Meeting of the Gateway Cities Planning Directors

PLEASE ARRIVE AT 7:45 AM FOR CONTINENTAL BREAKFAST

Wednesday, February 13, 2019 8:00AM

Gateway Cities COG Offices
16401 Paramount Boulevard, Paramount
2nd Floor Conference Room

AGENDA

I. Self Introductions

II. Metro Open Streets Grant Program Presentation
    Brett Thomas
    Senior Transportation Planner
    LA Metro

III. Metro Congestion Management Program (CMP) Presentation
     Paul Backstrom
     Transportation Planning, Active Transportation & Sustainability Manager
     LA Metro

IV. FCC Small Wireless Facilities Presentation
    Dr. Jonathan L. Kramer
    Principal Attorney,
    & Ms. Lory Kendirjian,
    Senior Paralegal and Senior Wireless Project Manager
    Telecom Law Firm, P.C.

V. Climate Planning Update
    Stephanie Cadena
    Assistant Planner
    Gateway Cities COG

VI. Regional Planning Update
    Stephanie Cadena
    Assistant Planner
    Gateway Cities COG

VII. Discussion of Future Agenda Items

VIII. Adjourn
Meeting of the Gateway Cities Planning Directors

Wednesday, February 13, 2019 8:00AM

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2nd Floor Conference Room

Supplemental Information

Agenda Item IV. FCC Small Wireless Facilities Presentation

Dr. Jonathan L. Kramer
Principal Attorney
Telecom Law Firm, P.C.

Ms. Lory Kendirjian
Senior Paralegal and Senior Wireless Project Manager
Telecom Law Firm, P.C.

Brief Summary
Small Wireless Facilities (“SWFs”) are the FCC’s newest category of cell site, with special rules that local governments must follow. Dr. Jonathan Kramer and Lory Kendirjian of Telecom Law Firm PC (a firm used by various COG members) will present an overview of the new rules, how they impact local processes and ordinances, and FCC-required actions local governments need to take. Those new FCC rules, which went into effect on January 14, 2019, impact wireless siting processes and procedures on public property, the public right of way, and on private property.

Speakers
Dr. Jonathan Kramer is the managing partner of Telecom Law Firm. Since 1994 Dr. Kramer has advised hundreds of local governments around the country on federal and state wireless law, local wireless regulations, and wireless site permitting in many thousands of wireless site planning cases and matters.

Ms. Lory Kendirjian is Telecom Law Firm’s senior paralegal and senior wireless project manager. She is responsible for directing and overseeing all of the firm’s wireless project reviews for government clients, and supervising the staff performing that work. She has been directly involved in the review and permitting of over 1,200 wireless sites in California.
Metro Open Street Grant Program
What are Open Streets?

One-day car-free events that OPEN the streets up to people walking, riding a bike, and using other forms of non-automobile transport.
Goals of Metro’s Open Street Grant Program

- Provide opportunity to walk, ride transit, bike in urban environment
- Encourage sustainable transportation mode share
- Encourage cities to further develop their multi-modal policies
Cycle One and Two Open Street Implementation

- 28 Events Funded in 32 Jurisdictions (25 completed)
- Additional points granted to multijurisdictional events and disadvantaged communities
- Metro funded Evaluation Study
  - 8% ridership increase systemwide
  - 11% increase in TAP card sales
  - 10% increase in event day retail sales
# Cycle Three Funding Recommendations

<table>
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<tr>
<th>Date</th>
<th>Event Title</th>
<th>Applicant</th>
<th>Grant Request</th>
<th>Award Amount</th>
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- 15 events in 18 cities
- 67% disadvantaged communities
- 53% multijurisdictional
Approved Events in All Cycles
Cycle Three Board Motion 16.1

September, 2018 Board Motion 16.1 directed staff to:

• Report back to the Board in 120 days with potential strategies and methods to ensure resources are spread across a wider geographical area;
• Create a “mini-cycle” in FY2020 of Open Street Grant applications for communities that have not received funding from the Cycle 3 Grants; and
• Identify potential funding sources of up to $1 million for the “mini-cycle” Open Street event applications.
FY 2020 Mini-cycle Eligibility

- Event cannot be in the same community as awarded Cycle Three event
- Max Funding of $500,000 per an application
- Cities must detail what methods will be used to encourage mode shift post event and detail any plans for new pedestrian and bicycle infrastructure
- Application writing assistance available for smaller resource-challenged cities
FY 2020 Mini-cycle Scoring

• Additional scoring criteria awarded to multijurisdictional events and events in disadvantaged communities
• Separate criteria for new and existing applicants
• Additional Scoring Criteria to encourage innovative events
• Additional points for clear plan to satisfy data collection requirements
FY 2020 Mini-cycle Next Steps

