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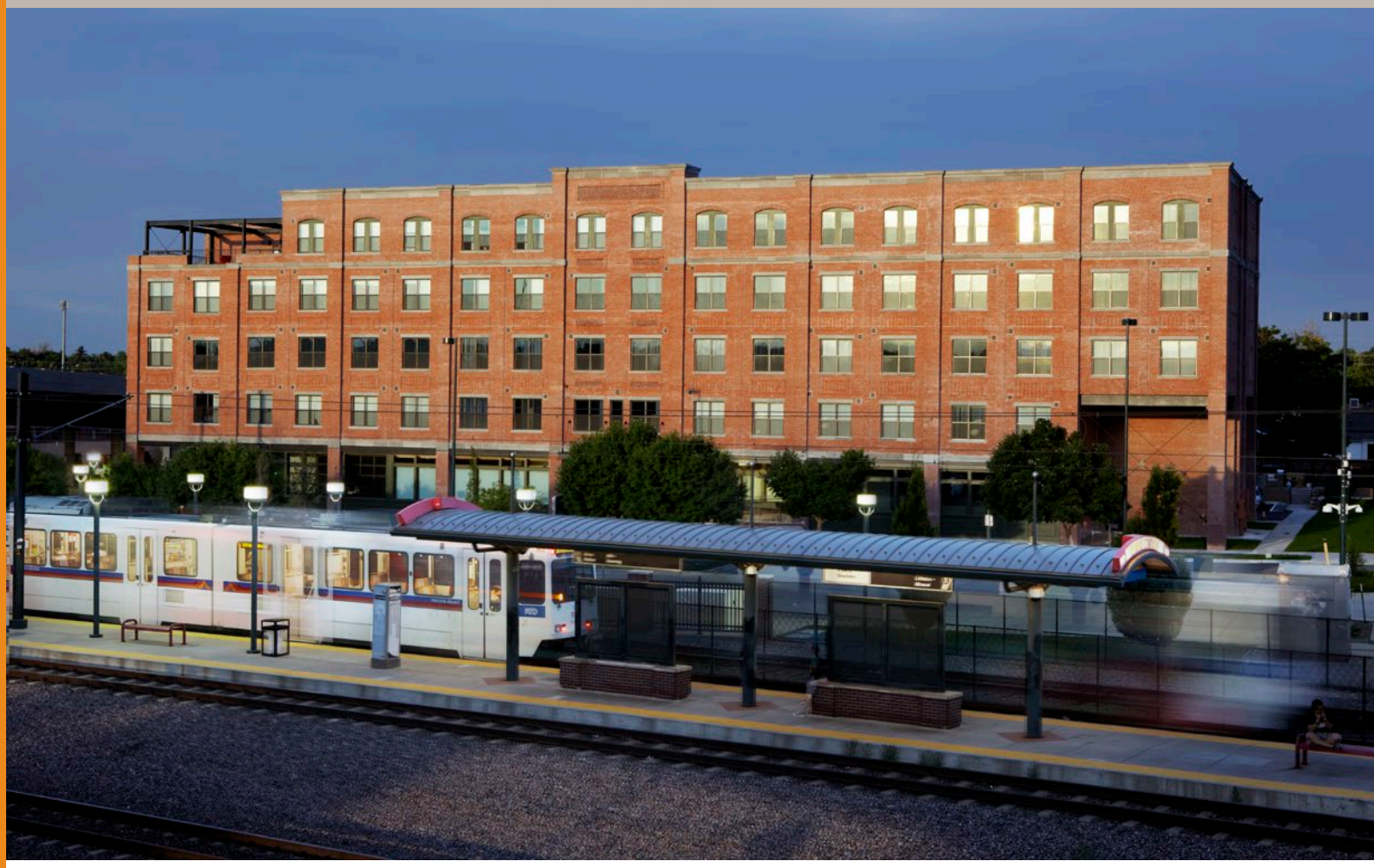
Unlocking MAP-21's Potential to Fund Equitable Transit-Oriented Development

Prepared by MZ Strategies, LLC for
Enterprise Community Partners, Inc.
and Mile High Connects



July 2013

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ABOUT MZ STRATEGIES

MZ Strategies, LLC is based in Arlington, Va. and offers consulting services to create thriving, inclusive communities through the development and evaluation of local, state or federal infrastructure and development programs, plans and policies. More information is available at www.mzstrategies.com. This paper was authored by Mariia Zimmerman, Principal.

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EXECUTIVE SUMMARY

Metropolitan planning organizations (MPOs) and policymakers can employ federal surface transportation programs to access funding for equitable transit-oriented development (TOD). This white paper provides a strategic approach and roadmap of "Moving Ahead for Progress in the 21st Century" (MAP-21), the current federal transportation authorization, and policy recommendations to assist these stakeholders in capitalizing on federal programs capable of providing TOD financing.

TOD provides housing and transportation options for residents of all income levels to affordably access employment, education and health care. A growing number of people in the United States of America seek to live in walkable, mixed-use, transit-accessible neighborhoods, increasing land values in areas with already limited supply of developments close to transit. A shortage of equitable TOD profoundly affects the poor, who increasingly live in transit-inaccessible communities and face a higher transportation cost-burden than city residents with greater transit service.

Building equitable TOD requires funding for planning and pre-development activities, including land assembly and site remediation, and infrastructure, transit and development costs. While the need for equitable TOD is increasing, available federal funds have experienced dramatic cuts in both transit and housing. Not only is the gas tax (the main source of federal transportation funding) rapidly declining in buying power; in many states, non-highway projects cannot utilize these funds. Consequently, equitable TOD advocates need to take full advantage of existing authority, eligibility and flexibility provided in MAP-21 by federal transportation policy while making a strong case for the transportation benefits of locating affordable housing and development near transit.

Current federal transportation policies provide several funding opportunities to support for equitable TOD:

- Under Title 23, the new Transportation Alternatives Program provides funding for a variety of driving alternatives, including improvements to public transportation accessibility and community improvement activities.
- The Surface Transportation Program reinforces the ability for MPOs and states to transfer surface transportation funds to transit projects.
- The Congestion Mitigation and Air Quality Program can fund up to three years of transit operating assistance, as well as projects reducing travel demand including TOD.
- Used in recent years for transit projects with development components, the Transportation Infrastructure Financing and Innovation Act increased significantly in MAP-21 and provides financing through credit assistance.

- The Title 49 Capital Investment Grant Program includes affordable housing evaluation measures for proposed new transit projects.
- FTA's circular on joint development provides a vehicle for building equitable TOD projects in transit agency properties.

Partnering with communities and developers, MPOs play an increasingly important role in addressing equitable TOD challenges, including how to prioritize investments that benefit low-income households and how to create greater transportation choices for all residents and workers in its region. MPOs, states, advocates and transit agencies can support equitable TOD through five policy recommendations:

1. Explicitly recognize TOD as a transportation purpose through administrative or legislative actions.
2. Develop regional performance measures in support of TOD investment.
3. Utilize existing MPO and state authority to flex and swap eligible program funding.
4. Establish specific funding tools to support TOD planning, acquisition and implementation.
5. Exercise maximum use of joint development opportunities.

MAP-21 is set to expire on September 30, 2014. Given existing and expanding funding gaps, debate for the next federal transportation authorization will focus largely on revenue sources and levels, but congressional attention to transportation policy also provides an opportunity to advocate for specific changes to support equitable TOD. These recommended federal policy changes include:

1. Make TOD planning and implementation activities, including their allowable use in structured funds, an explicitly eligible use.
2. Require MPOs to consider housing and transportation costs for long-range planning.
3. Expand and make permanent MAP-21's TOD Planning Pilot Program.
4. Establish regional competitiveness or quality of life as an additional national performance standard.

Achieving progress on equitable TOD implementation will require private, nonprofit and public sector partners to work at all levels of government. It is heartening to see the progress happening in a growing number of regions – from New York to Georgia, Texas, Minnesota and California. However, the funding complexity and high-cost of providing equitable TOD will require even greater innovation, flexibility and partnership by MPOs to meet the growing market pressures occurring in metropolitan areas across the country.

