



Fresno COG Regional VMT Mitigation Program  
Stakeholders Advisory Committee Meeting #1  
May 19, 2022

**Presenters**

Kristine Cai – Fresno COG  
Braden Duran – Fresno COG  
Mike Schmitt – Kimley-Horn  
Chris Gregerson – Kimley-Horn

**Attendees**

Mohammad Khorsand – Fresno County  
Christopher Xiong - Caltrans D6  
Mike Prandini - BIAFM  
Carolina Ilic - Fresno Area Express (FAX)  
John Rowland - Peters Engineering Group  
Erin Haagenson – Fresno County  
Brian Spaunhurst - County of Fresno  
Santosh Bhattarai - Fresno COG  
Pankaj Joshi - Fresno COG  
Michael Osborn - City of Mendota  
Mohammad Alimi - Fresno County  
Jill Gormley - City of Fresno  
Janelle Del Campo - FCRTA  
Sophia Pagoulatos – City of Fresno  
Meg Prince - Fresno COG  
Jesus Orozco - City of Kerman  
Rodney Horton - City of Reedley  
Shichen Fan - Fresno COG  
Sean Smith - City of Clovis  
David Brletic – City of Sanger  
Bonique Emerson - Precision Civil Engineering  
Jerry Jones - City of Kerman  
Eric VonBerg - Rincon  
Rob Terry - City of Selma  
Karl Schoettler - Collins & Schoettler  
Gloria Hensley - Fresno County

**Meeting Summary**

*Background*

The meeting began with Fresno COG and Kimley-Horn staff introducing the project team followed by a discussion on the background on the project. This background discussion primarily focused on the fact that while VMT threshold and policy implementation has been successfully implemented by many agencies throughout the state, developing feasible mitigation solutions for projects with significant transportation impacts has remained a challenge. This is especially true for rural areas around the state

which often lack a reliable transit system and have less housing and job density compared to more urban areas within California.

**As described, the purpose of this project is to determine the feasibility of implementing a fee-based VMT mitigation program for the Fresno Region.** Note that the study has not predetermined that a program will be implemented.

Currently Fresno COG has developed VMT thresholds for the region, has VMT screening maps to help identify areas in Fresno County that fall below the thresholds for residential and non-residential land uses, and has developed a VMT estimation tool to help project applicants estimate the VMT for a project developed in the County. During the discussion, a representative of the City of Fresno also provided an update on their SB 743 efforts. This included the fact that the city has set their own thresholds and are working on developing their own VMT mitigation program. The City of Fresno has also developed an urban design calculator that can be used by developers or those completing an EIR to evaluate the implications to VMT of their design choices. As part of the VMT mitigation program under development, the city shared that they are also working on a VMT fee-based mitigation solution. The fee program is currently planned to be implemented in the fall of 2022.

### *Presentation*

Once the background and the purpose of the project was relayed to the Stakeholder Advisory Committee (SAC), the main presentation was undertaken. The presentation began by giving an overview of what is being asked of the members of SAC. The project team is primarily asking members of the SAC to attend four total meetings, including the kickoff meeting, provide direction on the project's methodology and analysis, review work products, and to ultimately participate in determining the appropriateness and feasibility of the resultant program for the Fresno Region.

The presentation included an overview of SB 743 and the history behind SB 743 for those attending the call who do not deal with SB 743 or VMT analyses on a day-to-day basis. This included the following:

- SB 743 is a law that went into effect as of July 2020 that replaces Level of Service (LOS) analyses with VMT analyses for the purpose of determining CEQA transportation impacts.
- The objectives of SB 743 include trying to reverse the negative trends that have resulted from development sprawl, improve sustainability, and reduce Greenhouse Gas (GHG) emissions.
- SB 743 goals can be primarily achieved by encouraging denser infill development, reducing single occupancy vehicle trips, and implementing policies that incentivize alternative modes of travel, including mass transit and active transportation.

The State of California provided guidance on setting VMT analysis policy and thresholds, most recently in December 2018. This guidance recommends that when performing VMT analyses for projects with multiple land uses, those land uses should be analyzed separately. This is due to the fact that different land use types have different travel characteristics associated with them. For example, a residential neighborhood will produce trips that not only travel to offices, but also to schools, shopping, restaurants, and entertainment while an office building will primarily attract trips from a residential area but may cast a wider net of trip origin locations than those trips being produced by the residential areas.

