RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APROVING AMENDMENTS TO CITY COUNCIL POLICY 5-1, ENTITLED "TRANSPORTATION ANALYSIS POLICY" TO STREAMLINE ENVIRONMENTAL REVIEW UNDER VEHICLE MILES TRAVELED (VMT) FOR AFFORDABLE HOUSING AND MARKET RATE HOUSING PROJECTS IN DESIGNATED CITY PLANNED GROWTH AREAS, AND TO PROVIDE A PROCESS FOR CITY COUNCIL TO CONSIDER ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR HOUSING PROJECTS MEETING THE LAND USE POLICIES OF THE GENERAL PLAN WITH SIGNIFICANT AND UNAVOIDABLE VMT IMPACTS

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, the California Office of Planning and Research develops the CEQA Guidelines to interpret CEQA statutes and published court decisions, including several appendices to the CEQA Guidelines that contain forms and guidance for lead agencies when performing environmental review; and

WHEREAS, in order to carry out their mandate under CEOA, public agencies are encouraged to develop standards and procedures necessary to evaluate their actions, including thresholds of significance; and

WHEREAS, thresholds of significance are identifiable quantitative, qualitative or performance level measures of a particular environmental effect, non-compliance with

which means the effect will normally be determined to be significant, and compliance with which means the effect normally will be determined to be less than significant; and

WHEREAS, in circumstances where public agencies decide to develop their own thresholds of significance for general use, the CEQA Guidelines provide that thresholds of significance must be formally adopted through a public review process and supported by substantial evidence; and

WHEREAS, the City of San José ("City"), as a lead agency on certain projects, implements CEQA pursuant to Title 21 of the San José Municipal Code; and

WHEREAS, in 2013, the State of California Legislature passed and Governor Brown signed Senate Bill 743 (Steinberg) which directs the California Office of Planning and Research to produce new CEQA guidance for cities that removes automobile Level of Service (LOS) from transportation analysis under CEQA and replaces it with Vehicles Miles Travelled (VMT), or another measure that "promote[s] the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses;" the intent of this change is to shift the focus of transportation analysis from driver delay to the reduction of greenhouse gas (GHG) emissions, creation of multimodal networks, and promotion of integrated land uses; and

WHEREAS, in 2018, the City Council adopted City Council Policy 5-1 to bring the City of San José's transportation analysis in line with State and City goals as directed in Senate Bill 743 and the Envision San José 2040 General Plan; and

WHEREAS, City Council Policy 5-1 establishes:

1) The transportation analysis framework for proposed developments, land use plans, and transportation projects in the City of San José;

2) VMT based analysis for transportation impacts under CEQA; and

3) The requirement that projects perform Local Transportation Analysis to analyze their conformance with the multimodal transportation strategies, goals, and policies in the General Plan and address adverse effects found in that analysis to the transportation system.

WHEREAS, City Council directed staff to continue work to refine Council Policy 5-1, reporting back on the implementation of Policy 5-1, once sufficient experience is accumulated, and evaluate additional City policies and practices related to transportation and new development; and

WHEREAS, since the adoption of the Council Policy 5-1 in 2018, land use development in San José has provided substantial information to evaluate the performance of the policy and its impact on City goals; and

WHEREAS, City staff has continued to review best practices and experiences, soliciting input from stakeholders, and conceptualizing policies based on State guidance, the General Plan, and input received:

- City staff has held multiple sessions with the Santa Clara Valley Transportation Authority (VTA) and involved members of the VTA Joint Land Use Integration and Systems Operations Management Working Group on VMT.

- City staff are involved members of the Big Cities VMT Working Group and California VMT Exchange Working Group, subcommittees of the California City Transportation Initiative (CaCTI).

- Staff also solicited input and received feedback through the City website (www.sanjoseca.gov/vmt).

WHEREAS, the City proposes to amend Council Policy 5-1 to streamline environmental review under VMT for affordable housing and market rate housing projects, and to provide a process for City Council to consider adopting a Statement of Overriding Considerations under CEQA for housing projects meeting the land use policies of the General Plan with Significant and Unavoidable VMT Impacts in high VMT areas; and

WHEREAS, on November 16, 2022 the Planning Commission held a public hearing to consider the amendments to Council Policy 5-1, at which hearing interested persons were given the opportunity to appear and present their views with respect to said proposed amendment; and

WHEREAS, at the conclusion of the public hearing, the Planning Commission transmitted its recommendations to the City Council on the proposed amendments to Council Policy 5-1; and

WHEREAS, pursuant to the provisions and requirements of CEQA, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code, the Director of Planning, Building and Code Enforcement has determined that the provisions of this Resolution do not constitute a project, under File No. PP17-008 (General Procedure & Policy Making resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Resolution and has considered the environmental clearance described above prior to taking any action on this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

1. The recitals above are incorporated herein as findings for the amendment of City Council Policy 5-1.

2. City Council Policy 5-1, entitled "Transportation Analysis Policy", is hereby amended as set forth in Exhibit "A" attached hereto and fully incorporated herein.

3. This Resolution will be effective sixty (60) days after adoption of this Resolution by the City Council, with the exception of the changes to City Council Policy 5-1 related to Statement of Overriding Considerations, as set forth in Section 1.D and Section D.2.C. of Appendix B of City Council Policy 5-1, which will not be effective until the City Council approves amendments to the General Plan to be consistent with these sections and those General Plan amendments are effective.

ADOPTED this _____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

STATE OF CALIFORNIA)
) ss
COUNTY OF SANTA CLARA)

I hereby certify that the amendments to the City Council Policy 5-1 specified in the attached Exhibit A were adopted by the City Council of the City of San José on November 29th, 2022 as stated in its Resolution No. _____.

