July 24, 2017

U.S. Department of Transportation
1200 New Jersey Avenue, SE
Room W12-140
Washington, DC 20590

RE: DOT-OST-2017-0057

The Local Initiatives Support Corporation (LISC) is pleased to provide input to help guide the Department of Transportation's efforts to identify unnecessary obstacles to financing transportation infrastructure projects.

Established in 1979, LISC is a national non-profit Community Development Financial Institution (CDFI) that is dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity. LISC mobilizes corporate, government and philanthropic support to provide local community development organizations with loans, grants and equity investments; as well as technical and management assistance and policy support.

LISC has a nationwide footprint, with local offices in 31 cities and partnerships with 77 different organizations serving 2,000 rural counties in 44 different states. LISC invests approximately $1 billion each year in these communities. Our work covers a wide range of activities, including housing, economic development, building family wealth and incomes, education, and creating healthy communities.

As part of our comprehensive approach towards community and economic development, LISC is a proponent of Transit Oriented Development (TOD) – creating compact communities near transit, where residents can have easier access to employment, retail goods, services and recreation. Over the past several years, LISC has invested over $222 million in TOD projects, leveraging over $1 billion in total development costs. These investments have financed 3,822 homes, and generated just under one million square feet of retail and community facilities.

TOD principles have gained popularity in recent decades, and are increasingly being incorporated into federal transportation policies and programs. The FAST Act of 2015 included several changes to both TIFIA and RRIF that were intended to help finance the non-transportation portions of TOD projects. However, there remain several barriers to financing

these types of projects, particularly smaller projects and those in low-income and rural communities that have difficulty attracting private capital. To better facilitate these types of activities, the DOT should consider further modifications to TIFIA and RRIF, including:

- Creating a loan pool that would allow eligible entities to aggregate and finance smaller projects, including those with total development costs much smaller than the current $10 million minimum, in underserved communities or that serve low-income populations;

- Revising the current underwriting criteria to better support smaller scale investments (e.g., removing the requirement under TIFIA that each funded project receive an investment grade rating from a credit agency), and shifting underwriting responsibilities from DOT to private sector participants with proven capacity to underwrite these types of transactions;

- Expanding the pool of eligible program applicants to include CDFIs and other community and mission-based organizations with a capacity to assemble, underwrite and finance multiple eligible TOD projects in low-income and rural communities; and

- Amending the definition of eligible economic development activities under TIFIA to include affordable housing.

These and other recommendations are expanded upon in the attached White Paper, which LISC developed in conjunction with several other national organizations with an interest in TOD finance. While some of these recommendations may require statutory changes, most can be implemented through administrative action. We believe that these recommended program modifications would spur considerable new private investment in TOD projects, particularly smaller projects in underserved urban and rural communities, while simultaneously lessening burdens on both the Department of Transportation and the program participants.

We thank you for this opportunity to provide comments, and hope you will give this proposal every consideration.

Sincerely,

Matt Josephs
Senior Vice President for Policy

TOD LOAN FUND PROPOSAL
April 2017

Overview:

Transit oriented development (TOD) creates compact communities near transit where residents can easily access employment, services and recreation. TOD principles have gained popularity in recent decades, and are increasingly being incorporated into federal transportation policies and programs. However, there is no federal program or source of funding dedicated solely to facilitating investments in the non-transportation portions of TOD projects. And despite efforts in Congress and at the Department of Transportation (DOT), the ability to finance these investments through existing programs – particularly smaller investments and those in lower income and in rural communities -- is somewhat hampered by existing regulatory constraints. *We believe that, with minor modifications, the Transportation Infrastructure Finance and Innovation Act (TIFIA) and the Railroad Rehabilitation and Improvement Financing (RRIF) programs at the DOT could spur significant private sector investment in TOD projects.*

Background on TIFIA:

The TIFIA program was established in 1998 for the purpose of securing private sector investments to fill financing gaps in transportation infrastructure projects. According to the Department of Transportation, the "strategic goal" of TIFIA is to "leverage limited federal resources and stimulate capital market investment in infrastructure by providing credit assistance in the form of direct loans, loan guarantees and standby lines of credit (rather than grants) to projects of national and regional significance." Through 2016, TIFIA has provided $26 billion to 64 different transportation infrastructure projects, with total project costs of $94.6 billion. These projects include bridges, highways, transit lines, tunnels, ferries and transportation centers.

The TIFIA program was most recently reauthorized through the FAST Act of 2015, which made available, subject to appropriations, an additional $1.435 billion of funding through FY 2020. Historically, each dollar of funding has allowed TIFA to provide approximately $14 in TIFIA credit assistance; meaning that these funding levels could support $20 billion in TIFIA credit assistance.

Background on RRIF

The RRIF Program was established in 1998 to provide direct loans and loan guarantees totaling up to $35 billion to finance the development of railroad infrastructure. Funds may be used to develop or establish new intermodal or railroad facilities, or to acquire, improve or rehabilitate intermodal or rail equipment or facilities, including tracks, track components, bridges, yards, buildings and shops. Eligible applicants include railroads or joint ventures that include at least one railroad, state and local governments or government-sponsored authorities, and limited option freight shippers who intend to construct a new rail connection. To date, DOT has executed 36 RRIF loans totaling approximately $5.1 billion in 27 different states.

Recent Programmatic Changes to Support TOD

The FAST Act of 2015 included several changes to both TIFIA and RRIF that were intended to help finance the non-transportation portions of TOD projects.