INTRODUCTION

This white paper was developed for Enterprise Community Partners, Inc. (Enterprise) and its regional and national stakeholders working to advance equitable transit-oriented development (TOD). It focuses on the potential role of metropolitan planning organizations (MPOs) in supporting equitable TOD through the use of federal transportation funds and other resources. A set of policy recommendations and actions are offered to facilitate greater MPO involvement.

After an extensive analysis of federal highway and transit programs authorized under the current federal transportation statute, "Moving Ahead for Progress in the 21st Century" (MAP-21), interviews with federal transportation experts and MPO staff from several leading regions informed these findings and recommendations.[1] A literature review of past studies was conducted to identify the role of MPOs in TOD generally and to identify the financing challenges inherent to equitable TOD that current federal transportation funding may address.

TOD refers to mixed-use developments characterized by compact, high-density and pedestrian-friendly design, located within close proximity of public transit facilities. Transportation professionals believe that well-planned land use and development patterns can help to improve the efficiency of the transportation system. For transit agencies, TOD holds the promise of increased ridership and opportunities to raise revenues through the sale or lease of real estate assets. For affordable housing advocates, TOD holds the promise of creating new mixed-income neighborhoods that can provide affordable transportation options for low-income households.

Equitable TOD includes affordable housing within TOD sites through preservation and new construction strategies. TOD projects are more complex to finance than traditional development, given higher land values near transit, additional infrastructure and utility costs, outdated regulatory requirements and financial products that tend to favor single-use developments. Developers typically counter these higher costs through market-rate housing which includes a price premium for improved transit access, good design and quality of life improvements.[2] Ensuring affordable TOD units requires additional subsidy or other form of public support or regulation.

1 MAP-21 is formally entitled "Moving Ahead for Progress in the 21st Century" (Public Law 112-141).

2 A number of excellent publications and online resources have been produced on the topic of transit and affordable housing including the Center for Housing Policy's *Housingpolicy.org Toolbox for Increasing the Availability of Affordable Housing* (www.housingpolicy.org/toolbox/affordability.html) the Federal Transit Administration's *Mixed-Income Transit-Oriented Development Action Guide* (www.mitod.org/tools.php) and *Maintaining Diversity in America's Transit-Rich Neighborhoods* by Stephanie Pollack, Barry Bluestone and Chase Billingham (October 2010). Boston, MA: Dukakis Center for Urban and Regional Policy at Northeastern University

Enterprise's interest in this topic stems from its role as a leading provider of development capital for affordable housing and community revitalization. Enterprise works in several regions of the country with high-quality transit to support equitable TOD implementation, in particular helping to establish funds for equitable transit-oriented development in the San Francisco Bay Area and Metro Denver regions. The Bay Area Transit Oriented Affordable Housing (TOAH) fund is the only one in the country with an active MPO funding partner. As the Denver region began work to establish its fund, the MPO there raised concerns over its ability to similarly invest and ultimately decided not to include transportation revenues in the funding package. As a result, the Denver Transit-Oriented Development Fund operates without any direct financial commitment from the region's transportation sector. Several other regions, including Boston, Atlanta, Dallas, Seattle and Minneapolis-Saint Paul, are considering TOD acquisition funds and whether or not MPOs will be financial partners.

This white paper seeks to provide clarity on the eligible uses of federal transportation funds authorized in MAP-21 for supporting elements of equitable TOD including land acquisition, planning and capital investments. As such, the white paper considers three major themes:

1. *Background.* The background and key factors influencing equitable TOD from growing demand and financing challenges to fund planning, pre-development and implementation, to the context behind transportation funding and the federal authority for MPO involvement in regional planning.
2. *MAP-21 Tools to Support Equitable TOD.* Potential uses of existing federal transportation funding programs authorized in MAP-21 through Title 23 and Title 49 to support infrastructure and development costs specific to equitable TOD.
3. *Policy Recommendations.* A set of recommendations to advance equitable TOD at the regional level with suggested actions for MPOs, states and advocates, together with a discussion of potential legislative changes that could be advanced in future federal transportation reauthorizations.

BACKGROUND

GROWING DEMAND FOR TOD YIELDS NEW OPPORTUNITIES AND CHALLENGES

Numerous reports and polls have highlighted the changing demand in housing and mobility choices.[3] A growing percentage of the American population seeks compact, walkable urban neighborhoods served by frequent transit service. A May 2013 survey by the Urban Land Institute found that 61 percent of respondents prefer a smaller home with a shorter commute over a larger home with longer commute. In addition, over half of those surveyed indicated a preference for living in mixed-income housing and 51 percent prefer access to public transportation.[4] Yet, this type of development represents only a small percentage of available housing stock and generally includes high-end market-rate rental units or condominiums.

Poverty is expanding in transit-inaccessible suburbs, continuing a trend from previous decades.[5] Today there are more people living below the poverty line in suburbs than in central cities, and these households are among the highest transportation-cost burdened. Housing and planning practitioners increasingly worry about the changing geography of poverty and the changing demand in housing and transportation choices.

Many employers recognize the importance of transportation, housing affordability and other quality of life factors in their ability to attract and maintain skilled workers.[6] Among the top 100 metropolitan regions in the U.S., however, only about 27 percent of the metropolitan workforce can access the typical job via transit.[7]

These trends suggest a spike in land values around transit-accessible, mixed-use neighborhoods and a changing dynamic around affordable housing and transportation options in suburban areas. In response, there are opportunities for new partnerships between the public and private sectors and between business and philanthropy to accelerate investments in transit and equitable development.

Achieving equitable TOD typically requires a combination of direct subsidies and incentives, innovative financing tools, and regulatory reform. The relative strength of the market specific to each station area also has significant impact: stronger markets may allow for greater private sector contributions to support affordable housing or station area improvements; while weak markets may already have a concentration of low-income housing and need more market-rate investment.

3 The Center for Transit-Oriented Development (CTOD) has developed a series of reports on TOD through funding from the Federal Transit Administration, including "Realizing the Potential: Expanding Housing Opportunities Near Transit," (2007), Washington, DC: Reconnecting America's Center for Transit Oriented Development

4 Urban Land Institute. (May 15, 2013) *America in 2013: A ULI Survey of Views on Housing, Transportation and Community.* Washington DC: Urban Land Institute Infrastructure Initiative and the ULI Terwilliger Center for Housing.

5 Elizabeth Kneebone and Alan Berube (May 20, 2013). *Confronting Suburban Poverty in America*. Washington DC: The Brookings Institution.

6 Regional Prosperity Project. (May 2012) "Linking growth and opportunity: Findings from the front." New York, NY: Surdna Foundation

7 Adie Tomer (July 11, 2012). "Where the Jobs Are: Employer Access to Labor by Transit." Washington, DC: The Brookings Institution's Metropolitan Infrastructure Initiative Series No. 23.

"Equitable TOD prioritizes social equity as a key component of TOD implementation. It aims to ensure that all people along a transit corridor, including those with lower incomes, have the opportunity to reap the benefits of easy access to employment opportunities offering living wages, health clinics, fresh food markets, human series, school and childcare centers."

Filling the Financing Gap for Equitable TOD

Although necessary, good station area planning does not alone achieve equitable TOD. Even with plans and policies in place, TOD still faces significant financial barriers that impede implementation.[8] These barriers include higher land costs around transit stations, infrastructure upgrades needed to support increased density, the need to assemble small parcels of land to reach a critical mass and the need to replace existing surface parking with structured parking. Traditional funding mechanisms often cannot easily address these barriers.

Finance challenges fall loosely into four categories:

1. Funding needed to support planning activities
2. Pre-development costs that may include land assembly and site remediation
3. Station area infrastructure costs, including the actual transit service
4. Development costs, including those unique to affordable housing and mixed-use development, both of which may require some level of subsidy

In order to overcome these challenges, the public sector needs to partner with private sector community developers. Local entities, including governments, MPOs and Community Development Financial Institutions (CDFIs), have supported affordable TOD through structured loan funds and products that provide low-cost capital to developers.

At the federal level, however, neither resource levels nor policy priorities have kept pace with changing market pressures or local innovation. Primary among the challenges of expanding and preserving affordable housing and public transportation is the lack of adequate funding.