Dated: _____

_____

TONI J. TABER, CMC
City Clerk

City of San José, California

COUNCIL POLICY

TITLE	PAGE	POLICY NUMBER
Transportation Analysis Policy	**1 of 15**	**5-1**
EFFECTIVE DATE March 29, 2018	**REVISED DATE**	
APPROVED BY COUNCIL ACTION February 27, 2018 by Resolution No. 78520		

BACKGROUND

This Council Policy 5-1, "Transportation Analysis Policy" ("Policy"), replaced the existing Council Policy 5-3, "Transportation Impact Policy" as the Policy for transportation development review in the City of San José ("City"). This Policy aligns the City's transportation analysis with California Senate Bill 743 ("SB 743") and the City's goals as set forth in the City's Envision San José 2040 General Plan ("General Plan"). This Policy establishes the thresholds for transportation impacts under the California Environmental Quality Act ("CEQA"), removing transportation *Level of Service ("LOS")* and replacing it with *Vehicle Miles Traveled ("VMT").* Appendix A defines terms in this Policy noted in Italics.

The City's General Plan sets forth a vision and comprehensive road map to guide the City's continued growth through the year 2040. The General Plan strategically links land use and transportation to reduce the environmental impacts of growth by promoting compact mixed-use development that supports walking, biking, and transit use. The General Plan seeks to focus new developments in Planned Growth Areas, bringing together office, residential, and service land uses to *internalize trips* and reduce *VMT*. The General Plan also encourages the development and use of non-automobile transportation modes to minimize vehicle trip generation and reduce *VMT.*

APPLICABILITY OF POLICY (PIPELINE PROVISIONS)

This Policy is effective thirty (30) days after approval by the City Council ("Effective Date"). Any proposed development project (including adjustments or amendments to existing projects) with a complete Universal Planning Application on file with the Department of Building, Planning, and Code Enforcement on or after the Effective Date shall comply with this Policy, except for the following:

1. Interim Period: The City may determine in writing that a proposed project with a complete Universal Planning Application and an approved transportation work scope issued by the Department of Public Works prior to the Effective Date can (a) proceed with transportation analysis and comply with the existing Council Policy 5-3, provided that a final transportation work scope was issued by the Department of Public Works within one year prior to the Effective Date of this Policy; or (b) proceed with CEQA transportation analysis under VMT and comply with this Policy. Prior written approval from the Public Works Director is required to determine compliance with existing Council Policy 5-3 or this Policy. For example, if a project submits a complete Universal Planning Application prior to the Effective Date, the project applicant may proceed with traffic analysis under existing City Council Policy 5-3 or with prior written approval from the Public Works Director to proceed under this Policy.

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2. Subsequent Reviews: The City may determine in writing that subsequent discretionary approval(s) required for a project approved prior to the Effective Date may continue to be analyzed under the prior environmental clearance and existing City Council Policy 5-3 after the Effective Date; provided there is no Substantial Change to the project, as defined in California Public Resources Code Section 21166 and CEQA Guidelines Sections 15162-15164.

   For example, if the City approved an environmental impact report (EIR) or mitigated negative declaration (MND) for a project prior to the Effective Date, the City may determine that subsequent discretionary approvals required after the Effective Date may continue to be analyzed under the previously approved environmental impact report or mitigated negative declaration for the project if there is no Substantial Change.

   In such instances, the City may determine that the proposed project is consistent with the previously approved environmental clearance (use of a previously certified EIR/MND). If the proposed project is still within the scope of and fully evaluated in the previously approved environmental clearance and only minor technical changes have been made to the proposed project and there are no Substantial Changes, an addendum to the previously certified EIR/MND may be adequate as defined in CEQA Guidelines Section 15164.

3. Subsequent Review for Projects in Existing Area Development Policies (ADPs) and Transportation Development Policies (TDPs): The City may determine in writing that a proposed project be analyzed under the previously approved environmental clearance for the ADPs/TDPs and City Council Policy 5-3 if there is No Substantial Change, as defined in California Public Resources Code Section 21166 and CEQA Guidelines Sections 15162-15164. To be eligible for this determination, the proposed project that submits a complete Universal Planning Application after the Effective Date of this Policy must be located within an existing ADP or TDP area.

   For example, if a new project located within the North San José ADP submits a complete Universal Planning Application after the Effective Date, the City may determine that the project be analyzed under the previously approved North San José ADP EIR, if the proposed project is consistent with the previously approved EIR. If the proposed project is within the scope and fully evaluated in the previously approved EIR and only minor technical changes have been made to the proposed project and there are no Substantial Changes, an addendum to the previously approved EIR may be adequate as defined in CEQA Guidelines Section 15164.

   Existing ADPs and TDPs include the Evergreen-East Hills Development Policy, North San José Area Development Policy, Edenvale Area Development Policy, US-101/Oakland/Mabury Transportation Development Policy, and I-280/Winchester Boulevard Interchange Transportation Development Policy.

All projects located within an existing ADP or TDP area shall continue to be subject to any traffic impact fees adopted by the City Council. Adoption of this Policy does not negate, supersede, or otherwise modify existing requirements or permit conditions.

PURPOSE

This Policy establishes:

1) VMT as the metric to measure transportation environmental impacts in conformance with CEQA.

2) The Transportation Analysis framework for proposed developments, land use plans, transportation projects, and any other plans or developments (collectively "Projects" in this Policy) in the City.

3) The requirement that Projects perform Local Transportation Analysis (LTA) to demonstrate conformance with multimodal transportation strategies, goals, and policies in the General Plan and address adverse effects to the transportation system.

