

July 2010

# PUBLIC TRANSPORTATION

## Federal Role in Value Capture Strategies for Transit Is Limited, but Additional Guidance Could Help Clarify Policies





Highlights of [GAO-10-781](#), a report to congressional committees

## Why GAO Did This Study

State and local governments are looking for alternative strategies to help fund transit systems. Value capture strategies—joint development, special assessment districts, tax increment financing, and development impact fees—are designed to dedicate to transit either a portion of increased tax revenue or additional revenue through assessments, fees, or rents based on value expected to accrue as a result of transit investments. GAO was asked to review (1) the extent to which transit agencies and local governments use joint development and other value capture strategies to fund or finance transit; (2) what stakeholders have identified as facilitators of, or hindrances to, the use of these; and (3) what stakeholders have said about the effects of federal policies and programs on the use of these strategies. GAO analyzed data from 55 of the 71 transit agencies that responded to its information request; reviewed literature, and statutes and regulations; and interviewed transit agency, local government, and Federal Transit Administration (FTA) officials; developers; and experts.

## What GAO Recommends

The FTA should issue additional guidance on federal joint development requirements to clarify the types of developments eligible under current law, and requirements and conditions for parking replacement.

FTA agreed to consider GAO's recommendations.

View [GAO-10-781](#) or [key components](#). For more information, contact David Wise at (202) 512-2834 or [wised@gao.gov](mailto:wised@gao.gov).

## PUBLIC TRANSPORTATION

### Federal Role in Value Capture Strategies for Transit Is Limited, but Additional Guidance Could Help Clarify Policies

#### What GAO Found

More than half of the transit agencies from which GAO collected data (32 of 55) reported that joint development—in which a transit agency and a private entity partner to create development at a transit station—has been used as a source of funding for transit, while about a third (19 of 55) reported that special assessment districts, tax increment financing, and development impact fees have been used. Transit agencies that have extensively used joint development typically share characteristics, such as having formal joint development policies and in-house real estate expertise. Financial data collected from several transit agencies indicate that revenue generated annually through joint development is generally small when compared with an agency's annual operating expenses. Revenue generated by the other three value capture strategies has varied, but in some cases has been critical to the financial feasibility of the transit project or to improvements that support transit-oriented development.

Several factors can facilitate or hinder transit agencies' and state and local governments' use of value capture strategies, such as coordination and support from public- and private-sector entities, transit project location and design, and state laws. For example, transit agencies, which generally do not have taxing authority, often have to coordinate with local taxing authorities to help establish a tax increment financing district. Also, according to several stakeholders, value capture strategies have the potential to generate more revenue when a project is designed with land-use zoning that allows for high-density development. However, some states do not authorize the use of certain strategies or may limit their use. For example, tax increment financing is currently not authorized under Arizona state law.

Several transit agency officials told GAO that FTA's joint development guidance is confusing, which can hinder their use of joint development when federal funding is involved. For example, transit agencies are sometimes unclear about which types of developments and structures are eligible for joint development sites and the extent to which FTA requires replacement of parking spaces when surface parking lots are converted to structured parking garages that support transit-oriented development. This confusion can delay final federal approval of a project. Transit agency officials also told GAO that federal requirements, such as limitations on the use of joint development revenue for operations, maintenance, or acquisition of land for future joint development, can be burdensome. Transit agency officials also said the strict cost-effectiveness requirement for federal New Starts funding limited the competitiveness of some transit projects designed to use value capture strategies. Recent changes to the New Starts program, including amending the current cost-effectiveness measure and increasing the significance of economic development along with other factors, may affect transit projects, yet it is unclear how these changes will ultimately affect the use of value capture strategies.

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## Abbreviations

|            |   |
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| DOT        | Department of Transportation  |
| FHWA       | Federal Highway Administration  |
| FTA        | Federal Transit Administration  |
| MDOT       | Maryland Department of Transportation   |
| RRIF       | Railroad Rehabilitation and Improvement Financing                                     |
| SAFETEA-LU | Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users |
| TIFIA      | Transportation Infrastructure Finance and Innovation Act of 1998                      |

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United States Government Accountability Office  
Washington, DC 20548

July 29, 2010

The Honorable James L. Oberstar  
Chairman  
The Honorable John L. Mica  
Ranking Member  
Committee on Transportation and Infrastructure  
House of Representatives

The Honorable Peter A. DeFazio  
Chairman  
The Honorable John J. Duncan, Jr.  
Ranking Member  
Subcommittee on Highways and Transit  
Committee on Transportation and Infrastructure  
House of Representatives

State and local governments across the country are increasingly looking to build new transit systems to help alleviate the adverse effects of traffic congestion and support growth and redevelopment in the urban cores of metropolitan areas. However, the desire for increased investment in transit infrastructure coincides with increasing strains on traditional sources of funding for these projects. Fixed-guideway transit projects are costly to build, and limited funding for transit projects at the state and local level has created intense competition for federal transit funds.<sup>1</sup> Moreover, in addition to facing challenges in obtaining funds to construct new transit systems, many transit agencies are struggling to keep up with mounting operations and maintenance costs of existing transit systems. Facing budget shortfalls, transit agencies are forced to raise fares or cut service, either of which can drive transit users away, potentially reducing ridership and exacerbating funding issues. Furthermore, the sales tax receipts and other funding sources that many transit agencies rely on to fund capital projects and agency operations have significantly declined

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<sup>1</sup>Fixed-guideway systems are permanent public transportation facilities that use and occupy a separate right-of-way or rail for the exclusive use of public transportation and other high-occupancy vehicles, or use a fixed catenary system and a right-of-way usable by other forms of transportation. Fixed-guideway systems include all forms of rail transit (light, heavy, commuter, and streetcar), ferryboats, exclusive busways (for bus rapid transit), and HOV lanes constructed for the exclusive use of public transportation and other high-occupancy vehicles.

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during the recent economic downturn. Given this economic environment, transit project sponsors are increasingly looking for alternative mechanisms to help finance and deliver new, large-scale transit projects.

There is a well-established relationship between public transit investments and nearby property values. We have previously reported that plans for transit stations and amenities commonly found in transit-oriented developments generally increase nearby land and housing values, but the magnitude of the increase varies greatly depending upon several characteristics.<sup>2</sup> Value capture strategies—mechanisms designed to harness increases in value for properties surrounding transit to help fund investments in public transit infrastructure or related improvements—are designed to take advantage of this increase to create beneficial outcomes for both the public and the private sectors, as well as link funding to the beneficiaries of a transit system. Value capture strategies used to fund transit vary in form; however each typically involves a private sector contribution through an assessment or fee, or a public sector contribution drawn from increased property tax revenue. One value capture strategy, joint development, often generates revenue for the transit agency through a lease or sale of publicly-owned land through partnerships with private or nonprofit developers, or other public sector partners to create a portion of a transit-oriented development.

Value capture strategies are administered at the state, regional, or local level. As a result, the federal government does not play a direct role in implementing value capture strategies—its role is primarily limited to providing the federal share of capital construction and land acquisition costs. However, federal policies and programs can affect the cost, design, and routing of transit systems—characteristics vital to the viability of value capture strategies. Recently, the federal government has increased its focus on creating “livable” communities by better linking transportation, housing, and environmental programs and policies. Part of this focus reflects the federal government’s recognition of the increasing demand for transit-oriented developments. Recent policy changes by the Department of Transportation (DOT) are designed to provide more flexibility for transit agencies and local governments to accommodate transit-oriented development near stations and multi-modal transportation

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<sup>2</sup>GAO, *Affordable Housing in Transit-oriented Development: Key Practices Could Enhance Recent Collaboration Efforts between DOT-FTA and HUD*, [GAO-09-871](#) (Washington, D.C.: Sept. 9, 2009).

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sites. For example, in 2007, the Federal Transit Administration (FTA) issued joint development guidance, which is intended to provide flexibility for transit agencies interested in pursuing transit-oriented development on lands purchased with federal funding.<sup>3</sup> In addition, over the past year, FTA has proposed and implemented several changes to how cost effectiveness, economic development effects, and other factors are considered in the evaluation and rating process for FTA's New Starts grant program.<sup>4</sup>

You asked us to provide information on the experiences of transit agencies and local governments in using value capture strategies for transit. More specifically, this report addresses the following questions:

1. To what extent do transit agencies and state and local governments use joint development and other value capture strategies to fund or finance transit?
2. What have selected stakeholders and literature identified as facilitators of, or hindrances to, the use of joint development and other value capture strategies to fund or finance transit?
3. What have stakeholders said about the effects of federal policies and programs on the use of joint development and other value capture strategies to fund or finance transit?

To address these questions, we reviewed relevant literature to determine the most commonly used value capture strategies and to help identify facilitators of, and hindrances to, using value capture strategies. We requested data from the 71 transit agencies that we identified as operating a fixed-guideway or large bus system on the extent to which value capture strategies were used to fund or finance transit on their system. We analyzed data from the 55 transit agencies that provided data to us in response to our request. We conducted site visits to the Washington/Baltimore metropolitan area; Atlanta, Georgia; Los Angeles, Sacramento, San Jose, and the San Francisco Bay metropolitan area in California; Portland, Oregon; and Seattle, Washington. We selected this nongeneralizable sample of cities and metropolitan areas based on criteria

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<sup>3</sup>See Notice of Final Agency Guidance on the Eligibility of Joint Development Improvements Under Federal Transit Law 72 Fed. Reg. 5788, 5789 (Feb. 7, 2007).

<sup>4</sup>New Starts is FTA's major capital investment program for new, and extensions to existing, fixed-guideway transit systems.

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we established, including locations where value capture strategies had been used or were under formal consideration for use, and geographical diversity. During our site visits, we interviewed transit agency, state, and local government officials, and private developers about selected transit projects, as well as individuals with expertise in the area of value capture strategies, to determine the extent to which value capture strategies are used to fund or finance transit and to identify facilitators of, and hindrances to, using value capture strategies. We also interviewed federal, state, and local transit officials to identify ways federal policies and programs affect the use of value capture strategies. Finally, we reviewed applicable state constitutions, statutes, and regulations to identify facilitators of, and hindrances to, using value capture strategies, and relevant federal statutes and regulations to determine federal requirements and program implications for joint development and other value capture strategies. We conducted this performance audit from August 2009 to July 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. See appendix I for more information about our scope and methodology.

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## Background

Numerous local communities are seeking to expand housing opportunities and other amenities located near transit by promoting transit-oriented development—commonly defined as compact, mixed-use, walkable neighborhoods located near rail stations or other permanent transit facilities.<sup>5</sup> Many transit agencies view such development as a way to accomplish multiple goals, including promoting transit-supportive land use near stations and increasing ridership. In addition, research generally shows that land and housing values tend to increase with proximity to a transit station. While the magnitude of these increases can vary, residents place a premium on living near public transportation, retail development, and other amenities such as parks and sidewalks commonly found in transit-oriented developments.<sup>6</sup>

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<sup>5</sup>A mixed-use development includes residential, commercial, cultural, or institutional uses on the same site, which can allow for greater housing density, encourage more compact development, and promote pedestrian-friendly environments.

<sup>6</sup>[GAO-09-871](#).