The current federal surface transportation statute, "Moving Ahead for Progress in the 21st Century" (Public Law 112-141, commonly referred to as MAP-21), maintains previous transportation funding levels and amends the federal laws codified in United States Code 23

8 Melinda Pollack and Brian Prater (April 2013). "Filling the Financing Gap for Equitable Transit-Oriented Development: Lessons from Atlanta, Denver, the San Francisco Bay Area and the Twin Cities." New York, NY: Living Cities

DEFINING TOD AS A TRANSPORTATION PURPOSE—THE CASE OF MARYLAND

Maryland legislators specifically defined TOD as a "transportation purpose," (Section 7-101(m) of the Transportation Article).[1] The legislation, enacted in 2008, enables the Maryland DOT to use Transportation Trust Funds and transportation resources, including land and personnel, to support selected TOD projects.

Maryland transportation-funded TOD projects are prioritized based on strength of TOD principles, stakeholder support and partner organizations, return on investment and funding need. Selected projects are eligible for planning assistance and feasibility analysis from the state. In addition, the Maryland DOT's $3 million capital program provides dedicated funds for TOD projects.[2]

[1] *http://www.mdot.maryland.gov/Office_of_Planning_and_Capital_Programming/TOD/TOD_Projects.html*

[2] *A useful resource for understanding state DOT programs that support TOD was prepared by Cambridge Systematics, Inc. and Meyer, Mohaddes Associates (April 2006). "The Role of State DOTs in Support of Transit-Oriented Development (TOD)" part of NCHRP Project 25-25, Task 20 of the National Cooperative Highway Research Program, Transportation Research Board.*

and 49.[9] Congress annually authorized approximately $10.6 billion for transit in each of the bill's two years, ending September 30, 2014. However, significant cuts resulting from sequestration and congressional budget battles reduced those levels. For instance, the Capital Investment Grant program, which funds new transit lines and core capacity improvements for older transit systems, was cut by $100 million in fiscal year 2013.

Federal funding for affordable housing and community development also took significant hits. In the past three years, Congress has reduced by 21 percent the Community Development Block Grant program and by 48 percent the HOME Investment Partnerships Program. Given shrinking federal support, communities are seeking ways to leverage existing resources, create innovative financing tools and make the case for increased investments.

In many regions, MPOs are emerging as important partners to help local communities and developers overcome some of the key equitable TOD challenges.[10] MPOs play a critical role in regional transportation planning and provide resources to support corridor and local planning at transit stations. With their regional focus, MPOs can set the table for addressing issues that cross jurisdictional boundaries. In addition, despite the many differences that exist between MPOs across the country, all have responsibility for annually programming millions of dollars in federal transportation funds. This authority provides an opportunity to engage MPOs as partners in planning, pre-development, capital support and better understanding the role they can play in implementing equitable TOD.

UNLOCKING FUNDING: TOD AS A TRANSPORTATION PURPOSE

For equitable TOD advocates who are working with an MPO, a department of transportation (DOT) or a transit agency, it is important to successfully make the case for the value to the transportation network of locating affordable housing along transit corridors. A shared understanding of the benefits that equitable TOD brings to the transportation system can help to identify funding sources and prioritize TOD in the long-range plan and transportation improvement program (TIP). The planning process is a critical opportunity to demonstrate TOD benefits and prioritize TOD-supportive investments either in transit service or in ancillary projects to improve street connectivity, station area accessibility or pre-development activities. This broader funding context sets the stage for the planning and programming of federal funding through the MPO process. First, it is important to understand how Congress and states fund transportation, as the source of funding defines eligible activities and funding for non-traditional elements of equitable TOD may require local, state or federal funds.

9 The Moving Ahead for Progress in the 21st Century (MAP-21) law authorizes funding for highways and transit programs through Fiscal Year 2014. It was signed into law on July 6, 2012. Title 49 includes the transit portions of the bill, while Title 23 covers the highway portions.

10 Center for Transit Oriented Development (February 23, 2010). "Transit-Oriented Development Tools for Metropolitan Planning Organizations." The American Public Transportation Association together with the Association of Metropolitan Planning Organizations is also preparing a forthcoming publication on MPO engagement in livable communities initiatives including TOD.

TOD'S IMPACT ON TRANSIT RIDERSHIP

- In 1992–93, surveys found that 32 percent of workers living near BART stations in the San Francisco Bay area commuted by rail, which was more than six times the regional average of 5 percent.
- Workers employed in offices near BART stations are 2.5 times more likely to travel to work by rail than other San Francisco Bay Area commuters.
- People living along the Washington Metro Orange Line corridor in Virginia take transit at a three times higher percentage than the average for all of Arlington County — 39 percent versus 13 percent.
- 50 percent of people who work within 1,000 feet of a Washington Metro station in downtown Washington commute by rail.
- In San Jose, Calif., TOD residents take transit five times more frequently than county residents as a whole.
- At the Center Commons TOD in Portland, Ore., transit ridership increased by almost 50 percent for work trips and by 60 percent for non-work trips.

Source: Christopher MacKechnie (2013), "Transit Oriented Development – Does it increase ridership?"

Thirty states prohibit their gas tax revenues for non-highway uses. This prohibition forces transit, bicycling or pedestrian projects to seek other revenue sources and makes federal funding even more critical. To counter this, some states have characterized TOD as a legitimate transportation purpose.

Federal transportation funding largely relies on tax revenues, with state and federal gas taxes and tolls comprising the bulk of highway funding.[11] Not raised since 1994 and shrinking in buying power, the 18.4-cent per gallon federal excise tax supports the Highway Trust Fund, which, per Title 23, serves as the primary funding source for surface transportation projects. Title 49 requires that the federal gas tax set aside 2.86 cents per gallon for the Transit Trust Fund. Almost all federal transportation programs require a local funding match, ranging from 10 percent for highway projects to 50 percent for transit projects.[12] Every state levies a gas tax and depends on it to fund transportation projects and programs, though significant differences exist between states on the rate and eligible uses.[13]

The reliance on gas taxes and federal unwillingness to increase its rate creates two critical challenges for funding equitable TOD. First, increased automobile fuel efficiency and declining rates of travel mean less revenue is raised, consequently increasing competition for transportation dollars across all modes and between maintaining and expanding the transportation system. Second, enabling taxing authority strictly defines and limits funding programs.

Therefore, it is critical for TOD to be designed and understood for its role in supporting regional transit and roadway networks. A growing body of research by academics, advocates and the national Transportation Research Board over the past 20 years highlights the importance of coordinating land use with transportation investments to generate transit ridership and improve accessibility and mobility along highway investments. [14]

TOD investments also have the potential to relieve the cost burden on low-income earners, who comprise a disproportionate share of transit riders. A national profile of public transportation riders conducted by the America Public Transportation Association found that 20 percent of riders earn less $15,000 year, and over 65 percent of transit riders earn less than $50,000.[15] (See also the TOD's Impact on Transit Ridership text box this page.)

11 Association of American State Highway Transportation Officials (June 2013). "Survey of State Funding for Public Transportation - Final Report 2013, Based on FY 2011 Data" Washington, DC: AASHTO

12 Some emergency transportation funding programs are exceptions to this rule, and several highway programs formerly were 100 percent federal funding.

13 For an excellent overview of federal transportation funding see Puentes, Robert and Ryan Prince, "

14 A particularly excellent resource on the connection between land use, development and transportation is the publication, *Growing Cooler: The Evidence on Urban Development and Climate Change* by Reid Ewing et al. (April 2008). Washington DC: Urban Land Institute.

15 American Public Transportation Association (may 2007). "A Profile of Public Transportation Demographics and Travel Characteristics Reported in On-Board Surveys." Washington, DC: APTA.

UNDERSTANDING MPO STRUCTURE AND PURPOSE

An essential element to unlocking federal transportation funding lies in understanding how MPOs operate. MAP-21 grants state DOTs, MPOs and transit agencies new opportunities to support equitable TOD, including planning and funding provisions that set the context and authority for MPO involvement.

