LINK21

CONNECT NORTHERN CALIFORNIA

VALUE CAPTURE AND EQUITY PAPER

DRAFT FINAL

September 2022

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ISSUE AND REVISION RECORD

REVISION	DATE	PREPARER(S)	PMC REVIEWER(S)	APPROVER	DESCRIPTION/ NOTES
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0	05/10/2022	Christa Cassidy, HNTB; Sophie Guiny, InfraStrategies	Lisa Amini, Bryant Jenkins, Sperry Capital	Jeff Morales, InfraStrategies; Peter Gertler, HNTB	DRAFT submittal
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ACRONYMS AND ABBREVIATIONS

ACRONYM/ABBREVIATION	DEFINITION
BART	San Francisco Bay Area Rapid Transit
CCJPA	Capitol Corridor Joint Powers Authority
AB	Assembly Bill
BRT	bus rapid transit
CBA	Community Benefits Agreement
CDBG	Community Development Block Grants
CBO	community-based organization
CFD	Community Facilities District
CHA	California Housing Authority
DUSPA	Denver Union Station Project Authority
ELI	Extremely Low-Income
ETOD	Equitable transit-oriented development
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
HUD	Department of Housing and Urban Development
MTC	Metropolitan Transportation Commission
MTR	Mass Transit Railway
O&M	operations and maintenance
RDA	Redevelopment Agency
RRIF	Railroad Rehabilitation & Improvement Financing
RTD	Regional Transit District
ST3	Sound Transit 3
TIF	Tax Increment Financing
TIFIA	Transportation Infrastructure Finance and Innovation Act
TOC	transit-oriented communities
TOD	transit-oriented development
ULC	Urban Land Conservancy
USDOT	United States Department of Transportation
VTA	Santa Clara Valley Transportation Authority
ZAC	France’s Integrated Development Zones

LINK21 PROGRAM TEAM NAMES

TEAM NAME	TEAM MEMBERS
Program Management Consultants (PMC)	The HNTB Team
Program Management Team (PMT)	BART/CCJPA + PMC
Consultants	Consultants supporting program identification/project selection
Link21 Team	PMT + Consultants

1. EXECUTIVE SUMMARY

Value capture strategies are contemplated as part of the funding mix that is required, with other federal, state, regional, and local funds, to support the development of the Link21 Program (Link21). At the same time, the San Francisco Bay Area Rapid Transit (BART) and the Capitol Corridor Joint Powers Authority (CCJPA) have made explicit commitments to advance equity through every stage of the program.

This paper continues the work undertaken since 2020 to initiate and develop a value capture strategy for Link21. The Value Capture Paper (January 2021) served as a primer on value capture, outlining value capture tools and their use and presenting six national and international case studies. This paper adds equity considerations and discusses how they can be incorporated in the value capture strategy.

Value capture and equity have not historically or explicitly been tied together, as value capture aims to generate and direct revenue from land value increases to support infrastructure improvements, such as transit system improvements and/or station development. However, regional and megaregional trends compel Link21 to prioritize equity considerations in developing its financial strategies. For instance, 43% of the Northern California Megaregion's (Megaregion) priority populations[1] spend 30% or more of their income on housing costs, which, in turn, is pushing these households further from the transbay core and potentially further away from access to opportunity.

The sheer scale of Link21 paired with complex issues related to displacement, affordability, and homelessness across the Megaregion create an opportunity for creative approaches to value capture that support and enable more equitable outcomes while generating much needed funding for transit. This *Value Capture and Equity Paper* considers the key equity opportunities and challenges related to value capture, outlines the existing policies that can enable equitable value capture practices, and lays out potential policies that can be introduced early in the program's life cycle to support both community economic development and revenue generation through value capture.

Research findings suggest that public agency value capture on its own can help mitigate equity concerns, as the very act of extracting value for public goods and services, and not simply relinquishing that value to the private sector, inherently supports equity goals. Further, the allocation of revenue from a value capture mechanism could help mitigate displacement and gentrification impacts.

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[1] Link21 defines priority populations as geographic areas with significant low-income, non-white, or transportation-cost-burdened populations that also experience disproportionate economic, mobility, community, and health and safety burdens. This definition is program-specific and was created with the input of community members, partner agencies, and subject matter experts. External input informed how factors like housing-cost burden, displacement, internet access, and employment benefits, were incorporated into the priority populations definition and how Link21 conceptualizes equity.

Scaling equity-centered value capture strategies to Link21's scope will require new partnerships, new financial frameworks, and, ultimately, a paradigm shift that prioritizes communities in receiving benefits from value created by Link21 investments. The innovative nature of this approach to value capture calls for early action to explore feasibility and potential opportunities.

Keys to success: The following actions are critical for achieving equitable outcomes for projects in which a value capture mechanism is included as part of the funding. These actions come from case studies and research around best practices in the field, described in further detail in Sections 3.4 and 4.1.

- Incorporate equity from project inception, including initial design and scoping.
- Require jurisdictions to have anti-displacement policies in place as a condition of investment under Link21.
- Build political will to address equity issues.
- Redistribute captured value to infrastructure and other improvements that support priority populations.
- Foster authentic community partnerships.
- Engage cities and counties as they have greater experience and authority than a transit agency, and they are key in developing housing and infrastructure.
- Empower transit agencies to deliver the transportation-related aspects of a project and ensure that they are integrated within the broader community design.

Next steps are outlined in the final section of this paper, and they are also listed below. These next steps call for specific actions to bring the concept of equity-centered value capture from theory to action.

- Identify and forge partnerships with community groups, local economic development organizations, and other advocates to support the implementation of value capture strategies — this requires expanding coordination beyond traditional transportation partners and stakeholders.
- Identify the most effective ways to allocate value capture revenue to support community economic development in priority populations through engagement with residents and other advocates.
- Determine the appetite among developers and agencies for exploring collective ownership models—like community land trusts or community benefits agreements—with priority populations to allow direct benefits from increased values to accrue to historically underserved groups within the program area.
- Explore potential under a future regional measure for funding for tenant protection and affordable housing production strategies related to Link21 and other transit investments.

- Examine the feasibility of enabling legislation that grants authority to transit agencies or any new agency delivering transit projects to amass land for development and value capture around stations.
- Determine whether legislative action could enable Link21 to use value capture proceeds (both pay-go and from financing) to be used toward operations.
- Conduct a comprehensive policy review to enable BART and CCJPA to use as many value capture tools as possible with a full understanding of the implications of those decisions.

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2. INTRODUCTION AND BACKGROUND

2.1. Importance of the Value Capture and Equity Nexus

The availability of affordable housing is a major issue in the Megaregion and displacement and gentrification are significant concerns associated with infrastructure development, particularly related to transit. Transit-oriented development (TOD), while desirable from an access and environmental perspective, tends to result in higher priced housing and displacement of residents and community businesses.

Value capture relies to a large extent on the appreciation of property values and may be in conflict with Link21's focus on equity. At the same time, the scale of Link21 requires that all funding options be explored for capital and operating costs, including value capture. Link21's promise is to be a transformational program that improves life for communities in the Megaregion and places a special emphasis on serving and lifting up priority populations.

The concept of Equitable TOD (ETOD) refers to efforts specifically undertaken to achieve equity goals in the context of denser, more transit-accessible and newer housing with specific strategies designed to avoid community displacement and maintain housing affordability. It does not however per se address the use of value capture in an equitable context. Combining value capture and equity requires going one step further and examining the broader implications of land value appreciation on and the economic benefits of transit for priority populations.

This paper continues to advance the development of a value capture strategy for Link21, with a specific focus on policy and other actions that can be undertaken in the early stages of the Program to support both value capture and equity.

2.2. Value Capture Strategy Development

This section provides background information on value capture, Link21's commitment to equity, and summarizes the work completed to date with regards to value capture.

2.2.1. Key Definitions

Economic benefits refer to the broader value created by a transportation asset that does not result in direct revenues to a project but accrues to the local economy (e.g., job creation) and can support raising local funding (e.g., sales tax measures).

Value capture, as defined by the Transportation Research Board,[2] is the "public recovery of a portion of increased property and other value created as a result of public infrastructure investment." It is underpinned by broader economic value creation. Land-based value capture mechanisms include impact fees, property taxation, property tax increment, community facilities districts, negotiated exactions, sale or leasing of air rights, assessment districts, station naming rights or line sponsorships. Value capture mechanisms can also include revenues generated from the use of a transportation asset beyond the immediate provision of transit service. Creating the potential for and securing non-transportation-related commercial revenue to contribute to long-term operations and maintenance (O&M) costs is good stewardship of taxpayer dollars. Ancillary revenues include joint development, parking fees, advertising, and concessions.

While value capture mechanisms can support a portion of a project's capital costs, most revenue from value capture is better suited to cover operating costs. However, some land value capture mechanisms have limitations on spending on operations (e.g., TIF).

2.2.2. Work Undertaken to Date

This paper continues the work undertaken since 2020 to initiate and develop a value capture strategy for Link21. The *Value Capture Paper* (January 2021) served as a primer on value capture, outlining value capture tools and their use and presenting six national and international case studies.

A comprehensive value capture strategy can contribute to capital and operating funding streams for Link21 and support its overall objectives. Value capture strategies encompass traditional land-based value capture, as well as the generation of ancillary revenues from transportation assets. These areas are interrelated and will endure beyond the completion of construction.

Collaboration and agreement among the impacted communities and other key stakeholders are required to successfully implement a value capture strategy. A value capture strategy combines multiple value capture mechanisms, as each have specific characteristics that make them suited for a given place or revenue stream but not others. Consequently, value capture requires considerable advance planning and in-depth real estate, economic, revenue generation, and other studies.

An analysis was undertaken from a broad perspective to identify some opportunities that could be considered both for Link21 and for the existing BART system (**Table 2-1**). The analysis noted the existing constraints in California, notably under Proposition 218, which limits the ability of local governments to impose new taxes, assessments, and property-related fees and charges without explicit voter consent. Implementing value

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[2] National Academies of Sciences, Engineering, and Medicine. 2016. *Transit Cooperative Research Program (TCRP) Research Report 190 - Guide to Value Capture Financing for Public Transportation Projects*. Washington, D.C: The National Academies Press.

capture will also require coordination with local jurisdictions to enable the use of specific mechanisms. As a special district, BART is particularly affected by the voter approval requirements under Proposition 218, as is CCJPA, whose mandate is limited. In the future, if there is an effort to reform Proposition 218, BART and CCJPA may consider engaging to help advance their value capture goals.