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Both the private and public sector entities benefit financially from these increases in value; private parties through increased land values and rents and public-sector agencies through increased revenue from property or other taxes. For the purposes of this report, the term “value capture” generally refers to strategies that allow local governments or transit agencies to dedicate to transit either a portion of the increased tax revenue, or additional revenue through assessments or fees based on value expected to accrue as a result of public improvements or investments. While many of these strategies are used in the United States to fund or finance infrastructure improvements, such as water, sewer, and other utility systems, this report focuses on the use of these strategies specifically to fund or finance transit or transit-related facilities or improvements. The four strategies that are the focus of this report are as follows:

- **Joint development** is generally defined as a real estate development project that involves a cooperative arrangement between public and private sector partners, often as part of a transit-oriented development.<sup>7</sup> Joint development arrangements can take a number of forms, including a lease of land, air rights, or space to a developer; sale of land for specific types of development; joint construction of a transit facility and private development; and others.<sup>8</sup> Public and private partners can share costs, revenues, or financial risk depending on the particular arrangement. Any joint development using federal funds to make capital improvements must

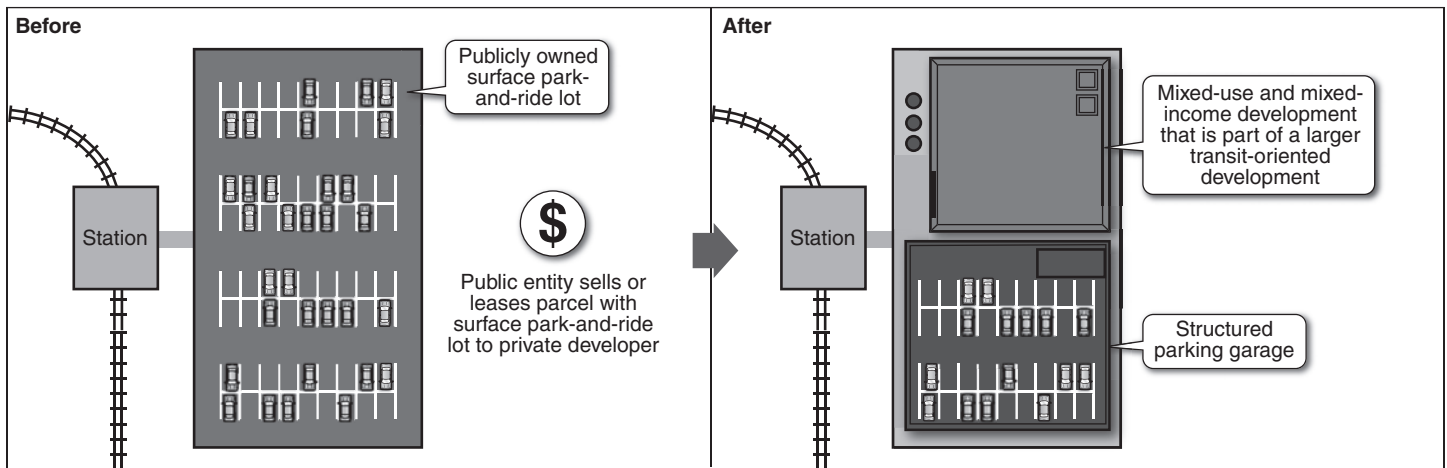
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<sup>7</sup>Joint development and transit-oriented development have several common characteristics, however in most cases joint development takes place on or above property owned by a transit agency or other public entity. In addition, while transit-oriented developments generally are envisioned to encompass multiple city blocks and are similar to a neighborhood in size and character, joint development tends to be project-specific, often occurring within a city block and tied to a specific real estate development.

<sup>8</sup>Joint developments can also be arranged through construction cost sharing, station connection fees, and negotiated private contributions.

follow FTA’s joint development guidance and meet the statutory definition of an eligible capital project.<sup>9</sup> See figure 1.

**Figure 1: Example of a Joint Development**



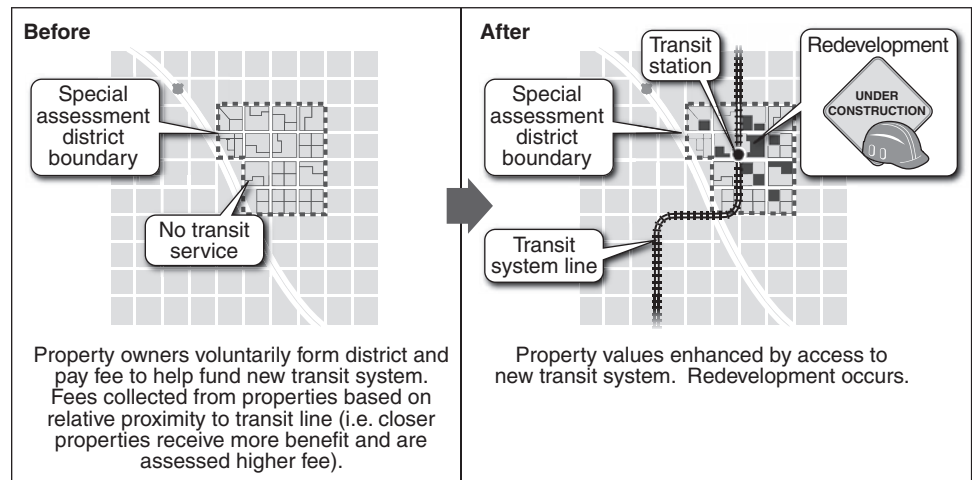
Source: GAO.

- **Special assessment districts** designate a formal boundary in which taxes or fees are assessed on properties expected to see a projected benefit due to the geographic proximity of a new transit facility or other

<sup>9</sup>Federal transit law defines a “capital project” for joint development as follows: A public transportation improvement that enhances economic development or incorporates private investment, including commercial and residential development, pedestrian and bicycle access to a public transportation facility, construction, renovation, and improvement of intercity bus and intercity rail stations and terminals, and the renovation and improvement of historic transportation facilities, because the improvement enhances the effectiveness of a public transportation project and is related physically or functionally to that public transportation project, or establishes new or enhanced coordination between public transportation and other transportation, and provides a fair share of revenue for public transportation that will be used for public transportation. In addition, a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means. 49 U.S.C. § 5302(a)(1)(G). Joint development improvements shall be eligible for FTA funding if they satisfy the criteria set forth above, and do not fall within the exclusion detailed at 49 U.S.C. 5302(a)(1)(G)(ii), which excludes the construction of a commercial revenue-producing facility (other than an intercity bus station or terminal) or a part of a public facility not related to public transportation.

unique amenity. The revenue collected is then used to help pay for such facility or amenity.<sup>10</sup> See figure 2.

**Figure 2: Example of a Special Assessment District Used to Fund Part of a Transit Project**



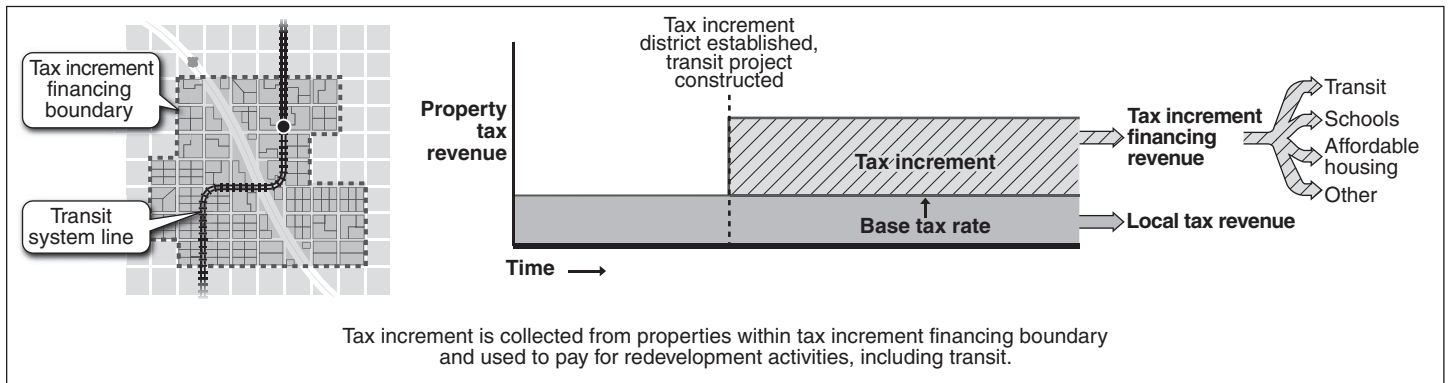
Source: GAO.

- **Tax increment financing** is a public financing technique used by local entities to encourage economic development.<sup>11</sup> Typically, a public-sector agency issues a special bond to finance the infrastructure necessary to support new development and then uses the incremental increase in property value within a formally designated tax increment financing district to fund repayment of the bonds for the development-related costs, including the costs of transit infrastructure improvements. See figure 3.

<sup>10</sup>Special assessment districts are also sometimes referred to as business improvement districts, local improvement districts, benefit assessment districts, community facilities districts, and others.

<sup>11</sup>Economic development is broadly defined to include activities to promote business growth, workforce development, entrepreneurship, community economic development, and quality-of-life issues. Public transit investments are one of many important factors determining a locale's economic development.

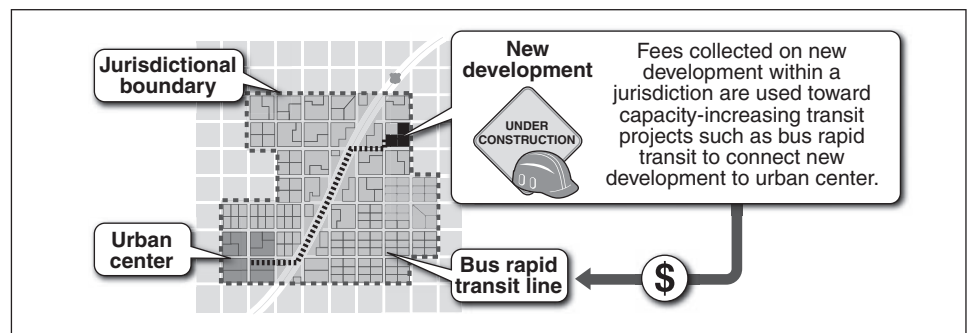
**Figure 3: Example of a Tax Increment Financing District Used to Fund Part of a Transit Project**



Source: GAO.

- Development impact fees** are one-time charges collected by local governments from developers to help defray the cost of new or expanded infrastructure and services associated with new development, including capacity-increasing transit projects. See figure 4.

**Figure 4: Example of Development Impact Fees Used to Fund Part of a Transit Project**



Source: GAO.

The use of value capture strategies may be authorized by the state, and can be limited or restricted by state governments. For instance, state legislatures generally provide the authority to public entities to establish special assessment districts or tax increment financing districts and to use the revenue generated from the districts for specific purposes. State and local governments also play a role in creating the environment needed to optimize the value created by transit projects or improvements. For example, local governments create the zoning environment, which may,

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for example, allow developers to build mixed-use developments at higher densities. The implementation of any of the above strategies requires coordination among a number of key public and private sector entities. Their principal roles are summarized as follows.

- **Local transit agencies**, such as transit authorities or transit operators, are responsible for building, maintaining, and operating transit systems. These transit systems can include fixed-guideway transit systems—such as light or heavy rail, streetcars, ferry systems, and some bus rapid transit—and local bus service. Transit agencies may be direct recipients of federal transit funds, particularly in major urban areas.
- **State and local departments of transportation and metropolitan planning organizations** develop transportation plans and improvement programs; build, maintain, and operate transportation infrastructure and services; and distribute federal funds to local entities for specific projects.<sup>12</sup>
- **Local county and city governments** are typically responsible for assessing and collecting property taxes, development impact fees, or special assessments. In addition, local governments, through agencies such as county or city planning departments or redevelopment agencies, have control over land use planning, which includes zoning and growth management policies.
- **Private developers** decide on and create developments and build and manage housing units and commercial developments. In some cases,

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<sup>12</sup>Metropolitan planning organizations are federally mandated regional organizations responsible for comprehensive transportation planning and programming in urbanized areas with a population of more than 50,000 and are required by federal law to develop long-range regional transportation plans and transportation improvement programs. 23 U.S.C. § 134. The current framework for federal participation in surface transportation is set forth in authorizing legislation, most recently amended by the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. No. 109-59, 119 Stat. 1144 (2005). These pieces of legislation have established an overall approach for surface transportation planning and decision making that generally gives local and state governments significant responsibilities for these activities in their own regions. For example, 23 U.S.C. § 134 establishes specific planning task requirements that metropolitan planning organizations, in conjunction with states, public transportation operators, and other stakeholders, must perform, which include (1) developing long-range transportation plans and transportation improvement programs for metropolitan planning areas of the state, (2) specifying financing for the transportation plan and transportation improvement program, and (3) involving a wide range of stakeholders in the process which emphasizes consultation and coordination.

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private developers enter into sale or lease agreements with transit agencies or other public-sector entities when undertaking joint developments.

- **Property owners**, in addition to paying property taxes, sometimes agree to enter into formally established districts and pay assessments to local public-sector entities for the purpose of funding new transit projects, other infrastructure (e.g., sidewalks, utilities), or improvements to existing transit services.