February, 2019 – Mini Cycle Application and Guidelines released

February 22, 2019 – Applicant Workshop at Metro headquarters (10:00AM Henry Huntington Room, 3rd Floor)

March 8, 2019 – Online application due to Metro

Summer 2019 – Award Cycle Three grants pending Board approval

Events must be implemented by December 31, 2020
Questions & Answers

Brett Atencio Thomas
Sr. Transportation Planner
Countywide Planning
ThomasBJ@Metro.net

Dolores Roybal-Saltarelli
Sr. Director
Countywide Planning
RoybalD@Metro.net
Goals for Today

- Inform
- Solicit Feedback
  - CMP Yes or No?
- Define Next Steps
- The Ask
Is the continued implementation of the CMP worth the investment of our scarce public dollars and staff resources?
CMP Overview

- Program Description
- Challenges
- Next Steps
What is the CMP?

- State Mandated Program
- Attempts to link transportation and land use decisions to mitigate congestion
- Defines transportation deficiencies using Level of Service standard
- Requires biennial monitoring, reporting and review
- Nonconformance can result in withholding of gas tax revenues
Why Opt Out of the CMP?

• CMP is outdated in relation to regional, state, and federal transportation planning requirements.

• Relieves Metro and local jurisdictions of a mandate to use Level of Service to determine roadway deficiencies.

• Eliminates the risk to local jurisdictions of losing their state gas tax funds

• Eliminates the administrative and financial burden to cities to demonstrate conformance with the CMP.
Metro performance measures consider Vehicle Miles Traveled (VMT) reduction and safety improvement.

- “Congestion” must address the broader context of mobility and access, among other metrics.

- Cities retain flexibility in determination and mitigation of impacts

- Metro self-help measures bolster financial resources available to mitigate
Requested Action

• CMP statute allows for opt-out without penalty, if a majority of local jurisdictions representing a majority of the county’s population, formally adopt resolutions requesting to opt out of the program;

• If approved, staff will
  o Conduct outreach;
  o Coordinate with local jurisdictions; and
  o Report progress.
Moving Forward

- Friday, September 12: CMP Opt-Out Workshop
- Friday, September 28: Distributed support materials
- September 28-June 30: Email and phone call follow through
  - Presentations upon request
- Friday, March 29, 2019: Key milestone for adopted resolutions
- June 2019: Report to the Board on progress.
The Ask

- Adopt a CMP Opt-Out Resolution
  - Target date
  - Transmit the signed resolution
  - Communicate need for support

- Provide an Introduction
  - Who on your team or in your city is responsible for the CMP?
Contact Information

Paul Backstrom
backstromp@metro.net
RESOLUTION NO. ______________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF __________, CALIFORNIA, ELECTING TO BE EXEMPT FROM THE CONGESTION MANAGEMENT PROGRAM

WHEREAS, in 1990 the voters of California passed Proposition 111 and the requirement that urbanized counties develop and implement a Congestion Management Program; and

WHEREAS, the legislature and governor established the specific requirements of the Congestion Management Program by passage of legislation which was a companion to Proposition 111 and is encoded in California Government Code Section 65088 to 65089.10; and

WHEREAS, the Los Angeles County Metropolitan Transportation Authority (Metro) has been designated as the Congestion Management Agency responsible for Los Angeles County’s Congestion Management Program; and

WHEREAS, California Government Code Section 65089.3 allows urbanized counties to be exempt from the Congestion Management Program based on resolutions passed by local jurisdictions representing a majority of a county’s jurisdictions with a majority of the county’s population; and

WHEREAS, the Congestion Management Program is outdated and increasingly out of step with current regional, State, and federal planning processes and requirements, including new State requirements for transportation performance measures related to greenhouse gas reduction; and

WHEREAS, on _____________________ the Metro Board of Directors took action to direct Metro staff to work with local jurisdictions to prepare the necessary resolutions to exempt Los Angeles County from the Congestion Management Program.

NOW, THEREFORE, BE IT RESOLVED BY THE City Council of the City of ____________, California, as follows:
1. That the above recitations are true and correct.

2. That the City of ____________ hereby elects to be exempt from the Congestion Management Program as described in California Government Code Section 65088 to 65089.10.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of ____________ on the ____ day of _________________________ by the following vote, to wit:

AYES:

NOES:

ABSENT:

____________________________________
(Name), Mayor

ATTEST:

____________________________________
(Name), City Clerk

(SEAL)
PLANNING AND PROGRAMMING COMMITTEE
JUNE 20, 2018

SUBJECT: CONGESTION MANAGEMENT PROGRAM OPT-OUT

ACTION: APPROVE RECOMMENDATION

RECOMMENDATION

APPROVE initiating the process for Metro and all Los Angeles County local jurisdictions to opt out of the California Congestion Management Program (CMP), in accordance with State CMP statute.

