June 2012

growing smarter

2012-2016 Subdivision Staging Policy

appendix 3

Developer’s Contribution to Infrastructure

closer communities

reducing traffic

connected neighborhoods

staging growth

Montgomery County Planning Department
The Maryland-National Capital Park and Planning Commission

MontgomeryPlanning.org

2012 Subdivision Staging Policy

Appendix 1	Pace and Pattern of Development
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Overview

Private development contributes significantly to infrastructure improvements throughout Montgomery County. Policy makers need to strike a balance between what a developer should contribute—because of impacts new development will have on infrastructure—and consideration of developers' bottom-line. County policies should not deter smart growth and all the benefits this kind of development provides (see the Growth Status and Trends and Level of Service Conditions sections of the Planning Board Draft of the 2012-2016 Subdivision Staging Policy).

This report looks specifically at transportation and public school facility improvements that result, in part, from various development fees and improvements. Not quantified are the on-site infrastructure improvements that developers provide.

Impact taxes are a charge on new development to pay for the construction or expansion of off-site capital improvements. The 2007-2009 Growth Policy states:

> "Its purpose is to fund the marginal cost of new development to the system, in order to sustain the current levels of service over time. New development benefits from investments that have been made by several generations of taxpayers to the infrastructure system of the County. These one-time taxes represent 'buying in' to an on-going system."

Transportation impact taxes were set up as a way of taxing new development for their share of master plan facilities. Impact taxes had to go toward master plan facilities that added capacity like widening roads, building a new one, etc. Initially there were only two impact tax areas—Germantown and East County. Later, Clarksburg was added.

From July 2002 through February 2004, a County District received revenue. From March 2004 onward, the County District was divided up between General and Metro Station Policy Areas (MSPA). Currently revenue from Clarksburg impact taxes stay in Clarksburg—likewise with MSPAs. General impact tax revenue can be applied to any number of projects throughout the County.

Similar to general transportation impact taxes, schools impact taxes can fund school improvements Countywide. There are no sub-county geographies for school impact taxes. Under the same principle of buying into an on-going system school impact tax revenue is primarily spent on capacity-expanding CIP projects, but can also be directed to modernizations and other improvements of school infrastructure.

Mitigation payments pay for additional improvements in areas where there are documented deficiencies in public facilities. The current mitigation payments for transportation come in the form of Policy Area Review (PAMR) requirements to address policy area deficiencies in roadways and transit or Local Area Transportation Review (LATR) requirements to address critical lane volume (CLV) in intersections adjacent to new development. Developers meet these requirements in a number of ways, including construction of roadway, transit, or pedestrian improvements not found in the Capital

Improvements Program (CIP), paying into road clubs to share the costs of improvements with other developers, or submitting in-lieu payments to the County or other public agencies to fund improvements. Those improvements may or may not be in the CIP. These policies have allowed the County to do away with transportation-related moratoriums on development by making developers pay higher amounts to proceed in areas with deficiencies.

Though relatively new, PAMR has existed long enough to result in implementation of some improvements required by the Planning Board. The following table lists verified, completed improvements resulting from PAMR requirements. Many more PAMR in-lieu payments and improvement projects have been approved as part of subdivisions or site plans and remain to be completed. PAMR has been in effect since 2007, but many projects are still well within their APF validity period and have yet to build their projects.

Project Number	Project Name	Improvement	Improvement Status
MR2007503	Homeless Shelter	bus pad on Gude Dr.	built
12002056A	Wendy's Colesville	fully reconstruct approx 300 linear feet of Vital Way to the south of Randolph Rd. along the property frontage per the White Oak MP	built
11999043C	Fishers Lane / Spring Lake Park	contribute 261,000 towards MNCPPC CIP project 048703 - Rock Creek Trail Pedestrian Bridge over Veirs Mill Rd.	built
470270 (Building Permit)	Wheaton Hills Bldg 4	ADA Ramp for east-west movement of Grandview Ave and Kensington Blvd. north end	built
		ADA Ramp for east-west movement of Reedie Dr and Bucknell Dr on southern side	built
120080210	1050 Ripley Street	extension of Ripley St. by 400 ft. from current turminus to Bonifant St.	nearly complete
		installation of 15ft wide shared ped/bike path along south side of Ripley extension.	nearly complete

The next table lists payments of PAMR in-lieu funds that have contributed or will soon be contributed toward improvements in the County. In some cases the improvement the funds were applied to is known and the status of that improvement is listed. In all, the County has received $493,800 in PAMR in-lieu payments. WMATA has received a direct payment of $63,600 for real-time bus transit information signs.

Project Number	Project Name	Fee	Payment Status	Paid to	Applied to	Improvement Status
11989271A	Wildwood Manor	$ 55,000	paid	County	ADA ramps	built
120070610	Towhouses at Small's Nursery	$ 22,000	paid	County	unknown	unknown
120090060	Monty	$ 22,000	paid	County	unknown	unknown
820090020	Pike Center	$ 77,000	paid	County	unknown	unknown
820100130	Olney Safeway	$ 154,000	paid	County	unknown	unknown
S-2822	Siena School	$ 163,800	paid	County	unknown	unknown
120080360	4500 East-West Hwy (Pearl St)	$ 63,600	paid	WMATA	4 real-time transit info signs	unknown
11999043C	Fishers Lane / Spring Lake Park	$ 261,000	paid	MNCPPC	Rock Creek Trail Pedestrian Bridge over Veirs Mill Rd.	built
Total		**$ 818,400**				

The **school facilities payments** are the mitigation payment designed to allow development to proceed despite the fact that the school cluster they will build in is projected to be 105 to 120 percent over capacity five years out. It was set in place to ensure adequate funding for additional capacity and can only be used to fund capacity-expanding improvements within the cluster in which the development project takes place. Moratoriums only apply when the enrollment projection is exceeds 120 percent of capacity, in which case a placeholder CIP project expanding school capacity will often quickly move a cluster out of moratorium. As opposed to schools impact taxes which are calculated off of student generation rates of various housing types and 90 percent of construction costs for elementary, middle, and high school level facilities, school facilities payments are calculated off the same student generation rates per unit type but only 60 percent of construction costs at the three school levels.

Now that developers required to make school facilities payments are beginning to build in clusters that were projected to be over capacity, $170,000 has been collected and allocated toward two school addition projects in the two clusters from which the payments came. $6,000 will go toward the Bradley Hills Elementary School Addition in the Walt Whitman cluster and $164,000 will be directed to the Bethesda-Chevy Chase cluster’s North Chevy Chase Elementary School Addition.