In general, FTA plays no role in the direct implementation of most value capture strategies. However, transit agencies must follow a number of federal requirements if, for example, a joint development includes land that was purchased as part of a federally funded transit project or receives federal funds. In 2007, FTA issued guidance on joint development requirements that clarified the eligibility of joint development activities for federal capital funding.<sup>13</sup> Transit agencies must receive FTA concurrence to sell or lease federally funded property for joint development purposes.<sup>14</sup> To use program income or FTA grant funds for a joint development improvement, a local transit agency must demonstrate that the improvement provides economic and public transportation benefits, raises revenue for public transportation, and covers a reasonable share of costs (if applicable).

While FTA does not have formal policies or programs related to forms of value capture for transit other than joint development, FTA programs fund capital transit projects—a key step in creating a transit-oriented development and of creating value. FTA's New Starts program—its major capital investment program for new, and extensions to, existing fixed-guideway transit systems—awards funds to individual projects through a competitive selection process, which applies ratings to potential projects based on local financial commitment and project justification criteria, including cost effectiveness, land use, operating efficiencies, environmental benefits, economic development effects, and mobility

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<sup>13</sup>Notice of Final Agency Guidance on the Eligibility of Joint Development Improvements Under Federal Transit Law 72 Fed. Reg. 5788 (Feb. 7, 2007).

<sup>14</sup>See Common Grant Rule, 49 C.F.R. part 18.

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improvements.<sup>15</sup> FTA also provides funding to state and local governments, and metropolitan planning organizations through a number of other programs, that may be used for transit, including:

- Transit Capital Assistance (Recovery Act)
- the Surface Transportation Program
- the Congestion Mitigation and Air Quality Improvement Program<sup>16</sup>
- Transportation Investment Generating Economic Recovery Discretionary Grant Program<sup>17</sup>
- Transportation Planning Funds
- Transit Formula and Discretionary Programs

In addition, the federal government also currently has two programs designed to offer credit assistance to states for surface transportation projects. The Transportation Equity Act for the 21st Century<sup>18</sup> established the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA), which authorized DOT, who later delegated this authority to the Federal Highway Administration (FHWA),<sup>19</sup> to provide credit assistance, in

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<sup>15</sup>49 U.S.C. § 5309(d)(2). In addition to New Starts, SAFETEA-LU established the Small Starts program for lower-cost capital projects, which may include non-fixed-guideway corridor-based bus capital projects. Small Starts projects are defined as those capital investment grants with a request for less than \$75 million and a total estimated net capital cost of less than \$250 million. 49 U.S.C. § 5309(e). FTA also subsequently introduced a subset of the Small Starts program, called Very Small Starts, for projects with a total capital cost of less than \$50 million.

<sup>16</sup>Several programs administered by the Federal Highway Administration (FHWA) have transit eligibility, in particular, the Surface Transportation Program and the Congestion Mitigation and Air Quality Program. These two programs are eligible for use on both highway and transit projects. When these FHWA funds are used for transit projects, states have the authority to request transfer of the funds from FHWA to the FTA, up to a certain amount, to be administered as FTA grants.

<sup>17</sup>Transportation Investment Generating Economic Recovery (TIGER) and Transit Capital Assistance grants were provided appropriations by the American Recovery and Reinvestment Act of 2009. DOT announced TIGER grantees on February 17, 2010. An Interim Notice of Funding Availability for a similar program referred to as TIGER II Discretionary Grants was issued on June 1, 2010. 75 Fed. Reg. 30460.

<sup>18</sup>Pub. L. No. 105-178, 112 Stat. 107, 241 (1998).

<sup>19</sup>65 Fed. Reg. 2827 (Jan. 5, 2001).

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the form of direct loans, loan guarantees, and standby lines of credit, for projects of national significance.<sup>20</sup> A similar program, the Railroad Rehabilitation and Improvement Financing (RRIF) program, offers loans to acquire, improve, develop, or rehabilitate intermodal or rail equipment or facilities.<sup>21</sup>

DOT has recently begun to emphasize livable communities. For example, DOT has refocused the goals of some existing programs and entered into the Sustainable Communities Partnership with the Department of Housing and Urban Development and the Environmental Protection Agency. This partnership is intended to help American families gain better access to affordable housing, more transportation options, and lower transportation costs by coordinating and leveraging federal programs. FTA also introduced funding opportunities for fiscal year 2010 for urban circulator and bus-related livability projects that promote livability, sustainability, economic development, and the leveraging of public and private investments. In addition, FTA grant program funds can promote livability by funding eligible expenses, such as joint developments, bicycle and pedestrian access, and other amenities near transit stations.

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<sup>20</sup>Pub. L. No. 105-178, §§ 1501-1504, 112 Stat. 107, 241-255 (1998), codified as amended at 23 U.S.C. chapter 6.

<sup>21</sup>Pub. L. No. 105-178, § 7203, 112 Stat. 107, 473-475 (1998), codified as amended at 45 U.S.C. §§ 822, 823.



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## Use of Joint Development and Other Value Capture Strategies Has Been Limited but Is Sometimes Critical in Funding and Financing Transit

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### The Few Transit Agencies with Extensive Joint Development Experience Have Common Characteristics

According to data collected from 55 transit agencies, experience with joint development varies widely, both in quantity and type. More than half of the transit agencies we collected data from (32 of 55) have used joint development, while one-fifth (11 of 55) have used joint development extensively (6 or more joint developments). Moreover, the 11 agencies with extensive joint development experience were responsible for 115 of the 166 reported developments, and just 3 agencies (Los Angeles Metro, Washington Metro, and Metropolitan Atlanta Rapid Transit) were responsible for 58 of the 166 reported developments. These developments varied greatly in size and type. For example, while joint developments are often small and on a single parcel of land near a transit station, a few transit agencies have completed neighborhood-scale transit-oriented joint developments. For instance, Atlanta's Lindbergh City Center will eventually encompass 47 acres of mixed-use development near a Metropolitan Atlanta Rapid Transit station. Joint developments also varied in the types of uses; while many joint developments include housing, offices, and retail space, they sometimes include hotels, youth services, clinics, or other civic uses.

We found that transit agencies that have used joint development extensively typically share certain characteristics. Specifically, these transit agencies generally

- 
- operate older, larger fixed-guideway systems;<sup>22</sup>
  - have formal joint development or transit-oriented development policies;
  - have in-house real estate expertise; and
  - have developable land holdings on which to build joint developments.

According to state and local transit officials we spoke with, the permanency of stations along fixed-guideway systems makes station areas on these systems more attractive for joint development than station areas along bus lines or other non-fixed-guideway systems. Although joint development is more often undertaken on fixed-guideway systems, King County Metro in Seattle has implemented a number of joint developments at permanent intermodal transit centers and park-and-ride lots along its bus routes.

Most transit agencies with extensive joint development experience also have formal joint development or transit-oriented development policies and in-house real estate expertise. State and local transit officials we spoke with told us that formal policies allow transit agencies to prioritize joint developments and align them with broader agency and community goals. Based on our review of transit agencies' joint development policies, we found that these policies often have common goals, which include increasing transit ridership; reducing automobile dependency; generating revenue to support transit operations; and partnering with local communities to achieve intensive, high-quality development near transit stations.

In addition, state and local transit officials we spoke with emphasized the importance of having an in-house real estate office, along with outside consultants, dedicated to managing their agency's real estate assets, including its joint developments.<sup>23</sup> For instance, Maryland Department of Transportation (MDOT) officials told us the department's Office of Real Estate has a \$3 million bi-annual budget and several in-house staff

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<sup>22</sup>Ten of these transit agencies operate fixed-guideway systems that opened during or before 1990. Seven of these transit agencies have a service area of least 500 square miles, and eight had at least 100,000,000 annual trips.

<sup>23</sup>A transit agency's real estate department is typically responsible for managing the agency's acquisition and disposition of land, lease and rental agreements, and station area development.

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dedicated to transit-oriented development. The officials further estimated that the Office of Real Estate spends about \$300,000 a year on outside real estate consultants to assist its in-house staff in managing MDOT-owned property. According to MDOT officials, transit-oriented joint development is unlikely to take place unless state and local transit agencies have an office dedicated to managing agency-owned properties in ways that promote transit-oriented development.

Also, transit agencies with extensive joint development experience are also likely to have developable land holdings on which to build joint developments and transit-oriented developments. Many state and local transit officials we spoke with told us their agency made land available for joint development by converting expansive, underutilized surface park-and-ride lots at their stations into transit-oriented developments with structured parking garages. Several of these transit agencies have also constructed a number of joint developments on land holdings they originally acquired for construction staging purposes during their system's initial construction and subsequent expansions.

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### Joint Development Revenue Is Generally Small Relative to a Transit Agency's Annual Operating Expenses

Although several transit agencies have generated millions of dollars in annual revenue from joint development, this annual revenue is generally small when compared with an agency's annual operating expenses.<sup>24</sup> For example, the three transit agencies with the most joint development experience—Los Angeles Metro, Washington Metro, and Metropolitan Atlanta Rapid Transit—generated between \$184,000 and \$8.8 million in revenue from their joint developments in fiscal year 2008, while their total operating expenses for fiscal year 2008 ranged from \$374 million to \$1.3 billion. Specifically, each agency's fiscal year 2008 annual joint development revenue—when compared with the agency's total annual operating expenses—amounts to no more than 1 percent. See table 1.

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<sup>24</sup>Generally, transit agencies generate joint development revenue by selling or leasing agency-owned land.

**Table 1: Joint Development Revenue Relative to Total Operating Expenses Fiscal Year 2008**

| <b>Transit agencies</b>            | <b>Revenue from joint development (FY 2008)</b> | <b>Total operating expenses (FY 2008)</b> | <b>Joint development revenue relative to total operating expenses for FY 2008 (as a percentage)</b> |
|------------------------------------|---|---|---|
| Los Angeles Metro                  | \$184,000                                       | \$1.2 billion                             | 0.02%   |
| Washington Metro                   | \$8.8 million                                   | \$1.3 billion                             | 0.7%  |
| Metropolitan Atlanta Rapid Transit | \$3.95 million (projected)                      | \$374 million                             | 1.0%  |

Source: GAO analysis of transit-agency-reported data.

State and local transit officials we spoke with told us that joint development revenue goes into either a set-aside joint development fund or the agency’s general fund. Whereas general fund revenue is used by transit agencies for operations and maintenance as well as capital projects—including joint developments—set-aside funds target funds for specific purposes. For example, Santa Clara Valley Transportation Authority officials told us that revenue from the agency’s joint developments is placed in a set-aside fund, rather than its general fund, and used to fund the continued operation and development of the agency. Moreover, revenue from one phase of a joint development can also be used to fund a later phase of the same development. For example, MDOT transferred approximately 10.2 acres of state-owned land adjacent to one of its commuter rail stations to a developer for a transit-oriented development at the station. The developer considered this land contribution (valued at \$3.3 million) a credit toward the construction of a commuter garage on the transit-oriented development site.

A majority of transit agency officials we spoke with told us that, for a variety of reasons, they prefer to lease agency-owned land rather than selling it when entering into joint development agreements. Agencies often favor leasing because it allows them to maintain direct control over land use and receive an ongoing revenue stream. For instance, Los Angeles Metro officials told us that leasing land generates significant revenue for the transit agency, and allows the agency to require “attractive” developments and hold developers accountable if they walk away from a failed development. But several transit agencies told us that, in some cases, selling land makes sense. For example, Washington Metro officials told us that although the transit agency’s board members prefer to lease agency-owned parcels, the agency may sell the parcel if it needs upfront money to build a parking structure on the development site. Furthermore, if a planned joint development includes for-sale condominiums, Washington Metro officials stated they may sell the parcel rather than

lease it because the agency does not have the authority to own land where condominiums are sold.

### Other Value Capture Strategies Have Not Been Widely Used to Fund or Finance Transit

According to transit agencies that we collected data from and relevant literature that we reviewed, special assessments, tax increment financing, and development impact fees (other value capture strategies) have not been widely used as a source of funding for transit. Nineteen of the 55 transit agencies that we collected data from reported that one or more of these strategies was used to fund transit projects on their system. Five of the 55 reported that at least two of the three other value capture strategies had been used to fund transit projects on their system. These transit agencies reported that special assessment districts had been used in 17 instances, tax increment financing in 13 instances, and development impact fees in 22 instances. See table 2.