POLICY

San José is establishing *VMT* as the metric for CEQA transportation analysis to foster a more sustainable and vibrant city. *VMT*-based policies support dense, mixed-use, infill Projects as established in the General Plan's Planned Growth Areas. By establishing a transportation system which encourages improved land uses with viable transportation options, this Policy provides resources to develop a robust multimodal transportation network as envisioned in the General Plan. Projects consistent with this Policy will reduce the City's environmental footprint from transportation and land uses, and create lively places served by a variety of transportation options.

Transportation Analysis Framework

A Transportation Analysis (TA) for a proposed Project provides information the City must have to inform the CEQA environmental review and decision-making processes. Projects that need transportation evaluation must prepare a TA report consisting of a CEQA VMT evaluation and/or LTA. Sections I and II below describe the Policy provisions guiding the VMT evaluation and LTA. Appendix B, "Policy Implementation Procedures" provides implementation details.

Detailed methodologies and requirements are explained in the City's *Transportation Analysis Handbook*. TA's must comply with relevant professional standards and the methodology included within the City's *Transportation Analysis Handbook*, which can be found on the Department of Public Works Development Services website. Appendix C presents a flow chart of the TA process.

I. Vehicle Miles Traveled CEQA Transportation Analysis

In accordance with CEQA, all proposed Projects are required to analyze transportation as a component of environmental review. This Policy establishes:

1) screening criteria under which Projects are not required to submit detailed VMT analysis;
2) thresholds for identifying transportation environmental impact;
3) requirements for Projects to mitigate significant transportation impacts; and
4) the City's mechanism for reviewing Projects with significant and unavoidable impacts, all under CEQA.

Projects that do not meet the screening criteria are required to prepare a detailed VMT analysis and identify potential transportation impacts and propose mitigations and/or improvements.

A. Project Screening Criteria

The requirements to prepare a detailed VMT analysis applies to all Projects except the following types of Projects because the City Council finds, as documented in the administrative record for this Policy that these Projects will further City goals and policies and will not result in significant transportation impacts:

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1. Small Infill Projects;
2. Local-Serving Retail;
3. Local-Serving Public Facilities;
4. Transit Supportive Projects in Planned Growth Areas with ~~Low VMT and~~ High Quality Transit;
5. Restricted Affordable, Transit Supportive Residential Projects in ~~Planned Growth~~ areas with High Quality Transit;
6. Transportation Projects that reduce or do not increase VMT.

These screening criteria are further defined and explained in Appendix B.

B. **Vehicle Miles Traveled CEQA Transportation Thresholds of Significance**
Projects that do not meet the above screening criteria must include a detailed evaluation of the VMT produced by the Project. The thresholds of significance used to measure VMT are described by Project type in Table 1. Projects that have a significant VMT must include feasible mitigation measures which will avoid or substantially lessen such significant effects.

Table 1 - Project Type and VMT Thresholds of Significance[1]

Project Types (as categorized in the General Plan)	**Threshold for Determination of Significant Transportation Impact**
Residential Uses	*VMT* per resident greater than the more stringent of the following thresholds: 1) 15 percent below the Citywide per resident *VMT*, OR 2) 15 percent below regional *VMT* per resident.
General Employment Uses (e.g. office, R&D, senior assisted living)	*VMT* per employee greater than 15 percent below existing regional *VMT* per employee.
Industrial Employment Uses (e.g. warehouse, manufacturing ~~and~~ distribution uses, and mini storage)	*VMT* per employee greater than existing regional *VMT* per employee.
Retail Uses (~~Including~~ Hotel/Motel, gas station, and car wash)	A net increase in the total existing *VMT* for the region.
Educational Uses (e.g. Day Care, K-12 schools, college/university)	A net increase in the total existing *VMT* for the region.
Public/Quasi-Public Uses	Public/Quasi-Public land use projects will be analyzed using the most relevant threshold as determined by Public Works Director for the proposed use on the site from the enumerated project types in this Table 1.

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Mixed-Uses	Each land use component of a mixed-use project will be analyzed independently, applying the significance threshold for each land use component from the enumerated project types in this Table 1.
Change of Use or Additions to Existing Development	Changes of use or additions to existing development will be analyzed applying the significance threshold for each land use component from the enumerated project types in this Table 1.
Urban Village, Station Area Plans, Development Policy, Specific Strategy or Other Area Plans	Each land use component will be analyzed independently, applying the significance threshold for each land use component from the enumerated project types in this Table 1.
General Plan Amendments	General Plan Amendments will be analyzed in conformance with the General Plan's definition of *VMT*. An increase in City total *VMT* is a significant transportation impact.
Transportation Projects	Net increase in *VMT* greater than that consistent with the Regional Sustainable Communities Strategy.

C. Less than Significant Impact with Mitigation

If a Project is found to have a significant impact on *VMT*, the impact must be reduced by modifying Project *VMT* to an acceptable level (below the established thresholds of significance applicable to the Project) and/or mitigating the impact through multimodal transportation improvements, or establishing a *Trip Cap*.

D. **Significant and Unavoidable Impacts**

If a Project cannot fully mitigate its impacts on *VMT*, the Project applicant may:

i. Propose to modify the Project such that the impacts on VMT can be mitigated to a less than significant level;
ii. Relocate the Project to a low VMT site; or
iii. Request the City Council to adopt a Statement of Overriding Considerations for the significant impact on VMT as part of an EIR certification.