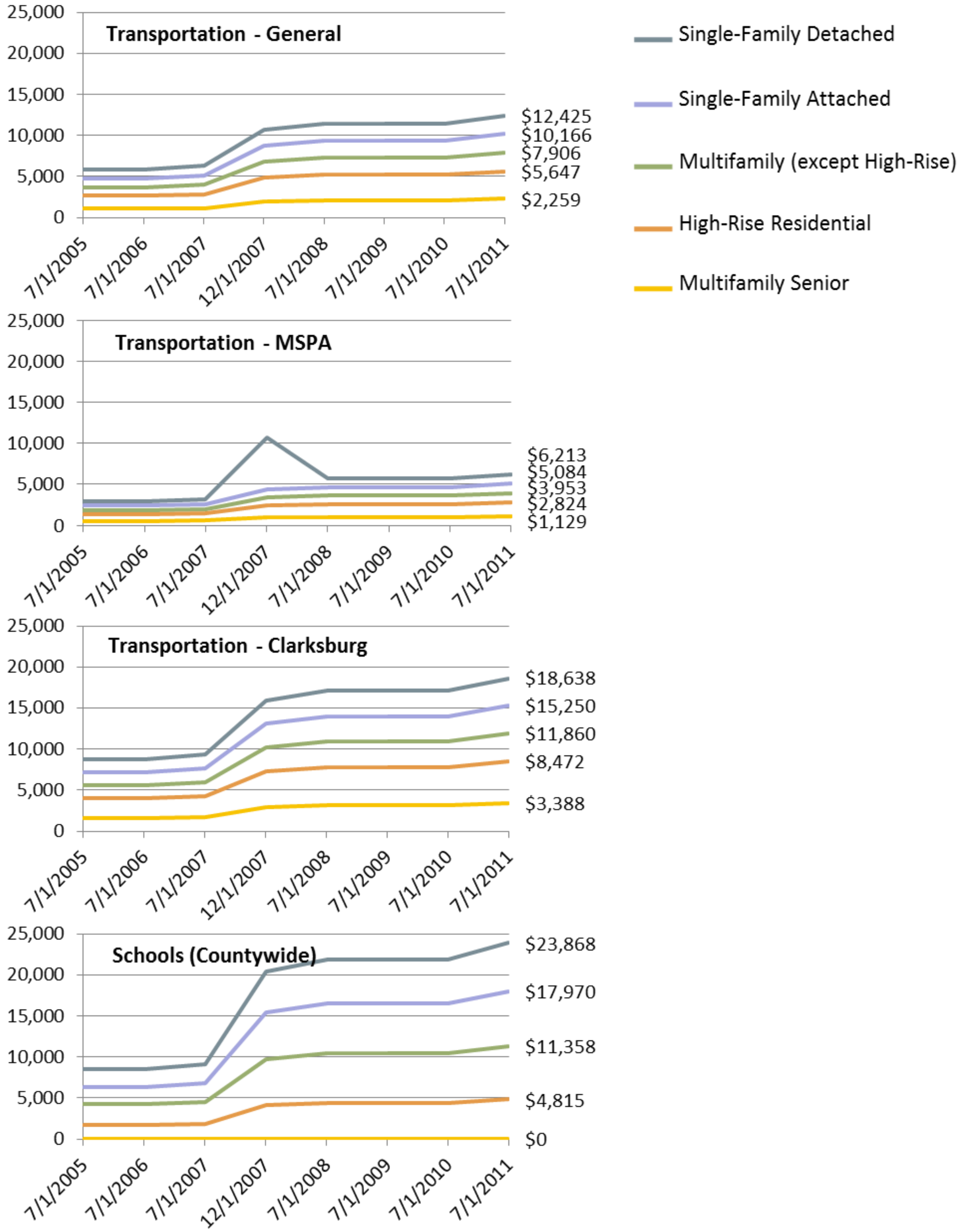
Impact Tax Rates and Revenues

Impact taxes have generated the largest amount of all development fees to the direct funding of County infrastructure projects for a number of reasons:

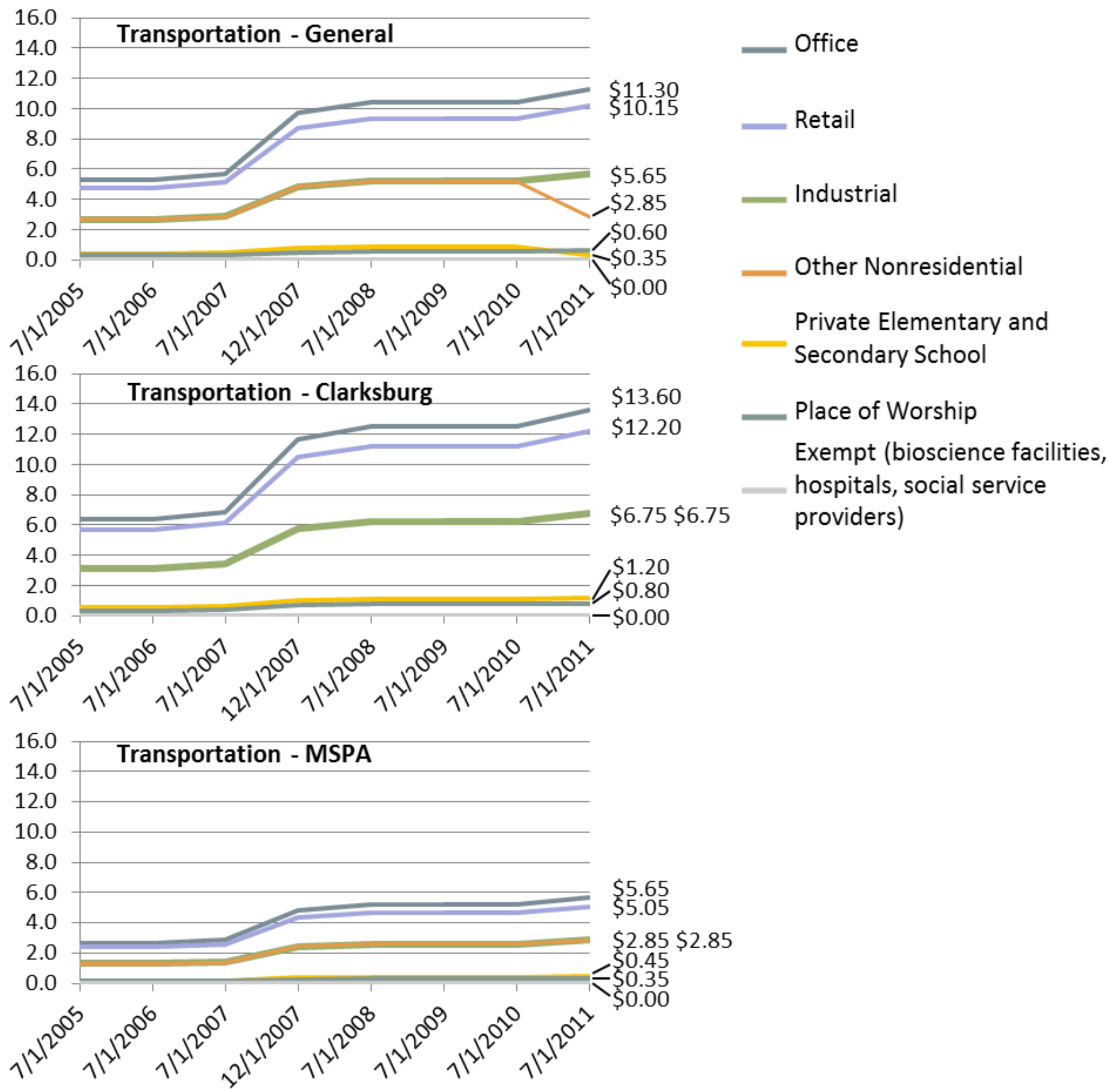
- excluding exemptions, all new development pays impact taxes whether deficiencies in the area of the development plan exist or not
- they have a longer history than current mitigation payments
- they come exclusively in the form of payment, not developer-provided improvements
- school impact tax rates are higher than school facilities payments. (A comparison of PAMR and transportation impact tax rates is not possible because impact taxes are set per residential unit or nonresidential square foot and PAMR is calculated per new vehicle trip generated by a project—and only 50 percent or less of those trips pay the per trip fee.)

The following charts illustrate the history of changes in impact tax rates first by residential unit and then by nonresidential square feet.

Impact Tax Rates: Residential (per Unit) – FY2006 to FY2012



Impact Tax Rates: Nonresidential (per Sq.Ft.) – FY2006 to FY2012



For residential transportation impact taxes, each geographical area (General, MSPA, and Clarksburg) has a separate tax rate for (from greatest to least) single-family detached, single-family attached, multifamily residential (except highrise), highrise residential, and multifamily senior residential. Rockville and Gaithersburg follow the general impact tax rate.

Because no students are generated from nonresidential development, school impact taxes only apply to developments creating residential units. Like transportation impact taxes, the school impact tax has different rates for the different unit types, however multifamily senior housing is exempt from the schools impact taxes because they do not generate students. There is also a single-family house surcharge for larger dwellings—the rationale is that a larger dwelling would produce more students—charging $2 per square foot of gross floor area that exceeds 3,500 square feet, to a maximum of 8,500 square feet). In addition, impact taxes are not levied on Moderately Priced Dwelling Units (MPDUs). For developments containing 30 percent or more MPDUs, the impact tax on the market rate units is applied at 50 percent of the standard rate.

Aside from exemptions, all school impact tax rates have been a bit higher than even the Clarksburg residential transportation impact tax rate (the highest residential transportation impact tax rate). Similarly, however, the rates increased significantly due to law changes on 12/1/07.

In 2003 when school impact taxes were introduced, the cost per household for building new schools was estimated to be $10,300. The rate established in 2003 ($8,000) was less than the calculated cost. The 2007-2009 Growth Policy aimed to more closely tie infrastructure costs to each new unit. The rate established in 2007 ($20,456) represents 90 percent of the cost per household for building new schools. The current impact tax rate schedule, which more accurately reflects the cost of school construction and expansion associated with new development, has generated revenue to fund school buildings and additions in a more timely fashion.