In terms of the history of SB 743, the following was highlighted:

- In September 2013, Darrel Steinberg (current Sacramento mayor, formerly of the California Senate) leads SB 743 passage

- In August 2014, the California Office of Planning and Research (OPR) releases the preliminary discussion draft of SB 743 guidelines
- In December 2014, Pasadena becomes the first City to adopt VMT for CEQA analysis
- In January 2016, OPR publishes revised SB 743 guidelines
- In March 2016, San Francisco becomes the next City to adopt VMT analysis guidelines
- In December 2018, OPR publishes the final guidelines
- In November 2019, the City of Sacramento is sued by the Citizens for Positive Growth & Preservation over SB 743 implementation
- In May 2020, Caltrans publishes an updated Transportation Impact Study Guide including references to VMT
- In July 2020, SB 743 implementation is required of all California jurisdictions
- In August 2020, Fresno COG provided a SB 743 training workshop
- In September 2020, Caltrans publishes their Transportation Analysis Framework outlining how they will review traffic studies moving forward
- In January 2020, Fresno COG's SB 743 Regional Guidelines are released
- In March 2021, Fresno COG releases their VMT analysis tool
- In June 2021, Caltrans and OPR kick off a multi-year SB 743 working group
- In September 2021, San Diego County rescinds its Transportation Study Guide outlining their methodology for performing VMT analyses
- In January 2022, CAPCOA releases an updated version of their Travel Demand Measures/GHG Reduction Measures Handbook. This document provides updated research and guidance on many measures that can be used to mitigate VMT impacts, though most measures are suited for urban and suburban contexts.

Following the SB 743 overview and history, CEQA and VMT mitigation was discussed. In terms of VMT mitigation for projects, the mitigation must be effective and enforceable. In this context, effective means that the mitigation would avoid or reduce a project's significant impact while enforceable means the mitigation is included in a condition of approval, an agreement between the jurisdiction and the project's owner, or the mitigation is incorporated into a plan, policy, regulation, or design. Many mitigations require ongoing monitoring to demonstrate that the VMT reduction implemented by the project applicant is effective. An example of a mitigation that requires monitoring is implementing a ridesharing or carpooling program by an employer. The monitoring program should answer the who, what, where, when, why, and how questions and provide a reporting mechanism so the jurisdiction can ensure that the stated VMT reductions are happening.

Often the best way to avoid the need for VMT mitigation is to carefully consider project elements during design, including such considerations as planning for a mixed use development or providing uses such as infill retail options. To date, in terms of VMT mitigation measures, the most common types have been Transportation Demand Measures (TDMs). Examples of common TDMs include Vanpools, guaranteed ride home programs, flexible work schedules, providing transit passes, or incentive programs to encourage alternative modes of travel from single occupancy vehicles. More recently, VMT banking and exchanges have become options for mitigating. These programs provide a way for development or transportation projects to pay into either a single or group of VMT mitigating projects for the purposes of addressing identified significant transportation impacts. This funding strategy can enable VMT reducing projects to be undertaken that generally are not able to be funded by any one development or transportation project. An additional benefit of this approach for a project applicant is that it does not require on-going mitigation monitoring to be carried out by the applicant.

As part of the presentation, the following major categories of fee-based VMT mitigation programs was presented:

- VMT Bank – Under a VMT Banking framework, multiple VMT reducing projects are grouped together and their associated VMT reductions are monetized in the form of credits. These credits are then purchased for the purposes of mitigating VMT in excess of a determined impact threshold. The underlying projects may be either regionally or locally beneficial to the area in which the project is located.
- VMT Exchange – VMT Exchanges are similar to VMT Banking with the exception that they deal with a single VMT-reducing project that can be established by the project applicant, other entity, or potentially be selected from a VMT Banking list. As this approach eliminates the need to convert a group of projects into equivalent VMT reducing credits, its administration could potentially be simplified and funding can be directed at a single preferred mitigation solution which may be of greater benefit to the project than alternatively funding many projects through a VMT Bank.
- VMT Mitigation Impact Fee Program – Some jurisdictions have also considered the creation or conversion of an existing Transportation Impact Mitigation (TIM) Fee Program to serve the purpose of promoting VMT reducing projects. This, however, can be complicated for most jurisdictions given that, to not be counterproductive in terms of VMT mitigation, all capacity-enhancing projects would need to be purged from the TIM Fee Program. Simply, a TIM Fee program cannot have roadway widening projects and be VMT mitigating at the same time. While a full conversion to VMT mitigation projects is feasible in some urban locations, most jurisdictions still desire to have some level of roadway widening/capacity enhancement within their programs for the purpose of facilitating travel and reducing congestion, even if the approach may be conflicting with SB 743 given that most capacity-enhancing projects result in induced demand and increased VMT. An important difference with a VMT Mitigation Impact Fee Program and a Banking/Exchange program is that every project would participate in it, not just those projects that require VMT mitigation under SB 743.