ISSUE

Metro is required by state law to prepare and update on a biennial basis a Congestion Management Program (CMP) for the County of Los Angeles. The CMP process was established as part of a 1990 legislative package to implement Proposition 111, which increased the state gas tax from 9 to 18 cents. The intent of the CMP was to tie the appropriation of new gas tax revenues to congestion reduction efforts by improving land use/transportation coordination.

While the CMP requirement was one of the pioneering efforts to conduct performance-based planning, the approach has become antiquated and expensive. CMP primarily uses a level of service (LOS) performance metric which is a measurement of vehicle delay that is inconsistent with new state-designated performance measures, such as vehicle miles travelled (VMT), enacted by SB 743 for California Environmental Quality Act (CEQA) transportation analysis.

Pursuant to California Government Code §65088.3 (Attachment A, C.G.C. §65000 et seq.), jurisdictions within a county may opt out of the CMP requirement without penalty, if a majority of local jurisdictions representing a majority of the county’s population formally adopt resolutions requesting to opt out of the program. Given that the CMP has become increasingly out of step with regional, state, and federal planning processes and requirements, staff recommends that Metro initiate the process to gauge the interest of local jurisdictions and other stakeholders in opting out of State CMP requirements.

DISCUSSION

Under the CMP, the 88 incorporated cities plus the County of Los Angeles share various statutory responsibilities, including monitoring traffic count locations on select arterials, implementing transportation improvements, adoption of travel demand management and land use ordinances, and mitigating congestion impacts.
The framework for the CMP is firmly grounded in the idea that congestion can be mitigated by continuing to add capacity to roadways. This is evidenced by the primary metric that drives the program which is LOS. Recent state laws and rulemaking, namely AB 32 (California Global Warming Solutions Act of 2006), SB 375 (Sustainable Communities and Climate Protection Act of 2008), SB 743 (Environmental quality: transit oriented infill projects, judicial review streamlining for environmental leadership development projects) and SB 32 (California Global Warming Solutions Act of 2006), all move away from LOS directly or indirectly. Therefore, the CMP contradicts these key state policies and Metro’s own efforts to promote a more sustainable and equitable region.

A number of counties have elected to opt out of the CMP over the years including San Diego, Fresno, Santa Cruz and San Luis Obispo counties. The reasons for doing so are varied but generally concern redundant, expensive, administrative processes that come with great expense, little to no congestion benefit and continue to mandate the use of LOS to determine roadway deficiencies.

The passage of Measure M and the update of the Long Range Transportation Plan present Metro with an opportunity to consider new ways to measure transportation system performance, measures that complement efforts to combat climate change, support sustainable, vibrant communities and improve mobility. For Metro and cities alike, the continued administration of the CMP is a distraction at best or an impediment at worst to improving our transportation system.

Over the last several years, the CMP has become increasingly outdated in relation to the direction of Metro’s planning process and regional, state, and federal transportation planning requirements. Additional reasons to opt out of the CMP include:

- Relieves Metro and local jurisdictions of a mandate to use a single measure (LOS) to determine roadway deficiencies.
- Eliminates the risk to local jurisdictions of losing their state gas tax funds or being ineligible to receive state and federal Transportation Improvement Program funds, as a result of not being in compliance with CMP requirements or performance standards.
- Eliminates the administrative and financial burden to cities associated with the preparation of documents to demonstrate conformance with the CMP.

**ALTERNATIVES CONSIDERED**

Metro could continue to implement the CMP as adopted by the Board or look to update the program. We do not recommend this as we have examined multiple ways to adapt state legislative requirements, but we have been unable to fit Los Angeles county mobility complexities to statutory requirements in a manner that achieves consensus of our stakeholders over the twenty-five-year life of the program. Opting out of the CMP gives Metro the flexibility to implement mobility improvements through the programs and projects in the Long Range Transportation Plan adopted by the Board, while furthering improvements to transportation capacity, choice and cost-effectiveness.

**DETERMINATION OF SAFETY IMPACT**

This Board action will have no adverse impact on safety standards for Metro.
FINANCIAL IMPACT

There is no impact to the current fiscal year budget, nor any anticipated impact to future budgets or the continued flow of state gas tax revenues to local jurisdictions. The recommended action may have a positive impact on Metro and local jurisdiction budgets in future years by eliminating the annual costs associated with implementing the CMP. Annual costs to local agencies vary based on size but generally require a staff commitment of 25-60 hours per jurisdiction plus the cost of conducting traffic counts at the 164 CMP intersections at a cost of approximately $250 per intersection. For Metro the annual burden of administering the CMP is approximately 1.2 Full Time Equivalents (FTE).