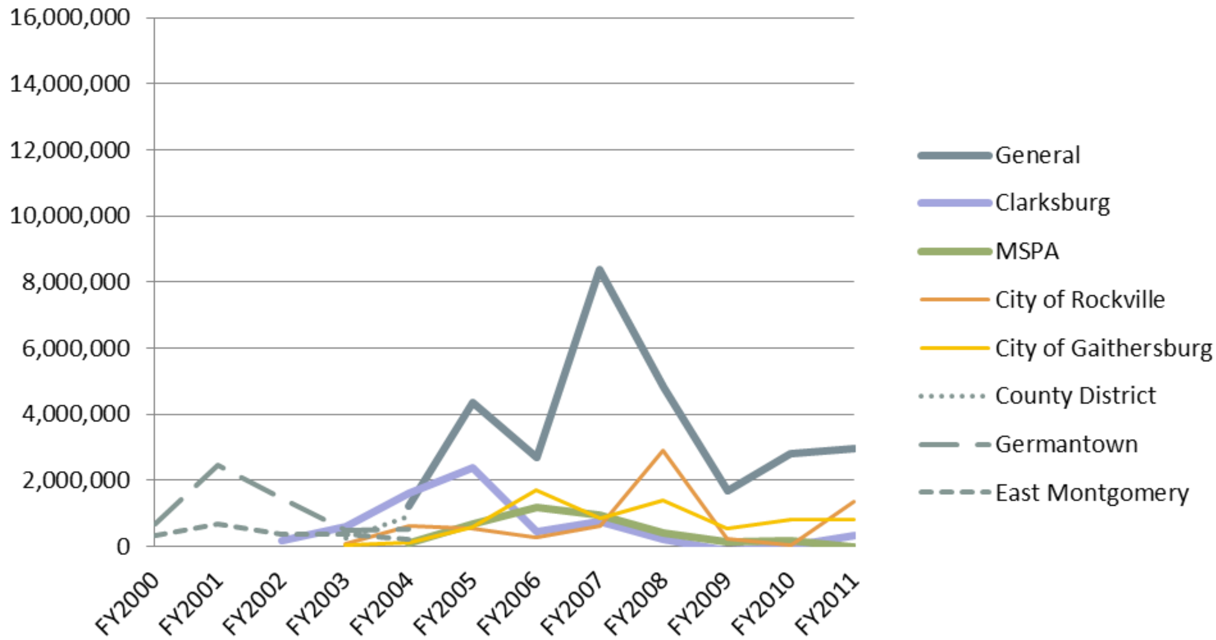
For nonresidential development, each geographical area has a separate transportation tax rate for (from greatest to least) office, retail, industrial, other nonresidential impacts, private elementary and secondary schools, and places of worship. Social service providers, bioscience facilities, and hospitals do not pay impact taxes.

For transportation impact taxes—both residential and nonresidential development—Clarksburg rates are higher than General rates, and MSPA rates are significantly lower than both of these. Residential rates for transportation impact taxes are not as high as rates for school impact taxes.

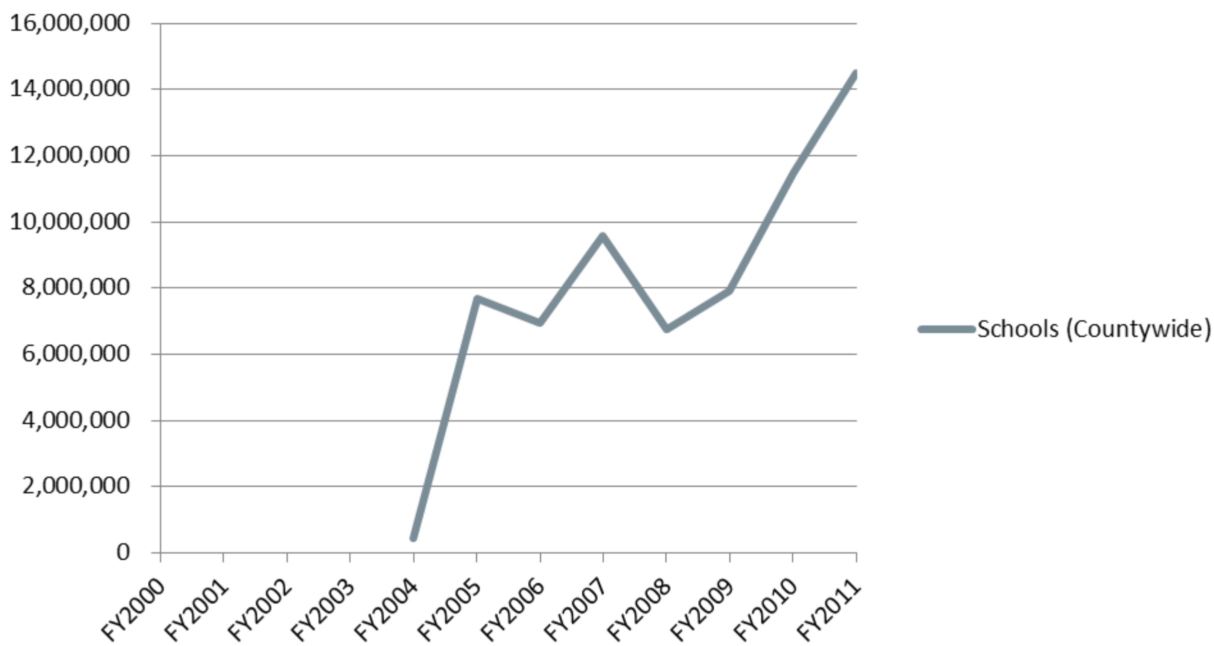
Rates have rarely decreased, but usually increases are gradual—presumably with calculations of higher construction costs for improvements. Typically, increases occur biennially, at the beginning of a fiscal year. However major changes to impact tax law occurred in December of 2007 and created a much more dramatic rise across all rates. The only time a rate has gone down between FY2005 and FY2012 is the single-family detached rate for MSPAs. After a significant hike in December of 2007, the rate went down the following July to be similarly proportionate to the other residential unit types as it was before the hike.

The following chart shows the historic revenue of all transportation impact tax funds followed by a separate but proportionate chart of all school impact tax funds collected thru FY2011. Of the transportation impact taxes, only General, MSPA, Clarksburg, and the two municipalities' impact rates still exist. Generally the different funds get greater revenue the greater the geographic size and the level of development activity occurring within that area. Unlike schools impact tax revenue, which has continued to climb despite economic conditions, General transportation impact tax revenue seems to follow the economic downturn, with a peak in FY2007 and sharp decline due to recession and years of slow recovery. This could possibly show that residential development has been stronger in recent years than commercial.

