

RESOLUTION NO. _____ (CM)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
WATSONVILLE 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**

WHEREAS, the California Environmental Quality Act (CEQA) was enacted by the State of California in 1970 to ensure the long-term protection of the environment and requires public agencies to analyze and disclose the effects of their actions on the environment; and

WHEREAS, CEQA requires public agencies responsible for approval of land use projects and construction of transportation projects to assess their anticipated environmental impacts and to select project alternatives or implement mitigation measures that lessen those impacts where feasible. Known as a “lead agency” under CEQA, a public agency with the discretionary authority to approve or deny a project (or to carry it out directly) generally must analyze the proposed project’s impacts to the physical environment, identify alternatives and mitigation measures, and approve a project alternative and/or mitigation measures that substantially reduce significant impacts, unless those measures are infeasible due to economic, social, or other conditions; and

WHEREAS, in 2013, state law was changed with the passage of Senate Bill (SB) 743 (Steinberg) to update the way transportation impacts are analyzed under CEQA for new land use and transportation projects. Previously, transportation analyses had been based on automobile delay, typically measured as “level of service,” or LOS. SB 743 also required the Governor’s Office of Planning and Research (OPR) to develop a new

metric for evaluating transportation impacts other than LOS to more appropriately balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of greenhouse gas emissions; and

WHEREAS, in 2018, OPR released updates to the state's CEQA Guidelines to implement SB 743 by replacing LOS with VMT as the most appropriate measure of a project's transportation impacts; this update was formally certified and adopted by the California Natural Resources Agency and codified as section 15064.3 of the CEQA Guidelines. Simultaneously, OPR released a Technical Advisory on Evaluating Transportation Impacts in CEQA. The Technical Advisory includes recommendations for thresholds of significance for evaluating impacts of office, residential and retail developments, and provides screening criteria for identifying the types of projects that can be presumed to have a less than significant impact; and

WHEREAS, as of July 1, 2020, all lead agencies are required to use VMT to measure transportation impacts, in accordance with section 15064.3 of the CEQA Guidelines; and

WHEREAS, The City Council has adopted a resolution (205-22) approving a vehicle miles traveled (VMT) Policy inclusive of establishing VMT as the appropriate metric for evaluating transportation-related impacts under CEQA, establishing VMT thresholds of significance, establishing screening criteria, establishing transportation demand management (TDM) strategies, and establishing a VMT mitigation banking program; and authorizing the Community Development Director to update the VMT thresholds of significance for land use projects ("VMT Policy"); and

WHEREAS, the City hired Kimley Horn and Associates to assist in the preparation of the VMT Policy, which included a nexus study that determined a monetary value of VMT in the City and the corresponding VMT In-Lieu fee that new development could elect to pay in lieu of creating reductions through project activities; and

WHEREAS, Kimley Horn provided the City with the nexus study (“Study”) that sets forth the reasonable relationship between the VMT impacts of the development project and the VMT In Lieu fee; and

WHEREAS, Government Code section 66018 applies to the adoption or increase of fees to which a specific statutory notice requirement does not apply; and,

WHEREAS, pursuant to Government Code section 66018 the enactment or increase in any fees to be charged for services must be adopted by the City Council by ordinance or resolution, after providing notice and holding a public hearing; and,

WHEREAS, pursuant to Government Code sections 66018 and 6062a, a notice of a public hearing on the proposed fee schedule was published on February 10th, 2023 and March 3, 2023 in the *Watsonville Register Pajaronian*, a newspaper of general circulation; and

WHEREAS, pursuant to Government Code sections 66016 and 66016.5, notice of the time and place of the meeting, including a general explanation of the matters to be considered and a statement that required data is available was mailed at least 30 days prior to the meeting to those members of the public who filed a written request with the City; and

WHEREAS, a duly noticed public hearing before the City Council was held on

March 14, 2023, at which public testimony was received and duly considered on the proposed new and increased fees; and

WHEREAS, at least ten (10) days prior to the public hearing referenced above, the City made available for public inspection information required under Government Code section 66018.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, AS FOLLOWS:

Section 1. The City Council finds that this Resolution 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.

Section 2. Findings. The City Council finds and determines as follows:

a) *The purpose of the VMT In Lieu fee is to reduce and/or mitigate project-generated VMT. This purpose is consistent with the goals and objectives of the City's Climate Action and Adaptation Plan (CAAP), and the guiding principles embodied in SB 743;*

b) *The VMT In Lieu fee will be used to fund a variety of trail and multi modal improvement projects identified and described in the VMT Policy;*

c) *The cumulative effects of future development will impact the City's mobility network and regional GHG emission levels. Such impacts are difficult to mitigate on a project-by-project basis. This VMT In Lieu fee will benefit future development by funding additional trail and multi modal improvements to reduce and/or mitigate project-related VMT impacts, in a fiscally prudent and cost-effective manner, consistent with the City's CAAP;*

d) *The cumulative effects of future development will impact the City's mobility network and regional GHG emission levels. The burden created by future development necessitates additional trail and multi modal improvements to reduce and/or mitigate VMT impacts, consistent with OPR guidance and the City's CAAP*

e) *The reasonable relationship between the VMT In Lieu fee for a specific project and the cost of multi-modal improvements attributable to the project is based on the overall VMT generated by the project. Apportioning program costs based on each project's VMT is consistent with current principles of transportation impact analysis.*

Section 3. Approval of Fee. The City Council approves and adopts the VMT In

Lieu fee, as set forth in Exhibit A.

Section 4. Master Fee Schedule. The VMT In Lieu fee shall supersede and replace any existing conflicting fees. The new fee shall be incorporated into the Master Fee Schedule

Section 5. Adoption of Study. The City Council approves and adopts the VMT Policy, which includes the nexus evaluation, attached to the Staff Report accompanying this action as Attachment 2.

Section 6. Effective Date. In accordance with Government Code section 66017, this Resolution shall be in full force and effect 60 days after its adoption, and shall be published or posted as required by law.

Section 7. Expenditure of Collected Fees

The City Council approves the VMT Policy that describes how VMT In Lieu fees are to be collected, managed and expended. The VMT Policy contains a list of projects that the VMT In-Lieu fee revenues may be used to fund, which satisfies the requirement that the City adopt a capital improvement plan for expenditure of the fee revenues, pursuant to Government Code section 66016.5.

The collected fees will be held in an account and expended on projects identified in the VMT Policy. The City Engineer will have authority to approve expenditure of funds and assumes all responsibility for the management of the account and associated annual and five year reporting requirements.

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.

Section 8. The VMT In-Lieu fee shall automatically increase starting on July 1, 2024, and in each year thereafter, in accordance with any increases in the Engineering News Record Construction Cost Index for the San Francisco Bay Area.

Section 9. Validity. The above recitations are true and correct, are material to the adoption of this Resolution, and are incorporated herein by reference.

Section 10. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Resolution be declared unconstitutional or invalid for any reason, such declaration shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have passed this Resolution and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared unconstitutional on their face or as applied.

Section 11. The City Clerk shall certify the adoption of this Resolution and shall cause a certified Resolution to be filed in the Office of the City Clerk.