When significant impacts are unavoidable, a detailed statement of overriding considerations in addition to findings are required as defined in CEQA Guidelines Sections 15191 and 15193. Based on the General Plan and State CEQA Guidelines, this Policy finds that benefits of certain projects may outweigh the unavoidable significant impacts on VMT and could be considered acceptable in certain circumstances as outlined below:

i. The Project is consistent with the 2040 General Plan and demonstrates overriding benefits in accordance with Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3); and

ii. The Project mitigates its VMT impacts to the maximum extent feasible per the City's VMT Evaluation Tool; and

iii. The Project is either:

a. 100% affordable residential project, or

b. The Project constructs or funds multimodal transportation improvements as detailed in Appendix B and is:

(i) Market-rate housing located within Urban Villages as defined in the City's General Plan;

(ii) Market rate housing consistent with the City's General Plan land use designation effective on November 29, 2022 or future City initiated amendments[1];

(iii) Commercial; or

(iv) Industrial.

A statement of overriding considerations may also be warranted in certain other circumstances such as Projects' impacts on other jurisdictions facilities (e.g., freeway impacts) that are not measured with VMT metric.

II. Local Transportation Analysis

The following section establishes the City's LTA requirements. All Projects may be required to submit an LTA as determined by the Public Works Director. Land use and area plans typically do not have sufficient detail to conduct an LTA and therefore, may not be required to perform one until a specific development Project application is filed consistent with the land use or area plan. An LTA analyzes the effects of a Project on transportation, access, circulation, and related safety elements proximate to the Project and establishes consistency with the General Plan or other City requirements. An LTA proposes improvements to address adverse effects identified in the analysis. Components of an LTA are discussed in the City's Transportation Analysis Handbook and include, but are not limited to:

- Local operational analysis, including safety and signalized intersection operations;
- Site access and circulation analysis;
- Local neighborhood effects analysis;
- Local multimodal analysis;
- Compliance with the County's Congestion Management Program.

LTAs provide additional information to evaluate transportation conditions proximate to a Project and supplements the *VMT* analysis. LTAs implement the multimodal vision of the City's General Plan. The General Plan directs new development to help build out the inter-connected, multimodal transportation networks needed to fulfil its vision. The following General Plan Policies guide the implementation of LTAs:

CD-3.3 - Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian

[1] Amendments to General Plan Policy TR-1.4 will need to be made to implement Section 1.D above and Section D.2.c. of Appendix B of this Policy. Therefore, the effective date of the changes to Section 1.D above and Section D.2.c shall be the same as the effective date to the amendments to General Plan Policy TR-1.4 authorizing the implementation of these sections.

facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

LU-9.1 - Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas.

PR-8.5 - Encourage all developers to install and maintain trails when new development occurs adjacent to a designated trail location. Use the City's Parkland Dedication Ordinance and Park Impact Ordinance to have residential developers build trails when new residential development occurs adjacent to a designated trail location, consistent with other parkland priorities. Encourage developers or property owners to enter formal agreements with the City to maintain trails adjacent to their properties.

TR-1.2 - Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

TR-1.4 - Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

TR-2.8 - Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

An LTA must identify the existing condition of pedestrian, bicycle, transit and vehicular transportation systems and facilities that would serve, or may be affected by, the proposed Project. Further analysis of site design and access, neighborhood traffic issues, local transportation safety and other area transportation issues may also be studied as specified in the City's Transportation Analysis Handbook and as determined by the City's Departments of Public Works. The Project applicant must complete the proposed LTA prior to, or in conjunction with, the Project's environmental review requirements.

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APPENDIX A
TO CITY COUNCIL POLICY 5-1
DEFINITIONS OF TERMS

Term	Definition
High Quality Transit Areas	High quality transit areas are within one half mile of a *high quality transit corridor* or *major transit stop*.
High Quality Transit Corridor	Pub. Resources Code § 21155 (b), as may be amended: "A high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours".
Internalized trips	Are trips that occur within a Project area whereas they would normally begin or end at further locations outside the Project area.
Level of Service (LOS)	Is a measure of automobile delay through a roadway facility, graded on a scale A through F.
Major Transit Stop	Pub. Resources Code § 21064.3, as may be amended: "'Major transit stop' means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods".
Planned Growth Areas	Areas designated in the City's General Plan to accommodate certain growth expected in the General Plan's horizon.
Transportation Demand Management (TDM)	Strategies to incentivize the more efficient use of existing transportation infrastructure through modal change particularly the encouragement of pedestrian, bike, and transit use.
Trip Cap	A maximum number of vehicle trips that a Project can generate on any given day.
Vehicle Miles Traveled (VMT)	As used in this Policy, a measure of the amount of automobile travel associated with a Project. *VMT* is measured by multiplying the total vehicle trips by the average distance of those trips, adjusted for the number of people in the vehicles. For residential and employment land uses, *VMT* is measured for each person who will occupy or use a Project. For large retail and transportation Projects, the net amount of *VMT* is measured.

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APPENDIX B
TO CITY COUNCIL POLICY 5-1
POLICY IMPLEMENTATION PROCEDURES

The Project applicant[2] must submit a Transportation Analysis (TA) that identifies:

1) Potential transportation impacts as defined in the *VMT* section of this Policy and adverse effects on nearby transportation facilities as identified by the LTA section of this Policy.

2) Mitigations for significant impacts found in the *VMT* analysis and improvements to address adverse effects identified in the LTA analysis. This may include impacts and adverse effects on any multimodal transportation facility (e.g., pedestrian facilities, transit stops, transit reliability, sidewalks, bicycle lanes, roadways, and roadway capacity, etc.).

Both the *VMT* analysis and LTA must comply with professional standards and the methodology included in the City's Transportation Analysis Handbook. TAs must be prepared by a qualified traffic engineer to the satisfaction of the Director of Public Works.

The City's Transportation Analysis Handbook has instructions and procedures to prepare a TA, including the criteria for determination of significance of transportation impacts and to evaluate the effectiveness of mitigation measures. The City's Department of Transportation maintains this Handbook and posts it to the City Public Work's Development Services website. The Handbook is updated on a periodic basis to include evolving industry best practices.