Transportation Impact Tax Revenue – FY2006 thru FY2011



Schools Impact Tax Revenue – FY2006 thru FY2011

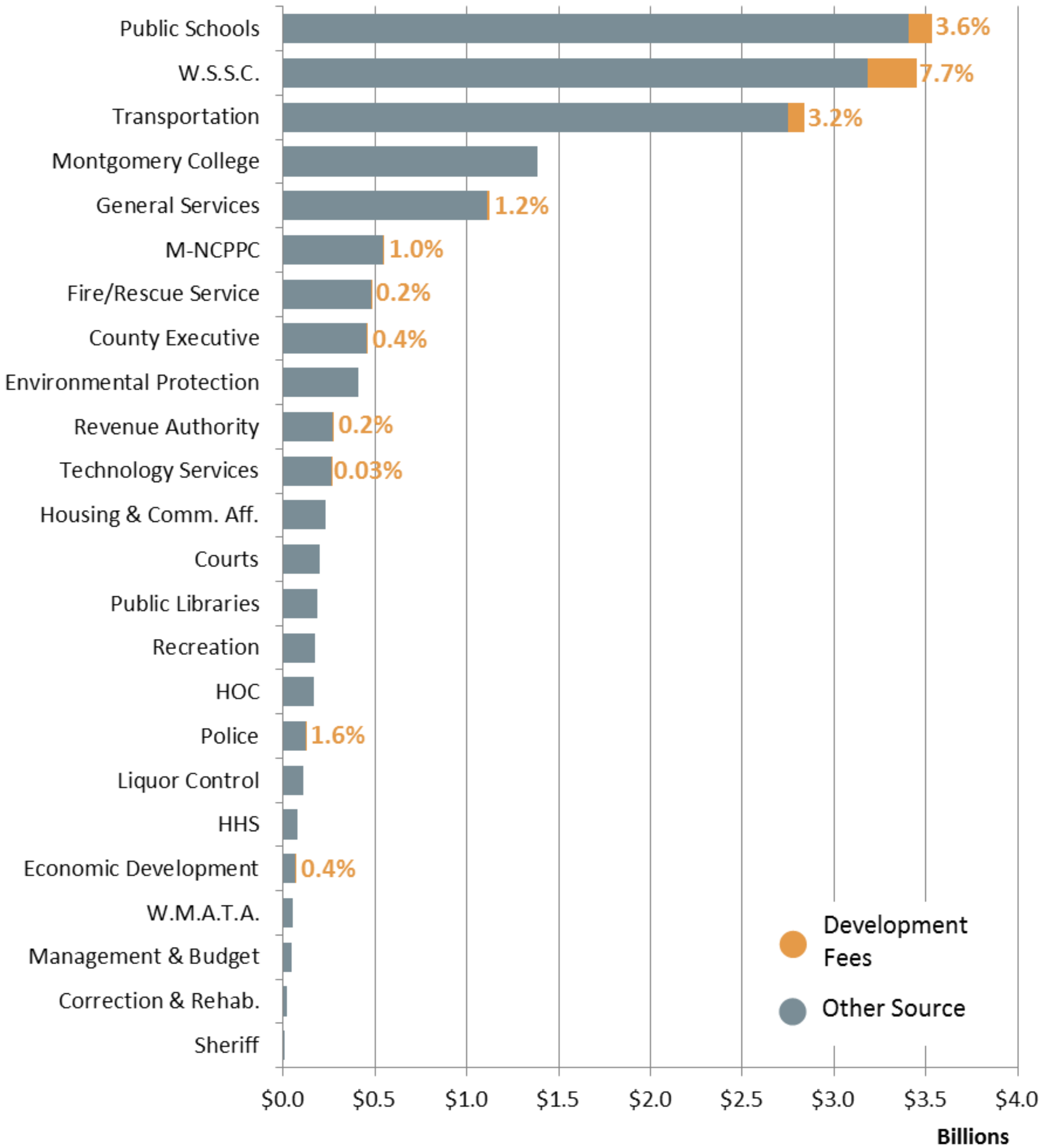


Development Fees in the FY2013 Approved CIP

Development fees make up 3.1 percent of all funds from projects' start to FY2018 in the current CIP. The following chart shows the current CIP's funding by agency and the share of those funds covered by development fees.

CIP Funds by Agency – Funds from Project Start to FY2018

Source: FY2013 Approved CIP



While this report focuses on public schools and transportation infrastructure—the agencies with the first and third largest CIP budgets, respectively—it is worth noting that private developers pay for a portion of infrastructure beyond transportation and schools—most significantly water and sewer infrastructure in the WSSC CIP budget. These fees are different than those discussed above. It is also worth noting that transportation and school CIP budgets contain **other development fees** than impact taxes and mitigation payments, though the latter sources are the largest. The following tables show the various fees that encompass the aggregated development fees in the chart above and throughout this report as well as their share of the transportation and schools CIP budget.

Development Fees in Transportation CIP
Source: FY2013 Approved CIP

Fund	Description	Funds From Project Start to FY2018
Impact Taxes		
Transportation Impact Tax	As discussed	$63,071,000 (2.2%)
Mitigation Payment		
Contributions	Fund includes PAMR/LATR payments, but can include WSSC payments to County projects, and other possibilities.	$16,310,000 (0.6%)
Other Development Fees		
Expedited Development Approval Excise Tax (EDAET)	Program ran from 1997 to 2003. Only ever used for Montrose East.	$5,710,000 (0.2%)
Development Approval Payment (DAP)	Program ran from 1993 to 2003. Pertained to MSPAs and some residential development.	$5,305,000 (0.2%)
Transportation Improvement (Loophole) Credits	In lieu of funding or constructing improvements required to obtain development approval. Used to offset cost of needed improvements in the area from which they are paid.	$1,125,000 (0.04%)

Development Fees in Public Schools CIP
Source: FY2013 Approved CIP

Fund	Description	Funds From Project Start to FY2018
Impact Taxes		
Schools Impact Tax	As discussed	$127,249,000 (3.6%)
Mitigation Payment		
School Facilities Payment	As discussed	$170,000 (0.005%)
Other Development Fees		
Contributions	Could include WSSC payments to County projects or other possibilities.	$1,104,000 (0.03%)

Note that currently any PAMR or LATR payments toward CIP projects go into the contributions fund, which also can also receive payments from other sources, including WSSC payments to County projects. Planning staff will continue to work with County staff to specify dollar amounts from PAMR/LATR policies. Two of the three other development fees for transportation are now defunct and all three contribute small percentages of the total transportation CIP funds. Similarly, the other funding source for schools capital projects is called “contributions”—obviously not from PAMR or LATR—and makes up a very small percentage of schools CIP funds.

Generally, development fees cover a small share of capital costs. The following lists show the share of transportation and school CIP **funds from non-development fee sources**.

Significant Funds from Non-Development Fee Sources in Transportation CIP

Source: FY2013 Approved CIP

G.O. Bonds	53.0%
Interim Finance	6.5%
Current Revenue: General	5.7%
Federal Aid	5.0%
Revenue Bonds: Liquor Fund	3.9%
White Flint - Special Tax District	3.4%
State Aid	3.2%
Mass Transit Fund	3.1%
Current Revenue: Parking	3.0%

Significant Funds from Non-Development Fee Sources in Public Schools CIP

Source: FY2013 Approved CIP

G.O. Bonds	61.3%
State Aid	16.7%
Current Revenue: Recordation Tax	9.8%
Current Revenue: General	7.0%

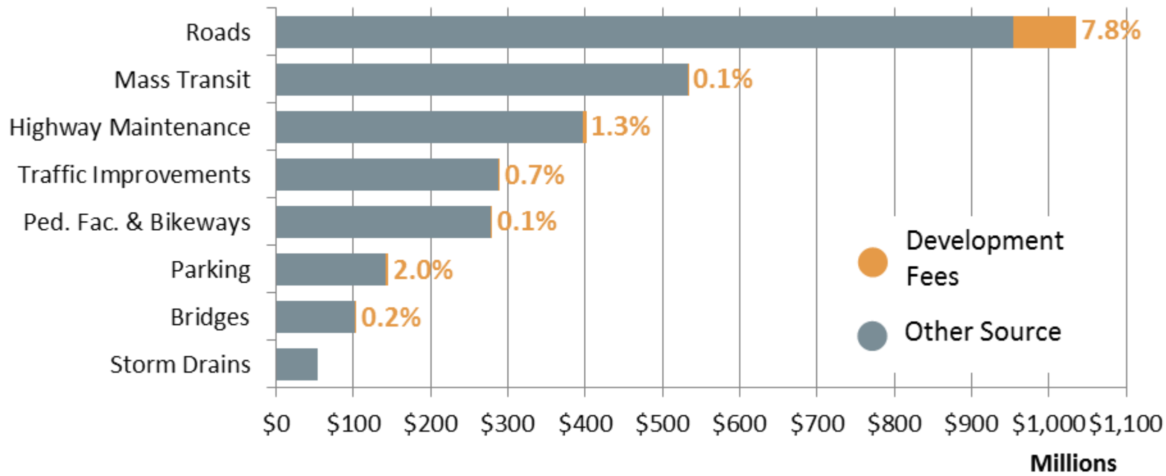
General obligation bonds make up the majority of the CIP budgets for both agencies. It is worth noting that real property taxes make up a significant percentage of revenue for the CIP. This includes taxes placed on private developers’ properties and in special tax districts, such as White Flint’s, as well as parking districts, developers and commercial property owners are likely the major contributors to these property taxes. Still, while they contribute to a developer’s bottom-line, because developer and non-developer taxes cannot be isolated and because the Subdivision Staging Policy deals with development fees, not property taxes, this report focuses on the actual fees developers pay.

With the schools discussion in particular, the data above highlights that other parts of the Montgomery County community share in the burden of school costs. Recordation taxes account for almost 10 percent of the schools CIP funds—a way to compensate for impacts to school capacity caused by housing stock turnover. And revenue from the general property tax ensures that all residents share school facility costs, whether households have students in public or private schools, or send no students at all.

Taking a closer look at the transportation CIP, the following chart examines the types of projects that receive funding from development fees. These fees are applied mostly to road improvements, which is the largest category of transportation projects. Road projects receive nearly eight percent of their funding from development fees, while the second highest category for its share of these fees is parking, at two percent.