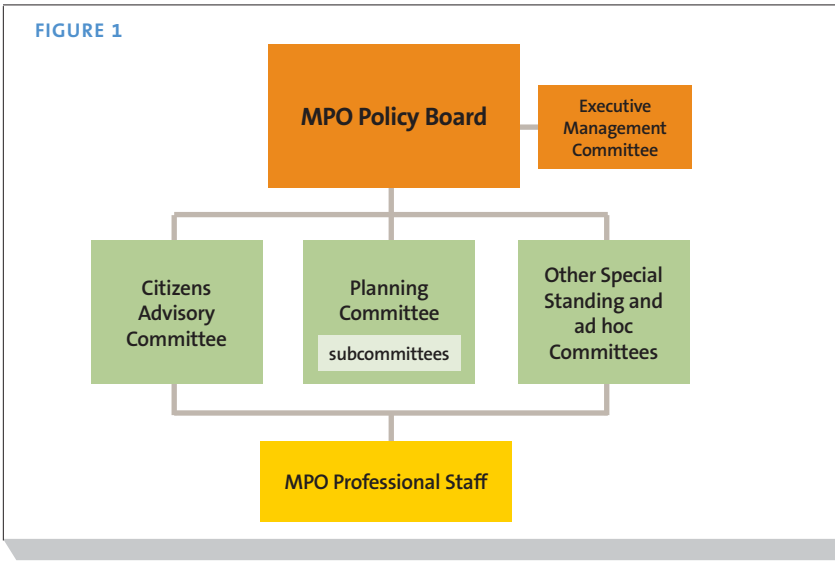
It is important to recognize that, in addition to federal legislative authority, state legislation influences the ability of MPOs to actively and innovatively enter into partnerships. For instance, California passed legislation that specifically requires regional coordination of housing and transportation and tasks MPOs to develop transportation plans that include land use and development strategies to address climate change. On the other hand, Pennsylvania is a home-rule state, whereby MPOs may set policy priorities and long-range plans but cannot influence local land use decisions. The following section highlights those planning and funding provisions that most significantly impact involvement by MPOs in equitable TOD.

Federal Planning Requirements Set Context for Examining Equitable TOD

There are no federal requirements pertaining to how MPOs are structured; rather, each state decides its MPOs' membership.[16] Federal surface transportation legislation does require the establishment of an MPO for any urbanized area with a population over 50,000.

Figure 1 portrays the most common MPO structure; however, there is wide variation regarding MPO authority, structure, governance model and geographic area covered. Portland Metro, for

FIGURE 1



16 Federal Highway Administration (September 2007). "The Transportation Planning Process: A Briefing Book for Transportation Decision Makers, Officials and Staff" Publication Number: FHWA-HEP-07-039

instance, is the only regionally-elected MPO; in Florida, a single metropolitan area may have multiple county-level MPOs; and in Minneapolis-St. Paul, the MPO also serves as the regional transit agency and has broader authorities over parks, storm water and growth management.

Given this lack of uniformity, it is challenging to draw conclusions that apply equally to all MPOs; but there are some important commonalities:

- All MPOs include a mix of representatives from the region, most typically regional elected officials, but may also include representatives from the state DOT or transit agency.
- All MPOs act as a transportation policy-making and planning body with representatives of local, state and federal governments and transportation authorities.
- All MPOs are statutorily required to undertake long-range regional transportation planning and establish fiscally-constrained prioritization plans detailing how it will allocate federal transportation funding.
- Each MPO must ensure that federal spending on transportation occurs through a "comprehensive, cooperative and continuing process" (commonly referred to as the 3-C process).[17]

The MPO Policy Board establishes a fair and impartial process to develop and update the products outlined in Table 1. The Policy Board uses a Citizens Advisory Committee and Planning Committee to provide input and help to shape these documents. Some MPOs have established

TABLE 1 | **Federally Required MPO Products**

	Time Horizon	Content	Update Requirements	TOD Relevance
Unified Planning Work Program	1-2 years	Planning Studies; Tasks Budget	Annual	May include TOD studies, research and corridor planning studies
Transportation Improvement Program (TIP)	4 years	Transportation Investment Projects	4 years (though can be amended at any time)	Indicates investments in highways, transit, bridges , trails, etc.
Metropolitan Transportation Plan (Long Range Plan)	20 years (minimum)	Future Goals and Policy Priorities	4 years for air quality non-attainment and maintenance areas	Provides regional vision for transit expansion and service, land use or growth policies and projections

17 http://www.fhwa.dot.gov/map21/guidance/guidemetroplan.cfm

special standing committees to support TOD, housing or land use, and development issues. These committees may include representatives outside of the MPO Policy Board. In addition, some regions have a Council of Governments (COG), regional commission or regional planning council. These agencies may also play the MPO role or be separate regional planning bodies without authority over federal transportation funding. Consequently, it is critical to understand the specific authorities and structure of the regional planning agencies in each region.

One new requirement in MAP-21 is that MPOs must include voting transit representation in order to elevate transit within metropolitan planning, to support better coordination of highway and transit investments and to represent transit funding needs (§52004 23USC 134(d)(2). Given the wide variation in how MPOs are structured, this provision has met with some concern and federal guidance on its implementation is forthcoming.[18]

18 http://transitmpo.ideascale.com/a/dtd/MPOs-Transit-Representation/424801-22800

FEDERALLY-REQUIRED PLANNING FACTORS

1. Economic vitality
2. Safety
3. Security
4. Accessibility and mobility
5. Protect environment, promote energy conservation & improve quality of life
6. Integration and connectivity
7. System Management & operations
8. System preservation

MAP-21 TOOLS TO SUPPORT EQUITABLE TOD

FUNDING PLANNING ACTIVITIES TO SUPPORT EQUITABLE TOD

Federal metropolitan planning funds are designated for MPOs to meet metropolitan transportation planning requirements.[19] MAP-21 includes a set of eight required planning factors that MPOs must consider in their planning process. (See Federally-Required Planning Factors text box on this page.)

This list does not explicitly include housing, but housing is related to economic vitality and quality of life factors. FHWA and FTA share oversight of the metropolitan planning program. MAP-21 requires that MPOs use planning- and performance-based selection methodologies for transportation projects.[20] Several MPOs, including the Denver Regional Council of Governments (DRCOG), use federal planning funds to support corridor and station area planning.

In addition, MAP-21 established new national performance standard areas (MAP-21 Section 1203; 23 USC § 150(c), 2012), including factors such as congestion, safety and system repair, for which state DOTs and MPOs must establish corresponding local performance measures.[21]

These federal standards establish a floor, not a ceiling. A number of regions already use performance measures to support equitable TOD: the Puget Sound Regional Council established a set of regional goals that reflect sustainability, economic development and social equity outcomes.[22] And the Chicago Metropolitan Area Planning Association has established a set of regional indicators for each of the four focus areas of its long-range plan, "Go to 2040," including criteria to evaluate both changes in accessibility to housing and jobs and development impacts.[23]

Project proponents may request state-level planning funds from state DOTs to support equitable TOD studies, planning or research. Transit agencies can also use their formula funds to support TOD planning. New Jersey Transit, for instance, has established a "Transit Friendly Land Use Program" to support station area planning, zoning, and redevelopment efforts undertaken by local governments.[24]

MAP-21 20005(b) established the Transit-Oriented Development Planning Pilot to provide TOD area planning grants and encourage private sector involvement. However, FTA has not yet

19 MAP-21 Section 1101 designates metropolitan planning funding, and Section 1105 specifies funding allocation (MAP-21 Section 1105 Amends 23 USC §104). For FY 2013, the total apportionments are $311.7 million, and for FT 2014 apportionments total $314.3 million. States' portion of planning funds is calculated based on formula funding apportioned in FY 2012, and includes a calculation of funds based on the ratio of State's Fiscal Year 2009 Metropolitan Planning apportionment relative to the State's total FY 2009 apportionment.

20 Federal Highway Administration. http://www.fhwa.dot.gov/map21/mp.cfm

21 Federal Highway Administration. http://www.fhwa.dot.gov/map21/pm.cfm

22 Puget Sound Regional Council. http://www.psrc.org/assets/9575/T2040-101-2013May7.pdf

23 Chicago Metropolitan Area Planning. http://www.cmap.illinois.gov/2040/regional-mobility

24 Project for Public Spaces. http://www.pps.org/projects/transit-friendly-communities-for-new-jersey/

implemented this $10 million, two-year pilot program. Funding will be available to support planning-related projects, including station-area, development and engineering plans that enhance economic development, facilitate multi-modal connectivity and increase station access.[25]

FUNDING EQUITABLE TOD DEVELOPMENT AND INFRASTRUCTURE PROJECTS

Both the highway and transit titles include provisions that allow for the eligible use of formula funds, often referred to as Flexible Funding programs, to cover pre-development, TOD-related infrastructure and development costs. The first flex funding provisions were included in the Intermodal Surface Transportation Efficiency Act of 1999 and have remained in subsequent federal authorizations to allow metropolitan areas to determine the best use of certain federal transportation funds without restrictive eligibility definitions.[26] The decision on whether to use these funds rests with individual DOTs and MPOs.