**Table 2: Use of Special Assessment Districts, Tax Increment Financing, and Development Impact Fees to Fund Transit**

|  | Special assessment district for transit | Tax increment financing district for transit | Development impact fee for transit |
|--|---|--|------------------------------------|
| Number of transit agencies out of 55 reporting use | 10                                      | 6  | 10                                 |
| Total number of uses of each strategy              | 17                                      | 13   | 22                                 |

Source: GAO analysis of transit agency-reported data.

In addition, according to literature on value capture strategies that we reviewed, public entities more often use special assessment districts, tax increment financing, and development impact fees to fund public infrastructure improvements—such as water and sewer systems, roads, schools, or parks—than they do to fund transit or transit-related projects. However, state and local transit officials we spoke with told us about several major transit infrastructure projects funded by one or more other value capture strategies. For example:

- **Local governments in the Washington, D.C., region** have generated revenue for two major projects on Washington Metro’s system through special assessment districts: the Dulles Corridor Metrorail Project, which is extending the Washington Metro system 23 miles, including a station at Dulles International Airport, and the New York Avenue Metro Station

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project, which is the agency's first infill station built without discontinuing passenger service.<sup>25</sup>

- **The cities of Seattle and Portland** have constructed several new streetcar lines using value capture strategies. Seattle's South Lake Union streetcar capital costs were funded in part through a special assessment district, and Portland has funded portions of its 4-mile streetcar line using special assessment districts and tax increment financing.
- **Sacramento County** is planning to dedicate a portion of a development impact fee to fund three proposed bus rapid transit lines in the county.
- **The Transbay Joint Powers Authority (TJPA) in San Francisco** is using tax increment financing revenue to fund repayment of a TIFIA loan it received for the construction of a planned new multimodal transit center in the city's downtown.
- **The city of Atlanta** established a tax increment financing district to pay for a majority of the costs associated with the proposed Atlanta Beltline project, a 22-mile transit loop that will run along existing underused rail corridors.<sup>26</sup>

In addition, transit agency and local government officials we spoke with informed us that other value capture strategies are being used to fund basic infrastructure and streetscape and station improvements at several transit-oriented developments. Several of these transit-oriented developments also include a parcel (or parcels) that is being jointly developed by a transit agency and a private sector partner:

- **Contra Costa County, California**, is using combined revenue from special assessments and tax increment financing to construct a variety of public infrastructure improvements at the Pleasant Hill transit-oriented development. These improvements include backbone infrastructure, such as roads and drainage systems; place-making infrastructure, such as parks and plazas; and a new structured parking garage to replace the station's existing surface parking lot.

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<sup>25</sup>An infill station is a new station built between two existing stations along a transit line.

<sup>26</sup>The Beltline project will be funded using a tax allocation district, which is similar in form to a tax increment financing district. In addition to funding the transit portion of the project, funds generated by the tax allocation district will be used to pay for other project components, including 1,300 acres of new parks and green space and 33 miles of trails.

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- **The city of Dallas, Texas**, has recently established a transit-oriented development tax increment financing district that includes seven station areas along Dallas Area Rapid Transit’s light rail system. According to Dallas Area Rapid Transit officials, funds generated by this tax increment financing district can be used to help pay for basic infrastructure improvements—such as streets, water and sewer systems, and a portion of structured parking garages—at the transit-oriented developments.
  - **In Baltimore County, Maryland**, locally administered tax increment financing revenue will be used to pay for two state-owned structured parking garages at the planned Owings Mills transit-oriented development. MDOT officials told us that a special assessment district will also be established to help fund operation and maintenance of the state-owned structured parking garages, roads, and other on-site improvements. In addition, revenue generated through the special assessment district may be used to help pay bond debt if the tax increment financing district is unable to generate sufficient revenue to cover debt service payments.<sup>27</sup>

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Revenue Generated by Other Value Capture Strategies Has Varied, and in Some Cases Has Been Critical to Projects’ Feasibility

Based on our review of financial data for several major transit infrastructure projects and transit-oriented developments that have been (or are being) funded in part by other value capture strategies, these strategies have generated—or are projected to generate—between

- \$20 million and \$1.7 billion—or between 4 percent and 61 percent of the total project costs—for nine major transit infrastructure projects; and

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<sup>27</sup>In Maryland, special assessments are often established along with tax increment financing districts and may be used to repay the tax increment financing bonds in the event that the revenue from the tax increment financing district is not sufficient to service the debt in a given year. The assessments are refunded if the tax increment financing district generates sufficient revenue to cover the debt service on its own.

- between \$14 million and \$750 million for the construction of parking garages, parks, and other place-making and basic infrastructure at five transit-oriented developments.<sup>28</sup>

Tables 3 and 4 provide additional information about these projects and developments, including their status and the types of value capture strategies used.

**Table 3: Summary of Select Major Transit Infrastructure Projects Funded in Part Using Other Value Capture Strategies**

(Dollars in millions)

| Project name (status)                               | Value capture strategy(ies)                             | Amount of revenue generated through use of value capture strategy(ies) | Total project cost | Value capture revenue as a percentage of project costs |
|---|---|--|--------------------|--|
| Atlanta Beltline (planned)                          | Tax increment financing                                 | \$1,700  | \$2,800            | 61%  |
| Seattle South Lake Union streetcar (completed)      | Special assessment district                             | \$25   | \$53               | 47%  |
| Portland streetcar (completed)                      | Tax increment financing and special assessment district | \$41   | \$103              | 40%  |
| San Francisco Transbay Transit Center (in progress) | Tax increment financing and special assessment district | \$1,400  | \$4,185            | 33%  |
| Washington Metro's NY Avenue Station (completed)    | Special assessment district                             | \$25   | \$110              | 23%  |
| Dulles Corridor extension (in progress)             | Special assessment districts                            | \$730  | \$5,250            | 14%  |
| Los Angeles Metro Red Line, Segment One (completed) | Special assessment districts                            | \$130  | \$1,420            | 9%   |
| Seattle Bus Tunnel (completed)                      | Special assessment district                             | \$20   | \$500              | 4%   |

Source: GAO analysis of transit agency-reported data.

Note: See app. II for additional information about these transit projects and others that transit officials informed us about during our site visits, but did not provide complete financial data for.

<sup>28</sup>During our site visits, state and local transit officials identified and provided us with financial data for several major transit infrastructure projects and transit-oriented developments that have been (or are being) funded in part by other value capture strategies. In some cases, revenue generated through the use of value capture strategies was projected, not actual. We included these transit projects and transit-oriented developments in our analysis because (1) the developers and local governments have agreements in place, or (2) the tax increment financing or special assessment districts have already been formally established and a portion of expected taxes and fees are already being collected.



**Table 4: Summary of Transit-Oriented Development Infrastructure Improvements Funded in Part Using Other Value Capture Strategies**

(Dollars in millions)

| Transit-oriented development (status)   | Value capture strategy(ies)                                       | Amount of revenue generated through the use of value capture strategy(ies) | Onsite infrastructure improvements funded through the use of value capture strategy(ies)   |
|---|---|--|--|
| BART Pleasant Hill transit-oriented development (in progress)   | Tax increment financing and special assessment district           | \$750  | Backbone infrastructure, such as roads and drainage systems; place-making infrastructure, such as parks and plazas; and a new structured parking garage to replace the station's existing surface parking lot. |
| Dallas Area Rapid Transit transit-oriented development tax increment financing district (established) | Tax increment financing   | \$182  | Basic infrastructure improvements, including parking garages and water and sewer systems.  |
| MDOT State Center transit-oriented development (in progress)  | Tax increment financing (backed by a special assessment district) | \$100  | Structured parking, station amenities, affordable housing, and other infrastructure improvements, in combination with other local bonds.   |
| MDOT Owings Mills transit-oriented development (in progress)  | Tax increment financing and special assessment district           | \$60   | Tax increment funds to pay for the construction of two state-owned parking garages and special assessment funds to pay for the operation of state-owned garages, roads, and other improvements.                |
| MDOT Savage transit-oriented development (in progress)  | Tax increment financing (backed by a special assessment district) | \$14   | Structured parking garage to replace the commuter rail station's surface parking lot.  |

Source: GAO analysis of transit agency-reported data.

Note: See appendix II for additional information about these developments and others that transit officials informed us about during our site visits, but did not provide complete financial data for.

Although revenue generated from other value capture strategies varies—and typically represents one of multiple sources used to fund a transit project or the infrastructure supporting a transit-oriented development—this revenue can be critical to the financial feasibility of these projects and developments. Several state and local transit officials we spoke with told us that the use of one or more other value capture strategies was critical to the feasibility of their project or development, typically because it filled a funding gap. For instance:

- Washington Metro officials told us that the New York Avenue Metro station project would not have happened without nearby property owners' financial support through a special assessment district. According to a key

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private sector partner for the project, the local government's financial situation at the time prevented it from funding the entire nonfederal share of the station's construction costs. As a result, nearby property owners voluntarily agreed to provide the remaining \$25 million needed for the station's construction through a special assessment district.

- Seattle Department of Transportation officials explained that a special assessment district was critical to funding the city's South Lake Union streetcar line because the city of Seattle does not have a stream of money dedicated to large capital transit projects.
- Local transit officials in Portland explained that special assessment districts and tax increment financing have played a major role in funding the city's streetcar system because, unlike many other cities, Portland does not have a sales tax dedicated to transit. An official from one local government also noted that Portland's lack of a sales tax may explain why residents are more supportive of tax increment financing than residents of other cities.
- MDOT officials told us that tax increment financing is being used to pay for the construction of structured parking garages at several new transit-oriented developments throughout the state. According to MDOT officials, finding a way to pay for the construction of structured parking garages represents the biggest hurdle for all jurisdictions undertaking transit-oriented developments.

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## Several Factors Can Facilitate or Hinder the Use of Joint Development and Other Value Capture Strategies to Fund or Finance Transit

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### Public-Sector Coordination and Private-Sector Support Can Facilitate Implementation of Transit Projects Using Value Capture Strategies

Coordination among public-sector entities can facilitate the implementation of projects using value capture strategies because such projects generally require the involvement of multiple public entities with different authorities. Specifically, transit agencies are responsible for building, maintaining, and operating transit, but need to coordinate with local and state governments that generally have authority over taxation, land use, and development. For instance, when tax increment financing is involved, transit agencies—which generally do not have taxing authority—often have to coordinate with local taxing authorities to help establish a tax increment financing district and dedicate a portion of the tax increment toward a transit project. In addition, because high-density zoning around transit stations helps optimize the value available for capture, transit agencies often work with local zoning authorities to modify zoning regulations to allow for higher-density development. Zoning regulations may also need to be modified to allow for mixed-use development, particularly in joint developments.

Some transit agency officials told us that they have successfully coordinated with local governments when using value capture strategies, while others have faced challenges. For example, officials told us that transit projects have been successful because of effective coordination with local governments to rezone areas surrounding the transit project to allow for more dense development, while effective coordination with redevelopment agencies helped dedicate some of the tax increment collected from the urban renewal area to transit projects and transit-oriented developments. Moreover, some transit agencies in California have created joint powers authorities—partnerships with local jurisdictions, which allow multiple public entities to operate collectively. Through such authorities, officials told us that the partners can collaborate to establish common goals and ensure that the design for the transit project is

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integrated with the surrounding development. Conversely, officials from other transit agencies said it was challenging to convince local governments to allow for higher-density development near transit and they are working to improve their relationships with local governments. An official from one transit agency that operates a transit system through a large metropolitan area told us the agency has not yet been able to capitalize on some joint development opportunities because of disagreements between the transit agency and some local governments about the level of density a new development should have.

Transit agency and local government officials told us that support from private developers advances the implementation of projects that incorporate the use of value capture strategies. For instance, private or nonprofit developers or other public sector partners must have an interest in partnering with a transit agency to develop the area around a transit station for joint developments to occur. Several officials from transit agencies and local governments that we spoke with emphasized that the support of private developers, typically financial support, was critical to implementing their projects or developments. For example, officials from a few transit agencies said that the upfront funds provided by the private developer for one of its joint developments helped fund the transit infrastructure, including the parking structure and other transit station improvements.<sup>29</sup> Another official from a different transit agency said that in-kind land contributions (paid in lieu of a monetary development impact fee) will be critical to implementing a planned transit project. Furthermore, an official from one county government noted that substantial interest from developers has allowed the county to be more selective about which transit projects it undertakes because it can focus on projects with the highest priority and revenue generation potential. Some officials stressed that the private developer's long-term support was critical to the success of their joint developments because publicly funded infrastructure projects may take longer than a typical developer is accustomed to.

