OVERVIEW OF VALUE CAPTURE TOOLS
FHWA EDC-5 VC PEEREXCHANGE

IDOT and CMAP
September 17-18, 2019
Chicago, IL

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WHY VALUE CAPTURE?

Transportation/Water Infra Funding History

Most infrastructure spending in the United States comes from state and local governments

<table>
<thead>
<tr>
<th>Infrastructure Spending (Billions of 2017 Dollars)</th>
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<tbody>
<tr>
<td>$0</td>
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<tr>
<td>1960</td>
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<tr>
<td>1965</td>
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<td>1970</td>
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<td>1975</td>
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<td>1980</td>
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<td>2000</td>
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<td>2005</td>
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<td>2010</td>
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<td>2015</td>
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</tbody>
</table>

Increasing burden on local governments and the private sector

- $200B Federal
- $800B State/Local
- $500B Private

*New estimate at $2T

WHY VALUE CAPTURE?

Revenues (ex. Boston)
- State Aid 14%
- Sales Tax 6%
- Other 10%
- Property Tax 70%

Property taxes are local revenue work horse

Severe and sustained restrictions on local property tax increases and revenues

Local Fiscal Health Picture
- Top 75 cities $355B in debt
- 2/3 in UPL, OPEB
- Kicking the can—capital spending first to go

UPL—Unfunded Pension Liabilities
OPEB—Other Post-Employment Benefits
(LAND) VALUE CAPTURE DEFINED

A formal method to capture & monetize land value appreciation to generate local revenues for capital improvements

• One of most powerful local policy tools

• Involves local land use entitlements and zoning regulations directly or indirectly

• Public’s right to share VC can be from direct public interventions or from exogenous supply-demand macroeconomics

• If done right, financial burden can be spread equitably across taxpayers, property/business owners, developers, and other stakeholders

It’s mine—I’d appreciate your not looking out of it.
<table>
<thead>
<tr>
<th>Who Pays?</th>
<th>Value Capture Tool Category</th>
<th>Features</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxpayer</td>
<td>Property Tax/Land Value Tax (Ad Valorem)</td>
<td>Needs VC enabler (e.g., Tax Increment Financing)</td>
</tr>
<tr>
<td>Property/ Business Owner</td>
<td>Special Taxes/Assessments (Non Ad Valorem)</td>
<td>Based on costs or benefits; pre-defined period</td>
</tr>
<tr>
<td>Developer</td>
<td>In-Lieu or Impact Fees</td>
<td>Pay for additional capacity needs; mostly one time</td>
</tr>
<tr>
<td>Developer (Voluntary)</td>
<td>Negotiated Contributions</td>
<td>More flexible &amp; less litigious; larger planned projects</td>
</tr>
</tbody>
</table>
## OTHER IMPORTANT VC TOOLS

<table>
<thead>
<tr>
<th>Basis</th>
<th>Value Capture Techniques</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Rights</td>
<td>Joint Developments; Use Rights (ROW, Naming, Solar)</td>
</tr>
<tr>
<td>Best Practices</td>
<td>Asset Recycling (Australia), CEPACs (Brazil)</td>
</tr>
<tr>
<td>Other Financing Enablers</td>
<td>Transportation Corporations, State Infra Banks (SIBs)</td>
</tr>
</tbody>
</table>

VC tools generate **new local revenues**, not just financing scheme with repayments attached.
TOOL #1—PROPERTY TAX BASED

Taxpayer Pays, Existing Tax Base

Property taxes are the most basic VC tool rooted on real estate market value (*ad valorem*)

- TIF helps to capture organic property value increase within a “TIF District”
- Tax rate unchanged, only incremental tax revenues earmarked for TIF
- TIF earmarks end when investments are paid off
- TIF bonds can be issued upfront backed by future earmarks when threshold reached (e.g. 25% in CA)

Value capture from property tax is not automatic; Tax Increment Financing (TIF) provides a VC-enabling administrative framework
TIF ENABLES UPFRONT FINANCING