TITLE 23 FUNDING PROGRAMS AND TOD ELIGIBILITY

MAP-21 established guidelines for metropolitan transportation planning, including assisting mobility needs, encouraging economic development and improving air quality while minimizing fuel consumption and congestion (49 USC § 5303, 2012). In addition, it establishes requirements for statewide transportation plans and improvement programs (49 USC § 5304). MAP-21 provides for TOD-related projects through "integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State." (49 USC § 5304, 2012).

The three primary "highway" program funds available under title 23 for equitable TOD are the Transportation Alternatives Program (TAP), the Congestion Mitigation and Air Quality (CMAQ) program, and the Surface Transportation Program (STP). All three programs may fund transit and TOD-related investments. In both the Atlanta and San Francisco Bay Area regions, for instance, STP and CMAQ funds were used to establish innovative grant programs to support local TOD planning and capital projects.

1. Transportation Alternatives Program

Under Title 23 of MAP-21, the new Transportation Alternatives Program (TAP) merges the previously popular Transportation Enhancements, Safe Routes to Schools and Recreational Trails programs but only authorizes $808 million, almost 25 percent less than previously available. TAP provides funding for a wide variety of programs and projects defined as alternatives to driving, including improvements to public transportation accessibility and community improvement

25 Federal Transit Administration. http://www.fta.dot.gov/documents/MAP-21_Fact_Sheet_-_Transit-Oriented_Development_Planning_Pilot.pdf

26 US Department of Transportation. "Flex Funding for Highways and Transit" http://www.fta.dot.gov/grants/12867.html

THE BAY AREA TRANSIT-ORIENTED AFFORDABLE HOUSING FUND

The Metropolitan Transportation Commission (MTC) was one of the first MPOs to use highway funds to support local planning efforts to coordinate land use and transportation through its TLC program, which was established in the late 1990s. In 2008, land acquisition grants became eligible to match local funds dedicated to acquiring and redeveloping transit sites for affordable housing. Federal STP and CMAQ funds were used to expedite eligible TIP-approved transportation projects, which included an over-match of local funds beyond that required under federal law.

In 2011, the MTC took this model a step further and invested $10 million to launch the Bay Area TOAH fund together with a collaborative of philanthropic organizations, intermediaries and banks. CMAQ funds were used to swap local funding out of a major San Francisco parking project. Front-loading federal funds for the project allowed it to be constructed ahead of schedule, with parking revenues generated by the project then repaid to MTC and programmed for the TOAH fund. MTC's seed capital leveraged private resources 4:1, a rate of return seldom seen in transportation.

The TOAH Fund deploys capital in Priority Development Areas across nine counties with 85 percent of fund capital targeted to support the creation and preservation of affordable housing. Up to 15 percent of fund capital may be used to support community facilities, child care centers, health clinics, fresh food markets and other neighborhood retail.

activities. TAP funding is administered by the state and calculated as 2 percent of highway funding via states' funding formula allocation (MAP-21 Section 1122; 23 USC 101, 206, 213, 2012). States are required to obligate funds in urbanized areas with a population over 200,000 with projects selected by a competitive process administered by the MPO.

In addition to state DOTs and MPOs, local governments and school districts are eligible to receive TAP funds. Funding is first allocated to the state DOT, who is then permitted to transfer up to 50 percent of TAP funds to STP, CMAQ, Metro Planning and other highway programs. It is possible for a DOT to seize this opportunity to use this flexibility to support TOD-related investments. A more realistic scenario, though, may be for a state DOT to use this flexibility to support unmet highway funding needs. TAP funds are also eligible to be used for workforce development, training and education activities, as well as other capital intensive investments such as overpass bridges for bicyclists and pedestrians (MAP-21 Section 52004; 23 USC 504(e), 2012). Together with reduced funding levels, these changes have put significant pressure on available TAP resources.

2. Surface Transportation Program (STP)

MAP-21 reinforces the ability for states and MPOs to flex surface transportation funds to transit projects based on planning goals. STP is the most flexible of all highway programs and, with nearly $10 billion authorized, also one of the largest.

Metropolitan STP funds are allocated through a regional solicitation process that the MPO manages.[27] MAP-21 modified funding for bridge repair, which now means that the majority of bridge repair projects also compete for STP funding. These are costly yet important safety investments that may be given priority over TOD-related investments in some regions depending on need.

While often viewed as a highway-only program, STP funds are eligible for transit investments and for road or streetscape improvements, including sidewalks, trails or new street connectivity for a redeveloped TOD area. Carpool projects and corridor parking investments are also eligible, opening the door for using STP to support TOD-related infrastructure costs, including structured parking. If allocated for a Title 49 eligible purpose such as new transit service, FTA is responsible for administering these funds. An important aspect of this scenario is that funds may require the same non-federal matching share as they would require for highway purposes if administered by FHWA.[28]

Some MPOs have taken full advantage of this increased flexibility. In particular, the Metropolitan Transportation Commission (MTC) in the San Francisco Bay Area used STP funds to establish its Transportation for Livable Communities (TLC) program. Since launching the program in 1998, MTC has awarded over $200 million in TLC funds to better link land use and transportation

27 MZ Strategies, LLC (September 2013) "Regional Allocation of Federal Transportation Funding," www.mzstratgies.com

28 US Department of Transportation. "Flexible Funding for Highways and Transit," http://www.fta.dot.gov/grants/12867.html

decisions made by the region's cities and transit operators to achieve greater utilization and efficiency of the regional transportation system.[29] MTC also recently invested $10 million for the Bay Area Transit-Oriented Affordable Housing (TOAH) Fund. This investment leveraged an additional $40 million in private finance to support equitable TOD.[30]

Escalating housing prices have created an affordability crisis in the Bay Area, particularly for low-income transit-dependent households. The TOAH fund provides loans for property acquisition and predevelopment costs of affordable housing through patient and affordable capital, with MTC providing "lead equity" through swapping of STP and CMAQ funds repaid by local parking revenues.[31] (See also Bay Area Transit Oriented Affordable Housing text box on page 17.)

Congestion Mitigation and Air Quality Program (CMAQ)

The CMAQ program funds projects that relieve congestion and reduce pollution levels, with funding determined by the level of pollution within an area based on federal air quality standards. MAP-21 authorized $2.2 billion for CMAQ to support a variety of projects, including up to three years of transit operating assistance and projects that will reduce travel demand, such as TOD.

Similar to STP allocations, the MPO allocates CMAQ funds through the regional solicitation process. Recognizing the importance of this process, many TOD advocates are working to ensure that evaluation criteria used to select projects support a balanced set of projects, including transit, bicycling and pedestrian improvements. MAP-21 allows MPOs to flex up to 50 percent of CMAQ funds to other programs, which again creates the scenario where state DOTs may decide to use these funds for other purposes, such as highway construction.

Severe air pollution during the late-1990s in the Atlanta metropolitan area resulted in the region falling into "non-attainment" and risking the loss of millions of dollars in highway funding. As a result, the MPO dedicated a portion of CMAQ and STP funds to establishing the Livable Centers Initiative (LCI).[32] Currently, 20 percent of the region's annual STP funds are set aside to fund the LCI program.

29 Metropolitan Transportation Commission. http://www.mtc.ca.gov/planning/smart_growth/tlc/

30 For more information on the Bay Area TOAH fund visit http://bayareatod.com/ and for information on MTC's TLC program visit http://www.mtc.ca.gov/planning/smart_growth/tlc/

31 Center for Transit Oriented Development and Strategic Economics (January 13, 2010). *San Francisco Bay Area Property Acquisition Fund for Equitable Transit-Oriented Development*. San Francisco, CA: Reconnecting America, prepared for Great Communities Collaborative

32 http://www.atlantaregional.com/land-use/livable-centers-initiative

ATLANTA'S LIVABLE CENTERS INITIATIVE PROGRAM

The Atlanta Regional Commission has approved $18 million in LCI study funds — $1 million annually — for use in years 2000 to 2017. A recently funded example is the $120,000 study focused on the area around DeKalb Medical Center to plan for the redevelopment of underutilized and vacant properties to create a variety of housing options and mix of commercial, office and retail.