Table 2-1. Potential Value Capture Mechanisms for Link21

MECHANISM	DESCRIPTION	ALLOWABLE USES OF FUNDS	ESTIMATED REVENUE POTENTIAL	REQUIRES VOTER APPROVAL?
Mello-Roos Community Facilities Districts (CFD)	Special tax district formed when property owners in the area agree to impose a tax to fund infrastructure improvements	Capital/ O&M Costs (certain new services that serve the district)	Could support issuance of $10[3]-750 million in bonds (30-year term) per station area	Yes
Tax Increment Financing (TIF)	Participating taxing entities in an Infrastructure Financing District (IFD) share an agreed upon portion of their property taxes on incremental assessed value increases of properties	Capital/ O&M Costs (Limited to ongoing and capital maintenance related to public facilities funded for EIFD and may be more restricted for others)	Could support issuance of $25[4]-250 million in bonds (30-year term) per station area	Yes
Property Taxation: Ad Valorem	Taxes levied on real property as a percentage of the assessed valuation of properties, as limited by Proposition 13	Typically Capital Costs	Measure RR supports issuance of $3.5B in bonds[5]	Yes

[3] $12 million CFD formed to help fund BART's Pittsburg/Bay Point Station.
[4] Santa Clara Valley Transportation Authority (VTA). 2020. *VTA's BART Phase II Transit Oriented Communities Strategy Study: The 28th Street/Little Portugal BART Station Area Playbook*. Accessed March 2022 at https://www.vta.org/sites/default/files/2020-07/28-LP%20TOC%20Playbook_Final_ADA_spread_1.pdf.
[5] BART. 2016. *BART's Bond Measure: The Facts.* Accessed March 2022 at https://www.bart.gov/sites/default/files/docs/BART%20%243%205%20Billion%20GO%20Bond%20Measure%20Tax%20Analysis%20%284%25%20AV%20Growth%20Assumption%29%20Summary%20FINAL%20WEBSITE%20POSTING%208%2019%2016.pdf

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MECHANISM	DESCRIPTION	ALLOWABLE USES OF FUNDS	ESTIMATED REVENUE POTENTIAL	REQUIRES VOTER APPROVAL?
Property Taxation: Parcel Taxes	Flat tax on real property that generally does not vary in respect to the size of a parcel	Capital/ O&M Costs	$25-$200 million annual revenues for the nine county Bay Area[6]	Yes
Air Rights	Air rights (also called transferable development rights) are sold or leased under a competitive process to a private entity to develop the air space above a facility	Capital/ O&M Costs	$10[7]-$250[8] million in upfront revenues per station area	No
Real Estate Transfer Taxes	Tax on the transfer of real property; these taxes are sometimes designed as a fee rather than a tax	Capital/ O&M Costs	$368 million in San Francisco alone[9]	No

Revenues generated from value capture mechanisms, in particular TIF, can contribute to funding and financing a portion of a project's capital costs. However, the review from case studies showed that this capacity is typically less than 20% of the project's total capital costs. In addition to land-based value capture, the analysis identified ancillary revenue generation opportunities **(Table 2-2)**.

[6] Strategic Economics. 2019. *Regional Transportation Measure Revenue Estimates.* Accessed March 2022 at https://www.siliconvalleycf.org/sites/default/files/publications/regional-transportation-measure-revenue-estimates.pdf

[7] WMATA. 2021*. FY2022 Proposed Budget,* Joint Development Revenue Estimates *p. 7.* Accessed March 2022 at https://www.wmata.com/about/records/upload/Proposed-FY2022-Budget.pdf

[8] Slowey, K. 2017. *Tishman Speyer secures final air rights for $3B Spiral NYC tower*. Constructive Dive. Accessed March 2022 at https://www.constructiondive.com/news/tishman-speyer-secures-final-air-rights-for-3b-spiral-nyc-tower/506367/

[9] Phillips, S. 2020. A Call For Real Estate Transfer Tax Reform. UCLA Luskin School of Public Affairs. Accessed August 2022 at https://escholarship.org/uc/item/6wv6k272

Table 2-2. Potential Ancillary Revenue Generation Sources for Link21

MECHANISM	DESCRIPTION	USE OF FUNDS	ESTIMATED REVENUE POTENTIAL
Joint Development	Land development that occurs in a partnership between a public agency and private developer, possibly including other entities such as a local government	O&M Costs/Some Capital Improvements	BART's current TOD work plan expects to generate an incremental $1.9 million in annual ground lease revenue on 3,400 housing units and 1.8 million square feet of commercial space
Parking Revenues	Increase parking fees, including monthly passes	O&M Costs	$30-50 million/year
Advertising	Could create the opportunity to amend advertising contracts to expand inventory and use more digital advertising or negotiate additional advertising contracts for new methods of advertising	O&M Costs	Up to an additional $10 million/year depending on the number of new high-ridership stations, investment in digital buildouts, addition of new forms of advertising, and significantly increasing ridership. Current revenue is $10 million/year ($30+ million/year for peer agencies)
Concessions	Revenue from leasing retail space at a station. Can be tied to equity goals, (e.g., by providing favorable leasing terms to local small businesses)	O&M Costs	TBD – major source of non-fare revenue internationally (Japan, United Kingdom)

This analysis was presented to the BART Board of Directors in October 2021. Next steps in advancing the value capture strategy include a comprehensive policy review to enable BART and CCJPA to use as many value capture tools as possible with a full understanding of the implications of those decisions. Existing policies, such as TOD and parking, will likely need to be amended for Link21, which will also unlock opportunities for BART as a whole. Future contracts to generate advertising revenues can be amended or written to incorporate potential revenue from additional advertising inventory and Link21-branded corridors.

Prioritizing which policies to amend or to establish first can be based on revenue potential and how each mechanism fits the broader Link21 goals, including equity, which is the focus of this paper.

This paper also builds on the ongoing work related to the Link21 anti-displacement strategy, which aims to identify locations that are at the highest risk of displacement based on the stage of gentrification and the existing anti-displacement policies, and it proposes a variety of options for local jurisdictions to adopt in order to be considered for investments through Link21.

2.3. Commitment to Equity

Link21's program vision statement equity vision statement, priority populations definition (below), and goals and objectives (**Figure 2-1**) is evidence of the program's deep commitment to equity. These statements were updated since the January 2021 value capture paper and are therefore being included here for reference.

Program Vision

> The Link21 Program and its partners will transform the BART and Regional Rail (including commuter, intercity, and high-speed rail) network in the Northern California Megaregion into a **faster**, more **integrated** system that provides a **safe**, **efficient**, **equitable**, and **affordable** means of travel for all types of trips.
>
> This program, including a new transbay passenger rail crossing between Oakland and San Francisco, will enhance **environmental quality, livability, and economic opportunity** while protecting **against community instability and displacement** in the Megaregion as it improves the travel experience. With key investments that leverage the existing rail network and increase capacity and system reliability, rail and transit will better meet the travel needs of residents throughout the Megaregion.

Equity Vision Statement

An equitable Link21 acknowledges the ongoing effects on access to mobility and opportunity that past infrastructure projects have had on impacted communities. It shows an understanding of how past projects have failed to adequately consider the needs of systemically marginalized community members, and it evaluates what barriers to rail access exist for low-income and Black, Indigenous, and People of Color (BIPOC) residents, as well as riders with disabilities, women, LGBTQIA+ passengers, and other historically underserved identities.

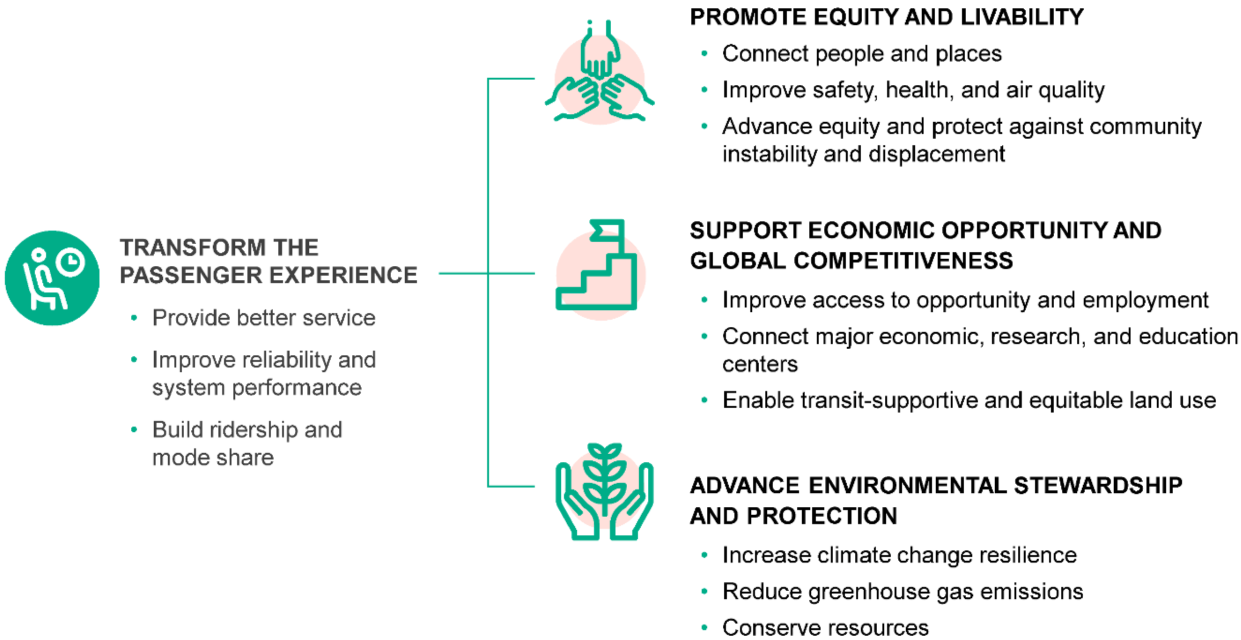
A fair and just Link21 partners with communities that have been marginalized, including priority populations, to develop much needed transit benefits via co-creation, a process used to integrate the knowledge and expertise community members bring from their own lived experience directly into program decisions. This allows the program to stay flexible and responsive to emerging and changing needs over time.