An overview of the induced demand phenomenon was also provided to explain why capacity-enhancing projects cannot be included in a VMT Mitigation Impact Fee Program and why many capacity-enhancing transportation projects will result in a significant transportation impact. Simply put, when additional capacity is provided on a roadway, while there may be a short-term gain in reducing delay on the roadway, in the long term it will encourage additional trips amongst existing users to be made, thus increasing VMT overall. These new trips are generated for a variety of reasons, some examples provided included; drivers who were using an alternative mode previously, but now are driving (e.g., driving instead of taking transit) or drivers who now choose to make a trip that previously they had forgone (e.g., someone going shopping or picking up dinner that was previously staying home for dinner). Specifically, for transportation projects in which capacity is increased, induced demand often results in a significant transportation impact. It was noted that for induced demand effected projects, feasible mitigation is still required by CEQA. In the future, transportation projects such as freeway widening may include a transit component to offset the increased VMT or the project applicant might seek to buy VMT banking credits to fund regional VMT reducing projects to mitigate their transportation project. The effects of induced demand on transportation programs are still being determined, although it is already clear that there will be significant changes to many transportation programs as a result.

A high-level overview of the legal requirements for VMT Banks, including the fact that VMT Banks must meet the requirements of both the Mitigation Fee Act (AB 1600) and CEQA, were presented. As

discussed, A VMT Bank will require more than showing a nexus and rough proportionality. The nexus will need to demonstrate the balance between the mitigation and the VMT impact while the proportionality will need to form the basis for calculating the mitigation cost. Fee-based VMT mitigation programs must also be able to show additionality and that their mitigation can be implemented in a reasonable time frame. The additionality requirement means that the mitigation cannot be funded elsewhere and while no hard and fast rule is provided for a reasonable time frame, a starting point of less than 10-years is likely reasonable. Both of these issues will be investigated as part of this study.

A fee-based VMT mitigation program requires CEQA clearance, but it may be cleared with CEQA exemptions, although this has not yet been tested. There are many parallels to fee-based VMT mitigation programs and GHG mitigation programs and wetland mitigation programs. Case law for GHG CEQA projects provides guidance on the features needed to pass legal muster.

Once the VMT mitigation overview was completed, the work plan for this project was introduced. Fresno COG, Kimley-Horn, and RSG are collaborating to deliver this project by completing the following major tasks:

- Task 1 – Convene a Stakeholder Advisory Committee (SAC), the purpose of this meeting
- Task 2 – Complete a literature review of VMT mitigation programs and SB 743
- Task 3 – Convene a Technical Advisory Committee (TAC)
- Task 4 – Develop a VMT Mitigation Framework
  - Task 4A – Estimation of Mitigation need
  - Task 4B – Develop Evaluation Criteria
  - Task 4C – Identify VMT Framework Options
- Task 5 – Evaluate and Recommend a VMT Mitigation Framework
- Task 6 – Develop and Publish a Draft Report
- Task 7 – Present project report to Committees and Policy Board for acceptance

The result of the project will not be a VMT Bank or VMT Exchange, but a recommendation of which to pursue and an evaluation of the recommended program including which types of projects to include, the amount of VMT that the program could reduce, and whether to split the program into smaller sub-programs to be implemented by the local jurisdictions within Fresno County. Candidate program evaluation will include evaluation of the following:

- The anticipated VMT mitigation return on investment (ROI)
- Equity
- Total cost
- Timeliness and schedule
- Feasibility
- Stakeholder, decision-maker, and public support

When identifying the fee-based VMT mitigation program to be recommended for implementation, the following items will be considered:

- Identifying the location and likely timing of future development and transportation projects already programmed.
- Screening potential development and transportation projects to determine mitigation requirements.

- Determining the extent of “feasible mitigation” which is the maximum reasonable contribution to a fee-based VMT mitigation program, irrespective of the actual required VMT mitigation required to mitigate a significant transportation impact.
- Evaluating the impact to project feasibility, affordability, and other financial considerations.