ARC also allocated $350 million for priority funding of transportation projects resulting from LCI studies. An additional $150 million was approved for these projects in the 2030 Regional Transportation Plan, for a total commitment of $500 million dedicated to transportation projects resulting from completed LCI studies.

Established in 1999, LCI provides grants to local governments and nonprofit organizations to undertake transit station area planning, update local zoning and overhaul regulations to better support development consistent with regional development policies. The region administers a competitive process for selecting LCI applications that advance air quality, land use and transportation goals. Supplemental funding is available to implement transportation capital projects consistent with these plans.[33] (See also Atlanta's LCI Program text box on this page.)

3. Transportation Infrastructure Financing and Innovation Act (TIFIA)

TIFIA was one of the few programs to see a significant funding increase in MAP-21, growing from $122 million per year to $750 million in FY2013 and $1 billion in FY2014. TIFIA can fund transit, highway, bridge and intermodal freight projects through three types of credit assistance: secured loans; lines of credit; and loan guarantees, all of which are to be paid back by project sponsors, generally through user fees (for highways) or local sales taxes (for transit). TIFIA should help finance projects of national or regional significance, with funding available on a first come first served basis. TIFIA may leverage up to 49 percent of aid, requiring project sponsors to cover a minimum of 51 percent of costs through other sources.[34]

TIFIA has been used for several transit projects, including the Los Angeles Crenshaw light rail line (funded in 2012), Denver Union Station (funded in 2010) and San Francisco's Transbay Transit Center (funded in 2010), which includes redevelopment of the area surrounding the transit center with 2,600 new homes, of which 35 percent are affordable.[35]

MAP-21 modified the program, eliminating the "innovation" criteria and mandating selection based on whether the proposed project is eligible, is creditworthy, involves a public-private partnership and could start construction within 90 days of application approval.[36] This does not preclude its use for equitable TOD but requires that proponents address all project elements prior to application and secure non-federal financing dedicated toward repayment.

33 Atlanta Regional Commission, "2013 Livable Centers Initiative Implementation Report Executive Summary" http://www.atlantaregional.com/File%20Library/Land%20Use/LCI/lu_lci_impl_report_exec_summary_2013_05_29_final.pdf

34 Federal Highway Administration, Office of Innovative Program Delivery http://www.fhwa.dot.gov/ipd/tifia/index.htm

35 Federal Highway Administration, Office of Innovative Program Delivery. http://www.fhwa.dot.gov/ipd/project_profiles/ca_transbay_transit.htm

36 Freemark, Yonah (February 13, 2013). "TIFIA Loans Likely Skewed Towards New Road Projects." The Transport Politic: http://www.thetransportpolitic.com/2013/02/13/tifia-loans-likely-skewed-towards-new-road-projects/

MAJOR CAPITAL INVESTMENT GRANT PROGRAM SUPPORTS EQUITABLE TOD

FTA evaluates a proposed transit project's impact on affordable housing in the following ways:

- Affordable housing measures are included in two of the six project justification criteria. The "economic development" criterion considers the potential economic development impact of the proposed project, including whether plans are in place to preserve and create affordable housing. The "land use" criterion considers the amount of affordable housing in the areas around proposed stations against the overall share of such housing in the surrounding counties. Projects are elevated that can demonstrate higher levels of existing affordable housing and robust policies and plans for future affordable housing.
- Certain expenditures that enhance a project but are not directly related to its functioning (referred to as "enrichments") won't count against the project's cost-effectiveness rating.
- Under the calculation of "mobility benefits," FTA will assess ridership estimates on the proposed transit project. Trips made by "transit-dependent persons" receive extra weighing to encourage projects that increase access for lower-income people.

TITLE 49 FUNDING PROGRAMS AND TOD ELIGIBILITY

Title 49 provides MAP-21's transit provisions. Formula grants account for the majority of transit funding. An example is Urbanized Area Formula Grant program that constitutes over 40 percent of the roughly $10.5 billion authorized annually for transit in MAP-21. Although joint development provisions apply to all FTA grant programs, Title 49's Major Capital Investment Grant Program, which funds transit projects across the country, plays a major role.[37]

1. Major Capital Investment Grant Program

In early 2013, the Federal Transit Administration (FTA) issued a final rule for evaluating projects seeking funding from its Major Capital Investment Grant Program (New Starts/Small Starts) – the principal federal funding mechanism for new transit lines or extensions of existing lines. New Starts/Small Starts is a highly competitive program with demand far outstripping available funding. FTA evaluates projects to determine those that provide the greatest return on the federal investment.

Among the several major policy and evaluation changes, the new regulation elevates ratings for applicants that demonstrate strategies to create or preserve affordable housing near planned stations. (See Major Capital Investment Grant Program Supports Equitable TOD text box on this page.) It also elevates and creates incentives for alignment of economic development along proposed transit corridors.[38]

2. Joint Development

In its March 2013 proposed circular on joint development, FTA restated its support for TOD and joint development as tools to leverage transit investments to develop local economies and private investment near transit.[39] Narrower in scope than TOD, joint development refers to development projects on property purchased with federal funding. While the joint development guidance does not explicitly reference affordable housing, it is eligible as a subset of the residential development criterion. Therefore, joint development is an important vehicle for undertaking equitable TOD projects on land owned by a transit agency.[40] Given the required coordination between MPOs and transit agencies, especially for transit capital investments, this is an area where MPOs can engage directly in project development, or indirectly through the sale, lease or transfer of property to a local government or developer, provided that legal mechanisms are in place to ensure continued use of the property as an eligible joint development project.

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37 Federal Transit Administration, "MAP-21 Moving Ahead for Progress Program Overview." http://www.fta.dot.gov/documents/MAP-21_Public_Presentation.pdf

38 Federal Transit Administration (January 9, 2013). "Major Capital Investment Projects: Notice of Availability of Proposed New Starts and Small Starts Policy Guidance; Final Rule and Proposed Rule." Washington D.C.: Federal Register Notice 49 CFR Part 611

39 Federal Transit Administration (March 14, 2013). "Federal Transit Administration guidance on joint development." Washington, D.C.: Federal Register Notice 62 FR 1266.

40 Pollack, Melinda and Robert Kniech (2010). *Making Affordable Housing at Transit a Reality: Best Practices in Transit Agency Joint Development.* Denver, CO: FRESC and Enterprise Community Partners.

FTA defines joint development as "a public transportation project that is integrally related to and often co-located with commercial, residential or mixed-use development. FTA has an interest in joint development when: (1) FTA funds are used for a capital project related to the development; or (2) Joint Development takes place on real property that was, or will be, purchased with funds administered by FTA including formula grants."

Federal Transit Administration, March 2013 Joint Development Circular

Extra right of way purchased for highway and transit projects may also be eligible for joint development. This approach was used in Minneapolis along Hiawatha Avenue to assemble land that the state DOT and transit agency had purchased for the road and transit projects constructed in the same corridor. Transit agencies in Dallas, Portland, Ore., Salt Lake City, Washington, D.C., and other cities with major transit systems have taken substantial advantage of joint development to spur market development near transit, generate new revenues, promote affordable housing and achieve other community benefits.[41]

Table 2 provides an overview of potential federal funding sources described above that can be used to support the various elements of equitable TOD.[42]

41 Reconnecting America, http://www.reconnectingamerica.org/resource-center/joint-development/

42 A valuable resource for developing this table was a white paper prepared by Strategic Economic and the Center for Transit Oriented Development, (April 2008). "Financing Transit-Oriented Development in the San Francisco Bay Area: Policy Options and Strategies." San Francisco, CA: Metropolitan Transportation Commission.