CEQA VMT Implementation Procedures

CEQA Guidelines Section 15126.2 requires that environmental documents determine significant or potentially significant impacts as part of environmental review, including assessment of traffic and transportation effects. The CEQA VMT Implementation Procedures include the following determinations:

- Project Screening Criteria
- CEQA VMT Transportation Thresholds of Significance
- Less than Significant with and without Mitigation/s
- Significant and Unavoidable Impacts

These determinations are further explained below.

A. **Project Screening Criteria**

The requirement to perform detailed *VMT* analysis applies to all Projects except the types of Projects that meet the following screening criteria because the Council finds that these Projects will not result in significant transportation impacts and will advance other City goals and policies:

1. **Small Infill Projects:** The City Council finds that these Projects, individually and cumulatively, will not result in significant impacts on the transportation system and will conform to the City's General Plan, and other City goals and policies:

a. All office buildings of 10,000 square feet of gross floor area or less.
b. All industrial buildings of 30,000 square feet of gross floor area or less.
c. All hotel/motel Projects of 150 or fewer rooms
~~c~~d. All single-family detached residential Projects of 15 or fewer dwelling units.
~~d~~e. All single-family attached or multi-family residential Projects of 25 or fewer units.

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In no case shall any of these above types of small infill Projects meet the screening criteria if they are increments of a larger Project or "site" as defined in Chapter 20.200 of the San José Municipal Code.

2. **Local-Serving Retail:** Local-serving retail typically diverts existing trips from established local retail to new local retail without measurably increasing trips outside of the area. In recognition of this effect, retail commercial Projects up to a combined total of 100,000 gross square feet meet the City's screening criteria. This criterion is not applicable to ~~hotels/motels, given disparate and context-specific travel patterns, or~~ Projects that contain drive-through ~~retail~~ restaurants as defined in City Council Policy 6-10 "Criteria for the Review of Drive-through Uses", due to the high auto-traffic volume associated with this type of Project.

   ~~In no case shall a Project meet the screening criteria if it is an increment of a larger Project or "site" as defined in Chapter 20.200 of the San José Municipal Code.~~ In no case shall a Project meet the screening criteria if it is an increment of more than 10 percent (10%) of the gross floor area of a lager Project or "site" as defined in Chapter 20.200 of the San José Municipal Code.

3. **Local-Serving Public Facilities:** Local-serving public facilities either produce very low *VMT* or divert existing trips from established local facilities to new local facilities without measurably increasing trips outside of the area. For these reasons, they meet the City's screening criteria. These facilities must be publicly owned or controlled; this does not include schools, public or private. Examples of these Projects are:

   i. Branch Library
   ii. Community Center
   iii. Fire station
   iv. Pumping station
   v. ~~Passive~~ Parks

4. **Transit Supportive Projects in *Planned Growth Areas* ~~with Low *VMT*~~ and *High Quality Transit*:** In accordance with State Law and the City's General Plan, proposed transit supportive Projects within City Planned Growth Areas, ~~that have *VMT* below the threshold applicable to the Project's land use,~~ and located near *high-quality transit* meet the City' screening criteria.

   Residential and commercial Projects, as well as mixed-use Projects which are a mix of these above enumerated uses, meet the screening criteria if they meet **all** the following minimum criteria (a through ~~f~~d):

   a) Located within a Planned Growth Area as defined in the General Plan;

   b) Located within ½ mile of an existing *major transit stop* or a stop along a *high-quality transit corridor;*

   ~~c) The Project area *VMT*, as defined by the City's Transportation Model, is less than or equal to the CEQA *VMT* threshold for the proposed land use(s);~~

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~~d~~c) Provides a transit-supporting Project density, measured as:

i. A minimum Floor Area Ratio (FAR) of 0.75 for commercial Projects, or commercial portions of a mixed-use Project, based on gross floor area;
ii. A minimum of 35 dwelling units per acre for residential Projects[3], or residential portions of a mixed-use Project; or
iii. If the Project is in a Planned Growth Area that has a maximum density below 0.75 FAR or 35 dwelling units per acre, the Project must meet the maximum density allowed in the Planned Growth Area.

~~e) Provides a minimal amount of parking:~~

~~Propose no greater than the minimum number of parking spaces required by Title 20 of the San José Municipal Code (the Zoning Code).~~

~~For Projects in Urban Villages, Downtown or other areas that allow for lowered parking rates:~~

~~The number of parking spaces proposed must be adjusted to the lowest amount allowed by Zoning Code. For example, in an Urban Village a 50% off-street parking reduction is allowed by Municipal Code Section 20.90.220, if a Project meets certain geographic and transportation demand management criteria. All actions required by the Zoning Code to reduce parking requirements must still be carried out. For example, if a Transportation Demand Management plan is required to lower parking requirements it must still be completed; or~~

~~The proposed number of parking spaces can be up to the general zoned minimum without the further reduction to Urban Villages, Downtown or other areas, if the parking provided is shared and publicly available and/or "unbundled" as defined in Chapter 20.200 of the Zoning Code.~~

~~f~~d) Does not adversely affect pedestrian, bike, or transit infrastructure. For example, sidewalk widths cannot be reduced below the City's Complete Streets standard; bike lanes cannot be altered to reduce their accessibility or size beyond the City' Complete Streets standard.

5. **Restricted Affordable, Transit Supportive Residential Projects in ~~*Planned Growth*~~ *Areas with High Quality Transit* ~~*or Low VMT*~~:** Residents of affordable residential Projects typically have a lower *VMT* footprint than residents in market rate residential Projects. This pattern is particularly evident in affordable residential Projects near transit.[4] In recognition of this effect, and in accordance with State Guidelines and the City's General Plan, proposed transit supportive, restricted, affordable housing Projects ~~within City Planned Growth Areas,~~ that are near *high quality transit,* meet the City's screening criteria.