According to several transit agency and local government officials, the support of private property owners in the vicinity of their transit project was critical to the establishment of a special assessment district, which in turn was critical to the financial feasibility of the project. In one instance,

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<sup>29</sup>In some cases, the upfront funds for the transit infrastructure were repaid to the private developer through credits toward lease payments.

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the special assessment district—which was established while the transit project was still in the planning stage—could have dissolved at two points because of delays in acquiring other funding. However, the property owners petitioned to maintain the district and the fees. Without this support, a sizeable funding source for the project would have been eliminated. Another local agency official told us that the support of one property owner, who was a majority owner in a proposed special assessment district, was critical to bringing a project to fruition. In contrast, officials from another transit agency told us that opposition from property owners surrounding a planned transit station prevented the establishment of a special assessment district. The transit agency then had to downsize the project because the available funding was less than anticipated.

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### Transit Project Location and Design Influence How Much Value Can Be Captured

Transit project location and design—including zoning and parking requirements—affect the feasibility of using value capture strategies and the amount of revenue that can be generated. Based on our review of literature and the views of transit officials, we found that some metropolitan areas—and locations within these areas—have the potential to raise more revenue than others through value capture strategies. For example, officials from one transit agency told us their agency cannot generate as much revenue from its joint developments as other metropolitan areas in the country, such as the Washington D.C., metropolitan area or San Francisco, California, because ridership and density are not comparable. Furthermore, an individual with expertise on value capture strategies told us that land in locations that are deemed regionally significant—areas that are important to a region’s economy, and include employment, commercial, and residential areas—as opposed to locations that are mostly residential in nature, can generate more value, or revenue, through new transit infrastructure or improvements to existing transit service. Also, as previously discussed, the extent to which land and housing values increase<sup>30</sup> depends on several project characteristics. The quality of transit service and the project’s proximity to neighborhood amenities, such as retail services, parks, and schools can generate larger increases while lower relative incomes and higher crime rates have been

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<sup>30</sup>Value capture strategies often rely on the actual or projected increase in property values to generate revenue to help fund transit or transit-related projects. Consequently, transit project characteristics and project designs that positively affect property values help to optimize the use of value capture strategies.

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found to negatively affect the increase in property values.<sup>31</sup> One transit agency official added that a good transit system with a lifestyle level of service—beyond simple commuting—is essential for successful use of value capture strategies and transit-oriented development.

In addition, several officials, as well as an individual with expertise in the area of value capture strategies that we spoke with stated that for value capture strategies to be useful, it is critical that the project be designed with land use zoning that allows for high-density development. High-density zoning is needed around transit infrastructure because it encourages private development—particularly joint development—by increasing the project’s revenue potential, which in turn helps optimize the value available for capture by the public sector. On the other hand, the need to replace parking in joint developments can limit the benefits of using joint development. Commonly, joint developments involve replacing surface parking with structured parking on a portion of the former surface lot to allow space for new development. Several officials and experts that we spoke with acknowledged a need to replace at least a portion of the existing parking spaces, but emphasized that the construction of structured parking—needed to maintain parking capacity and to free up space on the parcel for new development—can limit the amount of value that can be captured because such construction can substantially increase a project’s cost, thereby reducing the revenue raised through the use of the value capture strategy.

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### Unfavorable Economic Conditions Can Hinder the Use of Joint Development and Other Value Capture Strategies

Unfavorable economic conditions can hinder the implementation of transit projects that incorporate the use of value capture strategies, as well as the ability of value capture strategies to raise revenue. Most transit agency, state and local government, and FTA officials that we spoke with told us that the current economic downturn has negatively affected the use of value capture strategies to fund transit.<sup>32</sup> For instance:

- Several joint developments have been recently stalled or terminated because of the current weak economy. For example, an official from one transit agency told us that one joint development project is on hold until the developer can obtain financing for construction of the development. In

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<sup>31</sup>[GAO-09-871](#).

<sup>32</sup>In addition, literature that we reviewed reported that the risk in using value capture strategies increases during poor economic times.

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addition, this agency has identified other parcels that it would like to use in joint developments, but the head of the agency's economic development department said the agency is currently waiting until the economy improves before issuing requests for proposals for projects.

- The use of tax increment financing is hindered by difficulty in selling bonds on the market at a favorable interest rate due to a weak local economy. Specifically, officials from several governments told us their transit projects are (or were) delayed or postponed until the agency is able to issue bonds at a favorable interest rate.<sup>33</sup>
- Revenue raised through development impact fees is directly dependent on new development projects. Because new development generally slows down during a weak economy, development impact fees may yield little or no revenue. For example, officials from one county government told us their timetable for collecting the total revenue needed to fund their transit project will likely be longer than originally expected because of the weak economy and lack of new development.
- Special assessment districts are more difficult to establish, and the assessments are more difficult to collect during a weak economy. Property owners in the vicinity of transit may be less likely to voluntarily contribute fees toward a project if they see a decline in their property value. On the other hand, another official told us that the strong economic conditions that preceded the current downturn helped facilitate implementation of a project that was funded in part by a special assessment district.

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## State Laws Can Authorize but May Also Limit Use of Value Capture Strategies

Some state laws specifically authorize the use of value capture strategies for transit purposes. For example, a California law passed in 1968 specifically allows the board of directors of any rapid transit district to establish special assessment districts for the purpose of raising revenue for transit.<sup>34</sup> In Maryland, legislation passed in 2009 allows revenue

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<sup>33</sup>One official told us that as of June 2010, the market for selling tax increment bonds has improved, and that some projects that were on hold because of the weak economy are now being pursued.

<sup>34</sup>The Mills Act, codified at Cal. Pub. Util. Code § 99000 et seq. In addition, in 1983, the California State Legislature specifically authorized the Southern California Rapid Transit District to levy special benefit assessments upon parcels of land and corresponding improvements that surround the Metro Rail rapid transit stations. Cal. Pub. Util. Code § 33000 et seq.

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generated from special assessment districts to fund infrastructure improvements, and related operations and maintenance, located in or supporting a transit-oriented development.<sup>35</sup> By contrast, some states do not have laws authorizing the use of certain value capture strategies, which effectively precludes their use of these strategies. For example, Arizona does not have a law authorizing the use of tax increment financing.

Furthermore, in some states, revenue generated through special assessment districts or tax increment financing districts cannot be used for funding operations and maintenance of the transit system. For example, in California, a state statute permits the Southern California Rapid Transit District to establish a special assessment for financing a rail transit station or related facility. However, the statute specifically limits the revenue generated from that assessment to the financing of the facility for which it was levied—the revenue cannot be used for any other purpose, including transit, transportation, or operating expenses.<sup>36</sup> Additionally, in Maryland, state statutes authorize the use of tax increment financing for development projects, including transit-oriented developments, but do not allow revenue from bond proceeds to be used to operate and maintain projects.<sup>37</sup>

Some officials we spoke with also reported that state laws have sometimes indirectly hindered the use of value capture strategies. Some states limit the amount of revenue that can be raised or the locations from which it can be raised. For example, California's Proposition 13, which amended the Constitution of California, caps local property tax increases by limiting the annual real estate tax to 1 percent of a parcel of property's assessed value (which can only be increased by 2 percent annually absent a change in ownership).<sup>38</sup> An official in California told us that this cap can limit the amount of revenue that can be raised through tax increment financing

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<sup>35</sup>Md. Code Ann., Corporations-Municipal, art. 23A, §44A(b). See 2009 Md. Laws HB300.

<sup>36</sup>Cal. Pub. Util. § 33002(d)(2009).

<sup>37</sup>Md. Code Ann., Economic Development, art. EC §§ 12-204, 12-207; §§ 12-208-210 (2010). Senate Bill 63, introduced in the 2010 Maryland General Assembly, would authorize counties and municipal corporations to directly fund the costs of the operation and maintenance of certain improvements for transit-oriented development from the levy of tax increment revenues.

<sup>38</sup>Cal. Const. art XIII A. California's Proposition 13 amended the California Constitution in this regard.



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until or unless a property changes ownership. Also, in both California and Oregon, tax increment financing can be used only in areas that are “blighted” and are designated as redevelopment or urban renewal areas, respectively.<sup>39</sup> Moreover, in Oregon, the amount of land that can be established as an urban renewal area is capped by state law—as little as 15 percent of the total land area or 15 percent of the total assessed property value for municipalities with a population over 50,000 and 25 percent of each for municipalities with a population under 50,000.<sup>40</sup>

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## Stakeholders Report That Uncertainty over FTA Policy Can Hinder the Use of Joint Development

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### Transit Agencies Say FTA’s Joint Development Policy Is Confusing and Impedes Joint Development

A number of transit agency officials told us that following FTA’s joint development guidance and requirements is confusing, burdensome, and time consuming, which can impede the transit agency’s use of joint development. These agencies are required to follow the FTA guidance when joint development revenue is collected using land purchased as part of a federally funded transit project, or improvements are being built as part of the development using federal funds. Transit agency or local government officials identified specific FTA joint development guidelines they find confusing or burdensome. For example:

- These officials have had difficulty understanding FTA guidance on which types of developments are eligible to become joint developments and which types of structures can be constructed using federal transit funds. Some officials told us that, in their view, confusion partially exists because the flexibility provided by FTA’s joint development guidance does not necessarily seem consistent with federal statutes cited in the guidance. Specifically, these officials told us that the flexibility in FTA’s joint development guidance that allows for ancillary development to support

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<sup>39</sup>Cal. Const. art XVI, § 16; Cal. Health & Safety Code § 33030 et seq. Or. Rev. Stat. chapter 457.

<sup>40</sup>Or. Rev. Stat. § 457.420.

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the overall vision of a transit project is not consistent with the law that prohibits the use of federal transit funds for private use or benefit.<sup>41</sup> Both transit agency officials and FTA regional officials told us that as a result of confusion over eligibility of certain uses and developments, increased interaction between FTA officials and transit agency officials is often necessary, which lengthens the approval process. These officials told us that the guidance seeks to allow the maximum flexibility under the law, and they are working internally to clarify which uses are eligible and whether statutory changes are necessary for certain developments to be eligible. FTA regional officials noted that interaction between FTA and transit agencies earlier in negotiations could help ease the joint development approval process. Sometimes transit agencies first contact FTA about a potential joint development when negotiations between the transit agency and the private developer are already too far along to allow changes to the design without significantly disrupting or delaying the development's implementation. In 2007, FTA helped clarify certain uses that are eligible by eliminating a requirement for transit agencies to find the "highest and best transit use" for a joint development—a requirement that transit agencies told us was challenging for transit agencies because appraisers could not properly define projects in these terms.<sup>42</sup>

- These officials are unclear to what extent FTA requires parking replacement in joint developments, particularly when they plan to convert existing surface park-and-ride lots into transit-oriented developments. FTA's joint development guidance does not provide examples of shared parking, but does address parking replacement. In response to a concern raised by a commenter, FTA stated that "FTA does not require [transit agencies] to replace parking spaces on a one-to-one basis if those spaces are used for joint development purposes and using them for such purposes will not decrease public transportation trips to and from the station."<sup>43</sup> In addition, FTA officials told us that shared parking arrangements are allowed with complementary uses such as theaters, so long as there is an

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<sup>41</sup>49 U.S.C. § 5302(a)(1)(G)(ii), which defines "capital project for joint development, excludes the construction of a commercial revenue-producing facility (other than an intercity bus station or terminal) or a part of a public facility not related to public transportation.

<sup>42</sup>See Notice of Final Agency Guidance on the Eligibility of Joint Development Improvements Under Federal Transit Law 72 Fed. Reg. 5788, 5800 (Feb. 7, 2007).

<sup>43</sup>See Notice of Final Agency Guidance on the Eligibility of Joint Development Improvements Under Federal Transit Law 72 Fed. Reg. 5788, 5798 (Feb. 7, 2007).

