

OVERVIEW OF VALUE CAPTURE TOOLS

FHWA EDC-5 VC PEER EXCHANGE

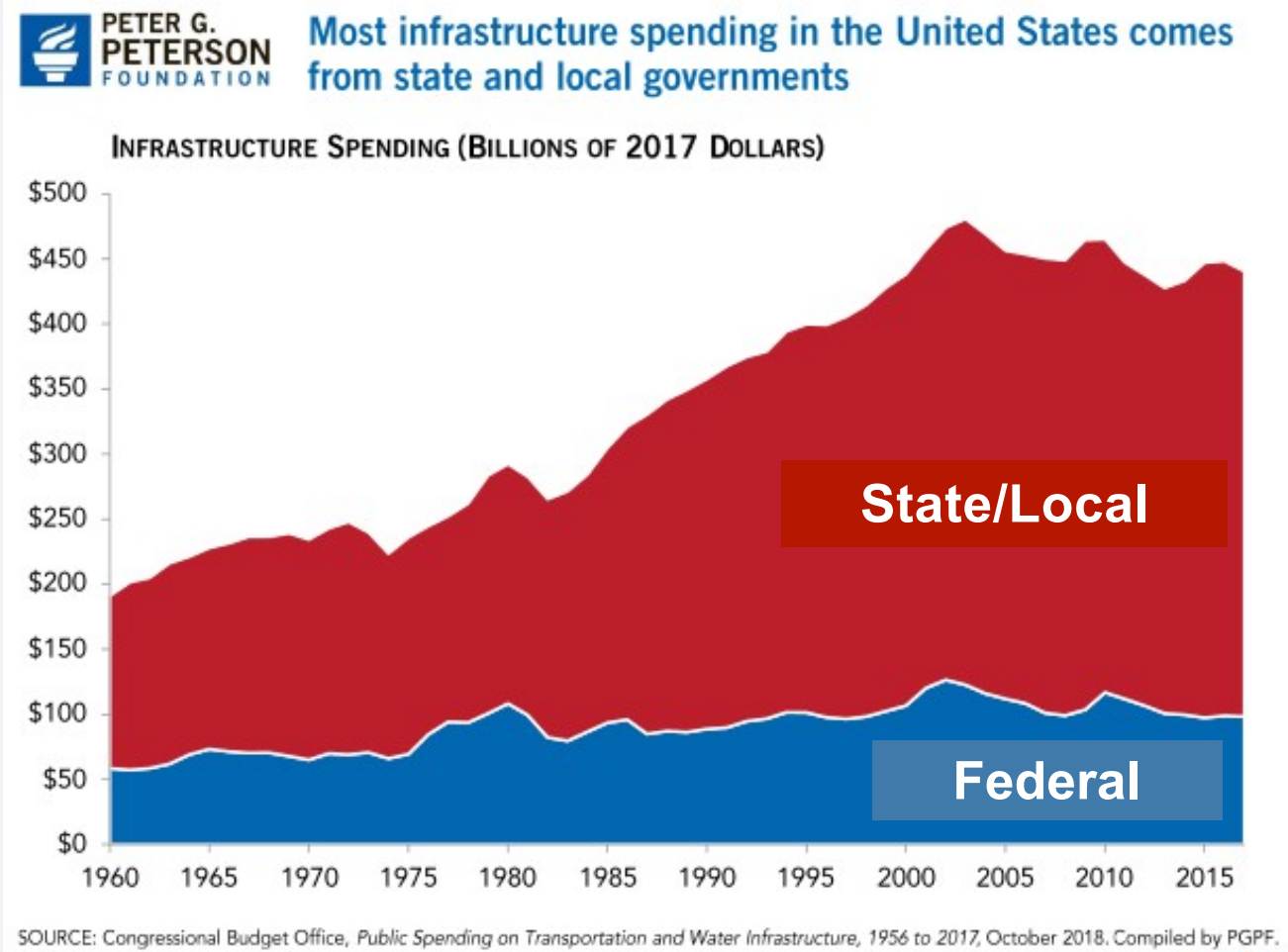
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WHY VALUE CAPTURE?