Transportation CIP by Category – Funds from Project Start to FY2018

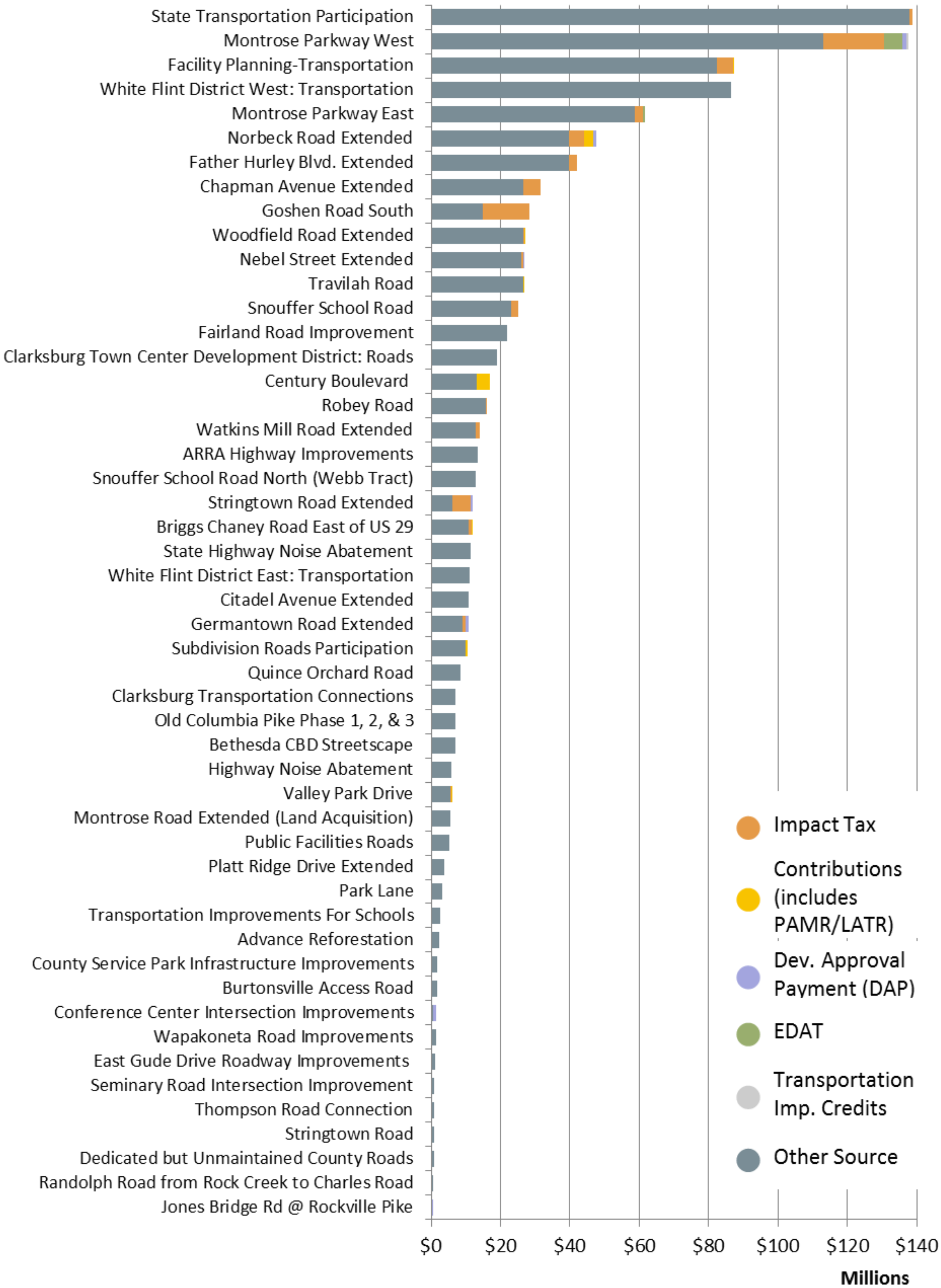
Source: FY2013 Approved CIP



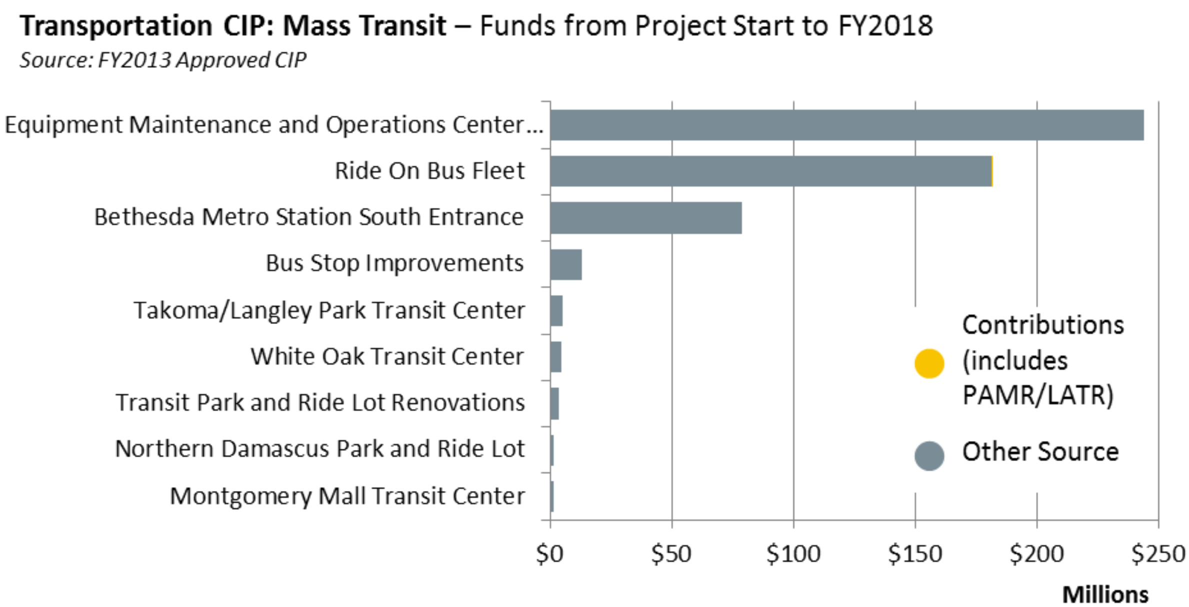
The following charts take a closer look at each category of the transportation CIP, showing individual projects and the specific development fees applied to them. Starting with roads, all fee types listed above have been applied to road improvements. By far, impact taxes make up the majority of these developer-provided funds and are applied to the most projects but some projects receive no—or next to no—revenue from these fees. "Contributions" is the next largest fee contributor.

Transportation CIP: Roads – Funds from Project Start to FY2018

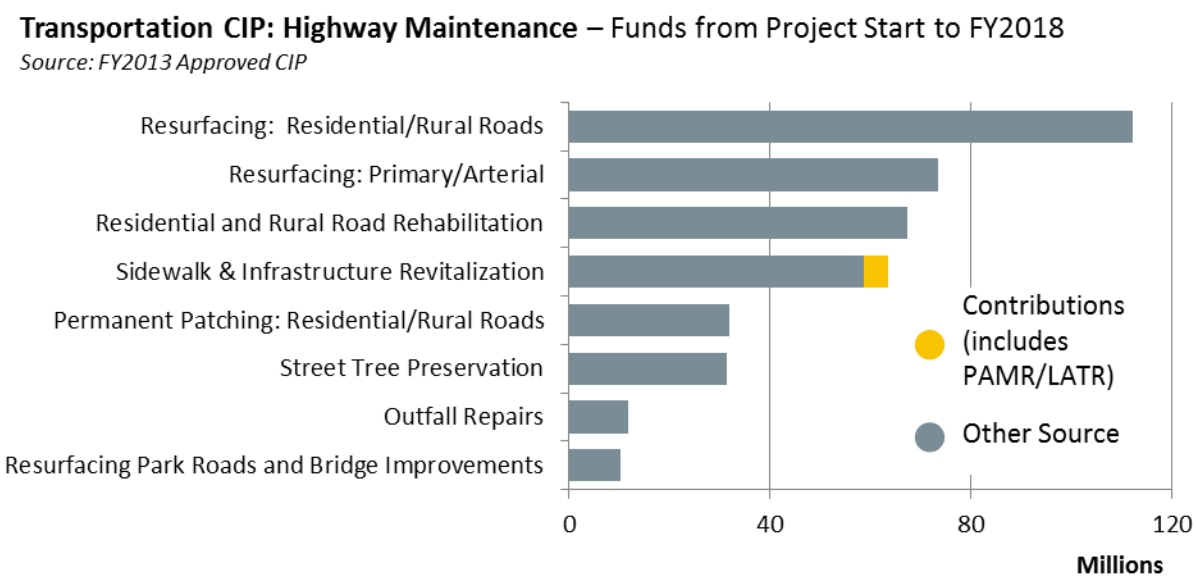
Source: FY2013 Approved CIP



Mass transit projects only receive 0.1 percent funding from development fees and that amount is exclusively from “contributions.” Those funds have only been applied to the Ride On bus fleet, not the other eight mass transit projects.



For highway maintenance “contributions” is again the only development fee and is applied only to sidewalk and iInfrastructure revitalization, not the other seven projects. Because transportation impact taxes should be directed to capacity-expanding projects, it does not show up in the highway maintenance projects. “Contributions” in this case is unlikely to be from PAMR or LATR funding.