TABLE 2 | **Potential Federal Funding Sources for Equitable TOD**

Use of Funds	Description	Financing Challenges	Potential Federal Transportation Funding	Limitations	MPO examples
Station Area Planning	Undertake station area and corridor planning to remove regulatory barriers, update zoning, identify community benefits and vision, etc.	Cross jurisdictional and cross sector planning can be challenging to fund locally.	1) Metropolitan and state planning funds, including corridor planning included in Unified Work Program. 2) FTA's New TOD Planning Pilot Program.	MPOs rely on federal planning funds to support the required long-range planning activities but few sources exist to support local planning efforts unless provided by the MPO. Housing is not a specific planning factor.	Washington D.C.'s Council of Governments provides local communities with planning assistance grants through a TLC program. Albany, N.Y. has created the Community and Transportation Linkage Program to finance integrated land use and transportation planning projects by local governments.
Pre-Development					
Site planning	Funding to undertake detailed site planning including architecture and engineering plans, and zoning updates.	Station location decisions made during Major Capital Investment Program's engineering phase which can strongly influence TOD potential of transit corridors. The scale and complexity of equitable TOD projects requires detailed site planning.	1) Transit funds eligible for Joint Development activities including pre-development site planning. 2) CMAQ and STP funding used for several TLC programs to support local TOD planning. 3) FTA's New TOD Planning Pilot Program.	Need to meet the requirements and federal guidance pertaining to FTA's Joint Development Policy. MAP-21 eliminated "innovative" project criteria from TIFIA, and requires construction within 90 days of approval. Federal transportation funds are not eligible for brownfields remediation.	Atlanta's LCI program includes funding to support more detailed station area and site planning, including zoning and code updates (LCI Supplemental grants).
Land Acquisition	Financing for land assembly, acquisition and remediation.	TOD often requires assembling multiple parcels of land across multiple owners, and may require some level of environmental remediation. Market dynamics may require long land holding period. Land speculation drives up land costs once construction begins.	1) STP and CMAQ funds swapped for local funds to provide lead equity in acquisition funds. 2) New Start/Small Start funds for right of way purchased as part of new transit line. 3) Permissible use of transit funds under FTA's Joint Development policy.	Swapping funds requires existing local resources that can be repaid through parking, sales tax or other revenue sources for projects included on TIP that can be funded with CMAQ or STP funds. The pressures against adding extra costs to a New Start/Small Start project limit ROW aquisition.	San Francisco's Metropolitan Transportation Commission invested initial seed capital to provide lead equity funding which in turn leveraged an additional $40 million in private finance.

TABLE 2 | **Potential Federal Funding Sources for Equitable TOD (continued)**

Use of Funds	Description	Financing Challenges	Potential Federal Transportation Funding	Limitations	MPO examples
Transportation Infrastructure	Funding for off-site or adjacent capital improvements such as parking, bike and pedestrian facilities, station access.	TOD typically involves higher density development, and may entail redevelopment of formerly non-residential use. This creates the need for basic infrastructure improvements. Structured parking may also be required to allow a development to proceed with lower parking requirements.	1) TAP, STP and CMAQ funds can be used to fund transportation capital investments that meet eligibility. 2) TIFIA loans can support regionally signficant multi-modal and multi-faceted transportation projects.	These resources are oversubscribed at the state and regional level. None of these funds can be used for water or utility costs that may also be needed. TIFIA is a highly competitive, discretionary program that requires extensive cost/benefit analysis.	In the Dallas-Fort Worth metro area, the North Texas Council of Governments established a Sustainable Development funding program by swaping local funds with CMAQ and STP funds to provide financing to local jurisdictions to support infrastructure, land banking and planning. DART also used TIFIA to fund the Orange Line LRT supporting new TOD including the master-planned community of Las Colinas.
Affordable Housing Development	Gap funding is needed to pay for incremental costs of additional affordable housing or preservation.	Funding sources for vertical development and preservation are difficult to identify.	1) Joint Development allows federal transit funds to be used for development costs on projects that meet functional and physical program requirements, and maintain a transit purpose. 2) TIFIA funding, if included within broader transportation funding proposal that meets program eligibility.	Joint development does not represent new funding, but rather an allowable use. Transit project sponsors are reluctant to add project costs in order to compete successfully in the New Starts/Small Starts program. Projects are also required to demonstrate a fair share of revenue.	In Portland, Ore., Metro's TOD and Centers Program pays developers for elements of construction projects that may not be feasible in the market. Federal STP funds have been swapped out with local funds to increase program flexibilty. TriMet has aggressively utilized Joint Development to facilitate development of mixed-income housing near its transit stations. The Transbay Transit Center in San Francisco was funded through TIFIA and includes affordable housing component.

POLICY RECOMMENDATIONS

MPOs lack the specific federal authority to coordinate regional housing and transportation investments. However, a growing number of large metropolitan areas are finding innovative ways to use existing programs to integrate both types of investment around transit stations. This illustrates the importance of maintaining maximum program flexibility for federal transportation funds in order to support locally-defined priorities and stretch public dollars. The federal Partnership for Sustainable Communities (PSC), a collaboration between USDOT, HUD and EPA, and HUD Office of Sustainable Housing and Communities (OSHC), has also promoted greater coordination and integration of housing and transportation through grant programs and guidance.[43] Enterprise has worked with a number of OSHC grantees who are exploring ways to implement PSC-supported sustainability plans. MPOs are core partners in many of these.

As previously described, MPOs can achieve equitable TOD through their investments, plans and policies in coordinating with transit agencies and state DOTs, and in convening entities that play different roles in land use, investment and market decisions (including cities, counties and other regional partners).

The following five recommendations should strengthen support for equitable TOD among MPOs, transit agencies, states, and advocates.

REGIONAL AND STATE STRATEGIES TO SUPPORT EQUITABLE TOD

1. Explicitly recognize TOD as an eligible transportation funding purpose

Given the competition for funding and the prohibition by many state gas tax programs for non-highway projects, redefining transportation to include transit-supportive development is a powerful action. A growing body of research quantifies the impact of TOD on ridership, mobility and accessibility, and the environment, all of which directly relate to transportation system efficiency.

MPO action: Include TOD as a transportation strategy in regional policy and planning documents regardless of whether it is defined under statute as a transportation purpose. MPO and TOD advocates should make the case for policies and plans to explicitly recognize TOD, with TOD advocates supporting administrative or legislative action to codify its eligibility.

State action: Identify whether defining TOD as an eligible transportation purpose requires legislative change or administrative action. Define the parameters under which equitable TOD is a permissive use.

Advocate action: Identify the sources of state transportation funding and the permissible uses of such revenues. States with a strict restriction on user fees for transportation-only purposes may need legislative action.

2. Develop performance measures to support TOD investments

With the new federal requirement for performance based planning, MPOs should develop a robust set of performance metrics that respond to federal performance standards. While federal standards do not currently include factors for livability, social equity, housing, or land use, they do not preclude MPOs from developing additional measures. Advocates should work through the MPO process to help shape these measures.

MPO action: Establish a robust set of regional performance measures that explicitly include equitable TOD or TOD-related outcomes, such as reducing combined cost of housing and transportation or increasing trips taken by transit, bike or on foot. These measures should derive from a transparent, open public comment period that helps inform regional investment decisions. MPOs should coordinate their measures with state DOT performance measures to ensure consistency and compatibility.

Scenario planning is another tool eligible through MAP-21 that MPOs can use to establish performance-based metrics. Combined with mapping and visualization techniques, scenario planning allows stakeholders to analyze different growth and long-range transportation investment scenarios. MPOs should adopt equitable TOD metrics and land use scenarios to effectively analyze and convey the impacts and benefits of coordinating housing, development, transportation and social equity.

Advocate Action: Provide input on the establishment of performance measures at both the state DOT and MPO levels, including advocating for additional measures beyond those narrowly defined in MAP-21. These may include such measures as those to support social equity, environmental justice, economic development, and lowering combined housing and transportation costs.

3. Utilize existing authority to flex eligible funding programs to support TOD activities

As noted, CMAQ and STP funds are eligible for a broad set of transportation alternatives, including plans and projects to support TOD. MPOs rely on FHWA and FTA to provide guidance and best practices on permissible uses of federal funds. Publications and training for DOTs and MPOs on best practices for flex funding could help to increase its use.

MPO action: Regularly update the regional solicitation process and criteria to ensure that TOD projects can compete favorably for STP and CMAQ funds. MPOs or other regional transportation funding boards should identify eligible projects on the regional Unified Planning Work Program or Transportation Investment Program that could be funded through Title 23 funding options. This would include an analysis of local funding match, source of revenue and potential to fund through flex funding or to swap with local funding to accelerate project development and focus federal funding on other high-priority, eligible regional projects. Coordination with local transit agencies is important, as flex funds are often transferred to FTA for transit-related projects.