Transportation/Water Infra Funding History



Increasing burden on local governments and the private sector

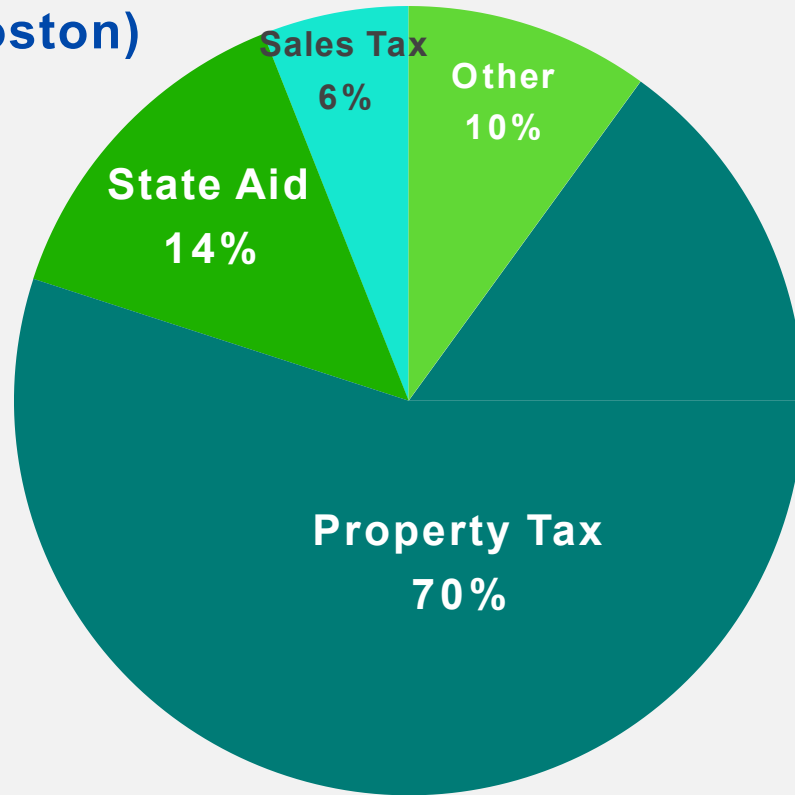
Infrastructure Funding Formula (\$1.5T)*

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

**New estimate at \$2T*

WHY VALUE CAPTURE?

Revenues
(ex. Boston)



***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.

ORGANIZING PRINCIPLE BASED ON EQUITY—WHO PAYS?

Who Pays?	Value Capture Tool Category	Features
Taxpayer	Property Tax/Land Value Tax (<i>Ad Valorem</i>)	Needs VC enabler (e.g., Tax Increment Financing)
Property/ Business Owner	Special Taxes/Assessments (<i>Non Ad Valorem</i>)	Based on costs or benefits; pre-defined period
Developer	In-Lieu or Impact Fees	Pay for additional capacity needs; mostly one time
Developer (Voluntary)	Negotiated Contributions	More flexible & less litigious; larger planned projects

OTHER IMPORTANT VC TOOLS

Basis	Value Capture Techniques
Development Rights	Joint Developments; Use Rights (ROW, Naming, Solar)
Best Practices	Asset Recycling (Australia), CEPACs (Brazil)
Other Financing Enablers	Transportation Corporations, State Infra Banks (SIBs)