NEXT STEPS

Upon Board approval, staff will proceed in consulting with local jurisdictions and other interested stakeholders as follows:

- Consult with the Metro Technical Advisory Committee (TAC) regarding opting out of the CMP and conduct a workshop of our stakeholders to receive input on the interest in opting out of the CMP.

- With the concurrence of the TAC and workshop participants, request local jurisdictions to consider adopting draft resolution (Attachment B) to opt out of the program.

- Upon receipt of formally-adopted resolutions from a majority of local jurisdictions representing a majority of the population, notify the State Controller, Caltrans, and SCAG that Los Angeles County has opted out of the CMP in accordance with statutory requirements.

ATTACHMENTS

Attachment A - CMP legislation
Attachment B - Draft Resolution to Opt Out of the Congestion Management Program in Los Angeles County

Prepared by: Paul Backstrom, Manager, Countywide Planning & Development, (213) 922-2183
Mark Yamarone, DEO, Countywide Planning & Development, (213) 418-3452
Kalieh Honish, EO, Countywide Planning & Development, (213) 922-7109
Manjeet Ranu, SEO, Countywide Planning & Development, (213) 418-3157

Reviewed by: Therese W. McMillan, Chief Planning Officer, (213) 922-7077
Phillip A. Washington
Chief Executive Officer
CITY OF LA CANADA FLINTRIDGE

CITY COUNCIL AGENDA REPORT

MEETING DATE:          October 2, 2018
SUBJECT:              Congestion Management Plan (CMP) Opt-Out
PRESENTER:            Susan Koleda, Director of Community Development
BY:                   Lisa Brancheau, Senior Management Analyst
REQUESTED MOTION:     Motion to approve a Resolution electing to be exempt from the
                      CMP in accordance with the State CMP statute
ENVIRONMENTAL IMPACT:  None
FISCAL IMPACT:        None. The recommended action may have a positive impact in
                      future years by eliminating the annual costs associated with
                      implementing the CMP.

SUMMARY:

The Los Angeles County Metropolitan Transportation Authority (Metro) is required by state law
to prepare and update, on a biennial basis, a Congestion Management Program (CMP) for the
County of Los Angeles. The CMP process was established as part of a 1990 legislative package to
implement Proposition 111, which increased the state gas tax from 9 to 18 cents per gallon. The
intent of the CMP was to tie the appropriation of new gas tax revenues to congestion reduction
efforts by improving land use/transportation coordination. While the CMP requirement was one
of the pioneering efforts to conduct performance-based planning, the approach has become
antiquated and expensive. CMP primarily uses a level of service (LOS) performance metric which
is a measurement of vehicle delay that is inconsistent with new state-designated performance
measures, such as vehicle miles traveled (VMT), enacted by SB 743 for California Environmental
Quality Act (CEQA) transportation analysis.

In accordance with California Government Code 65088.3, jurisdictions within a county may opt
out of the CMP requirement without penalty, if a majority of local jurisdictions representing a
majority of the county’s population formally adopt resolutions requesting to opt out of the
program.
DISCUSSION:

On June 28, 2018 the Metro Board approved a staff recommendation to initiate the process to opt out of the state mandated Congestion Management Program (CMP). The action allows Metro staff to proceed with the next step in the process, which is to provide public agency partners with the option to opt out of the CMP Program as well. The CMP has been found to contradict Metro’s own efforts to promote a more sustainable and equitable region. In addition, the passage of Measure M and the update of the Long-Range Transportation Plan present Metro with an opportunity to consider new ways to measure transportation system performance, measures that complement efforts to combat climate change, support sustainable, vibrant communities and improve mobility. For Metro and cities alike, the continued administration of the CMP is an impediment to improving Metro’s envisioned transportation system. Over the last several years, the CMP has become increasingly outdated in relation to the direction of Metro’s planning process and regional, state, and federal transportation planning requirements.

Additional reasons to opt out of the CMP include:

- Relieves Metro and local jurisdictions of a mandate to use a single measure (LOS) to determine roadway deficiencies.
- Eliminates the risk to local jurisdictions of losing their state gas tax funds or being ineligible to receive state and federal Transportation Improvement Program funds, as a result of not being in compliance with CMP requirements or performance standards.
- Eliminates the administrative and financial burden to cities associated with the preparation documents to demonstrate conformance with the CMP.