Affordable residential Projects, as well as affordable residential portions of mixed-use Projects, meet the screening criteria if the Project meets **all** the following minimum criteria (a through ~~c~~d):

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a) Provide 100% restricted affordable units, excluding unrestricted manager units, at or below income levels as defined in General Plan Policy IP-5.12. Affordability restrictions must be recorded and extend for a minimum of 55 years for rental homes or 45 years for for-sale homes.

~~b) Located within a Planned Growth Area as defined in the General Plan.~~

~~c~~b) Located within ½ mile of an *existing major transit stop* or a stop along *high quality transit corridor.*

~~d~~c) A minimum of 35 dwelling units per acre:

If the Project is in a Planned Growth ~~Area~~ Land Use designation that has a maximum density below 35 dwelling units per acre, the Project must meet the maximum density allowed ~~in~~ per that Planned Growth ~~Area~~ Land Use designation.

Projects that are proposed in areas where *VMT* is above the CEQA Threshold for Determination of Significant Transportation Impact must include a TDM plan approved by the Public Workers Director as part of their LTA.

~~b) Provides a minimal amount of parking:~~

~~Propose no greater than the minimum number of parking spaces required by Title 20 of the San José Municipal Code (the Zoning Code). For Projects in Urban Villages or Downtown:~~

~~The number of parking spaces proposed must be adjusted to the lowest amount allowed by the Zoning Code. For example, a street parking reduction of 50 percent is allowed in Urban Villages by Municipal Code Section 20.90.220, if a Project meets certain geographic and transportation demand management criteria.~~

~~The proposed number of parking spaces can be up to the general zoned minimum without the further reduction to Urban Villages, Downtown or other areas, if the parking provided is shared and publicly available and/or "unbundled" as defined in Chapter 20.200 of the Zoning Code.~~

c) Does not adversely affect pedestrian, bike, or transit infrastructure. For example, sidewalk widths cannot be reduced below the City's Complete Streets standard; bike lanes cannot be altered to reduce their accessibility or size beyond the City' Complete Streets standard.

6. **Transportation Projects that reduce or do not affect VMT:** Transportation Projects that inherently support environmental, land use, and transportation goals of the City and State by reducing significant traffic impacts to a less than significant level or being neutral to meet the City's screening criteria. Examples include transportation Projects that enhance

pedestrian, bike, or transit infrastructure, and transportation Projects that maintain current infrastructure, without adding new automobile capacity. The Governor's Office of Planning and Research in the 2017 Guidelines for Implementing SB 743 published a list of such Projects that is enumerated below:

- Rehabilitation, maintenance, replacement, and repair Projects designed to improve the condition of existing transportation assets (e.g., highways, roadways, bridges, culverts, tunnels, transit systems, and assets that serve bicycle and pedestrian facilities) and that do not add additional motor vehicle lanes.
- Roadway shoulder enhancements to provide "breakdown space," otherwise improve safety or provide bicycle access.
- Addition of an auxiliary lane of less than one mile in length designed to improve roadway safety.
- Installation, removal, or reconfiguration of traffic lanes that are not for through traffic, such as left, right, and U-turn pockets, or emergency breakdown lanes that are not utilized as through lanes.
- Addition of roadway capacity on local or collector streets provided the Project also substantially improves conditions for pedestrians, bicyclists, and, if applicable, transit.
- Conversion of existing general purpose lanes (including ramps) to managed lanes or transit lanes, or changing lane management in a manner that would not substantially decrease impedance to use.
- Addition of a new lane that is permanently restricted to use only by transit vehicles
- Reduction in number of through travel lanes.
- Grade separation to separate vehicles from rail, transit, pedestrians, or bicycles, or to replace a lane to separate preferential vehicles (e.g. HOV, HOT, or trucks) from general vehicles.
- Installation, removal, or reconfiguration of traffic control devices, including Transit Signal Priority (TSP) features.
- Traffic metering systems.
- Timing of signals to optimize vehicle, bicycle, or pedestrian flow.
- Installation of roundabouts or traffic circles.
- Installation or reconfiguration of traffic calming devices.
- Adoption of or increase in tolls.
- Addition of tolled lanes, where tolls are sufficient to mitigate VMT increase.
- Initiation of new transit service.
- Conversion of streets from one-way to two-way operation with no net increase in number of traffic lanes.
- Removal or relocation of off-street or on-street parking spaces.
- Adoption or modification of on-street parking or loading restrictions (including meters, time limits, accessible spaces, and preferential/reserved parking permit programs)
- Addition of traffic wayfinding signage.
- Rehabilitation and maintenance Projects that do not add motor vehicle capacity.
- Addition of new or enhanced bike or pedestrian facilities on existing streets/highways or within existing public rights-of-way.
- Addition of Class I bike paths, trails, multi-use paths, or other off-road facilities that serve non-motorized travel.
- Installation of publicly available alternative fuel/charging infrastructure.

- Addition of passing lanes in rural areas that do not increase overall vehicle capacity along the corridor.

B. **CEQA VMT Transportation Thresholds of Significance**

VMT, as used in this Policy, measures the amount of personal motorized vehicle travel associated with a Project. *VMT* is measured by multiplying the total vehicle trips by the average distance those trips travel.

For residential and employment uses other than retail commercial uses, *VMT* is measured for each person who will occupy or use the Project. For retail commercial and transportation Projects, the net amount of *VMT* is measured to identify potential impacts.