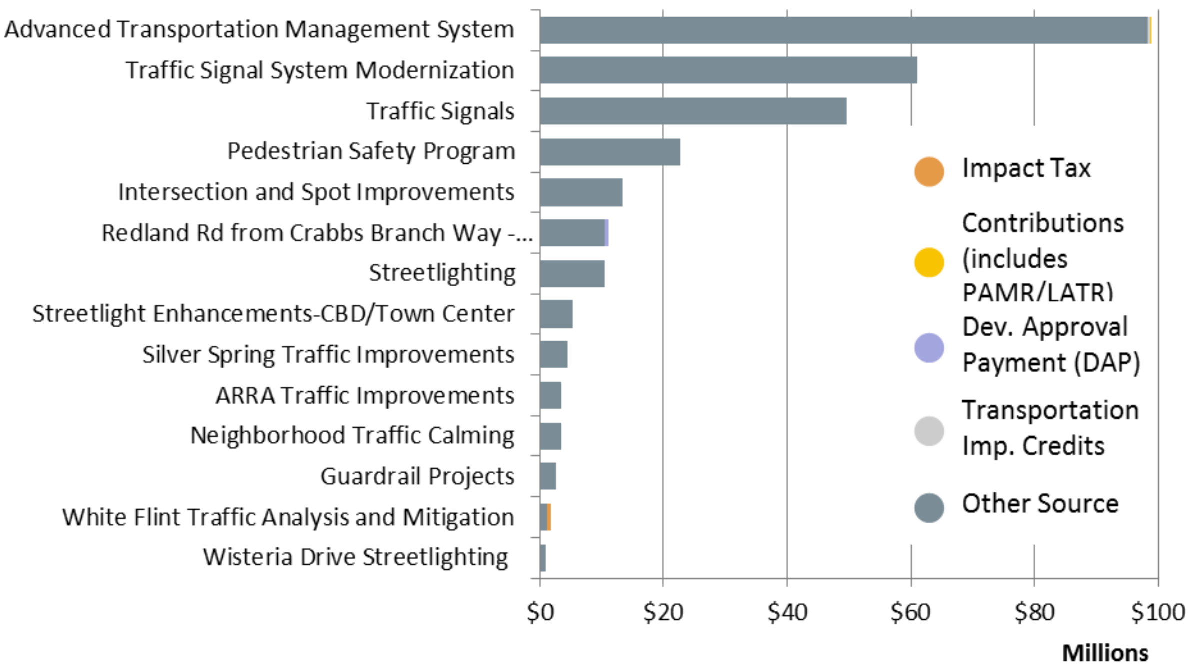


Under traffic improvements, all development fees but EDEAT are applied. “Contributions” and transportation improvement credits make up a small portion of Advanced Transportation Management

System funds. Impact taxes contribute a large portion (37 percent) of the relatively small White Flint Traffic Analysis and Mitigation item. DAP funds were used for Redland Rd from Crabbs Branch Way to Baederwood Lane.

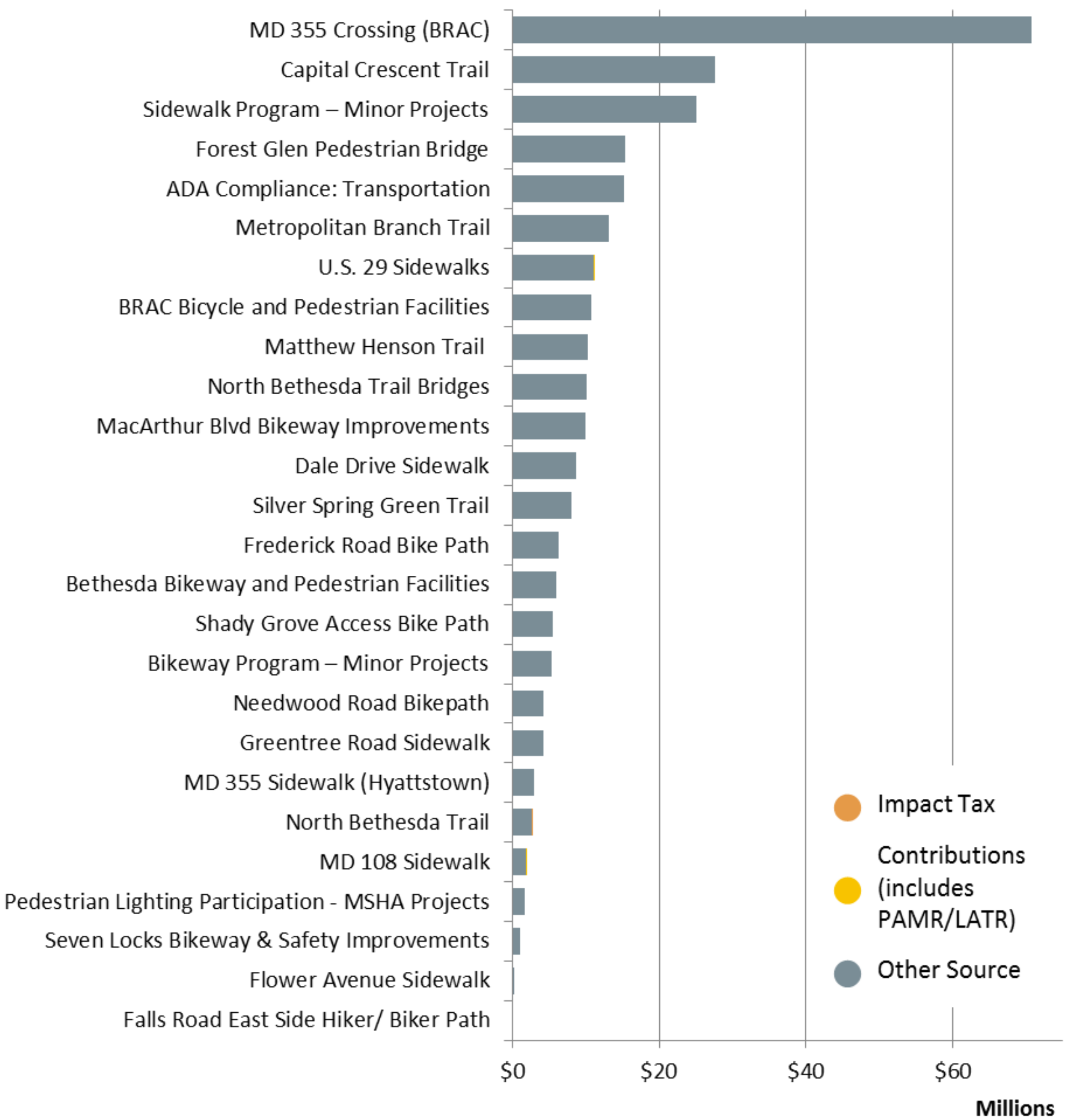
Transportation CIP: Traffic Improvements – Funds from Project Start to FY2018

Source: FY2013 Approved CIP



Pedestrian facilities and bikeways make up 10 percent of transportation CIP spending from projects' start thru FY2018. Of that, developers contribute 0.1 percent. "Contributions" are used on two sidewalk projects and impact taxes on the North Bethesda Trail.

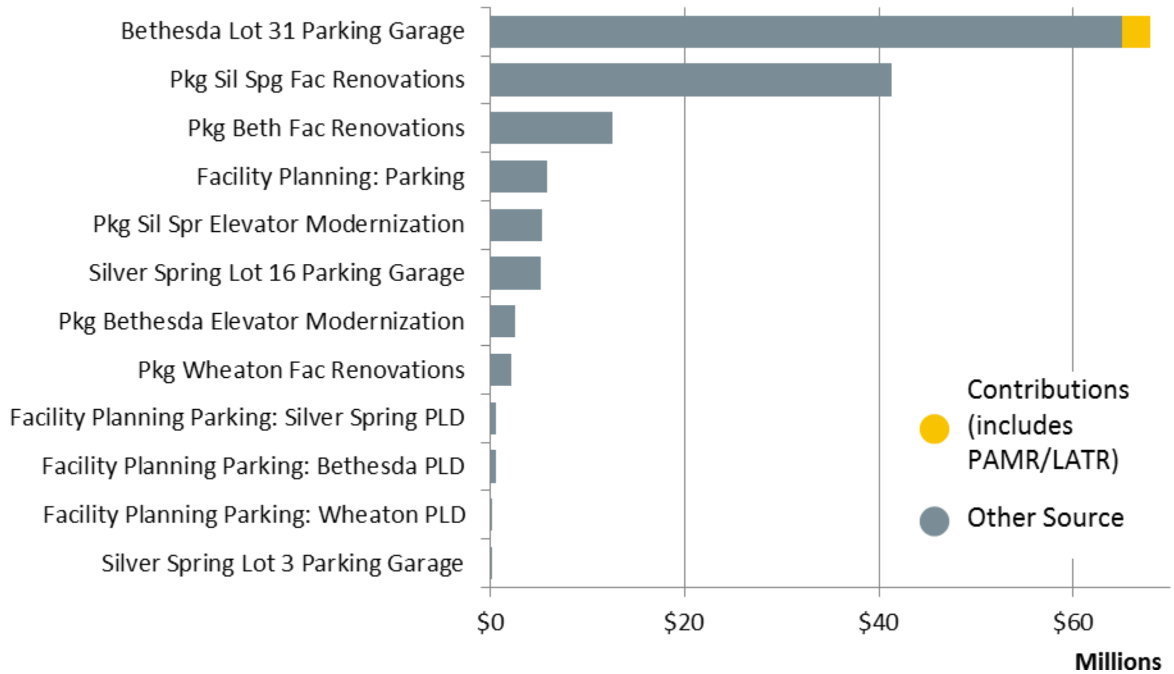
Transportation CIP: Pedestrian Facilities & Bikeways – Funds from Project Start to FY2018
Source: FY2013 Approved CIP