As a part of documenting the recommended fee- based VMT mitigation program and the analysis results, the following items will be addressed:

- Establishing an approval process
- Legal reviews
- Public notices
- CEQA review as appropriate
- Establishing required intergovernmental agreements (IGAs)

Several lessons were learned from implementing VMT Mitigation Banks/Exchanges in the cities of Tracy, Watsonville and Salinas. They include the following:

- Be selective about projects, they need to have a good ROI because otherwise the cost per VMT will become so high that no project applicant will be able to effectively fully mitigate their impact and the program may struggle to be successful.
- Understand that implementing a fee-based VMT mitigation program provides project applicants with an additional feasible mitigation option.
- A fee-based VM mitigation program may need address setting a limit on what is determined to be “feasible” in terms of maximum feasible VMT reduction requirement.
- When evaluating a potential fee-based VMT mitigation program, an iterative process will need to be undertaken to test projects to be included in the program and the program itself will should be tested with real or hypothetical projects. This will help to understand the total mitigation a typical development or transportation project may have to purchase within a proposed fee-based VMT mitigation program.
- Ensure there is a robust and thorough documentation of the nexus between the mitigation program and the impacts that are mitigated by the program
- Consider project applicants’ perspectives as their support is helpful to ensuring that a fee-based VMT mitigation program will be successful.
- Equity should be considered to ensure that there is an even distribution of benefits and impacts resulting from a fee-based VMT mitigation program among all populations within a jurisdiction.
- Understand that implementing a fee-based VMT mitigation program adds a new fee that more than likely will be passed on to the customer. Housing costs are already a major issue in California and when evaluating the VMT mitigation program options, this should be taken into consideration.
- It is important to quantify the market and timing need for VMT mitigation within the region so that the program is responsive to forecasted need.
- Understand that there may be unintended consequences resulting from the implementation of a fee-based VMT mitigation program and think through possible outcomes not directly related to the program.

A summary of the literature review that has been completed by the project team to date was provided. These major themes presented included:

- Agencies need to verify VMT reductions through analytical methods and prove the additionality of projects included in a fee-based VMT mitigation program.
- Agencies need to address VMT mitigation timeliness as part of program development.

- A VMT exchange could limit the usefulness of funds from smaller developments.
- Implementing new plans and programs such as the fee-based VMT mitigation program might increase end-user costs.
- Attention needs to be given to impacts to disadvantaged communities in terms of equity considerations and distribution of benefits and any impacts of the program.
- On-site mitigation should be undertaken first before project applicants consider paying into a fee-based VMT mitigation program.
- VMT Banks and Exchanges are believed to be able to comprehensively address VMT impacts as long as the above considerations are addressed and good guidance is established.

The project schedule was reviewed and as described is expected to last through the beginning of 2023 bring the total duration of the project to approximately one year. It is expected that the SAC will meet again at the beginning of August, end of September, and beginning of November in 2022. In addition, the following take-aways were provided for the SAC members at the conclusion of the presentation:

- Good project design can avoid the need for mitigation.
- CEQA requires feasible mitigation.
- Travel Demand Measure (TDM) research is lagging and estimating VMT reductions is complicated,
- TDM mitigation monitoring can cause administrative headaches.
- VMT impact fees, banking, exchanges, and hybrids are being considered.
- VMT banking requires nexus and rough proportionality.
- VMT banking can reduce TIFs and provide needed mitigation.
- Roadway project mitigation may be a good fit for VMT Banking or Exchanges.

At the conclusion of the presentation, a period of question and answer followed. The following is an overview of the questions asked and the answers provided:

- An attendee asked a question whether there will be a call for potential projects from agencies and what types of projects will be requested?
  - Answer: yes, but each project will need to be evaluated for potential inclusion in the program as all projects will require a feasible ROI.
  - The timeliness of the project also needs to be considered because it cannot be planned to be constructed beyond ~10 years. It was also noted that the question of timeliness will be addressed as part of the study.
- A question was asked about the gap between a project being constructed and the mitigation being constructed given the timing of funding a potential program?
  - The answer included a discussion on the wetlands mitigation program run by the state that can be used as an example for this exact situation where a mitigation is constructed later once it is fully funded even if a project has already been completed.
  - The timeliness of a project was also discussed as it pertains to CEQA. There is no hard and fast timeline provided by CEQA, only a requirement that the timing be “reasonable.” So therefore, it doesn’t have to happen on day 1 of the project, but also can’t be 20 years later.
- A question was asked in regards to whether there were certain criteria for a project to be added to the mitigation program?
  - It was noted that as part of the study, a comprehensive set of criteria would be developed in cooperation with the SAC.
  - It was further clarified that the study will develop guidelines on adding projects to the mitigation program, but it may not include strict quantitative requirements.