The thresholds of significance, by Project type used by the City of San José to measure *VMT* are described in Table 1 of this Policy. Detailed methods for calculating *VMT* by Project type are further described in the City's Transportation Analysis Handbook.

C. Less than Significant with Mitigation

If a Project is determined to have a significant impact on *VMT*, it must reduce that impact by modifying the Project *VMT* to an acceptable level; that is below the established thresholds of significance applicable to the Project and/or mitigating the impact through multimodal transportation network improvements, or transportation demand management program as measured by a *Trip Cap*.

Methodologies for measuring and mitigating *VMT* for Projects are described in the City's Transportation Analysis Handbook. These methodologies for measuring and mitigating *VMT* for Projects must conform to the City's Transportation Analysis Handbook.

A *Trip Cap* as used in this Policy is a maximum number of vehicle trips allowed during any given day associated with a Project. The City, in coordination with the Project applicant, will set a Project's *Trip Cap* at a level that is reasonably attainable through proven means and enables the Project's VMT to be reduced below the relevant threshold(s). The TA must include a plan for implementation and funding of the *Trip Cap* for the life of the Project and will become part of the Project's conditions of approval. Further, this plan must include methods for an annual trip mitigation, monitoring and reporting program (MMRP). The requirements of *Trip Cap* monitoring must include contingency plan for the City to make changes if the *Trip Cap* compliance reports demonstrate a failure to reduce the number of vehicles.

A short grace period not to exceed six (6) months will be provided to Projects that are not in compliance with their *Trip Cap* requirements based on the annual monitoring report. Such a non-conforming Project will be required to submit a new *Trip Cap* implementation plan which includes how and why the already established plan failed and new strategies and measures to attain the *Trip Cap.*

Monetary fees will be assessed if a Project is not in compliance with its *Trip Cap* after the grace period. The annual monetary fees are set at 1/5th the cost of the Transportation System Improvement(s) value defined in Section D2 below. Monetary fees collected will be used in the same manner as described in Section D2 below.

D. Significant and Unavoidable Impacts

If a Project is unable to fully mitigate *VMT* impact(s) and thus results in significant and unavoidable VMT transportation impact(s), the Project may:

1. Modify/Change or relocate the Project to a low VMT site to meet *VMT* threshold(s). This could include the following: Changing the Project type, increasing density and land use diversity, adjusting Project design, reducing off-street parking supply, replacing market rate units with affordable housing units, include local multimodal transportation network improvements as part of the Project, or undertake the Project in an area of the City where *VMT* is lower; or

2. The City Council may adopt a statement of overriding considerations as part of the environmental impact report certification process pursuant to Public Resources Code 21081.

   Council will only consider a statement of overriding considerations for Projects that meet the following criteria:

   a. Commercial or industrial Projects that:

      i. Demonstrate overriding benefits to the City, as determined by the City Council, in accordance with Public Resources Code 21081, based on a recommendation by City staff; and

      ii. Are consistent with the General Plan, and any applicable area plan(s).

   b. Residential Projects that:

      i. Are located in Urban Villages as defined in the City's General Plan

      ii. Demonstrate overriding benefits to the City, as determined by the City Council, in accordance with Public Resources Code 21081, based on a recommendation by City staff;

      iii. Meet the density requirements specified in the Transit Supportive Projects in *Planned Growth Areas* with ~~Low *VMT* and~~ *High Quality Transit* screening criteria; and

      iv. Are consistent with the General Plan, and any applicable area plan(s).

   c. Residential Projects that[2]:

      i. Are consistent with the City's General Plan land use designation effective on November 29, 2022 or future City initiated amendments;

[2] Amendments to General Plan Policy TR-1.4 will need to be made to implement Section D.2.c above. Therefore, the effective date of Section D.2.c shall be the same as the effective date to the amendments to General Plan Policy TR-1.4 authorizing the implementation of this Section D.2.c

ii. Demonstrate overriding benefits to the City, as determined by the City Council, in accordance with Public Resources Code 21081, based on a recommendation by City staff; and

iii. Are consistent with the applicable area plan(s) and policies.

To be eligible under clauses a., ~~and~~ b., and c. above, a Project must also construct or fund multimodal transportation improvement(s), called Transportation System Improvement(s) that will improve system efficiency and/or safety, enhance non-auto travel modes, and promote citywide reduction of VMT. A Project's contribution, either through construction or payment towards improvements and expansion of the City's multimodal transportation system, is a way to achieve and be consistent with the related General Plan goals and policies.

The value of Transportation System Improvements that a Project applicant must construct or fund will be based on the amount of *VMT* impacts their Project is unable to mitigate. Table 2, VMT Values for Transportation System Improvements shows the values for commercial, industrial, and residential Projects per vehicle mile traveled not mitigated.

Table 2 - VMT Value for Transportation System Improvements

	Value
~~Commercial~~ Office, Industrial, Retail	~~$3,200~~ $3693 per Vehicle Mile Traveled not mitigated
Residential	~~$2,300~~ $2654 per Vehicle Mile Traveled not mitigated

The value of Transportation System Improvements will increase annually, on January 1st in line with the Engineering News-Record Construction Cost Index (ENR CCI) to ensure that the value remains consistent over time.

The total amount of Vehicle Miles Traveled not mitigated will be calculated by applying the formulas described in Table 3.