For parking facilities "contributions" helped fund the Bethesda Lot 31 Parking Garage but the remaining eleven projects are covered exclusively by non-development fees.

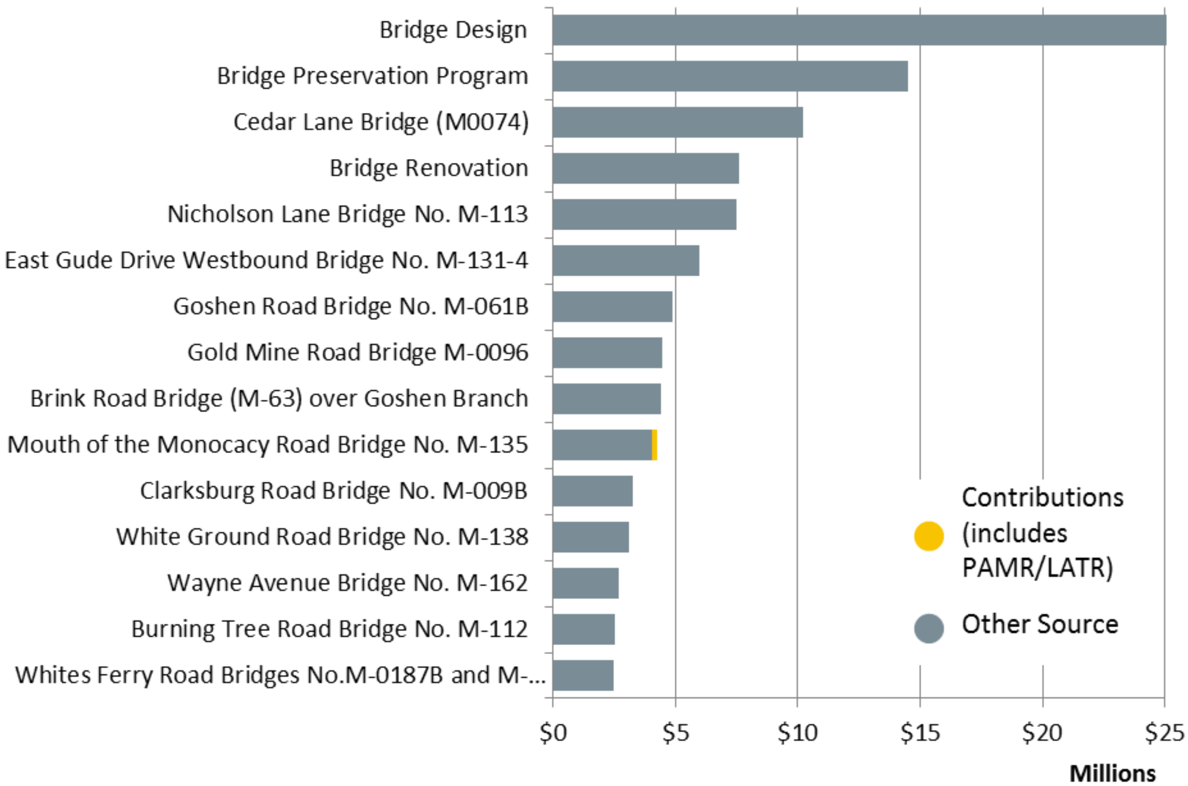
Transportation CIP: Parking – Funds from Project Start to FY2018

Source: FY2013 Approved CIP



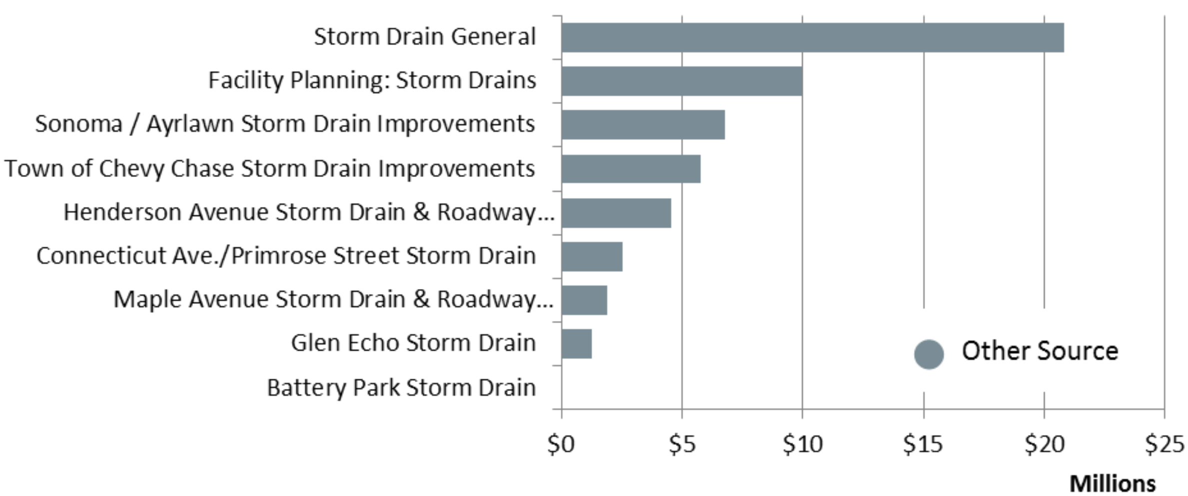
"Contributions" are again the lone contributor to bridge projects, with funds directed to one of fifteen projects: Mouth of the Monocacy Road Bridge No. M-135.

Transportation CIP: Bridges – Funds from Project Start to FY2018
Source: FY2013 Approved CIP

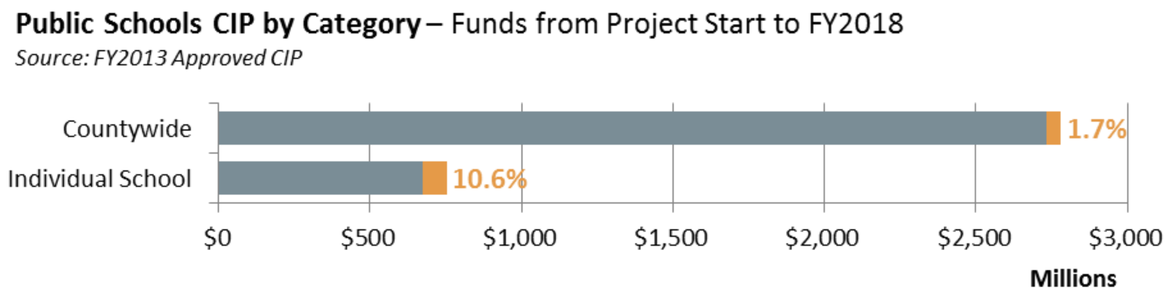


No development fees have been applied to the transportation CIP's storm drain projects.

Transportation CIP: Storm Drains – Funds from Project Start to FY2018
Source: FY2013 Approved CIP



In the current Public Schools CIP, development fees contribute almost four percent of funds from projects' start thru FY2018. That is a sum of $128,523,000 and it is distributed to 22 of the 77 school projects. While contributing only two percent to projects classified as Countywide expenditures, they provide 11 percent of funds for individual school projects. Impact taxes make up 99 percent of that amount and are used on projects throughout the County, either modernizing facilities or adding capacity.