Advocate Action: Monitor and make the case to MPOs and state DOTs for the need for specific eligibility under federal transportation law to use these traditional highway programs to support transportation alternatives and leverage private capital.

4. Establish specific funding tools to support TOD planning and acquisition

Given the large demand for STP, CMAQ and TAP funds, many regions are also exploring other funding sources. Minnesota's Livable Communities Demonstration Act uses a regional tax levy to support infrastructure upgrades, transportation improvements, including parking and land assembly. Given the success of local transit funding ballot measures, it may be worth including specific provisions to fund land acquisition and other TOD project financing costs as part of a broader transit-funding sales tax or revenue measure.

MPO action: Explore the potential to use STP, CMAQ or transit formula funds to establish a regional TOD fund, Livable Communities or other similar program to support local planning and implementation efforts, including acquisition funds. A number of different models exist that could serve as a template for how to structure such a program, including selection process, required local match, eligible activities, etc.

If pursuing the creation of a land acquisition fund, it will be critical to partner with other public or private sector and nonprofit organizations that have experience in housing finance to help structure and administer the fund. MPOs should assess what type of funding may be most appropriate to provide patient capital or financing to support mezzanine debt for land assembly. These funds can provide critical support that leverages substantial private investment both to support development, and potentially for infrastructure investments including transit, sidewalks, public parking or street connectivity.

State Action: Pursue legislation or appropriations to create and fund a specific equitable TOD program similar to Minnesota's Livable Communities Act, which established and funded an ongoing MPO discretionary grant program to support local TOD-supportive planning and pre-development. Special purpose districts can provide gap funding assistance, accelerate infrastructure investment and reduce perceived development risk but may require state enabling legislation. Equitable TOD advocates should work with cities, counties and property owners to obtain state support for the creation of such districts where feasible and not currently in use.

Advocate action: Advocates should educate MPO, state and transit agency staff about needed financial tools and the potential for leveraging private investment. Advocates can be important allies in helping to identify private sector partners, including developers who may be interested in different finance and incentive structures to support equitable TOD.

5. Make greatest use of joint development opportunities

New changes to FTA's Major Capital Investment Grant program and Joint Development guidance reframe the importance of affordable housing and economic development for advancing regional transit projects. MPOs can play an important coordination role between local governments, the transit agency and other regional stakeholders to identify joint development opportunities. In regions with existing or expanding transit networks, developers may be willing to meet development parameters and requirements, including affordable housing, if they are still able to demonstrate a fair return. Transit agencies can facilitate these deals by providing land for reduced or no cost. FTA has sought public comments on how fair return may be characterized to meet this threshold requirement, and final guidance is pending. Joint development agreements can also be a potential source of ridership and revenue creation for transit agencies.

Transit agencies and MPOs influence development potential through the corridor planning process which identifies station location sites. Often these decisions are made to prioritize lower-cost alternatives, including those with existing right-of-way in a rail corridor or freeway median. These decisions, often made by engineers during project development, can have a profound impact on the potential for equitable TOD to be economically feasible.

Transit Agency action: Establish a joint development policy, including explicit criteria to encourage affordable or mixed-income housing within projects located adjacent to transit stations. Transit agencies can be a proactive partner through developing requests for proposals for land parcels that include affordable housing and other community services as a condition of redevelopment. The joint development policy should also be coordinated with development of proposed corridors to ensure that selection criteria for future station sites include development potential. In establishing a joint development policy, it is important for the transit agency to ensure a reasonable process that does not materially damage the economics of a project and that allows for different market conditions that exist across the regional transit system.

MPO action: MPOs can also establish a joint development or TOD policy that pertains to excess land that may be purchased for right of way on transportation or transit projects in which they are a funding partner. They may also have a stated policy that articulates the agency's goals and principles for TOD, regional transportation service for low-income and transit dependent households and the desire to integrate land use, housing and transportation.

GREATER SUPPORT FOR EQUITABLE TOD IN THE NEXT TRANSPORTATION BILL

MAP-21 is set to expire on September 30, 2014, creating near-term opportunities to influence future federal funding and policy decisions. Congressional committee hearings have begun with a focus on the need for increased federal investment.

Transportation advocates will play a critical role in helping to shape the legislation. The next transportation authorization presents an opportunity to advocate for policy changes that can strengthen MPO involvement in TOD implementation. This is an opportunity for MPOs, transit agencies and state DOTs to continue to advocate to their members of Congress directly in support of regional and state transportation projects. They can also advocate more broadly through the membership organizations to which they belong, such as the Association of Metropolitan Planning Organizations (AMPO), the Association of American Highway Transportation Officials (AASHTO), the American Public Transportation Association (APTA) and the National Association of Regional Councils (NARC). Those who care about community development and equitable TOD should also engage in the debate.

Given the dire fiscal situation facing a declining transportation trust fund, anticipate big debates over revenues sources and funding levels. Nonetheless, Congress should pursue policy adjustments to allow for greater implementation of equitable TOD. Such changes also benefit transportation interests by helping to raise additional local revenues for transportation (i.e. increased tax revenues from new development), increase transit ridership and reduce vehicle miles traveled. Equitable TOD policy adjustments to pursue include:

1. Establish TOD planning and implementation as specifically eligible activities under the STP and CMAQ programs in Title 23, including their allowable use in structured funds or capital pools to support equitable TOD.
2. Require MPOs to consider a combination of housing and transportation costs as a factor in long-range metropolitan planning (i.e., creating a ninth federal planning factor).
3. Evolve the TOD Planning Pilot Program into a permanent planning program, and expand authority beyond planning to implementation activities.
4. Create an additional national performance standard for regional competitiveness and/or quality of life.

In advocating for these policy changes, it is important to educate federal policy makers on the connection between development investments and improving the efficiency of the transportation system. Equitable TOD stakeholders should continue to engage with FTA as it finalizes policy guidance for joint development and the New Starts/Small Starts program. Specifically, it will be important for the joint development guidance to maintain maximum flexibility on how FTA assesses fair market return to ensure that affordable housing and other community benefits are fairly evaluated.

CONCLUSION

The next few years will see continued change in the marketplace in response to economic and demographic trends. Whether federal transportation legislation is reformed to keep pace with these changes remains to be seen. Rather than viewing equitable TOD as a sideline to bigger transportation funding matters, the reality is that comprehensive financing strategies that include housing and developer partners can unlock new transportation revenues, while also creating more equitable communities. Community development, social equity and TOD advocates should create partnerships to support the policy changes necessary at both the regional and federal levels to facilitate equitable TOD. In particular, aligned stakeholders should support MPOs in undertaking more innovative and engaged roles and advocate on the national stage as Congress takes up the next federal transportation authorization.

In the meantime, a number of opportunities exist for MPOs to support equitable TOD through MAP-21-authorized highway and transit programs. Taking full advantage of the flexibility in federal programs allows regions to design and implement funding tools that meet their specific local needs. Leading MPOs have taken a comprehensive look at potential local, state and federal funding sources and evaluated the full set of TIP-approved transportation projects and community development needs in their region. They have worked to uncover local strategies to ensure the maximum return on investment, accelerate implementation and/or support land acquisition for affordable housing. Transit funding also allows MPOs and transit agencies to pursue joint development through FTA-funded formula or discretionary grant programs like New Starts/Small Starts. Newly issued policies on joint development and an increased emphasis on affordable housing preservation and creation in evaluating proposed transit projects demonstrate stronger federal government interest in supporting local equitable TOD opportunities.

Understanding MAP-21 provisions for flex funding, joint development and TOD is necessary for MPOs to undertake a comprehensive, cooperative and continuing approach to identifying and addressing long-range regional transportation needs. With MAP-21's increased emphasis on performance-based planning and the growing competition for scarce public dollars, equitable TOD advocates need to be at the table to make the transportation case for affordable housing and community development located along transit corridors.

Achieving progress on equitable TOD implementation will require the involvement of private, nonprofit and public sector partners working at all levels of government. It is heartening to see progress in a growing number of regions from New York to Georgia, Texas, Minnesota and California. However, the funding complexity and higher-cost of providing equitable TOD will require even greater innovation, flexibility and partnership by MPOs to meet the growing market pressures occurring in metropolitan areas across the country.