Table 3 – Vehicle Miles Traveled not Mitigated

Project Type	Vehicle Miles Traveled not mitigated
Office, Industrial	VMT per Job not Mitigated x Project's Jobs
Retail	Total VMT not Mitigated
Residential	VMT per Capita not Mitigated x Project's Residents

For purposes of clarification, improvements to the citywide multimodal transportation system as discussed in this section are not "mitigation" for significant *VMT* impacts, as

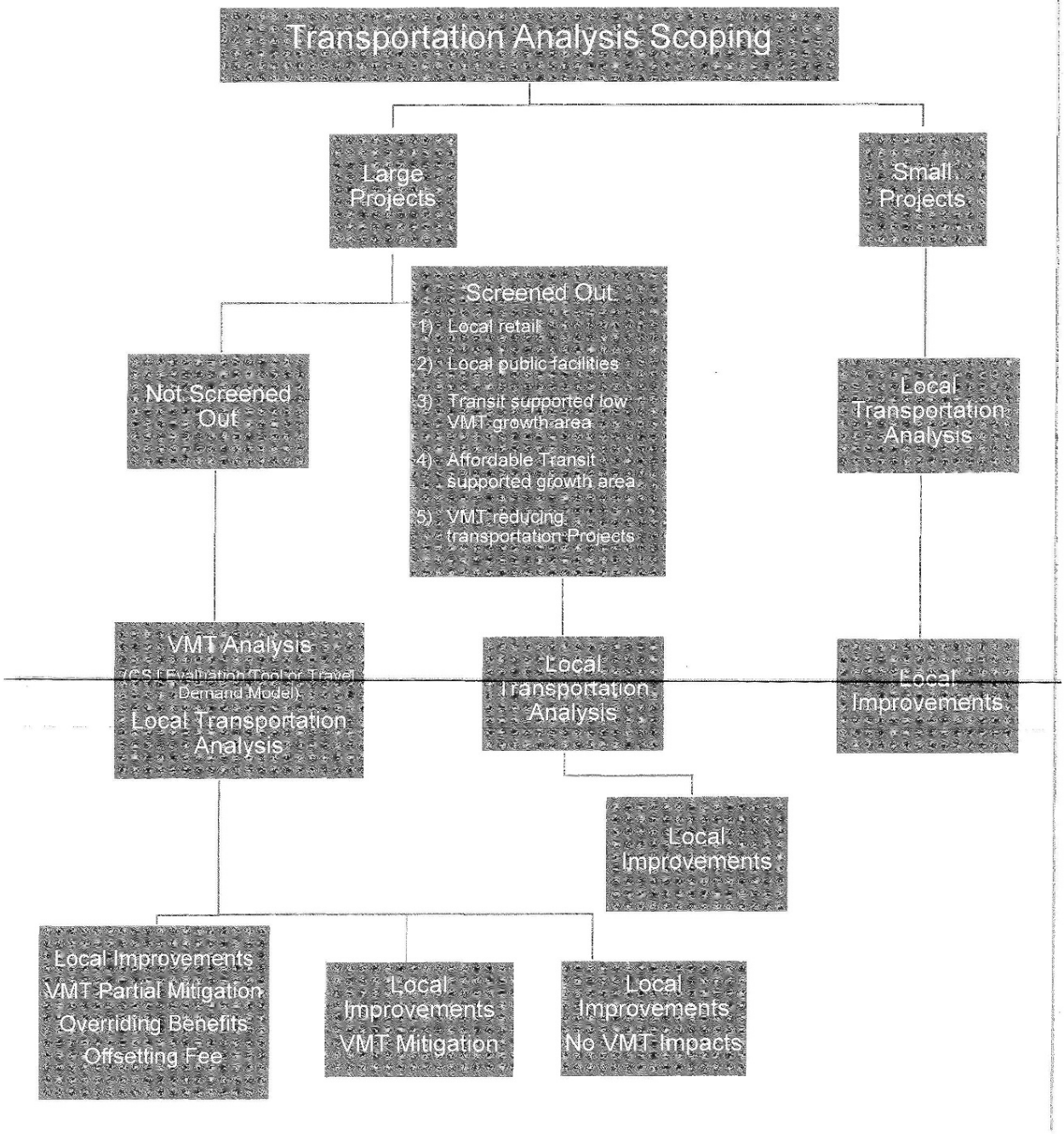
mitigation is defined by CEQA. Such improvements would not necessarily reduce or avoid the significance of *VMT* impacts that cannot be mitigated. These improvements to the multimodal transportation system are one of the overriding benefits to the community and findings made to this effect that can assist the Council in determining whether the overriding benefits of the proposed Project outweigh the significant effects on the environment.

c. Affordable housing Projects that are 100% restricted affordable units, excluding unrestricted manager units, at or below income levels as defined in General Plan Policy IP-5.12. Affordability restrictions must be recorded and extend for a minimum of 55 years for rental homes or 45 years for for-sale homes.

Affordable housing Projects must be consistent with the General Plan, as well as any applicable area plan(s), and the City Council may consider a statement of overriding considerations even if the Project's VMT impact cannot be fully mitigated to a less than significant level. These affordable housing Projects will be required to mitigate their VMT impacts to the maximum extent feasible, as determined by the City of San José's Vehicle Miles Traveled Evaluation Tool, including implementation of a tailored TDM plan. However, these Projects would not be required to construct or fund Transportation System Improvements.

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APPENDIX C
TO CITY COUNCIL POLICY 5-1
Flow Chart of the Transportation Analysis Process



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Council Agenda: 11-29-2022
Item No.: 8.5

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[1] For the Purposes of this Policy, the region is the Bay Area's Metropolitan Planning Organization's boundaries.

[2] For this Policy, the term "applicant" refers to the individual or entity that has requested an entitlement or discretionary development approval from the City of San José.

[3] 35 units per acre is derived from the California State Office of Planning and Research's suggested FAR of 0.75.

[4] Newmark and Hass, "Income, Location Efficiency, and VMT: Affordable Housing as a Climate Strategy", The California Housing Partnership, 2015.