Equitable transportation will give everyone the ability to travel safely, affordably, and reliably to work, school, healthcare and government services, family and friends, and other important places in their lives. It should be fast, clean, efficient, welcoming, and accessible for anyone. By following a more equitable process, Link21 will help advance more equitable transportation outcomes throughout the Northern California Megaregion

Priority Populations

Link21 defines priority populations as geographic areas with significant low-income, non-white, or transportation-cost-burdened populations that also experience disproportionate economic, mobility, community, and health and safety burdens. This definition is program-specific and was created with the input of community members, partner agencies, and subject matter experts. External input informed how factors like housing-cost burden, displacement, internet access, and employment benefits, were incorporated into the priority populations definition and how Link21 conceptualizes equity.

Figure 2-1. Link21 Goals and Objectives



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3. EQUITY IMPLICATIONS OF VALUE CAPTURE STRATEGIES

Value capture strategies hold both benefits and costs to equity outcomes. This section explores the benefits that value capture could bring to equity goals, and the potential negative impacts it could cause with the intention of informing an approach that harnesses the benefits and solves for the potential detrimental impacts of Link21. The three case studies included in this section from across the western United States illustrate how equity policies and value capture often coexist but are not necessarily integrated.

3.1. Benefits

While the equity challenges of value capture are frequently discussed, the following section outlines several ways in which value capture could prove beneficial for advancing equity outcomes.

3.1.1. Revenue Distributed to Equity-focused Policies

Revenue generated from value capture is earmarked for specific uses for transit projects, generally capital expenses, and in some cases operating expenses depending on which mechanism is being used. However, value capture mechanisms could be reimagined to fund equity-focused policies, such as longer service hours or fare reductions, as well as other community benefits, for instance a Community Benefits Agreement (CBA). A CBA could earmark funds for anything from affordable housing to jobs training and would be decided upon by the community in which the infrastructure is planned. Historically, CBAs have been used for large commercial development projects, like sports stadiums. CBAs are an emerging concept without many precedents for value capture specifically, but they could be dramatically reimagined to include collective ownership models that unlock the profitability of the station areas and redistribute wealth to developers, agencies, and local community members alike so as not leave anyone out of the new value created through station area development. Examples of CBAs for transit projects are limited but have been demonstrated in the following projects:

- **Minneapolis-Saint Paul's Green Line[10]:** An 11-mile-long light rail transit (LRT) line connecting the downtowns of Saint Paul and Minneapolis. A group called the Central Corridor Funder Collaborative was formed in recognition of the potential promise and peril of the new line on neighborhoods adjacent to it. The Funders Collaborative sought to create and implement corridor-wide strategies aimed at ensuring the

[10] Office of Policy Development and Research (n.d.). *Corridors of Opportunity Along the Green Line.* Accessed April 2022 at https://www.huduser.gov/portal/casestudies/study-09082016-1.html

adjoining neighborhoods, residents and businesses broadly shared in the benefits of public and private investment in the Green Line.

- **Baltimore's Red Line Community Compact[11]:** A 14-mile transit line connecting heavily congested corridors within Baltimore. The City of Baltimore spearheaded the development of a Community Company for the Red Line that intended to keep residents within the corridor in their homes through anti-displacement efforts and included extensive economic development opportunities for communities within the corridor, too. Maryland Governor Hogan canceled the project in 2015 despite widespread community support and directed the funding toward highway improvements instead.
- **Boston's Fairmont Indigo Line[12]:** While less of an agreement and more of a study, the Fairmount Indigo Planning Initiative was a three-year study that started in February 2012 by the City of Boston. The planning initiative looked at short- and long-term opportunities for commercial and residential development, transit access, public realm enhancements, and community building initiatives. This type of study could underpin a larger CBA if desired.

Locally, the City of Richmond has recently demonstrated that there is an appetite and a need for more comprehensive community benefits to flow to residents. The city recently passed an ordinance that requires a baseline of benefits required for all projects, public reporting specifying the benefits of a project before it is approved by the city, and a public process for input and a city council vote on the community benefits commitments.[13]

3.1.2. Progressive Tax Elements

Through value capture mechanisms, those who are benefitting directly from land value increases around a new or improved station, including developers and other landowners, are responsible for paying the taxes or fees imposed. The structure reinforces the "beneficiary pays" principle. When private landowners benefit from a public investment, value capture provides a way for a portion of the gain to directly support the public investment that enabled their benefit. This differs greatly from most other tax mechanisms used at all levels of government, which are generally regressive, charging the same fee to taxpayers of all income levels, (i.e., gas and sales taxes). While value capture mechanisms are not necessarily always a tax, they could be structured to contain some elements of a progressive tax that redistributes wealth and expands the benefits of captured value beyond those who already have ownership and

[11] Baltimore Transit Equity Coalition. (n.d.). *What is the Red Line?*. Accessed April 2022 at https://www.moretransitequity.com/what-is-the-red-line/

[12] Boston Planning and Development Agency (n.d.). *Fairmount Indigo Planning Initiative*. Accessed April 2022 at http://www.bostonplans.org/planning/planning-initiatives/fairmount-indigo-planning-initiative

[13] Moore, E. March 15, 2022. *Taking Equitable Development to the Next Level.* Othering and Belonging Institute. Accessed April 2022 at https://belonging.berkeley.edu/taking-equitable-development-next-level?emci=f4601b58-26a4-ec11-a22a-281878b85110&emdi=122c5253-4fa5-ec11-a22a-281878b85110&ceid=7509264

power. There are limited, if any, specific examples of value capture mechanisms used to redistribute revenue to historically underserved communities specifically, but that does not mean it is not possible.

3.1.3. Other Benefits

If applied more broadly and strategically, value capture mechanisms may enable agencies to reduce their reliance on farebox recovery, making them more flexible and responsive to community needs. Often transit agencies make decisions from a position of needing to generate as much ridership as possible to recover farebox, but if they can make decisions from a place of providing as much coverage as possible or from a place of giving their communities as many mobility options as possible, they can better serve the needs of all community members. For instance, an agency could use revenue generated from a value capture mechanism to fund on-demand micro-transit to serve less dense parts of its service areas, rather than only running service areas through the densest corridors. Value capture holds tremendous opportunity to relieve agencies of the pressure of generating revenue through farebox recovery and instead allows agencies to direct their efforts toward providing quality service.

Additionally, if value capture generates enough revenue, it could potentially free up other funding that was earmarked for Link21 to go to other important equity work, including non-rail work. Finally, value capture reduces real estate speculation that has historically perpetuated harm in neighborhoods receiving new infrastructure investments. By employing a value capture mechanism, that revenue can be directed toward other public services and public goods rather than to the private sector where fewer people benefit.

3.2. Potential Impacts

Value capture mechanisms could increase land values through infrastructure improvement thereby, increasing the potential for displacement and other practices that are detrimental to lower income, largely non-white communities. These issues are detailed further in Section 3.2.1.

3.2.1. Gentrification and Displacement

Land within a radius of approximately one mile of new transit stations typically experiences significant gains in value with the highest gains happening on the land closest to the new station. For example, property values increased by 9% to 15% around the BART Warm Springs station.[14]

[14] Shishir Mathur (2019). "Value Capture to Fund Public Transportation: The Impact of Warm Springs BART Station on the Value of Neighboring Residential Properties in Fremont, CA" Mineta Transportation Institute Publications. Accessed April 2022 at https://scholarworks.sjsu.edu/mti_publications/265/

Neighborhoods that are the sites of new stations without adequate anti-displacement policies in place may see displacement of low- and very low-income renters and small businesses because of the improved accessibility of the location and associated land value increases. Depending on the context, higher income renters and businesses who can pay premium rent take their place, leading to gentrification of the neighborhood and a fundamental change in the community fabric. Protection of residents, production of affordable housing, and preservation of existing affordable housing stock are all key pieces of preventing displacement.[15] While the displacement and gentrification impacts are more a result of the infrastructure intervention than the value capture mechanism itself, any value capture strategies contemplated as part of Link21 should include displacement mitigation components given the tremendous housing affordability issues within the Megaregion spurred by the housing crisis and the ongoing challenges related to COVID-19.

3.2.2. Reliance on Market Conditions

The level of value that can be captured from a development or infrastructure improvement is intrinsically dependent on the real estate market and the rents and property values that it will yield. While assessed valuation in the three counties in BART's jurisdictional boundaries has only had a three-year period of slight decline over the past 20 years, there is always the possibility of recession that could impact the level of revenue generated from such projects. Additionally, areas outside of the BART boundaries where Link21 investments could be located have experienced more market fluctuations than the counties within the boundaries, for instance Stockton, suffered greater foreclosure rates than any other US cities during the Great Recession, but has seen home prices double since then. This potential volatility means that any projects funded with value capture revenue — specifically equity-centered projects — may need to consider the full range of potential revenue that can be generated, rather than the revenue that can be generated at a specific point in time.

3.2.3. Regressive Tax Elements

Any value capture mechanism developed in the context of Link21 will need to assess the benefits and burdens of such mechanisms on priority populations to ensure they are not disproportionately contributing to value capture schemes. Value capture strategies can be structured to mitigate potential regressivity through exemptions and discounts and through other mechanisms that prevent fees imposed on developers from being passed on to low-income renters.

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[15] Chapple, K., & Thomas, T., and Zuk, M. 2021. Urban Displacement Project website. Berkeley, CA: Urban Displacement Project.

3.2.4. Other Potential Impacts

Although promising, value capture is not *reparative*. The ability to retroactively recoup value not initially captured by BART in previous station area development is limited. Therefore, the sooner value capture mechanisms can be put in place, the sooner these benefits can be realized.

Value capture as part of station development should include robust anti-displacement elements to ensure that communities where stations are built can benefit from the improved accessibility and public investment without being at risk of displacement. Not including these communities in development schemes perpetuates historic patterns of disinvestment from the government, and special attention must be paid to establishing effective protection measures so that households can truly benefit from new community assets.