Upon receipt of formally-adopted resolutions from a majority of local jurisdictions representing a majority of the population, Metro will notify the State Controller, Caltrans, and SCAG that Los Angeles County has opted out of the CMP in accordance with statutory requirements.

OPTIONS:

1. Motion to approve a Resolution electing to be exempt from the Congestion Management Program in accordance with the Congestion Management Program State statute.
2. Defer action and provide direction to staff.

RECOMMENDATION:

Option 1 – Motion to approve a Resolution electing to be exempt from the Congestion Management Program in accordance with the Congestion Management Program State statute.

ATTACHMENTS:

Resolution electing to be exempt from the congestion management program.
RESOLUTION NO. ____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LA CAÑADA FLINTRIDGE, COUNTY OF LOS ANGELES, ELECTING TO BE EXEMPT
FROM THE CONGESTION MANAGEMENT PROGRAM

WHEREAS, in 1990, the voters of California passed Proposition 111 and the requirement
that urbanized counties develop and implement a Congestion Management Program; and

WHEREAS, the legislature and governor established the specific requirements of the
Congestion Management Program by passage of legislation which was a companion to
Proposition 111 and is codified in California Government Code Section 65088 to 65089.10; and

WHEREAS, the Los Angeles County Metropolitan Transportation Authority (Metro) has
been designated as the Congestion Management Agency responsible for Los Angeles County’s
Congestion Management Program; and

WHEREAS, California Government Code Section 65089.3 allows urbanized counties to
be exempt from the Congestion Management Program based on resolutions passed by local
jurisdictions representing a majority of a county’s jurisdictions with a majority of the county’s
population; and

WHEREAS, the Congestion Management Program is outdated and increasingly out of
step with current regional, State, and federal planning processes and requirements, including new
State requirements for transportation performance measures related to greenhouse gas reduction;
and

WHEREAS, on June 28, 2018, the Metro Board of Directors took action to direct Metro
staff to work with local jurisdictions to prepare the necessary resolutions to exempt Los Angeles
County from the Congestion Management Program.

NOW, THEREFORE, BE IT RESOLVED BY THE City Council of the City of La Cañada
Flintridge, California as follows:

1. That the above recitations are true and correct.

2. That the City of La Cañada Flintridge, located in the County of Los Angeles, hereby
elects to be exempt from the Congestion Management Program as described in California
Government Code Section 65088 to 65089.10.

PASSED, APPROVED AND ADOPTED this 2\textsuperscript{nd} Day of October 2018.
ATTEST:

Tania Moreno
City Clerk

Terry M. Walker
Mayor
# Los Angeles County Congestion Management Program
## Major Milestones Timeline

**1990**  
Passage of Prop 111, a state constitutional amendment, which among other things raises the Gas Tax from 9 to 18 cents over a 5 year period and establishes the Congestion Management Program (CMP). Receipt of new gas tax revenues generated through Prop 111 is contingent on participation in a congestion management program.

**1990-91**  
All jurisdictions in LA County adopt resolutions designating the County Transportation Commission (predecessor agency to Metro) as the designated Congestion Management Agency (CMA) charged with implementing a countywide congestion management program.

**1993**  
Metro begins implementation of the CMP initiating a Debits and Credits program that requires participants to maintain a positive balance of Credits (transportation improvements) to Debits (housing activity).

**1996**  
AB 2419 (Bowler) enacted which establishes an option to opt-out of the CMP without penalty of losing 2105 Gas Tax funds made available through the original CMP legislation.

**1999**  
Cities express concerns to Metro about their ability to maintain conformance under the Debit/Credit program. Urge Metro to explore alternatives. Cities cite the following concerns:
- Cities have difficulty maintaining a positive credit balance
- Cities suffer funding shortfalls to deliver necessary transportation improvements
- CMP achieves little real mitigation and amounted to only an accounting exercise

**1999 – 2003**  
Metro undertakes study of alternatives to the Debits and Credits program.

**2003**  
Metro Board direction to suspend the Debits and Credits program.

**2004**  
Board directs staff to study a fee program exclusively as an alternate to the Debits and Credits program.

**2013**  
Staff brings development fee program to Metro Board for consideration and local jurisdiction implementation. Metro Board directs staff to request state legislature hold hearings to determine relevance of the CMP. No such legislative hearings are held.

**2014**  
Consensus on fee program not achieved. A decision is made to wait of Governor’s Office of Planning and Research (OPR) to release SB 743 guidelines that were expected to be released in summer/fall 2014.

**2014-18**  
OPR releases multiple draft guidelines and technical advisories that designate Vehicle Miles Travelled as the metric to evaluate transportation impacts under CEQA. The state Natural Resources Agency has begun the formal administrative rulemaking process.

