



# Agenda Report

**MEETING DATE:** Tuesday, March 14, 2023

**TO:** City Council

**FROM:** INTERIM PUBLIC WORKS & UTILITIES DIRECTOR VIDES  
ASSISTANT PUBLIC WORKS & UTILITIES DIRECTOR FONTES

**THROUGH:** CITY MANAGER MENDEZ

**SUBJECT:** RESOLUTION APPROVING AN IN-LIEU FEE TO REDUCE  
VEHICLE MILES TRAVELED (VMT) ASSOCIATED WITH  
DEVELOPMENT PROJECTS AND FINDING THAT THE VMT IN-  
LIEU FEE IS NOT CONSIDERED A PROJECT OR IF A PROJECT,  
IS EXEMPT UNDER CEQA

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## RECOMMENDED ACTION:

Staff recommends that City Council adopt a Resolution:

1. Finding the approval of a VMT In-Lieu fee and the establishment of a fund is not a project under CEQA, or if a project is exempt under CEQA; and
2. Approving the adoption of a VMT In-Lieu fee.

## DISCUSSION:

### Background

The Vehicle Miles Traveled (VMT) Policy adopted by Council Resolution No. 205-22 on September 27, 2022, describes how the City (as the agency responsible for the approval of land use, construction, and transportation projects) is required to assess the anticipated environmental impacts of development projects.

In 2013, Senate Bill (SB) 743 (Steinberg) changed how transportation impacts of a project are analyzed. The Bill determined that the most appropriate way to measure a project's transportation impacts is by using a VMT analysis as opposed to the prior methodology, Level of Service (LOS). The VMT Policy staff report is included as Attachment 1.

The intent of SB 743 is to bring California Environmental Quality Act (CEQA) transportation analyses into closer alignment with other statewide policies regarding greenhouse gas emissions, complete streets, and smart growth. As of July 1, 2020, automobile delay and LOS may no longer be used as the performance measure to determine the transportation impacts of land development projects under CEQA. Using VMT as a performance measure instead of LOS is intended to discourage urban sprawl, reduce greenhouse gas emissions, and encourage the development of smart growth, complete streets, and multimodal transportation networks.

### Thresholds of Significance & Mitigating VMT Impacts

Lead agencies under CEQA may establish thresholds of significance for the purpose of determining whether a project may have a significant effect on the environment. The adopted VMT Policy includes thresholds of significance based on the Office of Planning and Research (OPR) recommendations.

If a project is not screened out based on the criteria for identifying the types of projects that can be presumed to have a less than significant impact (e.g., small projects with less than 110 trips per day) and the project's transportation-related impacts are likely to be above the Thresholds of Significance in the VMT Policy (e.g., above 15% below the county-wide average VMT per capita), then it is subject to a detailed VMT analysis and application of mitigation measures to reduce the project's VMT. As discussed in the September 27, 2022 staff report on page 5, since the menu of Transportation Demand Management (TDM) strategies to reduce a project's VMT, such as promoting rideshare programs or allowing telecommuting, is limited to up to 15 percent, there is a need for additional options, such as the payment of in-lieu fee.

### Monetary Value of VMT

The VMT Policy established a VMT Mitigation Banking Program to provide an additional VMT mitigation option for project developers. In order to implement the banking program, a value for VMT reduction was determined. The analysis determined the monetary value of VMT by considering the following:

- Appropriate projects that are not listed in the City's Capital Improvement Program
- The cost to construct the projects
- The anticipated reduction in VMT associated with the complete projects

Through the analysis, the cost per VMT, was found to be \$1,524.21. The VMT Program has identified the following trail improvements that the VMT In-Lieu fee will fund:

**Table 1: VMT Banking Projects List**

Trail ID	Type	Name of Project	Description	Length/Number of Improvements	Cost Estimate
8.2	Bike/Ped	Lower Watsonville Slough Loop	Provide a new slough trail at the following segments to create a new loop: - Main Street to Ford Street - San Luis Avenue to the existing Watsonville slough loop	0.11 mi	\$9,475,000
8.5	Bike/Ped	La Brisas Connector Trail	Provide connection along San Luis Avenue & Santa Victoria Avenue to the existing trail	0.13 mi	\$4,000
8.7	Bike/Ped	Manabe-Ow Connector Trail	Provide bridge from Manabe-Ow to existing trail	0.10 mi	\$16,400,000
9.1	Bike/Ped	Upper Struve Slough Trail	Slough trail connecting Pennsylvania Drive to South Green Valley Road	0.47 mi	\$2,410,000
9.3	Bike/Ped	Rolling Hills Connector Trail	Trail loop along Eileen Street, SR 152, South Green Valley Road, and Melwood Court	0.33 mi	\$720,000
9.4	Bike/Ped	Upper Watsonville Slough	Slough trail from Main Street to Freedom Boulevard	1.05 mi	\$15,790,000
Total					\$44,799,000