3.3. Case Studies

This section presents several examples of how equity and affordable housing can be combined with value capture mechanisms.

3.3.1. Fruitvale Village, Oakland

Originally called "Fruit Vale," the neighborhood around the Fruitvale BART Station in Oakland was mostly apricot and cherry orchards in the late 1800s. Today, it is a vibrant, primarily Latinx neighborhood and one of Oakland's main commercial areas. Fruitvale Village is an early example of ETOD that was built long after transit reached the area — the BART station opened in 1972 and the TOD program was established in 2004. The development includes 47 residential units (10 are affordable) 40,000 square feet of retail space and 135,000 square feet of office space (115,000 for nonprofit organizations).

Tax increment, a form of value capture, was used for the TOD and the $12 million construction of the parking garage to replace the station's surface parking lot. The 100% replacement of previously existing parking spots is no longer considered a TOD best practice. In addition, BART's requirement to provide 1:1 parking replacement increased cost and made funding the project more challenging.[16]

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[16] VTA. April 2019. *BART Phase II Transit Oriented Communities Strategy Study Case Study Review*. Accessed March 2022 at https://www.vta.org/sites/default/files/2019-11/TOD-TOC%20Case%20Studies-Web.pdf

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Figure 3-1. BART Fruitvale Station and Fruitvale Village TOD

Source: Capital Impact Partners

Because the station was built so much earlier than the TOD, the design of the station focused on commuters and did not link to the neighborhood. Later additions of a plaza and traffic calming measures were needed to connect the station to the community and make the TOD more walkable. However, there is still limited interaction between commuters and Fruitvale Village's amenities, largely due to where the parking garage was located, which directed commuters directly to the station rather than through the adjacent small businesses. This is an important consideration for Link21, and the planning process will provide an opportunity to integrate stations within the communities at the outset.

From an equity perspective, Fruitvale Village was the first ETOD project in the U.S.[17] In addition to BART and the City of Oakland, the project brought together community members, stakeholders, government officials, and nonprofit and civic organizations. It was led by The Unity Council — a nonprofit Social Equity Development Corporation with a 55-year history in the Fruitvale neighborhood — to develop an equitable neighborhood.[18] Planning started when BART proposed in 1991 to expand its surface parking lot at the Fruitvale Station, long before the opening of the development in 2004,

[17] Ibid.

[18] Capital Impact Partners. *A Bold Gamble for Building Community Wealth and Assets: A Q&A with Unity Council on the Successes and Lessons Learned from Fruitvale Transit Village*. (2021, August 30). Accessed March 2022 at https://www.capitalimpact.org/bold-gamble-community-wealth-building-unity-council-fruitvale-transit-village/

which spurred opposition from the community.[19] The community-led planning process, supported by funding from the Federal Transit Administration (FTA) and the City of Oakland, led to amenities being included in the plan, such as a high school, a library, a health clinic, an early childhood development center, and a senior center. There are also numerous shops serving the community, rather than transit commuters.

A 2018 study by the UCLA Latino Policy & Politics Initiative (LPPI) found that between 2000 and 2015, the socioeconomic status of Fruitvale residents improved while little change occurred in the neighborhood's racial/ethnic diversity, meaning that no measurable displacement occurred.[20] The study attributed this outcome to the fact that the development was led by the community.

3.3.2. Denver Union Station and RTD FasTracks, Colorado

Denver's ETOD strategy came as a result of, and was developed in parallel with, the major investment in transit in the region known as FasTracks, under which the Regional Transportation District (RTD) delivered a large-scale expansion of its light-rail network, expanded commuter rail lines, constructed several bus rapid transit (BRT) lines, and acquired and redeveloped the historic Denver Union Station.[21] TOD was part of the FasTracks plan from the outset, and it was among the items presented to voters for their approval of a dedicated 0.4% sales tax increase in 2004.

FasTracks was a new direction for a city that was traditionally very car centric. The City and County of Denver updated zoning ordinances and created transit-oriented and pro-density policies to spur TOD, culminating with the 2019 *Blueprint Denver* plan. The Blueprint's goals include advancing equity, climate change adaptation and mitigation, and complete neighborhoods around transit facilities.[22] The pro-density policy appears to have been successful, although only 0.6% of the land area in the Denver/Boulder metropolitan statistical areas (MSA) is within .5 miles of an RTD station and neighborhoods anchored by an RTD station accounted for 25% of multifamily development and 31% of office development between 2005 and 2020.[23]

There was clear intent to mitigate gentrification along the new transit corridors and protect housing affordability. The City and County of Denver chose to partner with the Urban Land Conservancy (ULC), Enterprise Community Partners, and several other

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[19] Critical Sustainabilities. *Fruitvale Transit Village*. 2015, June 1. Accessed March 2022 at https://critical-sustainabilities.ucsc.edu/fruitvale-transit/

[20] Barretto, M., Reny, T., & Diaz, S. March 2018. *Should I Stay or Should I Go? How Effective Transit-Oriented Development Can Lead to Positive Economic Growth Without Displacing Latinos.* Accessed March 2022 at https://latino.ucla.edu/wp-content/uploads/2021/08/Unity_Coucil_2018_Final_Print-1.pdf

[21] RTD. January 2015. *Denver's FasTracks Case Study & Best Practices*. Accessed March 2022 at https://www.miamidade.gov/citt/library/summit/2015-transportation-summit-presentations/phil-washington-presentation.pdf

[22] City of Denver. 2019. *Blueprint Denver: A Blueprint for an Inclusive City.* Accessed March 2022 at https://www.denvergov.org/media/denvergov/cpd/blueprintdenver/Blueprint_Denver.pdf

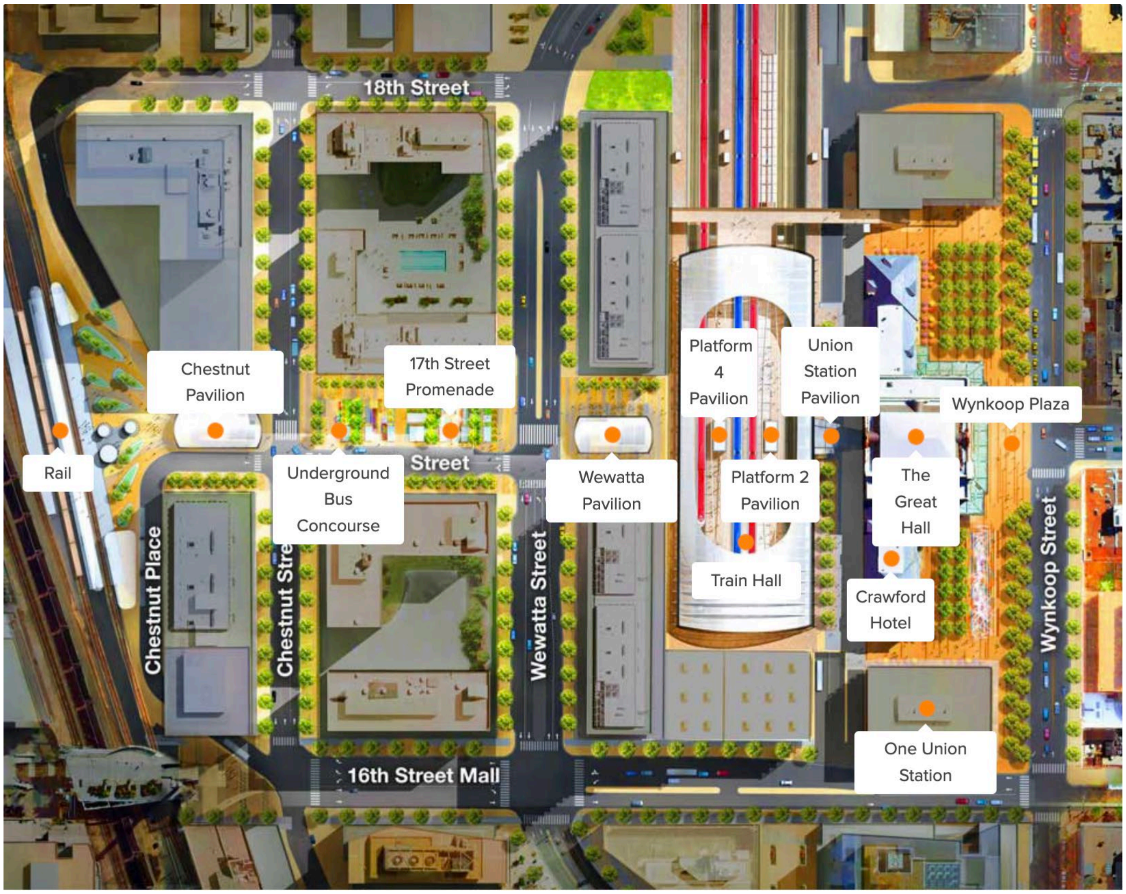
[23] RTD. 2020. *2020 TOD Status Report*. Accessed March 2022 at https://www.rtd-denver.com/sites/default/files/files/2021-02/2020-TOD-Status-Report.pdf

investors to establish the first affordable housing TOD acquisition fund in the U.S. with the goal of creating and preserving over 1,000 affordable housing units through strategic property acquisition in current and future transit corridors.[24] The fund was initially capitalized at $15 million, but ULC notes it has increased to $24 million in total loan capital, as loans are made on a revolving basis. The funds can be used to purchase and hold sites for up to five years along current and future rails (within .5 miles) and BRT (within .25 miles) corridors.[25]

One of the most visible TOD projects in Denver is the complete redevelopment of the historic Union Station and the adjacent rail yards **(Figure 3-2)**. A total of 3,000 residential units, 1.9 million square feet of office space, 250,000 square feet of retail space, and 750 hotel rooms were built from the onset of the redevelopment to 2020, generating an estimated $3.5 billion in value.[26] The redevelopment was led by the Denver Union Station Project Authority (DUSPA), a nonprofit, public benefit corporation formed by the City and County of Denver in 2008. Transportation-related project elements were transferred to the RTD for operations and maintenance following their completion. The City and County of Denver were better equipped than RTD to deliver the redevelopment project, in terms of statutory authorities and experience. RTD was able to focus on its core transportation competency, which enabled the successful integration of housing and transit elements.