**2018**  
Metro Board adopts recommendation to initiate CMP opt-out process and begin meeting public agency stakeholders.
What is the Congestion Management Program (CMP)?

The CMP is a 1990 era state-mandated performance-based planning program that attempts to link land use and transportation decisions.

Who are the parties responsible for implementation of the CMP?

Metro is the Congestion Management Agency charged with administering the state-mandated program. All 89 jurisdictions (88 cities plus the County of Los Angeles) are responsible for compliance with the provisions of the program.

Why is Metro recommending an opt-out of the CMP?

While the CMP requirement was one of the pioneering efforts to conduct performance-based planning, the approach has become antiquated. CMP primarily uses a level of service (LOS) performance metric which is a measurement of vehicle delay that is inconsistent with new state-designated performance measures, such as vehicle miles travelled (VMT), enacted by SB 743 for California Environmental Quality Act (CEQA) transportation analysis.

Is Metro replacing the CMP?

No, this is not a replacement effort. The opt-out is strictly about removing the LA County region from the state-mandated requirements of the CMP. Cities will retain local control over land use decisions.

What are the requirements to opt out of the CMP?

A majority consensus of 45 jurisdictions representing approximately 5.1 million people in the County of Los Angeles is required to opt out formally.
Pursuant to California Government Code §65088.3 (Attachment A, C.G.C. §65000 et seq.), jurisdictions within a county may opt out of the CMP requirement without penalty, if a majority of local jurisdictions representing a majority of the county’s population formally adopt resolutions requesting to opt out of the program.

Has Metro contacted representatives from the City of LA and or the County?

Recognizing the population that needs to be achieved for a successful opt-out, Metro did consult with City and County of Los Angeles officials to ensure that their respective agencies were amenable to the idea. Any final decision to opt out would require approval from their respective governing bodies.

Has Metro contacted anyone from the state about the decision to proceed with an opt-out?

Yes. Metro consulted with the State Controller’s Office, Office of Planning and Research, Caltrans and the California Transportation Commission prior to initiating the opt-out process. None of the state agencies referenced raised any concerns.

Will local jurisdictions continue to receive their apportionment of 2105 gas tax funds if the opt-out is successful?

Yes. Cities will continue to receive gas taxes tied to the CMP.

What other regions have opted out of the CMP?

Yes. Some of the regions that have opted out of the CMP include: Fresno, Santa Cruz, San Luis Obispo, Sacramento, Sonoma and San Diego.

What does Metro need from local jurisdictions who wish to opt out of the CMP?

Metro needs local jurisdictions to formally adopt resolutions requesting to opt out of the program. A sample resolution is attached to this email. Once your governing body has adopted the resolution, please scan and send the final signed copy to Paul Backstrom backstromp@metro.net.
What is your timeline for completing the opt-out?

Metro encourages local jurisdictions to adopt resolutions as soon as possible. Metro intends to provide an update to our Board in June. To meet that internally imposed timeline, Metro asks that local jurisdictions do their best to provide Metro with adopted resolutions by March 29, 2019.

What happens to our debits and credits accumulated under the CMP?

The debits and credits will exist and remain in our records but hold no current value outside of the CMP program.

What happens to the transportation demand ordinances that cities adopted to comply with the provisions of the CMP?

The ordinances remain intact as part of each city’s municipal code. The only thing that would change is that cities would retain the option to remove or update those ordinances at their own discretion.

What if the effort to opt out is unsuccessful?

Should efforts to opt-out fail, Metro would continue to enforce the requirements of the CMP.

Who can I contact for more information?

Paul Backstrom by email backstromp@metro.net or by phone 213.922.2183.
TO: Honorable Mayor and City Council

FROM: Department of Transportation

SUBJECT: RESOLUTION ELECTING TO JOIN OTHER COMMUNITIES IN LA COUNTY IN OPTING OUT OF THE REQUIREMENTS OF THE CONGESTION MANAGEMENT PROGRAM ESTABLISHED IN 1990 BY PROPOSITION 111

RECOMMENDATION:

It is recommended that the City Council:
1. Find that the following proposed action is exempt from review pursuant to the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15061 (b) (3); and
2. Adopt the resolution electing to be exempt from the Congestion Management Program (CMP) in accordance with the CMP State statute.

BACKGROUND:

The CMP is a 1990 era state-mandated performance-based planning program that attempts to link land use and transportation decisions. The statute designated regional Congestion Management Agencies and charged them with administering the program. For Pasadena's region, the LA County Metropolitan Transportation Authority (Metro) is the Congestion Management Agency and 89 jurisdictions (88 cities plus the County of Los Angeles) are responsible for compliance with the provisions of the program. Pasadena has reported every other year via City Council action on the Level of Service (LOS) at monitored intersections named in the CMP and on the total size and type of development approvals in the City.