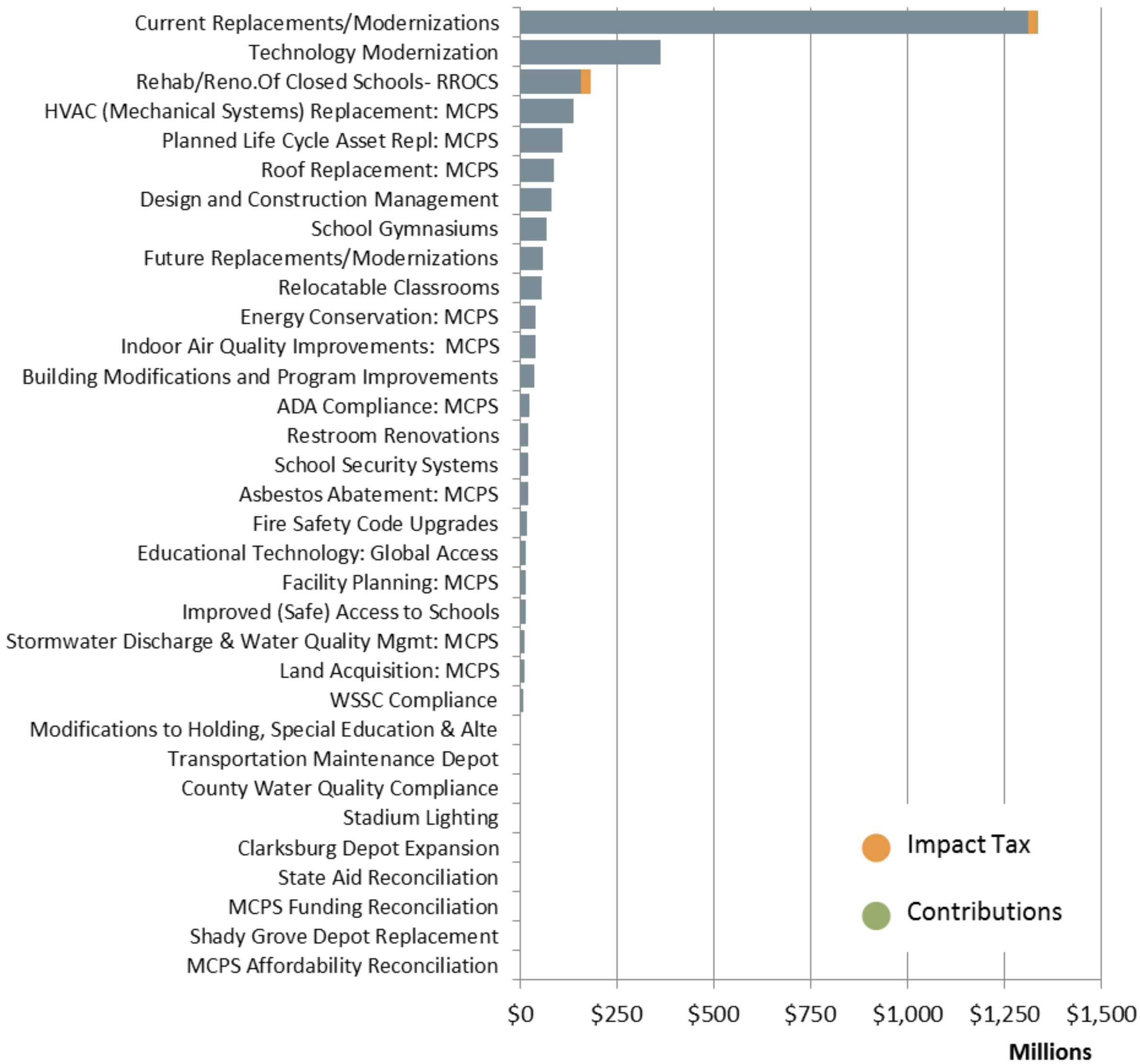


The following charts take a closer look at the two categories of the schools CIP, showing individual projects and the specific development fees applied to them. School facilities payments only appear in the individual school projects as they are exclusively used for expanding capacity in clusters projecting inadequate conditions and allocated toward two school addition projects in the two clusters from which the payments came.

Countywide projects with development fee funding are Current Replacements/Modernizations (impact taxes and “contributions” applied), Rehabilitation/Renovation of Closed Schools- RROCS (impact taxes), and Stadium Lighting (“contributions”).

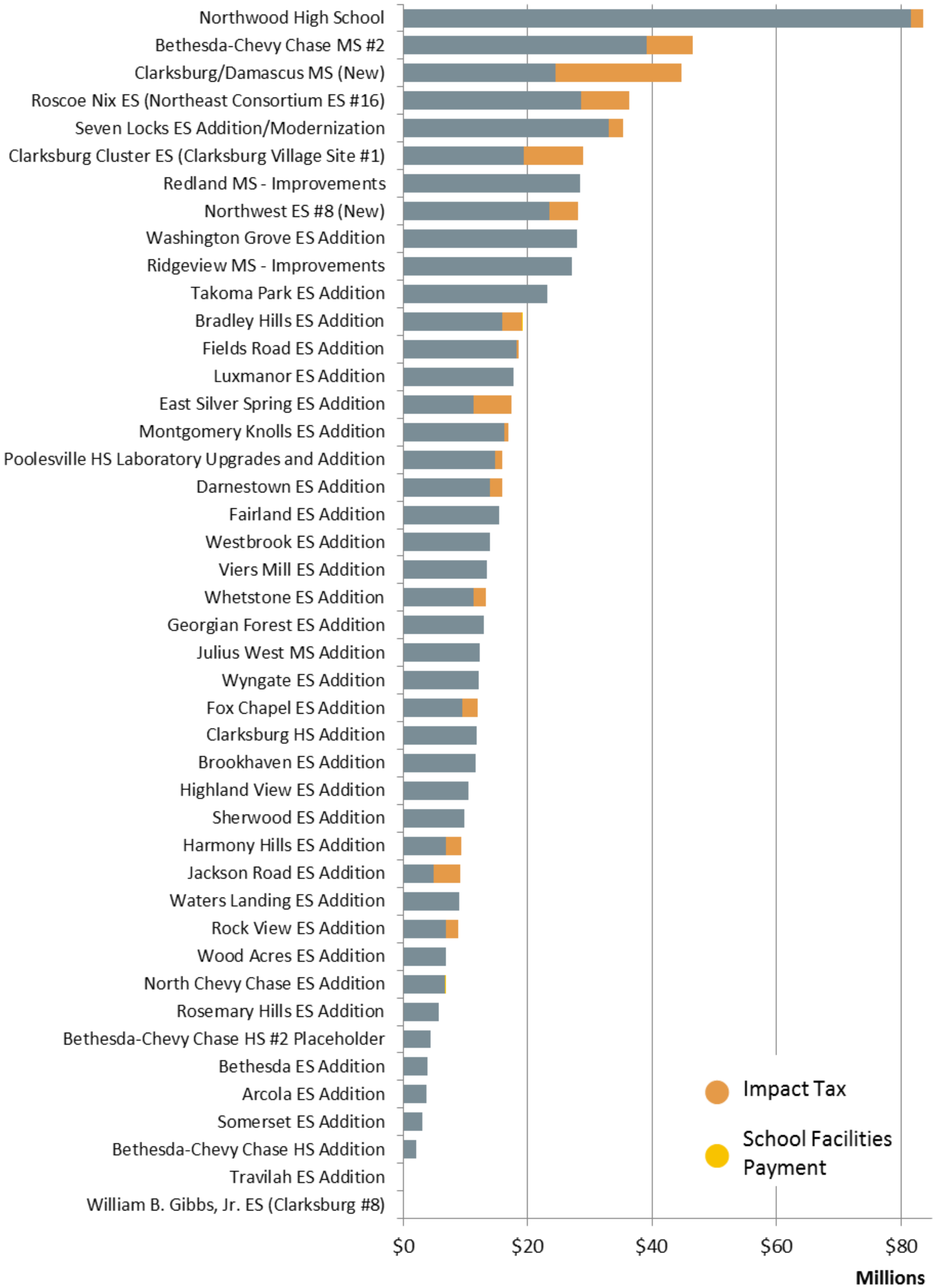
Public Schools CIP: Countywide – Funds from Project Start to FY2018

Source: FY2013 Approved CIP



Impact tax funding of individual school projects ranges from 46 percent of a project (Jackson Road Elementary School Addition), on the high end, to one percent, on the low end. More so than any other school or transportation category, development fees are responsible for the highest share of individual CIP items in this subset of the CIP.

Public Schools CIP: Individual Schools – Funds from Project Start to FY2018
Source: FY2013 Approved CIP



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appendix 3

Developer's Contribution to Infrastructure

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