[24] Urban Land Conservancy. (n.d.). *Denver Transit-Oriented Development Fund*. Accessed March 2022 at https://www.urbanlandc.org/denver-transit-oriented-development-fund/
[25] Ibid.
[26] RTD. 2020. *2020 TOD Status Report*. Accessed March 2022 at https://www.rtd-denver.com/sites/default/files/files/2021-02/2020-TOD-Status-Report.pdf

Figure 3-2. View of Denver Union Station and Adjacent Landmarks



Source: RTD

Part of the value created by the Denver Union Station redevelopment was captured and used to support the project's financing (**Table 3-1**). Some units in the redevelopment are designated as affordable housing[27], although the majority are at or above market price for the Denver metropolitan area.

[27] Rusch, E. 2015, December 17. *Denver's Ashley Union Station bringing affordable apartments to pricey area*. The Denver Post. Accessed March 2022 at https://www.denverpost.com/2015/12/17/denvers-ashley-union-station-bringing-affordable-apartments-to-pricey-area/

Table 3-1. Sources of Funding for Denver Union Station[28]

FUNDING SOURCE	AMOUNT ($M)
Transportation Infrastructure Finance and Innovation Act (TIFIA) loan*	$145.6
Railroad Rehabilitation and Improvement Financing (RRIF) loan*	$155.0
Federal Highway Administration (FHWA) grant	$45.3
FTA grant	$9.5
American Recovery and Reinvestment Act (ARRA) stimulus grant	$28.4
Homeland Security funding	$0.4
RTD contribution	$65.1
Other state and local funds	$19.9
Land sales	$18.4
Total	**$487.6**

**The TIFIA and RRIF loans were secured by an annual payment of $12 million from RTD to DUSPA and real estate development-related income generated by the DUSPA project area, including tax increment revenues, a levy on property tax revenues, and lodger's tax revenue. The RTD payment is funded from the .4% FasTracks sales and use tax approved by voters in 2004.*

3.3.3. Equitable Communities and Value Capture in Seattle, Washington

Much like for RTD in Denver, the development of a TOD strategy, with a balance of equity and revenue generation, was brought about by a major expansion of Sound Transit's light rail network, Link. In 2016, voters approved Sound Transit 3 (ST3), a program of capital projects funded by several dedicated taxes.

Sound Transit updated its TOD policy in conjunction with ST3. Under the agency's 2018 TOD policy and Washington's State Statute RCW 81.112.350, Sound Transit is required to offer 80% of its surplus property that is suitable for housing to qualified entities for developing housing that is affordable to families at 80% or less of the area's median income.[29] In addition, Sound Transit is contributing $4 million per year for five years into a revolving loan fund (RLF) to create more affordable housing near transit stations.[30]

Sound Transit is also developing specific ETOD projects, such as the one on Capitol Hill with Community Roots Housing, which will provide affordable housing and services for lesbian, gay, bisexual, transgender, and queer seniors. Sound Transit provided a

[28] FHWA. (n.d.). *Project Profile: Denver Union Station*. Accessed March 2022 at https://www.fhwa.dot.gov/ipd/project_profiles/co_union_station.aspx

[29] Sound Transit. (n.d.). *Transit-oriented development*. Accessed March 2022 at https://www.soundtransit.org/system-expansion/creating-vibrant-stations/transit-oriented-development

[30] Sound Transit. (n.d.). *Transit-oriented development – Revolving loan fund*. Accessed March 2022 at https://www.soundtransit.org/system-expansion/creating-vibrant-stations/transit-oriented-development/revolving-loan-fund

$6 million property discount to Community Roots Housing to support this project (**Figure 3-3**).[31]

Figure 3-3. Affordable Housing Developed by Community Roots Housing near the Capitol Hill Station as part of an ETOD with Sound Transit

Source: Sound Transit

Funding and financing for most of the ST3 program came from FTA grants, TIFIA loans backed by the ST3 revenues, and direct ST3 revenues. Sound Transit also expected some local contributions to fund new stations and associated improvements.

The City of Bellevue was keen to capitalize on TOD and developed a plan for the Bel-Red subarea, a 900-acre, strategically located neighborhood linking Downtown Bellevue (a high-rise employment and residential center), Wilburton (medical district), and Redmond's Overlake area (high-technology employment center, including Microsoft's headquarters).[32] In 2009, the City Council adopted a new subarea plan and land use code for the Bel-Red area in advance of the East Link extension and the opening of a Bellevue light rail station.[33]

[31] Sound Transit. (n.d.). *Capitol Hill – South Site TOD*. Accessed March 2022 at https://www.soundtransit.org/system-expansion/creating-vibrant-stations/transit-oriented-development/capitol-hill-south-site-tod

[32] FHWA Center for Innovative Finance Support. (n.d.). *Bel-Red Subarea, Bellevue, Washington Impact Fees Case Study*. Accessed March 2022 at https://www.fhwa.dot.gov/ipd/value_capture/case_studies/belred_subarea_bellevue_washington_impact_fees.aspx

[33] City of Bellevue, WA, *BelRed Look Back*. Accessed March 2022 at https://bellevuewa.gov/city-government/departments/community-development/planning-initiatives/belred-look-back

The City of Bellevue looked to capture some of the value created by TOD to finance the station and other developments in the Bel-Red corridor. However, at the time, it was unable to use traditional TIF, as it had been ruled unconstitutional by the Washington State Supreme Court as it diverted state property tax revenue from schools. Further, Washington State's budget-based property tax system prevents local governments from capturing property value increases that are driven by public investments. Property taxes are levied in gross amounts, based on budgetary needs and subject to a statutory cap, which means that increases in assessed values could not be captured by municipalities at the time.[34] Legislation in Washington State has since changed to permit the use of traditional TIF.[35]

The City of Bellevue was able to secure a $100 million TIFIA loan to finance the completion of the street network improvements, backed by a limited tax general obligation pledge. Among these revenues are impact fees levied on private developers.[36]

3.4. Lessons Learned

This section discusses lessons learned from the case studies and how they can inform the development of Link21's value capture and equity strategies.

3.4.1. Pitfalls

The case studies above show that ETOD and value capture can coexist and deliver successful transit and housing projects. However, the share of affordable housing remains small (e.g., only one building near Denver Union Station), and the value capture tools were not selected or designed with equity in mind. There remain strong incentives for developers to comply with minimum affordable housing requirements but maximize profits on other units, which leads to a "missing middle" phenomenon, and it can still contribute to gentrification and displacement.

Finally, in the case of Fruitvale, there are lessons learned related to the physical design of the new infrastructure limiting the ability of value to be fully captured by the surrounding community. That is, retrofitting a station to incorporate ETOD features is much more difficult and less successful than incorporating that approach and those elements in the initial planning/design/construction and elevating the importance of urban design in station area planning.

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[34] Federal Highway Administration Center for Innovative Finance Support, *Bel-Red Subarea, Bellevue, Washington Impact Fees Case Study*, accessed March 2022 at https://www.fhwa.dot.gov/ipd/value_capture/case_studies/belred_subarea_bellevue_washington_impact_fees.aspx

[35] Davis Wright Tremaine LLP, *Washington State's Expanded TIF Authority Creates Powerful Catalyst for Public-Private Partnerships*, May 19, 2021, accessed March 2022 at https://www.dwt.com/insights/2021/05/washington-state-tax-increment-financing-law

[36] Federal Highway Administration Center for Innovative Finance Support, *Bel-Red Subarea, Bellevue, Washington Impact Fees Case Study*, Accessed March 2022 at https://www.fhwa.dot.gov/ipd/value_capture/case_studies/belred_subarea_bellevue_washington_impact_fees.aspx

3.4.2. Successes

The Bellevue case study is particularly relevant for Link21, as it illustrates the ability to use value capture even with limited statutory ability. It is likely that the success of TOD in conjunction with the light rail expansion spurred the state legislature to reconsider its position on TIF. Bellevue was also able to use some of the TOD revenues toward the repayment of the TIFIA loan.

Sound Transit proactively engaged with community partners to create an equity-focused joint development project at the Capitol Hill Station. Setting aside a target for affordable housing as a condition of selling surplus land from the Link expansion project is also something Link21 could consider.

The Fruitvale case study also underscores the importance of the local community having agency in directing how the revenue from the project is deployed within their neighborhood as a method for preventing displacement. Communities know what they need and value capture processes that authentically engage communities to self-actualize can result in vibrant station areas that benefit the existing community.

Denver Union Station illustrates the importance of having the city and county play a key role in the development of housing and infrastructure, areas where they have greater experience and authority than a transit authority. The transit authority can focus its efforts on delivering the transportation-related aspects of a project and make sure that they are integrated within the broader community design.

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4. ENABLING CONDITIONS FOR EQUITABLE VALUE CAPTURE

The following factors are critical components to achieving equitable outcomes through any value capture mechanism contemplated as part of Link21. One of the guiding principles of the Link21 program development is to reinforce equitable and transit-supportive policies and practices within the Megaregion by directing Link21 investments to places where they exist, but also to encourage local jurisdictions to adopt these policies and practices to be considered for Link21 investments. This section identifies early success factors so that stakeholders and potential Link21 jurisdictions can consider adopting these prior to implementation of Link21 in their communities.

4.1. Equity Considered from Project Inception

Equity must be considered from the inception of any infrastructure project if it is to be incorporated authentically, particularly if value capture is being considered as an initial funding mechanism. For an infrastructure intervention in a neighborhood to be truly equitable, decision-makers need to genuinely ask questions such as the following: Who benefits? Who is harmed? Who is missing?

Exploring these questions with intentionality and incorporating findings into a value capture strategy helps to ensure that the infrastructure and associated strategies do not disproportionately burden or benefit one group over another. Robust community outreach combined with technical analyses will also be required to determine which groups could be at risk of equity challenges and how to right-size value capture strategies as part of the solution to these challenges.