- A question was asked in regards to whether a project can be in the RTP, a jurisdiction's CIP, or other programs and also be added to the VMT mitigation program?
  - The answer centered on additionality, where in it is understood that a project can not be already adequately funded and then be added to a fee-based VMT mitigation program. Other points included:
    - Tier 2 of an RTP, not included in a CIP, are good places to look for candidate projects.
    - There is also some uncertainty about the amount of funding that is tied to a project that applies to additionality. E.g. can a project be in Tier 1 of an RTP, but not be full funded and then added to the mitigation program with its identified funding being reallocated? Or could the provision of immediate funding that substantially moves a project's schedule up be a different option?
- A question was asked in regards to how a mitigation program be affected if a City adopts a 15% VMT reduction threshold while the County or another jurisdiction uses a 13% reduction threshold?
  - The mitigation program shouldn't be affected, but we want to be sensitive to the project's location and avoid unintended financial incentives driving where a project may seek to locate.
  - A follow up question was asked about whether every City has to be involved in the mitigation program even if they don't have an adopted VMT threshold?
    - If a City does not have an adopted threshold, it would be reasonable to assume they could default to the State's 15% threshold below the average for per/capita and per/employee types of thresholds (residential and office for example).
    - However, a City is not required to be involved in the VMT mitigation program and joining the fee-based VMT mitigation program is voluntary.
- A question was asked in regards to the projects within the short-range transit plan, but that are not included in the FTIP - can they be included in a fee-based VMT mitigation program?
  - Yes, these projects can be included because they are not included in the FTIP so they are not funded projects.
- A question was asked in regards to what if very few cities choose to participate in a fee-based VMT mitigation program, could it still be successful?
  - The answer/response was that the fewer jurisdictions that choose to participate, the less successful the program would likely be given that it could create funding gaps and potential financial incentives that may drive unintended consequences.
- A comment was made by Eric Vonberg, that CEQA documentation about bridging the gap between 13% thresholds and 15% thresholds is available and that agencies can contact him for further information.
- A question was asked in regards to how the implementation of a fee-based VMT mitigation program could affect the housing crisis?
  - This was noted as a good point because as with any fee program, the costs may be passed on to the end user (the homeowner in this example) - so the study does need to carefully consider this.
  - However, the point was also made that developers don't like uncertainty and that a fee-based VMT mitigation program may help them address CEQA uncertainties given they can potentially eliminate significant impacts at a known cost.
- A question was asked in regards to whether a fee-based VMT mitigation program could operate like a fee program rather than a VMT Bank and whether projects would have to pay fees even if they were below the VMT threshold?



- The answer was that if a VMT-based impact fee program was chosen then it would operate like a more traditional impact fee program where everyone participates. Depending on how it is designed, the program could have limited potential to address development and transportation CEQA impacts, although the specific program design would drive this determination.
- A question was asked in regards to how many jurisdictions chose 13% reduction as the VMT threshold instead of 15% and whether a jurisdiction could change to 13% from a 15% threshold.
  - The answer stated noted that substantial evidence has to be provided to use thresholds that are lower than 15% and Fresno COG staff indicated this evidence was provided
  - Other jurisdictions in the state have also adopted thresholds that are lower than 15%, but some are more questionable than others.
  - It was also reiterated that substantial evidence has been developed for the 13% goal used by several jurisdictions in the Fresno region.
- A question was asked in regards to whether projects that do not have enough funding in a city's developer's impact fee (DIF) program could they be included in the VMT mitigation program
  - The answer is likely yes but the focus would need to be on the funding source and whether it could be reallocated or not so that the additionality requirement is still able to be met.
- The final question was in two parts. 1) Can all jurisdictions participate regardless of their adopted thresholds? 2) Is a certain percentage of the mitigation program spent on local projects vs regional projects?
  - Yes, all jurisdictions can participate regardless of their adopted thresholds.
  - As a part of completing the study, there is a need to determine what is feasible in terms of funding local vs regional projects. As a part of the SAC meetings, we are soliciting guidance on this very question as there is no predetermined outcome for the study.