Many “TIF” Variants:

• Transportation Reinvestment Zones (TX)
• Tax Allocation Districts (GA)
• Urban Renewal Areas (OR)

TIF Base can be frozen or follow organic trend line w/o Improvements
TIF OPPORTUNITIES AND ISSUES

• Considered self-financing with no new taxes, less political resistance
• Gained prominence since introduced in the 50s, used and accepted in most states
• Works well for urban redevelopments where most needed
• Can be complex; dependence on expert advisory with own interest in development project
  ✓ Risk of overextended use; often overleveraged with inflated revenue projections
• Incremental tax revenues not guaranteed—if revenues fall short, taxpayers are beholden to residual liabilities
TOOL #2—SPECIAL/BENEFITS ASSESSMENTS

Property/Business Owner Pays

Oldest land-secured financing dating back to Medieval Europe

- Public improvements paid by property/business owners/tenants who benefit directly
- Represents new tax surcharge (*non ad valorem*) within “special assessment districts” over a specific period
- Used for capital improvements (construction and O&M) and/or public service (e.g., police and fire protection)

Before we start, have you folks considered upgrading to our Platinum Elite membership?
Local Community/Business Based

- Business/Community/Local Improvement Districts (BID/CID/LID)
- Special Service Areas (SSA) (IL)
- Community Facility “Mello-Roos” Districts (CFD) (CA)
MANY VARIATIONS IN SA DISTRICTS (cont.)

Transportation/Transit Specific

• Transportation Improvement or Development Districts (TID/TDD)
• Local Options Transportation Taxes (LOTT)
• Sales Tax Districts (Transit, TODs)
• Transportation Utility Fees (TUF) (Maintenance)

TODs—Transit-oriented developments
SA OPPORTUNITIES AND ISSUES

“Unique, Measurable, and Direct”

Most common and robust VC tool for transportation sector but no standards in assessing the surcharge

• Courts have leaned towards more restrictions (e.g., 2/3 voter approval, tougher public hearing/notification processes)

• More rigor required in differentiating special vs. general benefits
  ✓ “Special” and direct (e.g., streets, sidewalks, storm drains, sewers, utilities)
  ✓ “General” and community-wide (e.g., arterial streets, parks, schools, libraries)

• In general, benefits assessed must be “unique, measurable, and direct” and the burden of proof resides with the local governments

3 Assessment Components: Cost, Benefits, Affordability
Developer Pays

Financial responsibilities placed upon developers to provide some or all of public improvements necessitated by their projects

- Directly linked to approvals for land use entitlements
- Benefit of “concurrency”—collected at the project outset when most needed
- Often used in conjunction with special assessments
- Two basic developer exaction cateogries:
  - **Mandatory**: In-lieu fees (impact fees, linkage fees, tap fees)
  - **Voluntary**: (1) Land dedications, (2) In-kind contributions, (3) Negotiated contracts (development agreement, CBA)

CBA—Community benefits agreement
IMPACT FEES—MANDATORY

**GENERIC TERMS**

**“Impact” Fees:**
- Cost of incremental capacity needs for developer project
- Include a wide range of improvements/services (both on-site/off-site)

**“Linkage” Fees:**
- Cost of mitigating large-scale secondary effects (e.g., affordable housing, offsetting traffic increase)

**“Tap” Fees:**
- Utility connection fee

*Impact fees or MOBILITY FEES in transportation sector are most common exactions*

**Many Mobility Fee Variants:**
- Road or Traffic Impact Fees
- Intersection Development Charges (IDC)
- System Development Charges (SDC)
IMPACT FEE OPPORTUNITIES & ISSUES

Significant revenue source with wider coverage but potential legal issues when mandatory

- “Regulatory takings” concerns
- Essential (rational) nexus & rough proportionality tests (Nollan/Dolan/Koontz)—nexus/fee study needs
- Shockingly little uniformity; often depend on local political/economic climate

✓ In robust real estate market, impact fees can be up to 20% of property value

In upcycle, impact fees are passed onto buyers;
In downcycle, they are assumed by developers