4.2. Anti-displacement Policy Requirements for Infrastructure Projects

One of the biggest concerns related to infrastructure projects and equity is the potential displacement of priority populations resulting from increased land values or speculated increases in land values spurred by the announcement of an infrastructure investment. When land values go up, so do rents and property tax rates, and with it, the potential for low-income renters and homeowners, as well as businesses, to be priced out or evicted. Businesses also struggle because of construction disruptions or changes in neighborhood clientele. This increase in land value is inherent and important to any value capture strategy. As discussed above, directing newly created value from land toward public goods and services is markedly better from an equity perspective than the status quo, but strategies should be designed to explicitly accrue benefits from the new investment to the existing residents as well. Not all residents are on equal footing. Some benefits may accrue to property owners in a community who are protected from displacement through fixed costs and enjoy greater equity; whereas tenants may not realize those benefits, which elevates the need to deliver equity to renters specifically. Anti-displacement policies can help to combat displacement by establishing a level of protection through policy intervention that helps to keep people in place and, in so doing, allows these communities to benefit from the increased investments in their neighborhoods. Such policies include just cause eviction ordinances, right of return policies, rent control, vacancy taxes, and assistance for renters and businesses.

Other production policies, including inclusionary zoning ordinances and impact fees, should be included for any new housing development contemplated as part of an infrastructure investment. While more focused on production than protection, policies like these ensure that lower income community members stand to benefit from new infrastructure investments and not just avoid detrimental impacts. Many of these production and protection policies can be supported through revenue distributed from value capture mechanisms.

4.3. Political Support for Anti-displacement Policies

Anti-displacement policies are applied at the jurisdictional level and require community support and political will to pass at the local council level, although some state laws, such as the Costa-Hawkins Rental Housing Act and Assembly Bill (AB) 1482 Tenant Protection Act, also have some bearing on local policymaking. Production policies like inclusionary zoning and impact fees can be applied at the station area level, but they still require approval by a jurisdiction's governing body. These policies provide a baseline level of protection for priority populations in advance of a major infrastructure investment that help keep households in place and increase the potential that they can accrue benefits from a value capture strategy that is being contemplated as part of a new station.

Anti-displacement policies are often met with opposition by vocal local property owners, making them controversial in some communities. This opposition can make adoption of anti-displacement policies more difficult at the council level, elevating the need for advocacy and outreach to local jurisdictions and their decision-makers to help build understanding around the benefits of adopting such policies for community stabilization and garnering new champions. In addition, strong support and organizing from community groups, local economic development organizations, and other advocates helps to build political will by demonstrating community resolve around equity issues.

4.4. Redistribution Programs for Priority Populations

Locating new infrastructure investments and associated value capture strategies in middle- to high-income communities may risk reinforcing historical patterns of disinvestment in lower income communities. However if planning or other conditions lead to value capture strategies only being established in middle- to-high income communities as part of a project or program, there is an opportunity to structure the strategy in such a way that allows for benefits to extend to priority populations through in-lieu fee mechanisms and other revenue redistribution mechanisms that are directed towards equity investments, such as affordable housing or small business support.

To structure such a redistribution effort requires asking some of those questions outlined earlier in this section such as, “who benefits?” Decision-makers would need to identify if the taxpayers are those who benefit from land value increase and to underline whether it contributes to redistribution of newly created value between taxpayers.[37] When redistribution was contemplated in the value capture strategy associated with the redevelopment of an industrial area in Bordeaux, officials had to identify whether the partition of tax collection corresponded to the demand for public investment (new population or housing units) or to the supply (spending in public facilities).[38] Bordeaux decided in 2012 to transfer one-seventh of the total tax revenues from its value capture strategy to municipalities based on population size, which they equated to infrastructure demand. While this is one example of redistribution based on spatial equity, other redistribution schemes could be developed as part of Link21 with a focus on priority populations. There are potential limitations for this in California related to requirements of having a nexus between a district being taxed and the location of the tax distribution, but value capture mechanisms like naming rights or joint development may allow for this kind of revenue redistribution.

4.5. Community Partnership

Ultimately, community partners should play a major role in the implementation of infrastructure interventions and associated value capture mechanisms and, as part of that, serve as an accountability partner for private- and public-sector players. Community partnerships enable truly reparative and collaborative solutions and ensure that benefits flow to the community members who need them most. A recent example in Buffalo, NY demonstrates this acutely — residents in the Fruit Belt neighborhood were grappling with the impacts of gentrification as vacant lots in their community were being bought up by speculative developers in anticipation of the expansion of a nearby medical campus. In 2017, the residents formed a community land trust to hold land in perpetuity to meet housing needs of current residents. Now, the City of Buffalo has committed to transferring ownership of vacant lots directly to the land trust.[39]

While not directly tied to the conversation related to value capture and equity, this example highlights the efficacy of the community land trust model in taking land value out of the private marketplace and into community control. Community groups, such as local Bay Area community land trusts, could provide layered opportunities to help Link21 achieve its goals related to achieving equity in its value capture and broader land

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[37] Guelton, S. et al. 2021. *Development Tax in France as a Tool for Land Value Capture and Social Equity: Case Studies on Bordeaux and Strasbourg*. Lincoln Land Institute.
[38] Ibid.
[39] Grounded Solutions Network. (n.d.). *A Community Organizes to Take Control of Vacant Lots*. Accessed April 2022 at https://groundedsolutions.org/strengthening-neighborhoods/stories-field/community-organizes-take-control-vacant-lots

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use strategies. Building capacity for local community groups to serve as co-creators of and accountability partners for value capture strategies initially through grants from local and regional agencies and later through revenue generated by the program is imperative to achieving equity in Link21's infrastructure investments.

4.6. Key Policies for Success

This section aims to identify existing policies that can contribute to the development of a successful equitable value capture strategy and support for community economic development under Link21. Below is a summary table of policies, followed by detailed descriptions of each policy and its application in the context of Link21.

TYPE	POLICY
Federal	▫ Department of Housing and Urban Development and Department of Transportation joint research and grant making ▫ Community Development Block Grants ▫ Executive Order 14008: Justice 40 ▫ Executive Order 13985: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
State	▫ Proposition 218 ▫ AB 1482, the California Tenant Protection Act of 2019 ▫ AB 2053, the California Social Housing Act
Regional	▫ MTC's Plan Bay Area 2050 ▫ MTC's Transit Oriented Communities Policy
City or County	▫ Inclusionary zoning ordinance ▫ Acquisition, rehabilitation, or conversion requirements ▫ Rent stabilization policies ▫ One-for-one replacement requirements ▫ Affordable housing funding mechanisms
Transit Agency	▫ BART TOD policy ▫ BART system expansion policy

4.6.1. Federal Level

The connection between public transportation and affordable housing has deep roots at the federal level. The predecessor to the FTA was called the Urban Mass Transit Administration (UMTA) and was originally housed under the Department of Housing and Urban Development (HUD). Starting in the 2000s, HUD and the United States Department of Transportation (USDOT) have collaborated on joint research and some grant programs that link transit planning and affordable housing. However, the scale of this collaboration remains limited, and joint planning of housing and transit has not officially been made federal policy.[40]

Additionally, Community Development Block Grants (CDBG) support community development activities to build stronger and more resilient communities. CDBGs may address needs, such as infrastructure, economic development projects, etc. They are an important tool that is available at the federal level to support community partnerships (discussed above).

Most recently, equity has emerged as a key priority of the Biden administration. On January 27, 2021, President Biden signed Executive Over (EO) 14008: Tackling the Climate Crisis at Home and Abroad. EO 14008 created a government wide “Justice40 Initiative” that aims to deliver “40% of the overall benefits of relevant federal investments to disadvantaged communities.” E014008 requires all departments, including the USDOT to develop a methodology to identify disadvantaged communities and benefits for Justice40-covered programs. Justice40 is part of the Biden administration’s broader equity agenda, along with EO 13985: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

The USDOT is using an interim definition to identify disadvantaged communities for Justice40-covered programs, which may be different from Link21’s priority populations.

4.6.2. State Level

Proposition 218 requires that all taxes and most charges on property owners are subject to voter approval. In addition, Proposition 218 seeks to curb some perceived abuses in the use of assessments and property-related fees, specifically the use of these revenue-raising tools to pay for general governmental services rather than property-related services. Many value capture strategies rely on new taxes garnered from increases in property values, for instance Mello-Roos taxes, meaning that a value capture strategy employed to support Link21-related investments that includes a tax increase of any sort must have voter support to be implemented successfully. As discussed previously, new taxes, like property and sales taxes, may be regressive without proper consideration and design. Given this, any new tax should be structured for progressivity, whether through a redistribution mechanism or otherwise. As mentioned previously, if in the future there is an effort to reform Proposition 218, BART may engage with or support the effort as a way to advance value capture opportunities for the system. More information on Proposition 218 can be found in the two previous value capture papers[41] developed by the Program Management Consultants (PMC).

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[40] National Academies of Sciences, Engineering, and Medicine. 2022. *Coordination of Public Transit Services and Investments with Affordable Housing Policies*. Washington, D.C.: The National Academies Press. Accessed April 2022 at https://doi.org/10.17226/26542

[41] *Value Capture Paper* (January 2021) and *Driving Toward Successful Value Capture and Creature Strategies Paper* (April 2021)

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AB 1482, the California Tenant Protection Act of 2019, created rent caps statewide, which requires a landlord to have just cause to evict a tenant and limits rent increases to no more than 5% plus local inflation rate or 10%, whichever is lower (for many tenants, particularly in priority populations, a 10% rent increase is essentially a de facto eviction). There are several exemptions to the types of units that are subject to the law.[42] Specifically, this law does not have any enforcement mechanism unless there is the presence of a local rent board — which is not the case in many jurisdictions — or if a tenant were to litigate against their landlord. AB 1482 is included in this paper to demonstrate state level goals related to displacement prevention and tenant protection. Local jurisdictions can impose stricter laws than what is outlined by AB1482 which should be considered the floor, not the ceiling.