Additionally, because the CMP is a state program, the California Environmental Quality Act (CEQA) requires that environmental documents include an assessment of whether projects would have an impact on CMP targets. The LOS methodology used to report CMP impacts is not consistent with the transportation metrics used by Pasadena for CEQA analysis since 2015.

Metro has recognized that the CMP approach is out of date and rapidly becoming obsolete, particularly in light of new state-designated performance measures, such as
vehicle miles travelled (VMT), enacted by SB 743 and scheduled to replace LOS for CEQA transportation analysis by 2020.

An agency cannot opt out of the CMP requirement alone. California Government Code §65088.3 provides for jurisdictions within a county to opt out of the CMP requirement without penalty, if a majority of local jurisdictions representing a majority of the county’s population formally adopt resolutions requesting to opt out of the program. A majority consensus of 45 jurisdictions representing approximately 5.1 million people in the County of Los Angeles is required to opt out formally.

On June 28, 2018, the Metro Board approved a recommendation to initiate the process to opt out of the CMP. The Board action allows Metro staff to provide public agencies with the option to opt out of the CMP.

Opting out of the CMP provides the following benefits:

- Eliminates the risk of losing state gas tax funds or being ineligible to receive federal transportation funds because of not being in compliance of CMP requirements or performance standards.
- Removes the administrative and fiscal burden for monitoring and preparation of reporting documents to demonstrate compliance with the CMP.
- Eliminates the need to use LOS to evaluate CMP locations in CEQA documents.

Staff recommends approval of a resolution electing to be exempt from the CMP. It is important to note that Pasadena cannot unilaterally opt out of the CMP. Formal opt out will occur after a majority of cities in the region opt out and Metro notifies the State Controller, Caltrans and SCAG that Los Angeles County has opted out of the CMP in accordance with the statutory requirements.

**COUNCIL POLICY CONSIDERATION:**

The proposed action is consistent with Council adopted methods for CEQA transportation analysis.

**ENVIRONMENTAL ANALYSIS:**

The proposed action is exempt from CEQA per section 15061 (b) (3), the General Rule. The General Rule can be applied when it can be seen with certainty that the activity will not have a significant effect on the environment.
FISCAL IMPACT:

There is no cost associated with this action. There may be a positive effect in future years when the costs associated with monitoring and preparation of CMP compliance documents are no longer necessary.

Respectfully submitted,

FREDERICK C. DOCK
Director
Department of Transportation

Approved by:

STEVE MERMELL
City Manager
Getting Ready for Small Wireless Facilities

February 13, 2019

Dr. Jonathan L. Kramer  Ms. Lory Kendirjian
Managing Partner  Senior Project Manager
Telecom Law Firm PC  Telecom Law Firm, P.C.
(l) Small wireless facilities, consistent with section 1.1312(e)(2), are facilities that meet each of the following conditions:

(1) The facilities—

   (i) are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or

   (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or

   (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in section 1.1320(d)), is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(4) The facilities do not require antenna structure registration under part 17 of this chapter;

(5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b).
FCC’s 2018 Small Wireless Facility Order

• approved by FCC on September 26, 2018
  • Effective Jan. 14, 2019 (but aesthetic standards on April 14, 2019)

• appeals and requests for stay have been filed

• appeals likely to take 12 to 18 months or longer; the FCC rules are to remain applicable during appeals unless stayed
FCC’s 2018 Small Wireless Facility Order

- broad preemption for “small wireless facilities” as a new regulatory classification (supplements new sites, major mods, 6409(a))

- abrogates governmental regulatory and proprietary distinction in the small wireless facility (and maybe more) context

- attempts override significant gap and least-intrusive means federal court test (current 9th Circuit rule)

- shorter shot clocks require municipalities to do more with less time

- per the FCC, rules intended to save the wireless industry $2B+ in ‘5G’ rollout (but no duty for a carrier to install anything… anywhere… anytime)
How Big is 28 Cubic Feet?
22.5 cubic feet

BUT MORE!
BUT MORE! ... New: foundations, vaults (total > 28 cubic feet?)
3 cubic foot antennas

- antennas are **NOT** counted in the 28 cubic foot ‘small wireless facility’ volume calculation

- **No LIMIT** to the number of 3 cubic foot antennas

- typical 6’ tall panel antennas **are**/are **not less** than 3 cubic feet in volume (~ 6’ x 1’ x .5’) (integrated mounting hardware, connectors, etc.)
Effective Prohibitions to Avoid

General Rule…

a local gov requirement effectively prohibits deployment when it “materially limits or inhibits any competitor’s or potential competitor’s ability to compete in a fair and balanced legal and regulatory environment.” Huh?