Total Impact Fee Revenues
San Francisco (2013-2016)

- $237M
- $96M
- $90M
- $237M

FY2013-14 FY2014-15 FY2015-16
DEVELOPER EXACTIONS—VOLUNTARY

DA and CBA (Negotiated Contracts)

Typically used for large, master-planned projects; more flexible but legally binding
• Development Agreement (DA)
  ✓ Developers provide large upfront funding for public improvements in exchange for “vested rights”
  ✓ Easier to secure financing, minimize regulatory takings concern
• Community Based Agreement (CBA)
  ✓ Social amenities (e.g., day care, job training) in exchange for project support/acquiescence
  ✓ Often used in conjunction with DA to make it legally binding

Issues of transparency; legitimacy of community representatives
TOOL #5—RIGHTS/ENTITLEMENTS
Land Owners, Developers, Corporate Sponsors

- Joint Developments
- Air Rights, ROW Use Agreements
- Naming Rights
- Solar Energy Panels
VC GLOBAL BEST PRACTICES

Asset Recycling (Australia/US) — Monetizing brownfields to pay for greenfields

CEPACs (Brazil) — Commoditizing land use entitlements thru auctions

CEPACS — Certificates of Potential Additional Construction
## VC Tools for Various Transportation Projects

<table>
<thead>
<tr>
<th>Mode</th>
<th>Location</th>
<th>Project Size</th>
<th>% VC Funding</th>
<th>VC Tool Category</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>TIF</td>
</tr>
<tr>
<td>LOCAL ROADS</td>
<td>Urban</td>
<td>S</td>
<td>100%</td>
<td>✔ ✔ ✔ ✔</td>
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<tr>
<td></td>
<td></td>
<td>M</td>
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<td>✔ ✔ ✔ ✔</td>
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<td></td>
<td>L</td>
<td>100%</td>
<td>✔ ✔ ✔ ✔</td>
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<tr>
<td></td>
<td>Exurban/Suburban</td>
<td>S</td>
<td>60-100%</td>
<td>✔ ✔ ✔ ✔</td>
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<tr>
<td></td>
<td></td>
<td>L</td>
<td>50-100%</td>
<td>✔ ✔ ✔ ✔</td>
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<tr>
<td>HIGHWAYS/BRIDGES</td>
<td>Urban</td>
<td>M</td>
<td>100%</td>
<td>✔ ✔</td>
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<tr>
<td></td>
<td></td>
<td>L</td>
<td>1-60%</td>
<td>✔ ✔ ✔ ✔</td>
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<tr>
<td></td>
<td>Exurban/Suburban</td>
<td>S</td>
<td>80%</td>
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<tr>
<td>TOLL ROADS/HWYS</td>
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<td>L</td>
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<td>✔ ✔ ✔ ✔ ✔</td>
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<tr>
<td></td>
<td>Exurban/Suburban</td>
<td>M</td>
<td>30%</td>
<td>✔ ✔ ✔ ✔ ✔</td>
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<td></td>
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<td>TRANSIT/MULTIMODAL</td>
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<td>✔ ✔ ✔ ✔ ✔</td>
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<tr>
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<td>Ex/Suburban</td>
<td>L</td>
<td>5-40%</td>
<td>✔ ✔ ✔ ✔ ✔</td>
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FOUR VC SESSIONS/PROJECT CASES

1. Tax Increment Financing
   • Tax Increment Financing (TIF) Project Experience in Chicago
   • Transportation Reinvestment Zones (TRZ) (El Paso, TX)

2. Special Assessments
   • Transportation Improvement District (TID) (Route 28, Fairfax County, VA)

3. Developer Exactions—Impact Fees
   • Mobility Fees (Osceola County, FL)

4. Rights/Entitlements Based
   • Air Rights/Joint Developments, Naming Rights (MassDOT/Turnpike, MA)

VC Project Case Examples: https://www.fhwa.dot.gov/ipd/value_capture/project_profiles/
Q & A