



DEPARTMENT OF PUBLIC WORKS

Quality, Excellence, Innovation

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Marin County Board of Supervisors
3501 Civic Center Drive
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SUBJECT: Resolution in Support of the County of Marin and the Transportation Authority of Marin Opting Out of the Marin County Congestion Management Program.

Accounting

Dear Board Members:

Administrative Services

RECOMMENDATION: Adopt the Resolution in support of the County of Marin and Transportation Authority of Marin to opt out of the Marin County Congestion Management Program (CMP) in accordance with State CMP statute as authorized by California Government Code Section 65088.3.

Airport

Building Maintenance

Capital Projects

SUMMARY: As the Congestion Management Agency (CMA) for Marin County, the Transportation Authority of Marin (TAM) is required by State law to prepare and update on a biennial basis a Congestion Management Program (CMP) for Marin County. 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. Proposition 111 was not tied to inflation and has largely been replaced with Senate Bill (SB) 1, which was passed in 2016, however funding from proposition 111 still flows to local jurisdictions in Marin County and throughout the state.

Certified Unified Program Agency (CUPA)

Communications Maintenance

Disability Access

Engineering & Survey

Fleet Operations

Flood Control & Water Resources

With the passage of Assembly Bill (AB) 32 (California Global Warming Solutions Act of 2006), SB 375 (Sustainable Communities and Climate Protection Act of 2008), and SB 743 (Environmental quality: transit-oriented infill projects, judicial review streamlining for environmental leadership development projects), the CMP is largely out of alignment with regional and state policy direction. Whereas the new legislation focuses on reducing emissions and vehicles miles traveled (VMT), the CMP legislation focused on Level of Service and congestion. In fact, with SB 743, the CMP now conflicts with current California Environmental Quality Act (CEQA) Transportation Analysis guidance.

Land Development

Procurement

Real Estate

Reprographic Services

Road Maintenance

At the April 28, 2022, TAM Board of Commissioners Meeting, the TAM Board directed TAM staff to initiate the Opt-Out process and work with local jurisdictions to pass resolutions to Opt-Out of the CMP.

Stormwater Program

Transportation & Traffic Operations

Waste Management

The CMP legislation has been updated many times since its passage. In 1997, the state allowed for local jurisdictions to opt out of the CMP process. California Government Code §65088.3, states that counties may “opt-out” of the CMP requirement without loss of Proposition 111 gas tax revenues, if the majority of jurisdictions representing the majority of the county’s population pass resolutions that request their CMA to “opt-out” of the CMP.

TAM is founded as a sales tax authority under PUC 18500 and is designated by local resolutions as the Congestion Management Agency for Marin County, responsible for developing the CMP. TAM inherited CMP activities from the Marin County Congestion Management Agency (a function of County Department of Public Works) in 2004. TAM has maintained the CMP in mostly its original form since its inception, expanding its traffic monitoring efforts, but limiting any substantive changes.

The CMP is intended to establish designated performance standards on our roadway network using a vehicle delay-based Level of Service (LOS) standard and comparing roadway conditions against those standards. Local land use developments are also reviewed to ensure performance standards are met. If performance standards on roadways are not met, local jurisdictions are required to perform corrective actions to mitigate LOS, typically through adding capacity. This deficiency planning process has never been conducted in Marin but would be required of local jurisdictions, with failure to do so resulting in TAM being mandated to ask the State to withhold Proposition 111 funding. This process has the benefit of providing a uniform analysis for land use and transportation projects with resulting large traffic volumes. In practice, the CMP has never been used to withhold funding and serves primarily as a report on traffic conditions (on the subset of roads in the CMP network), rather than a functional planning process.

Due to its mandated process, the CMP is a rigid framework. TAM staff has raised concerns with the process including the inability to remove CMP segments once designated in the network, and removal of performance standards.

CHANGES TO TRANSPORTATION IMPACT ANALYSIS IN CEQA

Prior to the implementation of SB 743, the CMP was considered as part of the California Environmental Quality Act (CEQA) requirements, serving as a mutually supportive process for the CMP and lead agencies. The implementation of SB 743 in July 2020, however, excluded vehicle delay from CEQA; therefore, the CMP requirements now result in additional analysis and review beyond current CEQA requirements and local jurisdiction general plan requirements. This additional tier of CMP requirements can potentially conflict with VMT and General Plan analysis requirements. As housing element updates are required this year, staff have been coordinating discussions on traffic analysis from housing element updates. Planning directors have expressed support to remove CMP requirements which conflict with CEQA processes during this process.

MARIN PUBLIC WORKS ASSOCIATION REVIEW

TAM staff presented information on next steps for the CMP to the Marin Public Works Association (MPWA) in November 2021 and asked if the CMP provided any value to local jurisdictions. MPWA members noted that they did not derive much value from the CMP process other than the traffic monitoring data, which they do find useful. They also asked TAM to consider development of a CMP 2.0 or next generation planning process. In response to these comments, MPWA formed a subcommittee of Public Works directors to take a closer look at the CMP process. This group met in February 2022 and TAM presented an overview of the CMP, its use, and three options for next steps, including maintaining the CMP, continuing the CMP for an additional cycle, or initiating the Opt-Out Process.

The MPWA sub-committee recommended initiating the Opt-Out Process to MPWA at its March 2022 meeting. MPWA verbally agreed with this recommendation, although no formal action was taken.

CMP OPT-OUT PROCESS

As noted, at the April 28, 2022, TAM Board of Commissioners Meeting, the TAM Board directed TAM staff to initiate the Opt-Out process and work with local jurisdictions to pass resolutions to Opt-Out of the CMP.

To complete the Opt-Out process, a majority of local jurisdictions representing a majority of the population of the county would be required to pass resolutions to conduct the Opt-Out process. Marin County would not be the first county to opt out of the CMP. The following agencies have already conducted the Opt-Out Process or no longer prepare a CMP:

- Fresno Council of Governments (Fresno County) – 1997
- Los Angeles Metropolitan Transportation Authority – 2019
- Napa Valley Transportation Authority (Napa County) – (late 1990s/early 2000s)
- Sacramento Transportation Authority (Sacramento County) – 1996
- San Diego Association of Governments (San Diego County) – 2009
- San Joaquin Council of Governments – (2019-2020)
- San Luis Obispo Council of Governments (San Luis Obispo County) – 1997
- Santa Cruz County Regional Transportation Commission (Santa Cruz County) – 2000
- Sonoma County Transportation Authority (Sonoma County) – 2000

To date, local jurisdiction staff from both DPW and community development have indicated no concerns with proceeding with an Opt-Out process at this time. TAM staff are requesting consideration of agency resolutions by December 2022.

Once local jurisdictions have completed the Opt-Out Process, TAM staff will return to the TAM Board for administrative updates, including updates to previous resolutions as appropriate.

EQUITY IMPACT: The proposed Resolution is not expected to create any equity impediments in Marin County as it is addressing an obsolete process related to environmental review and traffic analysis changes specified under State law.

FISCAL 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.

REVIEWED BY:	<input type="checkbox"/>	County Administrator	<input checked="" type="checkbox"/>	N/A
	<input type="checkbox"/>	Department of Finance	<input checked="" type="checkbox"/>	N/A
	<input type="checkbox"/>	County Counsel	<input checked="" type="checkbox"/>	N/A
	<input type="checkbox"/>	Human Resources	<input checked="" type="checkbox"/>	N/A

Respectfully submitted,



Dan Dawson, AICP
Principal Transportation Planner

Attachments:

1. Resolution
2. CMP Opt-Out FAQ