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agreement in place that spaces will be available primarily for transit purposes—which typically involves transit riders using park and ride lots between mornings and afternoons, Monday through Friday. However, several local government officials told us that FTA required that the agency replace all existing parking spaces, and did not allow shared use even though arranging a shared parking agreement with the new development, or reducing the total number of spaces, was preferable to replacing all existing surface parking with parking garages at great cost. Another agency interested in constructing a joint development on an underutilized surface park-and-ride lot told us the joint development guidance is unclear as to whether FTA would allow the agency to replace all the current parking spaces or whether FTA would ask for the agency to return the funds invested by FTA to purchase the land for the park-and-ride lot because the parking spaces were not used to support transit—the original intent of the FTA investment.<sup>44</sup>

- Transit agency officials told us that federal laws require they receive highest possible return value for the sale of property through a competitive bidding process and these requirements can be burdensome in certain circumstances. FTA requires transit agencies to receive the highest possible return from the sale of property purchased using federal grant funds.<sup>45</sup> Transit agency officials told us this requirement can stall negotiations with developers and limit flexibility, which transit agencies need to create incentives for investment in transit-oriented joint developments because these developments can be more expensive to build than traditional developments.<sup>46</sup> One agency cited competitive bidding requirements<sup>47</sup> as an obstacle to a proposed joint development in which the developer plans to develop transit-agency-owned-land as part of a larger adjacent development—an arrangement that would give this

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<sup>44</sup>At the time of our meeting, this official had not yet contacted FTA regarding the proposed joint development. Transit agency officials told us that park and ride users were directed to other parking lots at nearby stations, alleviating the need for the parking spaces.

<sup>45</sup>49 C.F.R. § 18.31(c)(2).

<sup>46</sup>Transit-oriented developments can be more expensive because they (1) often include structured parking, (2) require expensive firewalls to separate retail and residential uses if they are mixed-use developments, and (3) incorporate pedestrian-oriented design to provide connections to transit.

<sup>47</sup>See FTA Circular 4220.1E, Third Party Contracting Requirements, June 19, 2003. See also 49 U.S.C. § 5302(a)(1)(G), making third party contracting requirements applicable for joint development improvements, as applied by FTA through 72 Fed. Reg. 5788 (Feb. 7, 2007).

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developer a competitive advantage. Transit agency officials told us that in this case, when the outcome is likely predetermined, the requirement could add time and cost to the efforts of both the public and the private sector. FTA officials highlighted that there are established procedures to potentially grant a waiver from this requirement. In addition, such requirements promote full and open competition.

- One transit agency official told us that federal requirements to maintain continuing control over property purchased with federal funds can be confusing and burdensome. Specifically, if a property purchased with federal transit funds is sold for joint development, FTA requires that the grant recipient maintain effective continuing control of the use of the project property.<sup>48</sup> The transit agency official told us that although the joint development guidance describes several methods of maintaining effective continuing control, FTA regional officials require a deed restriction—and monitoring of the property indefinitely to ensure the land is being used as specified in the deed restriction is a long-term burden for the agency and an impediment to creating a transit-oriented development. FTA officials told us these requirements reflect governmentwide procurement or excess land disposal requirements, and FTA regional officials said they do their best to help transit agencies solve these types of issues within the law.
- Transit agency officials noted that federal restrictions on the use of revenues generated by joint developments can be a hindrance for transit agencies. Per statute, the proceeds of a sale or lease of land purchased with federal dollars must go back to FTA or be applied toward other eligible capital transit projects.<sup>49</sup> Some transit agency officials stated that FTA’s requirement to use joint development revenue for capital transit purposes precludes the use of these funds for operations or maintenance, or to acquire land for future transit-oriented joint development. FTA has stated, however, that transit agencies are permitted to use joint

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<sup>48</sup>FTA Master Agreements, Section 19.a, October 1, 2009. According to FTA, a fee simple sale would require the grantee to remit the proceeds to the federal government. Other transfers would require the grantee to protect the “federal interest” in the use and control of the real property for a public transportation purpose.

<sup>49</sup>49 U.S.C. § 5334(h)(4).

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development revenues for these purposes in certain circumstances.<sup>50</sup> At one agency, officials told us they would like to see their agency's joint development revenue (for projects with a federal interest) go into a transit-oriented development fund. In this official's view, FTA's requirements prioritize earning revenue from joint developments rather than as a catalyst for transit-oriented development and livable communities.

While FTA guidance is confusing or burdensome to many transit agency officials, a few others with extensive joint development told us their experience using the guidance has helped clarify the process and lessen the burden. Officials from one transit agency told us that although the requirements are initially confusing, they have learned through experience to anticipate and work through significant issues. According to officials at these agencies, joint development guidance issued by FTA in 2007 is an improvement over past versions, and FTA regional officials have been helpful in clarifying FTA's requirements. However, according to some of these officials, additional clarification and guidance on which types of developments and structures are eligible for joint development, particularly given recent policy changes due to DOT's livability initiative, could help ease the process and potentially entice more private developers.

FTA officials told us they are aware of ongoing confusion, and noted that additional issues have arisen because of recent policy changes due to the current administration's livability initiative. These officials also told us that a task force is clarifying activities that are eligible for support through the provisions and applications of FTA's joint development requirements, including whether transit funds can be used to purchase land and how to dispose of land or release it to other government entities, such as housing authorities or regional governments. In addition, FTA's 2007 joint development guidance indicates that FTA intends to consolidate guidance on the eligibility of joint development improvements currently appended to three circulars (guidance for new Major Capital Investments, Grants Management, and Formula Capital Grants), as a stand-alone FTA Circular

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<sup>50</sup>49 C.F.R. § 18.25(g)(5) allows FTA grantees to retain program income for allowable capital or operating expenses. According to FTA, program income can include income generated by a lease. In addition, according to these officials, FTA policy considers joint development revenues as program income, which can be used for either capital or operating expenses.

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titled The Eligibility of Joint Development Improvements under Federal Transit Law. As of July 2010 this Circular has not been issued.

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### FTA Is Not Directly Involved in the Use of Other Value Capture Strategies, but Some Federal Programs Can Affect the Use of These Strategies

According to FTA officials, FTA has no authority on the use of other value capture strategies because they are administered by local governments. FTA's role is primarily to provide the federal share of capital construction and land acquisition costs when a local share is funded through a value capture strategy. FTA officials told us that if a transit agency proposes a value capture strategy as a source of local funding for a transit project, they evaluate the viability of the revenue source and the likelihood that revenue projections will be met in the future the same as they would for any other proposed local funding source.<sup>51</sup>

However, transit agency officials told us that past New Starts project selection criteria and program requirements limited the competitiveness of some transit projects that promote economic development—an important element to the successful use of value capture strategies. For example:

- Several transit agency officials told us that the New Starts program's past emphasis on cost effectiveness favored less expensive routes over routes that better incentivize economic development. For example, the cost-effectiveness criterion favors travel time savings, which puts streetcar or light rail projects at a disadvantage because they are often designed with frequent stops to promote economic development and create value for property owners.<sup>52</sup> Furthermore, features of a transit-oriented development such as parks, bike access, and pedestrian amenities add costs and potentially make them less competitive. Several officials representing potential project sponsors with a planned contribution from a value capture strategy, told us their projects will not be competitive for New Starts funding because frequently stopping trains, designed to generate economic development, do not necessarily generate the travel time savings needed to meet federal cost-effectiveness requirements.

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<sup>51</sup>A standard grant requirement for FTA funds is that the transit agency demonstrate financial capacity (as well as legal and technical capacity) to carry out the program, including development of a transit investment. See FTA Circular 5010.1D, Chapter II.

<sup>52</sup>One project sponsor told us that although the Small Starts program was designed to provide funding for less expensive projects, such as streetcars, the program has the same requirements as larger projects and the program has not been supportive of streetcar projects. The first streetcar project funded through Small Starts was approved in October 2009.

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- Similarly, transit officials told us that the New Starts cost-effectiveness criterion limits the potential for joint development by deterring land acquisition near transit stations because costs for extra land purchases potentially reduce the cost effectiveness and competitiveness of a potential New Starts project. According to several transit agency officials, this requirement in effect allows transit agencies to acquire land to attract riders through surface parking lots, but not through transit-oriented joint developments.

Other New Starts program requirements can also limit transit agencies' use of joint development and other value capture strategies.

- Some transit agency and local government officials told us that ridership forecasting models generally used to determine cost-effectiveness for New Starts projects limit longer-term transit-oriented development opportunities by creating unrealistic requirements for parking spaces near stations. For instance, officials at one transit agency told us the results of their forecasting models require that they purchase land to construct park-and-ride lots near six proposed stations, even though they expect to attract riders through high-density transit-oriented developments around the transit stations once construction of the transit system is completed. However, according to these officials, the New Starts process does not effectively take into account the effects of future high-density transit-oriented developments (which are in-line with FTA's livability goals) on parking when seeking funds for transit capital projects. In effect, the need to purchase land for the park-and-ride lots significantly increases a project's cost, which reduces the project's cost-effectiveness. Moreover, if the transit agency pursues transit-oriented joint development in the future, parking replacement requirements—in this case imposed by other local governments—could create a challenge to constructing transit-oriented joint developments on the sites of the parking lots built for the new line. FTA officials explained that FTA does not have parking requirements in the New Start program and that project sponsors assume a number of parking spaces in their ridership models based on the design of their proposed project. FTA requires that the ridership estimates for the project be consistent with the number of parking spaces the project sponsor intends to build. However, without accounting for future high-density development around the station in the forecasting model—which a transit agency cannot do until these effects are taken into account in metropolitan planning organization travel forecasts—the results of the

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model would likely include a ridership level that does not generate enough benefits to make the proposed system competitive in the New Starts grant evaluation process.<sup>53</sup>

- According to officials at a few transit agencies and local governments, the length of the New Starts grant approval process can erode the effectiveness of value capture strategies. For example, one local government official told us that during the multiyear review of a proposed New Starts project, construction costs for the project more than doubled, while the contribution from a special assessment district remained fixed through an agreement with affected property owners.<sup>54</sup> As a result, the proportion of the local share of the project paid for using special assessment district revenue was significantly lower than anticipated, forcing the local government to draw from other local revenue sources to complete funding for the project. In addition, another transit agency official noted that private developers often work with narrow timelines in an effort to open the development during favorable market conditions. Developers calculate the feasibility of a development over about 12 months, whereas transit projects can take several years to plan and develop. FTA noted that the New Starts process includes multiple steps that are required by law, and shortening the process would require legislative changes. In addition, FTA officials cited a number of reasons that a project could be delayed during preliminary engineering or final design that are outside FTA's control such as changes to a project's scope, changes in local political leadership, or the loss of local financial commitment.<sup>55</sup>

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<sup>53</sup>FTA officials explained that the New Starts process requires project sponsors to use the future population and employment forecasts officially adopted by the Metropolitan Planning Organization (MPO) as inputs to the travel forecasting model. Thus, to the extent these forecasts take into account future high-density development, they are considered in the New Starts process. FTA does not allow project sponsors to assume growth beyond that officially adopted in the MPO forecasts because there would be no basis on which FTA could verify the legitimacy of the projections.

<sup>54</sup>The transit agency told us that during this period of time, construction costs increased in part due to increasing world-wide demand for materials needed for the rail project.

<sup>55</sup>GAO, *Public Transportation: Better Data Needed to Assess Length of New Starts Process, and Options Exist to Expedite Project Development*, [GAO-09-784](#) (Washington, D.C.: Aug. 6, 2009). FTA noted it has taken several steps in the last year to streamline the New Starts process to the extent possible under the existing statutory and regulatory framework. FTA has also undertaken the rulemaking process to help improve the process further.