**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)

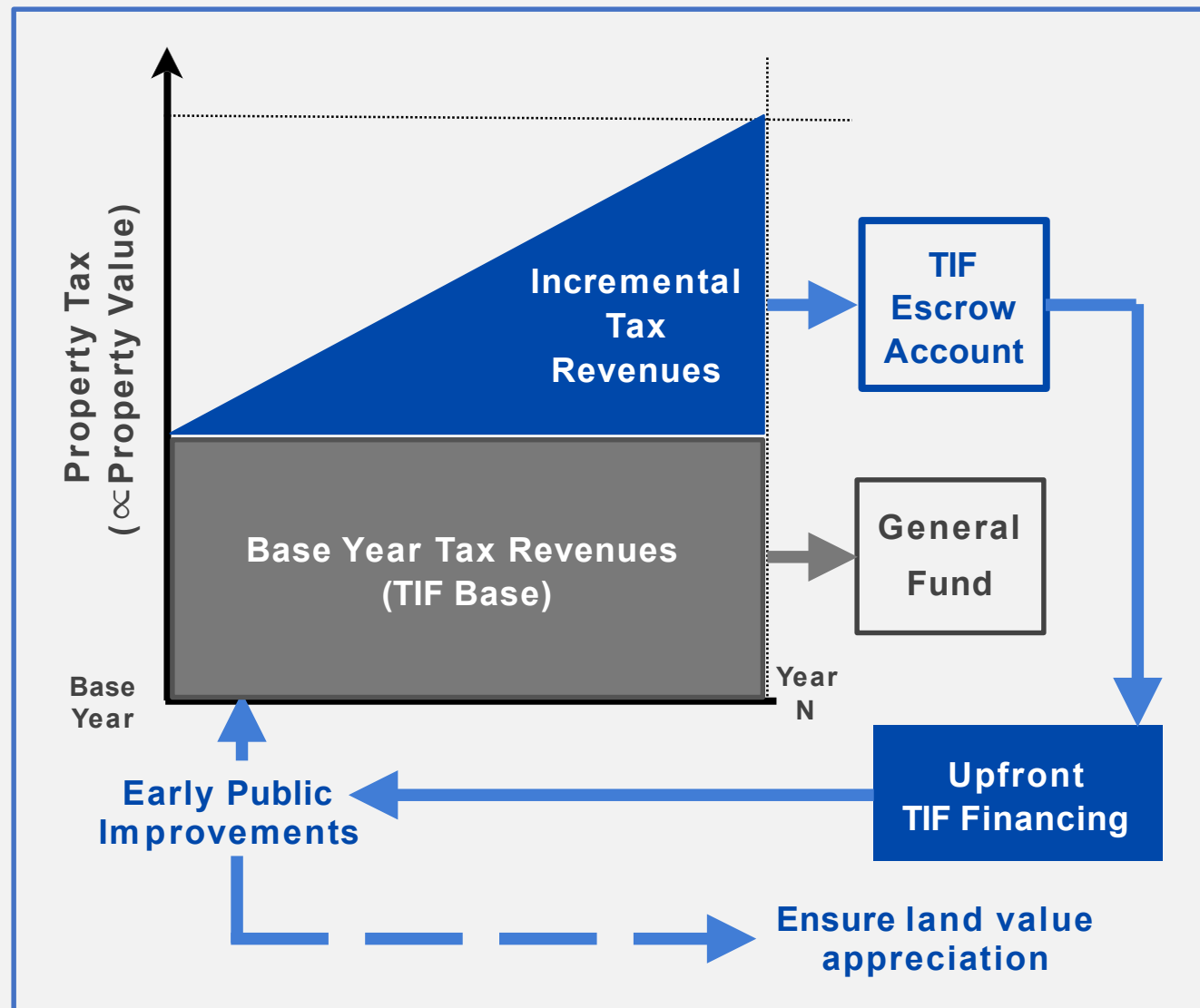
Value capture from property tax is not automatic; Tax Increment Financing (TIF) provides a VC-enabling administrative framework

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)



MANY VARIATIONS IN SA DISTRICTS

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

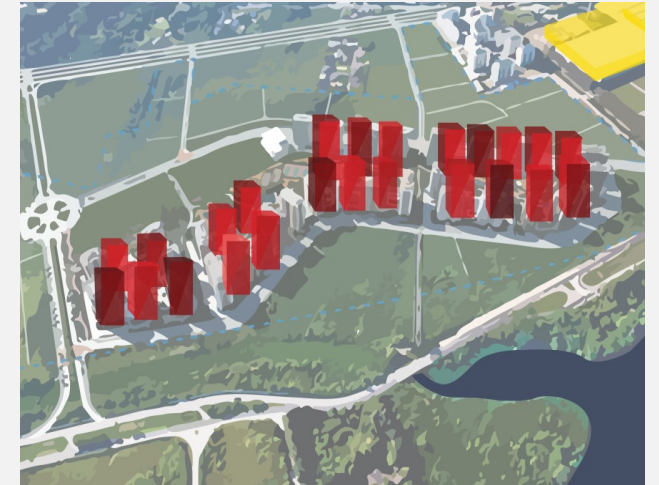
3 Assessment Components: Cost, Benefits, Affordability

TOOL #3—DEVELOPER EXACTIONS

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 categories:
 - ✓ Mandatory: In-lieu fees (impact fees, linkage fees, tap fees)
 - ✓ Voluntary: (1) Land dedications, (2) In-kind contributions, (3) Negotiated contracts (development agreement, CBA)



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:

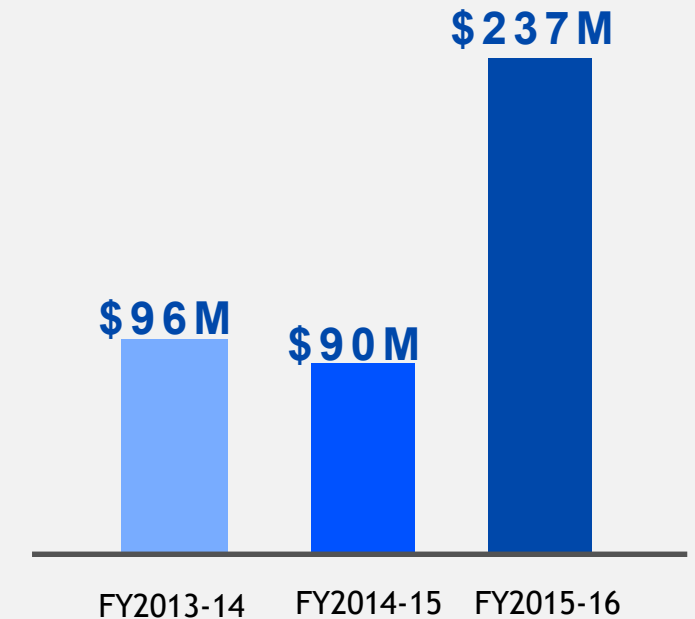
- Road or Traffic Impact Fees
- Intersection Development Charges (IDC)
- System Development Charges (SDC)

