March 26, 2012

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

Docket Number FTA–2010–0009; RIN 2132–AB02; 49 CFR Part 61
Notice of Proposed Rulemaking and Policy Guidance for Major Capital Investment Projects

Dear Administrator Rogoff:

Enterprise Community Partners appreciates the opportunity to submit comments on the Proposed Rulemaking and Policy Guidance for Major Capital Investment Projects (New Starts/Small Starts). We commend the Federal Transit Administration (FTA) for acknowledging the need to take a holistic view of the benefits and impacts of transit investments on the broader community. This approach is crucial in promoting sustainable communities that balance economic development, environmental stewardship, public health and social equity.

At Enterprise, we create opportunity for low- and moderate-income people through affordable housing and diverse, thriving communities. For housing to be a springboard to a good life, it must exist in a supportive living environment with jobs, quality schools, child care, transportation, health care and support for seniors, with access to parks, community spaces and food and retail services that support a healthy lifestyle. Enterprise develops and preserves affordable housing in communities linking people to opportunities for success. When these links are absent, Enterprise forms partnerships and bridges gaps toward creating more vibrant places for people to live and pursue their dreams. Since 1982, Enterprise has raised and invested more than $11 billion to help finance more than 300,000 affordable rental and for-sale homes to create vital communities and more than 410,000 jobs nationwide.

Enterprise believes that public transit investments are important means of enhancing mobility, decreasing traffic congestion, improving air quality and facilitating economic development and community revitalization. Transit investments increase connectivity and economic opportunity by providing residents with additional access to jobs, and enhance local commerce by connecting households to retail and other businesses. We believe it is vital that the benefits of public transit investments are equitably shared by households of all incomes. To advance these principles, we work to facilitate the development and preservation of affordable housing by providing financial capital, capacity building and technical assistance, and research and policy support. We invest in and manage structured funds for the financing of transit-oriented affordable housing throughout the country. For more information on our local activities, please see the appendix and the Enterprise Transit-Oriented Development (TOD) webpage.

To that end, we are supportive of FTA’s proposal to comprehensively evaluate the community impacts of New Starts/Small Starts investments. Specifically, we support:

- assessing applicants’ efforts to create and preserve “publically supported affordable housing” proximate to New Starts/Small Starts projects (Enterprise has assisted in developing more detailed joint recommendations on this subject submitted under separate cover);
• providing extra weight to the project trips made by transit dependents in the calculation of cost effectiveness; and
• amending the cost effectiveness calculation to exclude the costs of certain “betterments” from the equation (discussed in further detail below and as part of joint comments under separate cover submitted by members of the Green Affordable Housing Coalition).

In implementing these changes, we recommend that FTA collaborate with other agencies and the interagency Partnership for Sustainable Communities. While we applaud FTA’s commitment to incorporate a more holistic approach to transit investments, we acknowledge that it may be necessary for FTA to leverage the expertise of external departments and agencies in implementing the proposed changes. Specifically in reference to affordable housing-related proposals, we recommend that FTA build off existing coordination efforts with the interagency Partnership for Sustainable Communities and the Department of Housing and Urban Development in particular.

**Detailed Recommendations on the Calculation of Cost Effectiveness**

Enterprise supports FTA’s proposal to amend the cost effectiveness calculation by excluding the costs of “betterments” from the equation. This exclusion should be explicitly mentioned in the Final Rule as well as the Policy Guidance. The FTA notice defines betterments as elements that go beyond the basic functioning of the project. If properly structured, this exemption would remove barriers to implementing aspects of a project that will improve the overall functioning and quality of the project, but may not always have a direct impact on the number of trips using the project (the denominator of the cost effectiveness calculation). These elements can enhance the ancillary benefits of the transit investment by ensuring that project benefits are shared by households of all incomes (through efforts to promote community development and create and preserve affordable housing), enhancing project access and mobility (through enhanced bicycle and pedestrian access), and further reducing the project’s environmental impact (in the case of LEED Certification, as explicitly mentioned in the policy guidance). In implementing this proposal, we offer the following suggestions:

**Allow the cost of acquiring land/property for affordable housing and community development projects adjacent to transit to qualify as betterments.** Transit investments can lead to positive community and economic development benefits proximate to transit stations. In many circumstances, this can lead to an increase in property values and housing costs. In order to ensure that low- and moderate-income households have an opportunity to benefit from the enhanced access and mobility that public transportation provides, many communities have proactively worked to create and preserve affordable housing units and provide ancillary community facilities near transit stops. In addition to the equity benefits of these investments, affordable housing and community development projects can have direct benefits to the transit project itself. Research has shown transit riders are more likely to be of low and moderate incomes,¹ and therefore such activities can increase and/or stabilize ridership for the transit project. Therefore, FTA’s definition of betterments should include the acquisition costs of property near a proposed transit station when the end use is for a community benefit such as affordable housing and ancillary community facilities. Such activities can be undertaken through joint development, the sale of surplus property to an organization that makes a commitment to undertake such development activities, or other forms of public-private partnerships or legally-enforceable commitments. In addition, FTA’s definition of betterments should include the costs of providing bicycle and pedestrian access to the transit stop for nearby affordable housing and community development projects (both newly developed and existing).

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Allow the incremental costs of structured parking (vs. surface parking) to qualify as betterments if they allow for more intensive development adjacent to transit stops. While the availability of parking adjacent to transit can facilitate increased ridership in some circumstances, the construction of extensive surface parking lots adjacent to transit can crowd out more productive uses such as intensive residential and commercial development. Therefore, if an applicant’s plan proposes to use vertical parking structures rather than a surface parking lot and uses the freed-up land for development (especially of affordable housing and/or community facilities), the incremental costs of the parking structure (vs. the costs of surface parking) should receive betterment status.

The value of the betterment to be excluded in the cost-effectiveness calculation should be related to the actual cost of the element/activity. FTA’s proposed policy guidance states that the capital costs of the project would be reduced to account for betterments by a fixed percentage specified by FTA. Each project will have unique circumstances that affect the costs of the overall project and individual betterments. Rather than creating a fixed percentage reduction for a prescriptive list of eligible betterment activities (for example, reducing any project’s capital costs by 5 percent for meeting green building certifications), FTA’s policy guidance should enumerate eligible public benefits and goals and base the betterment exemption on the actual cost of activities undertaken to meet them. This will provide applicants with the flexibility necessary to undertake innovative activities that promote overall program goals and improve project sustainability.

In addition to the explicit inclusion of LEED certification, allow the costs of meeting substantially equivalent green building certification systems to qualify for betterment status. Enterprise strongly supports FTA’s proposal to subtract the costs of meeting LEED certification from the cost-effectiveness calculation. We also believe that other substantially equivalent, broadly recognized certification systems should be explicitly eligible, including but not limited to the Enterprise Green Communities Criteria and EarthCraft. By allowing the costs of meeting these certifications to be included, FTA is promoting environmental sustainability in all its projects, particularly those that are incorporating mixed-use and mixed-income development on-site.

Once again, thank you for the opportunity to provide comments on the Major Capital Investments Proposed Rule and Policy Guidance. We commend FTA for your ongoing willingness to seek and respond to public input. Please contact Michael Spotts, Policy Analyst (mspotts@enterprisecommunity.org; 202-649-3902) for further discussion.

Sincerely,

Melinda Pollack
Vice President
Enterprise Community Partners

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APPENDIX: Selection of Enterprise Transit-Oriented Development (TOD)-Related Activities

Bay Area Transit-Oriented Affordable Housing (TOAH) Fund (courtesy of the Bay Area TOAH Fund website)

“The $50 million Bay Area Transit-Oriented Affordable Housing (TOAH) Fund provides financing for the development of affordable housing and other vital community services near transit lines throughout the Bay Area. Through the Fund, developers can access flexible, affordable capital to purchase or improve available property near transit lines for the development of affordable housing, retail space and other critical services, such as child care centers, fresh food outlets and health clinics.”