In February 2022, Assembly Members Alex Lee and Wendy Carrillo introduced AB 2053, the California Social Housing Act. AB 2053 would create a new California Housing Authority (CHA) to produce and preserve social housing that is affordable to Californians of different income levels and funded by cross-subsidies. At the time of writing, this bill is still working its way through the legislative process, but, if passed, it could bring desperately needed funding to cover the 1.5-million-unit housing production shortfall anticipated in California by 2025. As written, the legislation authorizes CHA to build enough housing to meet Regional Housing Needs Assessment (RHNA) shortfalls, giving CHA the power to sue in the case of unwilling jurisdictions. The bill also allows CHA to build and operate mixed-use developments with commercial space for small businesses. While this bill would not eliminate the need for housing of all other varieties to be built, it could provide the desperately needed funding for Extremely Low-Income (ELI) housing that has historically been extremely difficult to build. AB 2053 may augment Link21's value capture goals to support low-income housing opportunities around station areas.

4.6.3. Regional Level

The Metropolitan Transportation Commission (MTC) is the largest metropolitan planning organization (MPO) in the Link21 program area. MTC's *Plan Bay Area 2050* details strategies to protect and preserve affordable housing within the region. The leading strategy proposes to strengthen renter protections beyond the state law, building on an emergency rent cap established in 2019 by linking annual rent increases for all types of housing regionwide to the rate of inflation. Given that the nine counties within MTC's purview are the most dense and populous within the overall program area, this calls for level-setting between rents and the inflation rate that could hold tremendous potential for preventing displacement if enforced by local jurisdictions. This policy could support Link21's efforts to ensure that new infrastructure, particularly infrastructure with a value

[42] City and County of San Francisco, Rent Board. (2022, January 5). *Summary of AB 1482 (the California Tenant Protection Act of 2019)*. Accessed April 2022 at https://sfrb.org/article/summary-ab-1482-california-tenant-protection-act-2019

capture component, does not spur displacement. The proposal exempts new units for a period of 10 years to ensure that the strategy does not discourage new housing production. While without an enforcement mechanism, this stated regional goal provides helpful guidance as Link21 seeks to encourage jurisdictions to adopt anti-displacement policies in advance of investments made on behalf of the program.

In 2022, MTC will also adopt a new Transit-oriented Communities (TOC) policy, which is an update to their 2005 TOD policy in response to the deeply pressing housing challenges in the region. While the final policy is yet to be released, early drafts indicate that the policy will support Link21's goals to reinforce and incentivize equitable and transit-supportive land uses around future station areas. If the TOC policy is tied to funding opportunities for local jurisdictions, there could be opportunities to leverage this new policy to achieve Link21 land use and value capture goals.

4.6.4. County or City Level

Most housing policy is run at the county or city level via the implementation of ordinances and other policy tools that can support the production of affordable housing. Individual jurisdictions vary in how they approach zoning and housing, but the policies below are widely implemented in the Bay Area. Research suggests that these policy tools are not enough individually to combat the housing and affordability crisis and that they must be implemented in combination to keep existing residents in place and to provide affordable housing solutions. However, these policies are not seen as frequently in the rest of the Megaregion, where density is generally lower and single-family zoning remains the norm for residential occupancy.

Inclusionary housing ordinances require or encourage developers to set aside a certain percentage of housing units in new or rehabilitated projects for low- and moderate-income residents. Inclusionary housing policies provide a range of housing choices and help create new affordable homes without needing government subsidies. These policies can provide developers with options to build affordable units on-site, off-site, or to pay in-lieu fees into a local housing trust fund.

This is one of the most widely adopted policies to foster the construction of affordable housing. As of 2016, 78 cities in the Bay Area had some type of inclusionary housing or zoning policy in place.[43] Inclusionary housing policies are not as prevalent in the rest of the Megaregion.

Right of return allows residents, who are required to move because of a new or rehabilitated development, to return to a different unit, possibly new, at the previous rent. While implementation contains substantial challenges, it has the potential to focus

[43] Crispell, M., Gorska, K., & Abdelgany, S. February 2016. *Urban Displacement Project: Inclusionary Zoning Policy Brief*. University of California: Berkeley. Accessed April 2022 at https://www.urbandisplacement.org/wp-content/uploads/2021/08/urbandisplacementproject_inclusionaryhousingbrief_feb2016_revised.pdf

on the direct goal of providing stability for community members while allowing for flexibility as conditions change.

Acquisition, rehabilitation, or conversion strategies refer to acquiring existing housing, rehabilitating it (if needed), and deed-restricting it to long-term affordable housing. This helps prevent the displacement of existing residents as property values rise, and it maintains housing affordability while investing in and stabilizing neighborhoods. It is also a cost-effective strategy, as preserving the existing housing stock typically costs about one-half to two-thirds as much as new construction.

In addition to acquiring properties directly, local jurisdictions can also provide local funding for non-profit housing organizations to use with Low-Income Housing Tax Credits, which, in some cases, can be used to fund acquisition and rehabilitation or converting rental properties to long-term affordable housing. This serves to increase the supply of permanently affordable housing and to revitalize neighborhoods with concentrations of aging rental housing.

Most jurisdictions in the Megaregion have some form of rehabilitation or acquisition program, although they vary greatly in scope and availability of funding.

Rent stabilization or rent control ordinances regulate the percentage of annual rent increases but allow rent to be reset at market rate upon vacancy, balancing the need to protect tenants from excessive rent increases while allowing private landlords a return on their investments.

These policies index the annual allowable rent increase private landlords may charge tenants and include specific processes for landlords or tenants to petition for higher or lower increases. Rent increases are only limited while the unit is occupied. Therefore, rent stabilization policies are most effective when paired with just/good cause eviction ordinances to ensure that landlords cannot use no-fault evictions to force tenants to vacate the unit and increase the rent. Rent stabilization policies have been implemented in the Bay Area, including San Francisco and Oakland.

One-for-one replacement, or no net loss, is a policy establishing a jurisdiction's intent, through preservation or replacement, to maintain at a minimum its current level of homes that are affordable to low-income families. Jurisdictions can prohibit or limit the demolition or conversion of affordable housing or require the one-for-one replacement of demolished or converted units. To be most effective, a one-for-one replacement policy typically establishes a goal of no net loss of affordable units not only in total, but also by income level. However, to date, only select jurisdictions in the Bay Area have adopted this type of policy.

Affordable housing funding mechanisms can be directly tied to value capture. These include in-lieu fees, which are charged to market rate developers in lieu of the construction of income-restricted ownership or rental units in new developments. These fees are typically paid into a housing trust fund and used, often in conjunction with other local funding sources, to finance affordable housing developments off-site. In-lieu fees are a widely adopted measure in the Bay Area as well as across some of the more urban counties in the rest of the Megaregion.

Commercial impact fees are a per square foot development fee levied on non-residential development that is used to develop or preserve affordable housing. The thinking behind such fees is that while new commercial developments create jobs, many of these jobs do not pay sufficient wages to afford market-rate housing. Commercial impact fees are also known as known as job-housing linkage fees and serve to partially mitigate the impact on housing. This impact is assessed through a jobs-housing nexus analysis that shows the connection between the construction of new commercial buildings and employment and the need for affordable housing.

Residential or housing development impact fees are per square foot or per unit development fees levied on market-rate residential development that is used to develop or preserve affordable housing. As is the case with commercial impact fees, adoption of a housing impact fee requires the preparation of a nexus study. Typically, this study will assess the extent to which new market-rate development attracts higher income households who will spend more on retail and services. That increased spending creates new jobs, attracting workers to live in the city, some of whom will be lower income and require affordable housing. A financial feasibility study is also recommended to ensure that the assessed impact fee does not render development infeasible.

4.6.5. Transit Agency Policies

BART's TOD policy was adopted in 2020 and predates the current conversation on equity, but its goals and objectives are still useful in crafting an equity-focused value capture strategy.

BART'S TOD POLICY GOALS

- ***A. Complete Communities****. Partner to ensure BART contributes to neighborhood/district vitality, creating places offering a mix of uses and incomes.*
- ***B. Sustainable Communities Strategy.*** *Lead in the delivery of the region's land use and transportation vision to achieve quality of life, economic, and GHG reduction goals.*
- ***C. Ridership.*** *Increase BART ridership, particularly in locations and times when the system has capacity to grow.*
- ***D. Value Creation and Value Capture.*** *Enhance the stability of BART's financial base by capturing the value of transit and reinvesting in the program to maximize TOD goals.*

E. Transportation Choice. *Leverage land use and urban design to encourage non-auto transportation choices, both on and off BART property, through enhanced walkability and bikeability and seamless transit connectivity.*

F. Affordability. *Serve households of all income levels by linking housing affordability with access to opportunity.*

Equity and housing affordability are being incorporated in the proposed revisions to BART's *System Expansion Policy*, indicating that BART recognizes both the importance of the topics and their inherent linkage to transit.

4.7. Policies Needed to Support Equitable Value Capture

Housing affordability and the risk of displacement emerged as major concerns during the first two rounds of co-creation workshops held with community-based organizations (CBO) in 2021. CBOs noted that gentrification was a significant risk as Link21 would make their neighborhoods more accessible by transit, which would drive up the price of real estate. These comments encapsulated the inherent tension between value capture and equity. Concerns extended beyond the Bay Area, with CBOs in Modesto and Solano bringing up gentrification and affordable housing as priorities for Link21.

This section lays out policy sideboards that can be put in place in the near term to ensure that value capture does no harm (at a minimum) and accrues benefits to priority populations (as the goal) while still bringing important funding to the Link21 as a whole.

4.7.1. Federal Level

The Biden administration has been actively seeking feedback on Justice40 and other equity-related initiatives. There is an opportunity for Link21 and its sponsors to proactively engage with the USDOT and the relevant modal administrations (Federal Railroad Administration [FRA] and FTA) to advocate for ETOD and equitable value capture to be considered in a positive manner when evaluating applications for competitive funding. Such policies could also include more favorable terms for Build America Bureau loan products (TIFIA and RRIF) when the borrower actively implements equitable value capture as opposed to pure revenue maximization.

4.7.2. State Level

Value capture is most successful in places where transit agencies also have the authority to develop real estate projects, as is the case of Hong Kong's Mass Transit Railway (Hong Kong MTR), Copenhagen's City and Port Development Corporation (CPH City & Port Development), and France's Integrated Development Zones (ZAC).

