficient municipal and transportation network operations and decreased cost of living. The planning process is critical to the success of eTOD, as it requires a comprehensive planning process that goes beyond planning for transportation and public infrastructure. Furthermore, since buses remain the primary mode of public transportation for many households across the nation, it is essential to plan and implement eTOD along quality and express bus routes and stations to make sure that eTOD serves transit users and households from all walks of life.

The availability of capital is also critical to the success of eTOD. While federal funding is an integral piece for planning and implementing eTOD, practitioners and developers cannot rely strictly on federal funding sources – state and local governments also provide substantial contributions to transit investments. Furthermore, in a constrained financial environment, the effective utilization of publicly owned parcels can provide opportunities for supporting eTOD. Transit agencies are well-placed to utilize publicly owned parcels for eTOD, as many have significant amounts of legacy properties available for development, including vacant parcels, under-utilized park-and-ride lots and air rights above transit stations.

In recent years, the FTA has adopted policies and programs that support or are more conducive to eTOD; however, further work should be done to advance eTOD planning and implementation. While the MPO transportation planning process has moved forward toward a more inclusive and performance-based process, it can be further enhanced by mandating official coordination between public transportation and affordable housing stakeholders, and allowing them to have higher and proportional representation on the policy boards of MPOs.

Finally, federal transportation policies generally prioritize spending on highway projects, requiring larger state and local contributions to transit investments. Adopting balanced transportation policies that would lower the local match requirement for transit projects and provide more federal funding for public transportation and eTOD-supportive infrastructure is a necessary step for advancing eTOD. Furthermore, the FTA programs and policies that directly support eTOD can be enhanced by expanding their funding sources, flexibility and scope. This collective action is critical for advancing eTOD.



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