“The Bay Area’s high housing costs put significant pressure on working families. Half of all Bay Area households spend more than 30% of their income on housing costs, compared to 1/3 of residents nationally. To afford housing, Bay Area residents must travel further to get to work as many jobs have moved away from city centers. The number of Bay Area commuters traveling more than 45 minutes to work is the second highest in the nation. The dual burden of housing and transit is even heavier for lower income families. Bay Area households earning $20,000-$50,000 spend 63% of their household budgets on the combined costs of housing and transportation, the highest percentage in the country.”

“The TOAH Fund was made possible through a $10 million investment from the Metropolitan Transportation Commission. The Low Income Investment Fund is the Fund Manager and an originating lender, along with five other leading community development financial institutions (Corporation for Supportive Housing, Enterprise Community Loan Fund, LISC, Northern California Community Loan Fund, and Opportunity Fund). Additional capital for the Fund was provided by Citi Community Capital, Morgan Stanley, the Ford Foundation, Living Cities, and the San Francisco Foundation.”

Mile High Connects (courtesy of the Urban Land Conservancy Website)

“Mile High Connects (formerly known as the Mile High Transit Opportunity Collaborative) is an emerging collaborative of nonprofit and philanthropic organizations working together to ensure the creation of the region’s $6.7 billion FasTracks transit system benefits all communities in the region, including low-income populations. Our work is made possible by the generous contributions of our members and by a contribution from the Ford Foundation’s Metropolitan Opportunity initiative.”


Our primary goal is to ensure that the creation of FasTracks improves accessibility to affordable housing, good-paying jobs, essential services, educational opportunities, improved health, and other elements of a high quality of life for all of Metro Denver’s residents, especially those with lower-incomes.”
To do this, we are:

- Providing a vision and roadmap for how FasTracks and the development around FasTracks stations can help improve opportunities for all communities, including low-income communities in the region
- Working across city and county lines to create a shared vision and build a movement for people across the eight-county Metro Denver area to improve the quality of life across the region
- Convening private, public, and nonprofit leaders and community groups that have a stake in the build-out of the FasTracks system to ensure all communities, including low-income communities, benefit from its construction
- Investing in various projects around the region that are designed to ensure equitable outcomes in the FasTracks build-out process

**Mile High Transit-Oriented Development Fund (courtesy of the [Urban Land Conservancy Website](http://www.urbanconservancy.org))**

“The Urban Land Conservancy (ULC), Enterprise Community Partners, the City and County of Denver, and several other investors have partnered to establish the first affordable housing Transit Oriented Development (TOD) acquisition fund in the country. The purpose of the Denver TOD Fund is to support the creation and preservation of over 1,000 affordable housing units through strategic property acquisition in current and future transit corridors.”

“The Fund is capitalized at $15 million, but is evolving now to $30 million in total loan capital. This revolving loan fund will make capital available to purchase and hold sites for up to five years along current and future rails and high frequency bus corridors. The $30 million investment will leverage over $500 million in local economic development activity, serving many economically challenged neighborhoods in Metro Denver with construction and permanent job creation. The Fund will also directly benefit low-income households that on average spend 60% of their gross income on housing and transportation expenses combined. By controlling these expenses and providing access to quality, environmentally-sustainable housing, the TOD Fund will make it possible for families to build wealth and access employment and educational opportunities. It will also provide employers with access to an expanded workforce.”

“The partnership of government, quasi-governmental organizations, banks, nonprofits and foundations is a critical component of the Denver TOD Fund. Enterprise Community Partners, a national nonprofit, assembled the initial $15 million in capital that allowed the Fund to begin operations in 2010. City of Denver is the largest single investor, providing $2.5 million in top loss investment. ULC committed the initial $1.5 million equity to the Fund and leads the real estate acquisition, management, and disposition of assets for the Fund.”