### How the Fee Would be Used

Developers may choose to pay a VMT In-Lieu fee to reduce their project's impact below the applicable threshold (mitigate the impact). Essentially, the developer can choose to achieve VMT reductions and avoid a finding of significant unmitigated VMT impacts by paying the fee. The fee is not imposed on projects but is rather an option that is available to developers should they choose to use it.

Note that there is a flat fee for every single vehicle mile travel reduction. For example, if a project is unable to reduce the VMT impact of the project by 1 VMT, the developer may elect to pay an in-lieu fee of \$1,524.21 for a single VMT reduction. The fee will be placed in the VMT fund where the funds will be used on projects that have an anticipated reduction of VMT. The \$1,524.21 in this example will be used to construct projects that will result in a corresponding VMT reduction, such as through the creation of new trails that allow residents to commute to work or run errands by foot or bike.

#### Fee Details (Compliance with the Mitigation Fee Act - Assembly Bill 1600)

The Mitigation Fee Act (Assembly Bill 1600) sets forth the procedures for adopting fees and exactions that apply to development projects. Since the VMT in-lieu fee is not imposed on development projects, but rather paid by developers on a voluntary basis, the Mitigation Fee Act's requirements most likely to not apply to the adoption of the VMT in-lieu fee. However, in an abundance of caution, the City commissioned Kimley Horn to provide a nexus evaluation in compliance with the Mitigation Fee Act to determine the appropriate purpose, use, relationship to development, and relationship between development and cost of improvements. The Kimley Horn nexus evaluation is included in the VMT policy set forth in Attachment 2.

The requirements of the Mitigation Fee Act are summarized below:

- Identify the purpose of the VMT In-Lieu fee  
*The purpose of the fee is to reduce and/or mitigate project-generated VMT in compliance with SB 743 and CEQA regulations. This also aligns with the goals and objectives of the City's Climate Action and Adaptation Plan (CAAP).*
- Identify the use to which the fee is to be put  
*Projects included in the City's VMT Mitigation Banking Program will fund the construction of facilities that support active transportation (cycling and walking) to mitigate VMT impacts from new development by moving trips from automobiles to bike or pedestrian facilities. The identified projects are outlined in Table 1.*
- Determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed  
*As pedestrian and bicycle improvements cannot be sufficiently analyzed using the Travel Demand Model (TDM) given limitations within the model related to the representation of bike and pedestrian facilities, the projects were analyzed using off-model techniques. Bike improvements were evaluated using NCHRP 552 Guidelines for Analysis of Investments in Bicycle Facilities, and focused on commute riders, rather than bicyclists riding for exercise only. These bike ridership estimates are listed in Exhibit 8 to the VMT Policy.*

*Based on the study, the bicycle improvement projects listed in Table 1 could add almost 7,350 riders per day throughout the City through 2032, which could double the existing bicycle ridership.*

- Determine how there is a reasonable relationship between the need for public facility and type of development  
*Based on research conducted by California Air Pollution Control Officers Association, the maximum reduction in VMT that can be feasibly attained using exclusively site-specific mitigation measures in a suburban context is 15%. Site-specific solutions most often rely on TDM measures, although project land use modifications can also be utilized to mitigate impacts. The projects that exceed the VMT significant impact thresholds by more than 15% must rely on non-site-specific approaches if full mitigation is to be achieved.*

*Based on this, if a project exceeds the City's VMT threshold by more than 15%, it will require a combination of site-specific measures and non-site-specific measures, including the VMT Mitigation Bank, in order to achieve mitigation. This could mean using only site-specific mitigation measures to reach the 15% threshold, using only the VMT Mitigation Bank to reach the 15% threshold, or using both to reach the 15% threshold, such as using TDM measures to reduce VMT by 6%, and then using the VMT Mitigation Bank to reduce VMT by the remaining 9%.*