Fee Requirements…

must be (1) reasonably approximate to cost; (2) objectively reasonable to pass to applicant; and (3) no higher than fees charged to competitors in similar circumstances. Huh?

Non-Fee Requirements (e.g. Aesthetics)…

must be (1) reasonable; (2) no more burdensome than those applied to other infrastructure deployments; and (3) objective and published in advance. Huh?
# The 5! Shot Clock Rules
(Shortened to includes all appeals and permits)

<table>
<thead>
<tr>
<th>Shorter Timeframes</th>
<th>to Complete More Work</th>
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<tbody>
<tr>
<td>60 days</td>
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<tr>
<td>1</td>
<td>SWF “collocations” on something that exists</td>
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<tr>
<td>2</td>
<td>All eligible facility requests under Section 6409(a)</td>
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<tr>
<td>90 days</td>
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<tr>
<td>3</td>
<td>SWFs on new structures or replacement structures</td>
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<tr>
<td>4</td>
<td>Modifications/collocations not covered by Section 6409(a) including SWFs</td>
</tr>
<tr>
<td>150 days</td>
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</tr>
<tr>
<td>5</td>
<td>Everything (not much) else…generally new, freestanding non-SWF wireless facilities</td>
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Los Angeles light standard
cleverly camouflaged as a Cell Site
Los Angeles light standard
Cleverly camouflaged as a Cell Site
Los Angeles light standard
Cleverly camouflaged as a Cell Site
Framework for a SWF Policy

- Converts subjective, discretionary standards into objective ones as required by the new FCC rules
- Preserves City’s locational preferences
- in order to meet the FCC’s short shot clock
- No public hearings for new SWF sites; Applicant required to mail notice, offer residents to provide written public comments prior to date certain
- Develop small cell regulations through flexible policy document
- **DO NOT CODIFY IN THE Policy in the Ordinance.**
- Leave the Policy Doc to be amended or repealed by Director level decisions to quickly reflect changes in law/court decisions/tech.

Due April 14\textsuperscript{th}, 2019
Recommendations

• **INTRODUCE** a new ordinance for first reading amending the your Municipal Code (A belt…)

• **INTRODUCE** a new urgency ordinance amending the your Municipal Code (…and suspenders…)

• **ADOPT** resolution adopting a City Council policy to regulate small wireless facilities (…to hold up your ‘ah’ regulatory pants)
Questions?

(we sure have some)

Model SWF Supplemental Application at: TelecomLawFirm.com/swfapp
Dear Planning Directors,

Thank you to those who attended the past meeting at the COG on February 13th. Here is a recap of the meeting items:

1. **Metro Open Streets Mini-Cycle Grant Program** – *Presentation attached.*
   - The application deadline is **March 8th, 2019.**
   - Metro will be holding an application workshop on **February 22nd, 2019** at 10:00am located at Metro Headquarters (Henry Huntington Room, 3rd floor).
   - Contact: Brett Thomas, ThomasBJ@Metro.net

2. **Metro Congestion Management (CMP) Opt-Out** – *Presentation attached.* Click [here](#) for supporting materials.
   - Background provided: The CMP is a State mandated program that attempts to link transportation and land use decisions to mitigate congestion. The CMP is outdated and not consistent with Metro Best Practices. CMP statute allows for opt-out, if a majority of local jurisdictions that represent a majority of the county’s population adopt resolutions requesting to opt-out of the program.
   - Requested Action: Connect appropriate city staff/department with Metro staff to discuss CMP Opt-Out and adopt a CMP Opt-Out Resolution by **March 29th, 2019.**
   - Contact: Paul Backstrom, BackstromP@metro.net

   - Presentation by Dr. Jonathan L. Kramer. Discussion and recommendation given for local jurisdictions to develop a flexible policy document before **April 14th, 2019** to regulate small wireless facilities. (This is the date by which SWF Order Aesthetic Standards become effective. Jurisdictions with their own published aesthetic standards will have an enforceable policy against the FCC’s SWF Standards.)
   - Resources:
     i. See Telecom’s Model Small Wireless Facilities Supplemental application [here](#). This application is meant to be attached by the applicant to your regular wireless application to help cities determine whether projects are likely to be subject to the FCC’s new SWF rules.
     ii. Dr. Kramer’s Planner’s Cell Site Gallery [here](#).

Please mark your calendars for the next Planning Directors Committee meeting on March 13th.