- *Hong Kong MTR:* Hong Kong enabled MTR to generate revenue from the property-value increases that typically follow the construction of rail lines through a process called, “Rail plus Property” (R+P). For new rail lines, the government provides MTR with land development rights at stations or depots along the route. To convert these development rights to land, MTR pays the government a land premium based on the land’s market value without the railway, then it builds the new rail line and partners with private developers to build properties.[44]
- *CPH City & Port Development:* A publicly owned private corporation (jointly owned by the City of Copenhagen and the State of Denmark) that is tasked with redeveloping public land and assets to create value for Metro expansion and re-investment, develop market-rate and social housing, and increase sustainability and economic development.[45]
- *France’s ZAC:* Allows semi-public development corporations, controlled by a municipally appointed board, to use land assembly, financing, and competitive requests for proposals to develop land for housing, open space, and community infrastructure around transit and rail stations. The municipalities that control the development corporations receive any surplus generated by the ZAC, which can be used to support infrastructure delivery.[46]

California’s redevelopment agencies (RDA) performed similar functions as the examples detailed above. However, with their dissolution in 2012, local governments were forced to relinquish control over critical property tax revenue streams that were previously used to fund local projects in “blighted” areas, including affordable housing. What was lost when RDAs were dissolved was not only the provision of ELI housing more broadly, but the type of direct authority that local entities need to amass land around stations and build housing, two key functions necessary for value capture to be successful. The state legislature should consider enabling legislation to establish a new type of authority or to augment existing transit agency authority to acquire land for the purposes of equitably tying together affordable housing and transit in a way that prevents past abuses that happened in the RDA era from happening again and embraces the needs of Californian communities today. There are existing efforts being led by groups like Common Ground California who are advocating for this type of enabling legislation to be adopted. Specifically, Common Ground California recommends legislation that would:

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[44] Leong, L. 2016. The ‘Rail plus Property’ model: Hong Kong’s successful self-financing formula. McKinsey & Company. Accessed August 2022 at https://www.mckinsey.com/business-functions/operations/our-insights/the-rail-plus-property-model

[45] Katz, B., and Noring, L. The Copenhagen City and Port Development Corporation: A Model for Regenerating Cities. Brookings Institute. Accessed August 2022 at https://www.brookings.edu/wp-content/uploads/2017/05/csi_20170601_copenhagen_port_paper.pdf

[46] Despax, J. 2019. How French Cities Develop New Neighborhoods, and Why it is Different from the North-American Way. Accessed August 2022 at https://medium.com/sustainable-urban-development-northern-america/how-french-cities-develop-new-neighborhoods-and-why-it-is-different-from-the-northern-american-way-be364937449d

- Allow transit agencies, or a new authority, to create and own private development corporations that develop new and existing station areas into housing, commercial space, open space, and community infrastructure.
- Direct transit agencies to enter into a joint venture with the host local government for each planned and existing station area. For each joint venture, the development corporation and local government would appoint representatives to oversee station area development, with the development corporation receiving the controlling majority of seats. Both the development corporation and local government would be entitled to surplus revenues from station area development with set-asides to fund anti-displacement and equity priorities.
- Task the development corporation with land assembly, provision of horizontal infrastructure, open space and community infrastructure, and the disposition of land once the joint venture is formed. Local community preferences, in terms of designing the public realm and open space, the types of community infrastructure and breadth and depth of affordability, would be determined collaboratively with community.

Ongoing regional governance work at MTC could offer an opportunity to advocate for this type of legislation. Implementation of any significant governance changes will require approval of the state legislature. As options are considered for new models of governance for the development, construction, and delivery of regional transit services, inclusion of the models of authority from Hong Kong, Copenhagen, and France could be introduced as a means of addressing housing and equity issues. These types of authorities are essentially real estate development authorities who also oversee transit capital projects and operations.

4.7.3. Regional Level

Displacement in the Bay Area is not a solely jurisdictional issue, but rather a megaregional issue with movers' origins and destinations differing substantially by income. The Terner Center found that low-income residents are overrepresented among those moving between the Bay Area and more affordable parts of California, such as the Sacramento region and the Central Valley, which are also the state's less opportunity-rich economies, thereby diminishing access to opportunity.[47] Displacement of these residents from the region is an issue that should be addressed at a regional scale, not by individual jurisdictions.

An ongoing debate regarding a potential future regional funding measure has been the question of whether funds should be targeted at transportation or housing. As recently demonstrated in Austin, TX, that paradigm can be changed to explicitly tie the two together. In 2020, Austin voters approved a property tax increase to support the

[47] Romem, I., & Kneebone, E. 2018. *Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?* Terner Center for Housing Innovation, University of California: Berkeley. Accessed April 2022 at https://ternercenter.berkeley.edu/research-and-policy/disparity-in-departure/

$7 billion Project Connect program to upgrade transit. Included in the measure was $300 million for transit-supportive anti-displacement housing strategies under the guidance of the Austin Strategic Housing Blueprint, with a focus on the needs of communities along the *Project Connect System Plan*. Examples of the strategies they are employing include renter/tenant stabilization, expansion and preservation of homeownership opportunities, and other anti-displacement strategies that support economic mobility opportunities. In March 2022, the first tranche of funds from the measure was used to provide a loan to the Austin Revitalization Agency to purchase a multi-family housing unit near the new transit line. A pool of regional funding made available to augment local jurisdictions' protection and production strategies would bring needed relief to residents through local agencies.

As regional leaders contemplate transportation projects that would be included in FASTER[48] 2.0, there is a real opportunity to fund mitigation efforts for displacement that is ongoing and could be exacerbated by additional transportation projects in a new regional measure or by Link21. The passage of regional measures, like Measure AA (funding bay restoration projects) in 2016 or Regional Measure 3 (funding congestion relief projects) in 2018, demonstrates that with the right communication and funding priorities, these million- and billion-dollar measures can enjoy broad, regional support and pass. There is widespread recognition that displacement is a major issue within the region, compromising the culture and community fabric that so many residents appreciate about living in Northern California. If messaged appropriately and, most importantly, allocated to the most effective strategies to curb displacement, having a displacement strategy carved out in the next iteration of FASTER may contribute to a positive outcome for the measure at the ballot box.

4.7.4. County or City Level

Through participatory budgeting, sources of public revenue are aligned to meet the full range of needs articulated by a community and to advance equity in a holistic and meaningful way. In 2018, MTC became one of the first transportation funding agencies to utilize participatory budgeting and has funded pilots in the City of Vallejo, Bayview/Hunter's Point neighborhood, and with the San Francisco Municipal Transportation Agency (SFMTA).[49] Participatory budgeting, and public outreach in general, can be expensive, requiring staff time and resources on the part of agencies. This suggests that funding to carry it out could be a barrier to implementation. In the context of Link21's value capture approach, communities could be engaged through a participatory budgeting process to determine how captured value should be allocated to meet residents' needs in areas contemplated for new stations or services.

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[48] Funding Advancements for Surface Transportation and Economic Recovery Act of 2009

[49] Rabari, C. 2018, January 3. *What is Participatory Budgeting? A Proposed MTC Pilot Project and Brief Lit Review.* The Bay Link. Accessed April 2022 at https://blog.bayareametro.gov/posts/participatory-budgeting-proposed-mtc-pilot-project-and-brief-lit-review

4.7.5. Transit Agency Policies

Value capture strategies come together through co-participation between public and private actors, generally transportation authorities or transit agencies, given the implicit ties between development and transit. In following on the earlier discussion about the importance of community partners in implementing value capture and community economic development, transit agencies could adopt specific policies that require the inclusion of a minimum number of CBOs or other economic development organizations in co-creation processes to support planning and implementing value capture mechanisms. They can also require that they be compensated fairly for their participation.

The value created from Link21 investments is likely to be tremendous, effectively reshaping land uses and neighborhood compositions around the Megaregion. Transit agencies could take community compensation further by requiring that any value capture strategy implemented through Link21 includes explicit carve outs that redistribute wealth generated from value created through Link21 to priority populations, allowing them to stay in place and benefit from new infrastructure in the Megaregion. Carve outs could go to community land trusts or shared equity homeownership models. Such a policy to explicitly redistribute monies would be bold and unparalleled, but so is the scope and scale of Link21.

5. NEXT STEPS

The following are the suggested next steps for exploring value capture as a viable strategy for funding Link21. Advancing these next steps is a shared responsibility that will come together by yielding existing BART and CCJPA authority, leaning on other agencies' authority, and seeking new authority through BART or a new entity.

- Develop a comprehensive value capture strategy that incorporates findings and conclusions from this paper and the value capture paper released in 2021, outline roles and responsibilities for strategy implementation, and make explicit commitments about how captured value will support priority populations.
- Conduct a comprehensive policy review to enable BART and CCJPA to use as many value capture tools as possible with a full understanding of the implications of those decisions.
- Develop a partnership strategy with MTC, counties, cities, and other local jurisdictions to scope a regional initiative that includes a carve out to support protection and production strategies.
- Value capture revenues will accrue before a new transbay passenger rail crossing is constructed. Link21 can set aside a share, still to be determined, for equity policies that support priority populations.
- Potential uses include funding community land trusts, affordable housing, and rental assistance programs; supporting businesses at risk of displacement; and providing fare reduction, service expansion outside of traditional hours, and other service improvements.
- Present proposed policy platforms and targets for measuring equity outcomes and increase availability of affordable housing in the Link21 corridor.
- Identify opportunities to enact supportive policies, including requirements for adoption by city councils, voters, etc.
- Work to get these policies adopted now, before land speculation has time to occur.
- Draft legislation that would enable transit authorities, or another new agency that would grant authority, to redevelop land around stations and implement value capture. Explore interest with the California Transit Association and find an appropriate champion in the legislature to sponsor the bill.
- Identify allies in seeking authority expansion (e.g., LACMTA, SFMTA, SANDAG).
- Examine international examples (e.g., MTR in Hong Kong, Japan) to position BART/CCJPA or another new authority at the center of the value capture strategy with the ability to acquire land beyond immediate transportation purposes.
- Continue to engage with academic researchers, CBOs, municipalities, advocacy groups, and others to gain more information on emerging trends, challenges, and opportunities to collectively advance equity and value capture.