- Determine a reasonable relationship between the amount of the fee and the cost of the facility attributable to development  
*The Nexus Study followed the following 4 steps to identify the VMT Banking projects and calculate the VMT Banking credit rate:*
  - 1. Identify appropriate mitigation projects;*
  - 2. Determine the cost of construction of the mitigation projects;*
  - 3. Determine the total VMT that can be mitigated by the projects; and*
  - 4. Calculate the maximum mitigation credit rate per VMT by dividing the total cost of the mitigation projects by the total VMT mitigated by the projects to determine the rate per unit of VMT.*

*To determine the maximum overall credit rate, the total project costs of \$44,799,000 was divided by total VMT reduction of 29,392 daily VMT. This calculation resulted in a maximum cost per VMT reduction of \$1524.21. The full analysis is included in the adopted VMT Policy, included as Attachment.*

#### Fee Account Rules and Specific Information for Public Review

The collected fees will be held in a VMT In-Lieu fee account and expended on projects identified in the VMT Policy. The City Engineer will monitor the fund to ensure purchased VMT credits are used for constructing appropriate projects as identified in the VMT Policy to achieve the intended VMT reduction. As part of the annual Capital Improvement Program (CIP) reporting to Planning Commission and City Council, the City Engineer shall include a progress report on any funds accumulated in the VMT Mitigation Banking Program and expenditures on constructing or improving active transportation facilities providing additional VMT-reducing investments that would not have occurred if bank funding were not available. The City Engineer

may elect to implement annual cost indexing of the fee in order to keep up with future increases in the cost of construction.

### Supplemental Funding

The VMT In-Lieu fee is intended to fund identified facilities, or portions thereof, needed to mitigate, in whole or in part, VMT impacts created by future development in the City. Direct impact project mitigation measures and other revenue sources may also be used to augment funding of these facilities. Sources of additional revenue may include, but are not limited to:

- General and special taxes (including property taxes, Measure D Funds, Gas Tax, and other sales/use taxes)
- State and federal grant monies
- General fund

The existence and availability of additional funding sources may help the City leverage other infrastructure dollars. For example, grant programs often require a high level of difficult-to find matching funds. Having a VMT In-Lieu fee demonstrates a committed plan of action for facility improvements and the revenues can provide a ready source for Program Implementation matching funds.

At this point, the City has not secured any supplemental funding from other sources. In the event that the City does secure supplemental funding to increase revenues available for VMT reduction projects, the City will reevaluate the VMT In-Lieu fee to account for the additional funding streams.

### Environmental Review

The adoption of the VMT In Lieu fee is not subject to the California Environmental Quality Act (“CEQA”). This action is not a project within the meaning of the CEQA Guidelines Section 15378 and 15061(b)(3) as it has no potential for physical effects on the environment because it involves an adoption of certain rates and/or charges imposed by the City and does not select or approve any specific project, and said rates and/or charges will be used to fund future projects and/or activities, each of which future projects and/or activities will be fully evaluated in compliance with CEQA when sufficient physical details regarding said projects and/or activities are available to permit meaningful CEQA review (see CEQA Guidelines, Section 15004(b)(1)). Pursuant to CEQA Guidelines section 15378(b)(4), the creation of government funding mechanisms which do not involve the selection or approval of any specific project which may cause significant effect on the environment, is not defined as a “project” under CEQA. Therefore, approval of the rates and/or charges is not a “project” for purposes of CEQA, pursuant to CEQA Guidelines, Section 15378(b)(4); and, even if considered a “project” under CEQA, is exempt from CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that approval of the rates and/or charges may have a significant effect on the environment.

### **STRATEGIC PLAN:**

This project is consistent with the following Strategic Plan Priorities:

1-Housing

3-Infrastructure & Environment



#### 4-Economic Development

The VMT In-Lieu Fee and Mitigation Banking Program are consistent with the City Council's Strategic Plan goals for housing, infrastructure and environment, and economic development, in that the VMT In-Lieu Fee and Mitigation Bank reduces the barriers to jobs and housing development and provides a needed mitigation option for infill development to increase the number of jobs, services, and housing in close proximity to one another.

#### **ALTERNATIVE ACTION:**

The City Council may choose to not approve the proposed VMT In-Lieu fee. However, Council has approved the VMT Policy without the fee the City will not provide an additional option for projects needing to reduce VMT impacts below applicable thresholds. This would cause significant hardship to development projects that cannot reduce their VMT impacts with TDM measures, and increase the cost and time required to comply with CEQA.

#### **ATTACHMENTS AND/OR REFERENCES:**

Attachment 1: September 27, 2022 VMT Policy Council Staff Report

Attachment 2: Adopted VMT Policy