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DOT and FTA have recently implemented and proposed several changes to the New Starts program and procedures. In 2009, FTA revised the weights given to each of the project justification criteria in accordance with direction in the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Technical Corrections Act of 2008 that they be "...comparable, but not necessarily equal..."<sup>56</sup> As part of this, according to FTA, the weight given to cost effectiveness was lessened and the land use and economic development criteria were split apart and each assigned specific weights rather than being considered together as had previously been the case. In January 2010, the Secretary of Transportation announced that transit agencies are no longer required to have at least a "medium" cost-effectiveness rating for their project to be recommended in the President's budget for New Starts funding.<sup>57</sup> In addition, FTA issued a request for comments in an Advance Notice of Proposed Rulemaking in June 2010 to seek input on how to improve its calculation of "cost effectiveness" and input on how FTA should evaluate economic development effects and environmental benefits in the evaluation and rating process for the New Starts grant program, among other things.<sup>58</sup> This rulemaking follows FTA's change to consider economic development separate from land use.<sup>59</sup> Prior to July 2009, the project justification rating was split evenly between cost effectiveness and land use. These changes have encouraged some transit agencies that are considering the use of value capture strategies, however the overall effect is still unclear. For some transit agencies officials, the removal of the medium cost-effectiveness rating requirement may affect planned transit projects, but one transit agency official noted that regardless of the change, the routes will still need to be cost effective because finding funds for the local match will always limit how much additional land or other user-friendly amenities the agency can buy. One agency official told us that planned transit routes would be aligned differently if spurring economic development becomes a heavily weighted criterion in the New Starts process. Another agency official said

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<sup>56</sup>Pub. L. No. 110-244, § 201(b)(1)(d), 122 Stat. 1572, 1610.

<sup>57</sup>To evaluate cost effectiveness for New Starts projects, FTA establishes five breakpoints, each of which reflects a dollar range for different ratings of a project's cost effectiveness (i.e., high, medium-high, medium, medium-low, and low). FTA assigns a cost-effectiveness rating to each project, and annually updates these breakpoints to reflect inflation.

<sup>58</sup>See Advance Notice of Proposed Rulemaking (ANPRM), Major Capital Investment Projects, 75 Fed. Reg. 31383 (June 3, 2010).

<sup>59</sup>FTA issued final policy guidance in July 2009, which among other things weighted economic development separate from land use. 74 Fed. Reg. 37763 (July 2009).

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that changes are not going to alter where the agency plans new projects; however, the elimination of a minimum cost-effectiveness rating certainly might influence agency plans to acquire additional land in station areas. FTA officials told us they are not sure how the recent and proposed changes to New Starts project evaluation criteria will affect the number or cost of projects seeking funding under the program. Transit agencies could have more flexibility to purchase land for joint development, or additional parking to help meet ridership projections, which has been a challenge in the past. However, FTA also noted that local transit agencies will still need to fund the local match, which can also be a challenge.

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### Stakeholders See an Expanded Federal Role in Supporting the Use of Value Capture Strategies through Potential and Existing Federal Loan Programs

Some stakeholders and transit agency officials we spoke with told us that the federal government could further support the use of value capture strategies by providing financing options for projects with a value capture revenue stream. Some project sponsors and experts believe federal loans, loan guarantees, or credit enhancements could help bridge a financing gap. Several agency officials noted that the federal government could better promote livable communities and transit-oriented development if it could help agencies overcome parking replacement challenges through targeted grants or loans.

Currently, DOT provides loans for major capital infrastructure projects through the TIFIA and RRIF loan programs. However, most TIFIA projects have been used to finance highway projects, typically with user charges or another revenue source to repay loans. Transit systems farebox revenue rarely covers capital and operations expenses, so another revenue stream is necessary to repay loans. Value capture strategies are one way to create a revenue stream from a transit project to repay the loan.<sup>60</sup> Two specific projects—Denver’s Union Station and San Francisco’s Transbay Transit Center—are planning to use tax increment financing to repay TIFIA and RRIF loans.

In recent years, proposals to expand federal financing for infrastructure projects have surfaced from stakeholders, including the current administration and Congress. Proposals have included creating a National Infrastructure Bank, other forms of a national infrastructure loan fund,

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<sup>60</sup>Other taxes, such as sales taxes, fuel taxes, or other vehicle-related taxes could be used as a source of repayment. For instance, a TIFIA loan for the Tren Urbano transit project was issued based on a pledge of fuel taxes, tire taxes, and vehicle registration fees.

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and expanding TIFIA's allocation limits.<sup>61</sup> DOT recently announced that demand for the TIFIA program now exceeds budgetary resources, and as a result, DOT will now, among other changes, evaluate projects against criteria including livability and economic competitiveness.<sup>62</sup>

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## Conclusions

Value capture strategies can be an effective means for the direct users and beneficiaries of a transit system to contribute to its funding, although past use of these strategies to fund and finance transit is limited. Because these strategies largely involve funding sources administered by local governments, the federal role in the use of value capture strategies is likely to remain relatively limited. However, federal transportation policies can affect local governments' ability to use some value capture strategies, particularly when a federal grant is part of the funding for a transit project. DOT's proposal to change how it evaluates economic development effects in the New Starts evaluation and rating process, and the removal of the requirement that projects receive a medium cost-effectiveness rating or better to be recommended in the President's budget could enhance federal funding prospects for transit projects with contribution from a value capture strategy, as well as transit agencies' ability to pursue joint development. However, value capture strategies are not a panacea. Funds generated through the use of value capture strategies are typically only a limited portion of the total funding needed to complete a transit project. Additionally, states may preclude or limit the use of these strategies or support may not be forthcoming from all the private- and public-sector parties whose concurrence is needed to implement the strategies.

Moreover, transit agencies' confusion about aspects of FTA's joint development policy hinders the use of this value capture strategy. This confusion—despite the 2007 guidance from FTA—about which types of developments and structures are eligible for joint development and how many surface parking spaces must be replaced with structured parking has contributed to project delays and potentially limited transit agencies' ability to facilitate transit-oriented development and “livable” communities along transit corridors. Clarifying early in a project's design phase which

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<sup>61</sup>SAFETEA-LU authorized \$122 million in TIFIA financing for fiscal years 2005 through 2009. Pub. L. No. 109-59, § 1601, 119 Stat. 1144, 1242. In addition, TIFIA is limited to financing one-third of a project's reasonably anticipated eligible total cost. Pub. L. No. 109-59, § 1601, 119 Stat. 1144, 1241.

<sup>62</sup>74 Fed. Reg. 63498 (Dec. 3, 2009).

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types of structures are eligible for joint development could streamline negotiations with developers and FTA and produce more cost-effective results for all parties. In addition, clarifying FTA's requirements and conditions for parking replacement would reduce the potential for transit agencies to design projects with more parking than is actually needed or required and to invest money in costly structured parking that could be put toward enhancing other aspects of the project's design, including economic development components.

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## Recommendation for Executive Action

To facilitate transit agencies use of joint development, we recommend that the Secretary of Transportation direct the Administrator of the Federal Transit Administration to issue additional guidance on federal joint development requirements including at a minimum,

- further clarification on the types of developments and structures that are eligible under current law, and
- further clarification on any requirements or conditions for parking replacement.

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## Agency Comments

We provided a draft of this report to the Department of Transportation for its review and comment. DOT agreed to consider the recommendations in this report, and provided technical comments, which we incorporated, as appropriate.

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We are also sending copies of this report to interested congressional committees, the Secretary of Transportation, and other interested parties. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

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If you or your staffs have any questions about this report, please contact David Wise at (202) 512-2834 or [wised@gao.gov](mailto:wised@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Individuals making key contributions to this report are listed in appendix III.

A handwritten signature in black ink that reads "David J. Wise". The signature is written in a cursive style with a large, stylized initial "D".

David Wise  
Director, Physical Infrastructure Issues

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# Appendix I: Objectives, Scope, and Methodology

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To address the use of value capture strategies to fund or finance transit, we reviewed (1) the extent to which transit agencies and state and local governments use joint development and other value capture strategies to fund or finance transit; (2) what selected stakeholders and literature identified as facilitators of, or hindrances to, the use of joint development and other value capture strategies to fund or finance transit; and (3) stakeholders' views about the effects of federal policies and programs on the use of joint development and other value capture strategies to fund or finance transit.

We addressed four value capture strategies: (1) joint development; (2) special assessment districts; (3) tax increment financing; and (4) development impact fees. We chose to focus on these strategies because our review of relevant literature on value capture strategies and interviews with relevant stakeholders found that these four strategies were the most commonly used value capture strategies by transit agencies and state and local governments to fund or finance transit.

To determine the extent to which transit agencies and state and local governments use joint development and other value capture strategies to fund or finance transit, we requested information from the 71 transit agencies that we identified as operating a fixed-guideway system—commuter rail, heavy rail, light rail, streetcar,<sup>1</sup> and bus rapid transit—and the 30 largest U.S. bus agencies.<sup>2</sup> We requested information on the use of each type of value capture strategy in projects on or around any of their transit stations, including the number of projects and the lead agency of the project. In response to our request, we obtained information from 55 of the 71 transit agencies contacted. We then analyzed the information reported by the transit agencies. To ensure the reliability of the information provided, we interviewed stakeholders about the design of our information collection instrument, reviewed responses to ensure that the value capture strategies reported met our definitions of each value capture strategy, and when possible corroborated the reliability of the information through interviews or other agency documents obtained. The information we collected was deemed reliable for our purposes.

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<sup>1</sup>Small-scale streetcar systems were excluded because a review of systems in this category determined that most were trolley museums or intended primarily for tourists, rather than a form of public transportation.

<sup>2</sup>Twenty-two bus agencies operated a fixed-guideway system and were also identified as one of the 30 largest bus agencies (based on average weekday ridership).

We also conducted site visits to, or interviewed officials from, transit agencies, state and local governments, and private developers in Atlanta, Georgia; Dallas, Texas; Portland, Oregon; Los Angeles, Sacramento, the San Francisco Bay metropolitan area, and San Jose, California; Seattle, Washington; and the Washington/Baltimore metropolitan area on selected transit or transit-related projects incorporating the use of value capture strategies.<sup>3</sup> Using information from literature that we reviewed and information we collected from the 55 transit agencies, we selected this nongeneralizable sample of cities and metropolitan areas based on criteria we established, including locations where value capture strategies had been used or were under formal consideration for future use and geographical diversity. Where available, we collected and reviewed information obtained from transit agencies on the costs and value capture revenue for projects that used value capture strategies.

To identify facilitators of, and hindrances to, the use of joint development and other value capture strategies, we reviewed relevant literature on value capture strategies. We also interviewed transit agency, state and local government, and FTA headquarters and regional officials, as well as representatives from private developers and individuals with expertise in the area of value capture strategies. In addition, we reviewed applicable state statutes and regulations.

To identify stakeholders' views about the effects of federal policies and programs on the use of joint development and other value capture strategies to finance transit, we interviewed federal, state, and local officials to identify ways federal policies and programs affect the use of value capture strategies. We also reviewed applicable federal regulations and statutes to determine federal requirements and program implications for joint development and other value capture strategies.

We conducted this performance audit from August 2009 to July 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient,

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<sup>3</sup>We contacted operators of fixed-guideway systems because we believe based on prior work that the permanency of stations along these systems is more likely to encourage nearby private development, and therefore the use of value capture strategies, than systems with less permanent facilities. However, we contacted the largest 30 U.S. bus agencies to ensure that the information we collected was robust, and to get a sense of whether bus agencies are finding ways to implement value capture strategies despite the lack of a fixed guideway.