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

Total Impact Fee Revenues
San Francisco (2013-2016)



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

DEVELOPER EXACTIONS—VOLUNTARY

DA and CBA (Negotiated Contracts)

Typically used for large, master-planned projects; more flexible but legally binding

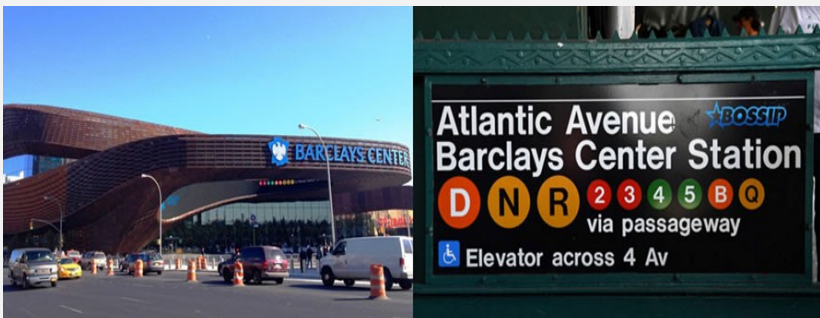
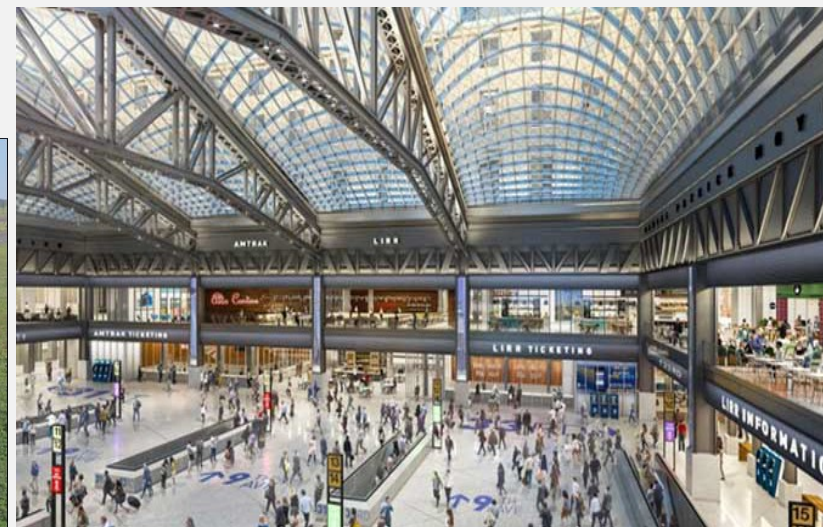
- Development Agreement (DA)
 - ✓ Developers provide large upfront funding for public improvements in exchange for “vested rights”
 - ✓ Easier to secure financing, minimize regulatory takings concern
- Community Based Agreement (CBA)
 - ✓ Social amenities (e.g., day care, job training) in exchange for 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

Mode	Location	Project Size	% VC Funding	VC Tool Category					
				TIF	Special Assessments	Developer Impact Fees	Developer Exactions	Rights/Entitlements	Others
LOCAL ROADS	Urban	S	100%				✓	✓	
		M	100%	✓	✓		✓		
		L	100%	✓	✓	✓	✓	✓	
	Exurban/Suburban	S	60-100%	✓	✓	✓			
		L	50-100%	✓	✓	✓		✓	✓
HIGHWAYS /BRIDGES	Urban	M	100%	✓	✓				✓
		L	1-60%		✓				✓
	Exurban/Suburban	S	80%	✓	✓	✓	✓		
		M	10-45%	✓	✓	✓			
		L	1-90%	✓	✓		✓		✓
TOLL ROADS/ HWYS	Urban	L	100%						✓
	Exurban/Suburban	M	30%				✓		
		L	2-100%			✓			✓
TRANSIT/ MULTI-MODAL	Urban	M	35-50%	✓	✓		✓	✓	✓
		L	2-100%	✓	✓		✓	✓	✓
	Ex/Suburban	L	5-40%		✓				✓



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