With respect to TIFIA, the FAST Act included a provision that expanded project eligibility to include commercial (but not residential) TOD related investments. It also reduced the total minimum project cost requirement from $50 million ($25 million in rural communities) to $10 million for TOD projects; streamlined the application process; and authorized grant dollars that could be made available to defray application costs for smaller projects.

The FAST Act permits RRIF financing to cover the commercial and residential portions of TOD projects that: (i) are physically or functionally related to a passenger rail station or multimodal station that includes rail service; (ii) have a high probability of commencing the contracting process for construction within 90 days of loan obligation; (iii) provide a 25% non-Federal match; and (iv) have a high probably of reducing the need for financial assistance under any other Federal program for the passenger rail station or service. Of note, the TOD authority under RIIF sunsets in December of 2019.

Proposals:

We believe that the following modifications to TIFIA and RRIF, some of which would entail statutory changes and others administrative, would spur considerable private investment in TOD projects in underserved urban and rural communities throughout the country.

1. **Create a loan pool to enable applicants to finance a number of eligible projects.** There is currently no efficient mechanism for organizations to aggregate and finance multiple eligible projects. Applicants for financing must identify individual projects, each with total development costs of at least $10 million, and DOT must separately review and underwrite each of these individual projects for financial feasibility, project eligibility, etc. This project-level, case-by-case review results in significant administrative costs for both the applicant entity and for the DOT, prejudices project selection against smaller projects, and slows down the approval timeline for projects that may otherwise be shovel-ready.

   The DOT should create, through both TIFIA and RRIF, a loan pool that can be available to entities wishing to finance multiple eligible projects. For the purpose of this loan pool funding, eligible projects would include those TOD projects located within a set distance (e.g., ¼ mile) of the transit investment and/or that are part of a DOT-funded transportation plan.

   Each applicant entity (which may include special purpose entities established and controlled by eligible entities) would seek an authorization from DOT to participate as an eligible lender under this initiative. Rather than underwriting each project in the applicant's portfolio, the DOT would underwrite the organization – making a determination as to how much the organization can draw from the fund. Criteria for selection would include not only an analysis of the organization's ability to

manage and to repay the debt, but also an assessment of the likelihood of the funds being drawn, based on the organization's track record and pipeline of projects.

Once selected as an eligible lender, the applicant would then submit a draw request as projects are ready for financing. The lender would be responsible for determining that the project meets all eligibility criteria (e.g., site eligibility, credit requirements) and, if deemed appropriate, provide certifications pertaining to project eligibility (including that it meets established DOT underwriting criterion) prior to the draw.

2. **Permit borrowers from the loan fund to finance projects with total development costs of less than $10 million.** While it may be appropriate for DOT to continue to apply minimum and maximum funding amounts (e.g., $10 million -- $75 million) that any one applicant may draw from the loan pool, once selected, lenders should be able to finance smaller transactions. Most TOD investments (whether in adjacent housing, community facilities or small businesses) are likely to be significantly smaller than $10 million, and these cannot currently be served through either TIFIA or RRIF. By eliminating the minimum project size requirement for projects funded through the loan fund, a whole host of TOD projects would now be eligible for financing, including smaller scale housing developments, community facilities such as daycare and healthcare centers, and most notably, small businesses and microenterprises. What's more, as proposed above, none of these projects would have to be individually underwritten and approved in advance by the DOT.

3. **Focus funding on projects that are located in rural communities or in low-income communities, and that provide benefits to low-income populations.** These projects face particular challenges in securing capital from the private markets. To the extent a TOD loan fund is implemented as proposed above, then it would be appropriate to require applicants to (or at a minimum create a selection preference for applicants that will) invest in projects in underserved rural communities or in low-income communities, and that benefit low-income populations. This is consistent with current requirements under RRIF that the loan support economic development purposes.

4. **Expand applicant eligibility to include CDFIs.** Community Development Financial Institutions, or CDFIs, are community-based, financing entities that have a mission of serving low income neighborhoods or populations. They are certified by the CDFI Fund of the US Treasury Department, and include banks, credit unions, and both for-profit and non-profit loan and venture capital funds. There are approximately 1,000 CDFIs serving every state in the country, many of which have significant experience financing TOD and related projects – as well as experience administering federal funding streams as well as state and local loan fund dollars. To the extent TIFIA and RRIF are modified to create a revolving loan fund as proposed above, CDFIs would be well poised to apply for and utilize these funds.

5. **Expand the definition of eligible TOD projects in TIFIA to facilitate investments in housing.** The current definition of eligible TOD projects under TIFIA does not incorporate housing, which is a generally the primary, driving objective of TOD investments. Locating housing near transportation hubs can reduce transportation costs, reduce commuting times (which increases worker productivity and also saves on childcare expenses), and relieve congestion on roads and highways. Investments in housing projects near transportation hubs should be eligible as TOD investments under TIFIA, just as they are under RRIF.

6. **Implement changes to credit requirements that reflect the nature of the portfolio and the role of the intermediary lender.** As envisioned in this proposal, the intermediary lender will assume some share of the risk for repayment, and individual projects, though not individually underwritten by DOT, will still have to meet minimum underwriting standards established by DOT. This, coupled with the fact that the average project size for projects funded through the loan pool (likely less than $10 million) will be considerably smaller than the current average project size under TIFIA ($1.47 billion) and RRIF ($143 million), should mean there is much less credit risk for DOT. As such, DOT should reexamine its current credit and underwriting requirements to determine which requirements can be relaxed or eliminated altogether with respect to projects funded through the loan pool (e.g., the requirement under TIFIA that each funded project receive an investment grade rating from a credit agency; or the requirement that TIFIA funds generally support no more than 33% of total project costs).