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appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



# Appendix II: Descriptions of Select Transit Projects or Developments

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## Major Transit Infrastructure Projects (by Percentage of Revenue Contributed by Value Capture)

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### *Atlanta BeltLine*

|                          |   |
|--------------------------|---|
| Project Description      | The Atlanta BeltLine is a proposed 22-mile transit loop along underused railroad corridors in Atlanta. The proposed project also includes mixed-use transit-oriented developments, 1,300 acres of new parks and green space, and 33 miles of walking and biking trails. Project sponsors plan to use tax increment financing to help fund project components, including transit, parks and green space, and trails. |
| Project Status           | Planned   |
| Value Capture Strategies | Tax increment financing   |
| Lead Agency              | Atlanta BeltLine, Inc.  |
| Value Capture Revenue    | \$1,700 billion (projected)   |
| Total Project Cost       | \$2,800 billion (projected)   |
| Percentage Value Capture | 61%   |
| Type of Transit          | To be determined: streetcar or light rail   |

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### *Seattle South Lake Union Streetcar*

|                          |   |
|--------------------------|---|
| Project Description      | The South Lake Union Streetcar is a 2.6 mile streetcar line that connects Seattle's South Lake Union neighborhood to the Westlake Hub. This project cost \$53 million to complete, half of which was paid for using revenue from a special assessment district (locally referred to as a local improvement district) which generally surrounds the line by approximately four blocks. The city of Seattle issued bonds for the project, which will be repaid using the stream of payments from the property owners. |
| Project Status           | Completed   |
| Value Capture Strategies | Special assessment district   |
| Lead Agency              | City of Seattle, Department of Transportation   |
| Value Capture Revenue    | \$25 million (approximate)  |
| Total Project Cost       | \$53 million (approximate)  |
| Percentage Value Capture | 47%   |
| Type of Transit          | Streetcar   |

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### *City of Portland Streetcar*

|                          |   |
|--------------------------|---|
| Project Description      | The Portland streetcar runs on an 8.0-mile continuous loop (4.0-mile in each direction) through multiple neighborhoods in Portland, OR. The multi-phased streetcar project cost approximately \$103 million with about \$19.4 million raised through a special assessment district (locally referred to as a local improvement district) and \$21.5 million bonded through tax increment financing from the City's urban renewal agency, Portland Development Commission. The Portland Streetcar is owned and operated by the City of Portland. |
| Project Status           | Completed   |
| Value Capture Strategies | Tax increment financing<br>Special assessment district  |
| Lead Agency              | City of Portland<br>Portland Streetcar, Inc.  |
| Value Capture Revenue    | \$41 million (actual)   |
| Total Project Cost       | \$103 million (actual)  |
| Percentage Value Capture | 40%   |
| Type of Transit          | Streetcar   |

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**Appendix II: Descriptions of Select Transit  
Projects or Developments**

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*San Francisco Transbay Transit Center*

|                          |  |
|--------------------------|--|
| Project Description      | A new multi-modal transit center in downtown San Francisco that will serve ten transportation systems, including high speed intercity passenger rail. Project also includes the creation of a new mixed-use, transit-oriented neighborhood with residential towers, shops, parks, and office buildings on surrounding land. Tax increment financing will be used to repay a \$171 million federal TIFIA loan used for construction of the new transit terminal. A planned special assessment district will be used to fund a portion of the construction and maintenance of public infrastructure and facilities needed for the new development. |
| Project Status           | In progress  |
| Value Capture Strategies | Tax increment financing<br>Special assessment district   |
| Lead Agency              | Transbay Joint Powers Authority  |
| Value Capture Revenue    | \$1,400 million (tax increment - projected)  |
| Total Project Cost       | \$4,185 million (projected)  |
| Percentage Value Capture | 33%  |
| Type of Transit          | Multimodal   |

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*Washington Metro New York Avenue Station*

|                          |  |
|--------------------------|--|
| Project Description      | The New York Avenue station was built between two existing stations on Washington Metro's Red Line. The station was deigned to be a catalyst for transit-oriented economic development in Washington's NoMa neighborhood. The \$110 million station was built using a unique private-public partnership between adjacent property owners, the District of Columbia, and the federal government. Local property owners agreed to pay \$25 million towards the projects through a special assessment district (locally referred to as a Metro Benefit Assessment Fee). |
| Project Status           | Completed  |
| Value Capture Strategies | Special assessment district  |
| Lead Agency              | Washington Metro   |
| Value Capture Revenue    | \$25 million (actual)  |
| Total Project Cost       | \$110 million (actual)   |
| Percentage Value Capture | 23%  |
| Type of Transit          | Heavy rail   |

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*Washington Metro Dulles Corridor Extension*

|                          |  |
|--------------------------|--|
| Project Description      | The Metropolitan Washington Airports Authority (MWAA) is constructing a 23-mile extension of the existing Metrorail system, which will be operated by the Washington Metropolitan Area Transit Authority. The two-phased extension commences at the East Falls Church station on the existing orange line and runs to Washington Dulles International Airport and west to Ashburn. The cost estimate for the two phases of the project is \$5.25 billion, with about \$400 million raised through a special assessment district for phase I. An additional special assessment district is in place to contribute approximately \$330 million of phase II capital construction costs. |
| Project Status           | In progress  |
| Value Capture Strategies | Two special assessment districts   |
| Lead Agency              | Metropolitan Washington Airports Authority (construction) and Fairfax County (special assessment district)   |
| Value Capture Revenue    | \$730 million (projected)  |
| Total Project Cost       | \$5.25 billion (estimated)   |
| Percentage Value Capture | 14%  |
| Type of Transit          | Heavy rail   |

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**Appendix II: Descriptions of Select Transit  
Projects or Developments**

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*Los Angeles Metro Red Line, segment 1*

|                          |   |
|--------------------------|---|
| Project Description      | Segment 1 of the Metro Red Line consists of 5 underground heavy rail stations in downtown Los Angeles. In 1986, Metro formed two special assessment districts (locally referred to as benefit assessment districts) to pay for a portion of the construction costs of the Metro Red Line Segment 1. |
| Project Status           | Completed   |
| Value Capture Strategies | Two special assessment districts  |
| Lead Agency              | Los Angeles Metro   |
| Value Capture Revenue    | \$130 million (actual)  |
| Total Project Cost       | \$1,420 million (actual)  |
| Percentage Value Capture | 9%  |
| Type of Transit          | Heavy rail  |

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*Seattle Downtown Transit Tunnel*

|                          |  |
|--------------------------|--|
| Project Description      | The five-station, 1.3 mile downtown transit tunnel opened in 1990, costing approximately \$469 million. King County established a special assessment district (locally referred to as a benefit assessment district) to help finance the tunnel under the downtown area. The assessment provided approximately \$20 million dollars toward the project. In 2009, Sound Transit's Link Light Rail line began service—sharing the downtown tunnel with existing bus service. |
| Project Status           | Completed  |
| Value Capture Strategies | Special assessment district  |
| Lead Agency              | King County Metro  |
| Value Capture Revenue    | \$20 million (approximate)   |
| Total Project Cost       | \$469 million  |
| Percentage Value Capture | 4%   |
| Type of Transit          | Bus and light rail   |

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*Sacramento County Bus Rapid Transit Lines*

|                          |  |
|--------------------------|--|
| Project Description      | Sacramento County currently collects a development impact fee, part of which is dedicated to transit. Specifically, the County plans on using the fee's dedicated transit funds to establish bus rapid transit routes on three major congested corridors. County officials told us that they expect funds to be raised over 22 – 25 years. |
| Project Status           | Planned  |
| Value Capture Strategies | Development impact fee   |
| Lead Agency              | Sacramento County  |
| Value Capture Revenue    | Not available  |
| Total Project Cost       | Not available  |
| Percentage Value Capture | Not available  |
| Type of Transit          | Bus rapid transit  |

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**Appendix II: Descriptions of Select Transit  
Projects or Developments**

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**Transit-oriented Development Infrastructure Improvements (by Total Value Capture Revenue)**

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*Pleasant Hill Transit-Oriented Development*

|                          |  |
|--------------------------|--|
| Project Description      | Bay Area Rapid Transit (BART), Contra Costa County, CA, and the County Redevelopment Agency have created a joint powers authority to construct one portion of a multiple property transit-oriented development at the Pleasant Hill BART Station. Revenue from special assessments and tax increment financing is being used to pay for a variety of public infrastructure improvements at the transit-oriented development site, including the BART patron replacement parking garage, backbone infrastructure (roads, drainage, etc.) and place making infrastructure (parks, plazas, and street furniture). |
| Project Status           | In progress (90% complete)   |
| Value Capture Strategies | Joint development<br>Special assessment district<br>Tax increment financing  |
| Lead Agency              | Joint Powers Authority between Bay Area Rapid Transit, Contra Costa County, and the County Redevelopment Agency  |
| Value Capture Revenue    | \$750 million (projected)  |
| Type of Transit          | Heavy rail   |

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*Dallas' Transit-Oriented Developments*

|                          |  |
|--------------------------|--|
| Project Description      | Transit-oriented developments at 7 light rail stations in Dallas, TX are included in one tax increment financing district. Tax increment financing will be used to pay for basic infrastructure improvements—including water and sewer systems and parking garages—at the transit-oriented developments. A portion of the increment generated on the more developed, north end of the district will be used to fund project elements on the south end of the district, where development is not expected to occur for several years. |
| Project Status           | District established   |
| Value Capture Strategies | Tax increment financing  |
| Lead Agency              | Dallas Area Rapid Transit and the city of Dallas   |
| Value Capture Revenue    | \$182 million (projected – net present value)  |
| Type of Transit          | Light rail   |

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*State Center Transit-Oriented Development*

|                          |   |
|--------------------------|---|
| Project Description      | Maryland Department of General Services is planning to lease state-owned land adjacent to Baltimore's Cultural Center Light Rail Station and State Center Metro Station to a developer for construction of a mixed-use, mixed-income transit-oriented development. Project sponsors plan to use tax increment financing backed by a special assessment to repay bond debt. Revenue from the special assessment will be used to pay bond debt in the event that the tax increment financing revenues are insufficient. In addition, the state of Maryland will receive 7 percent of all project profits as a form of additional ground rents above base rent. The present value of these rents over 50 years is \$25 million for a \$2 million parcel of land. |
| Project Status           | Groundbreaking expected in 2010   |
| Value Capture Strategies | Tax increment financing (backed by special assessment district)   |
| Lead Agency              | Maryland Department of General Services   |
| Value Capture Revenue    | \$100 million (projected)   |
| Type of Transit          | Heavy rail and light rail   |

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**Appendix II: Descriptions of Select Transit  
Projects or Developments**

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*Owings Mill Transit-Oriented Development*

|                          |  |
|--------------------------|--|
| Project Description      | Maryland Department of Transportation is planning to lease state-owned land to a developer to construct a transit-oriented development at the Owings Mills Metro Station in Baltimore County, MD. Project sponsors plan to use tax increment financing to help pay for the construction of two state-owned parking garages at the transit-oriented development. According to State officials, revenue generated from a special assessment will be used to pay for operations of the state-owned garages, roads, and other improvements; however it may also be used to help pay bond debt in the event that the tax increment financing revenues are insufficient. |
| Project Status           | Groundbreaking expected in 2011  |
| Value Capture Strategies | Tax increment financing<br>Special assessment district   |
| Lead Agency              | Maryland Department of Transportation  |
| Value Capture Revenue    | \$60 million (projected – tax increment financing)   |
| Type of Transit          | Heavy rail   |

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*MacArthur Station Transit-Oriented Development*

|                          |   |
|--------------------------|---|
| Project Description      | The City of Oakland Redevelopment Agency has partnered with Bay Area Rapid Transit and the private developer MacArthur Transit Community Partners, LLC to design and build the mixed-use MacArthur Transit Village adjacent to Bay Area Rapid Transit's MacArthur Station in Oakland, CA. The transit-oriented development will include residential units, commercial and neighborhood-serving retail, a new structured replacement parking structure, new public roads, and various other improvements to the transit station. |
| Project Status           | Planned   |
| Value Capture Strategies | Tax increment financing   |
| Lead Agency              | City of Oakland Redevelopment Agency  |
| Value Capture Revenue    | \$16.8 million (projected non-housing tax increment financing, \$17.2 million projected affordable housing tax increment financing)   |
| Type of Transit          | Heavy rail  |

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*Savage Town Center Transit-Oriented Development*

|                          |   |
|--------------------------|---|
| Project Description      | Maryland Department of Transportation is planning to transfer property to a developer to construct a transit-oriented development at the Savage Commuter Rail Station in Howard County, MD. Tax increment financing will help pay for the construction of a parking garage at the transit-oriented development site. According to Howard County officials, revenue generated from a special assessment district will be used to pay bond debt in the event that the tax increment financing revenues are insufficient. Revenue generated through the special assessment district that is not used will be credited back to its contributors annually. |
| Project Status           | Planned   |
| Value Capture Strategies | Tax increment financing (backed by special assessment district)   |
| Lead Agency              | Maryland Department of Transportation   |
| Value Capture Revenue    | \$14 million (projected)  |
| Type of Transit          | Commuter rail   |

Source: GAO analysis of information provided by transit agencies or local governments

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# Appendix III: GAO Contact and Staff Acknowledgments

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## GAO Contact

David Wise at (202) 512-2834 or [wised@gao.gov](mailto:wised@gao.gov)

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## Staff Acknowledgments

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