



## AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING

Meeting Date: April 2, 2019

Agenda Item 9-D

**Approvals:**

City Manager 

Dept. Head \_\_\_\_\_

Attorney \_\_\_\_\_

Finance \_\_\_\_\_

**Department:** City Manager's Office  
**Prepared By:** James Makshanoff, City Manager

**Subject:** CONSIDERATION AND ADOPTION OF A RESOLUTION REQUESTING THE CALIFORNIA STATE CONTROLLER'S OFFICE TO AUDIT THE TRANSPORTATION CORRIDOR AGENCIES (TCA)

**Fiscal Impact:** None.

**Summary:** The City Council should adopt a resolution in support of Congressman Levin's call for a third party independent investigation of the Transportation Corridor Agency.

**Background:** The Transportation Corridor Agency ("TCA") opened SR-241 in 1993, SR-73 in 1996 and SR-261 in 1998. In the approximately 20 years since, the TCA has not completed any major projects. In that time, the TCA's debt total has grown from about \$2.9 billion in 1998 to over \$6.4 billion in 2018. Since TCA's inception, the City of San Clemente has collected and paid approximately \$35,000,000 to the TCA. Having seats on both the Foothill/Eastern and San Joaquin Transportation corridor agencies, the City Council has the fiduciary responsibility to ensure that the TCA is not misusing public funds paid to the TCA by San Clemente residents.

**Discussion:** The Los Angeles Times ("Times") reported on March 11, 2019 that the TCA has turned to consulting firms to wage a multimillion dollar public outreach campaign to win public support for the SR-241 extension or alternative solution(s), sparking questions about how the TCA public agency is using funds. In response to the information presented by the Times article and documents presented by San Clemente, in a letter to Governor Gavin Newsom dated March 12, 2019, Congressman Mike Levin expressed his concern that the TCA "have potentially overspent and misused public funds...TCA's actions appear to be a betrayal of the public trust" asking the Governor to "exercise your oversight authority in this situation."

Legitimate questions have been raised by the Times' reporting and Congressman Levin regarding the TCA's use of public funds with respect to consultant and lobbying contracts, and fees paid by TCA to consultants and lobbyists. Therefore, it is prudent that an independent investigation be conducted in order to understand the TCA's potential misuse of Public funds.

The City of Dana Point, who is also a member of the TCA, will be considering a resolution in support of San Clemente's call for an independent investigation by the State Controller.

**Recommendation:**

Adopt Resolution No. \_\_\_\_, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, IN SUPPORT OF THE CALL FOR A THIRD PARTY INDEPENDENT INVESTIGATION OF THE TRANSPORTATION CORRIDOR AGENCY, A PUBLIC AGENCY, BY CONGRESSMAN MIKE LEVIN TO ENSURE THE PROPER USE OF PUBLIC FUNDS"

**Attachments:** 1. Draft resolution

**Notification:** California State Controller's Office.

Resolution No.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, IN SUPPORT OF THE CALL FOR A THIRD PARTY INDEPENDENT INVESTIGATION OF THE TRANSPORTATION CORRIDOR AGENCY, A PUBLIC AGENCY, BY CONGRESSMAN MIKE LEVIN AND THE CITY OF SAN CLEMENTE TO ENSURE THE PROPER USE OF PUBLIC FUNDS

WHEREAS, the Transportation Corridor Agency ("TCA") opened SR-241 in 1993, SR-73 in 1996 and SR-261 in 1998;

WHEREAS, the TCA is a public agency;

WHEREAS, the TCA has not completed any major project for approximately 20 years;

WHEREAS, using the TCA's own Comprehensive Annual Financial report and annual budgets, Fieldman, Rolapp & Associates' June 18, 2018 Memorandum ("Fieldman, Rolapp") found that TCA's total debt has grown from about \$2.9 billion in 1998 to over \$6.4 billion in 2018;

WHEREAS, while TCA's debt has more than doubled between 1998 and 2018, TCA has not built any roads during that same period;

WHEREAS, according to the Fieldman, Rolapp, both the Foothill/Eastern and the San Joaquin TCA systems were initially financed based on projections that overstated initial demand and growth in toll revenues;

WHEREAS, according to Fieldman, Rolapp, the initial financings optimized the projected revenues and therefore the practical alternative for restructuring was to extend the final maturity for each system. Extending the final maturity dates, in turn, allowed the development of debt service schedule that required lower growth rates to support and ease the annual debt burden of each system considerably;

WHEREAS, the City of San Clemente is a member of the TCA Joint Powers Authority and as such, appoints a San Clemente City Council member for the Foothill/Eastern and the San Joaquin TCAs as San Clemente's representatives to sit on the TCA decision making boards and committees to provide oversight and ensure decisions in the best interest of San Clemente residents;

WHEREAS, for fiscal year 2017-2018, San Clemente collected and paid over to TCA \$604,686.81;

WHEREAS, since TCA's inception, San Clemente has collected and paid over to TCA approximately \$35,000,000;

WHEREAS, per TCA's website, as a member of the TCA Joint Powers Authority, San Clemente is required to collect and pay to TCA \$4,332 per unit of Single Family

Home built, \$2,528 per unit of Multi-Family Homes built and \$5.53 per square foot of non-residential space in Zone B of the San Joaquin Hills Transportation Corridor Agency, and \$5,797 per unit of Single Family Home built, \$3,385 per unit of Multi-Family Homes built and \$8.06 per square foot of non-residential space in Zone A of the Foothill/Eastern Transportation Corridor Agency;

WHEREAS, as City Council members we hold a fiduciary responsibility owed to San Clemente residents to ensure that TCA is not misusing these public funds paid to TCA by San Clemente;

WHEREAS, the Los Angeles Times ("Times") reported on March 11, 2019 that the TCA has turned to consulting firms to wage a multimillion dollar public outreach campaign to win public support for the SR-241 extension or alternative solution(s), sparking questions about how the TCA public agency is using our money;

WHEREAS, although the TCA is a public agency, as one of its member cities, San Clemente, instituted a public records lawsuit on June 19, 2018 to obtain more information on billings and payments TCA made to consultants and lobbying firms that San Clemente said it did not receive in response to San Clemente's Public Records Act requests for such information;

WHEREAS, in response to the information presented by the Times article and documents presented by San Clemente, in a letter to Governor Gavin Newsom dated March 12, 2019, Congressman Mike Levin expressed his concern that the TCA "have potentially overspent and misused public funds...TCA's actions appear to be a betrayal of the public trust" asking the Governor to "exercise your oversight authority in this situation;"

WHEREAS, legitimate questions have been raised by the Times' reporting, Congressman Levin and the City of San Clemente regarding the TCA's use of public funds with respect to consultant and lobbying contracts, and fees paid by TCA to consultants and lobbyists;

WHEREAS, the City of San Clemente has called for an independent investigation of TCA's potential misuse of public funds;

NOW, THEREFORE, BE IT RESOLVED, that the City of San Clemente hereby joins in support of Congressman Mike Levin's call for an independent, third party investigation by the State Controller's office of TCA's revenues, expenditures, projections and debt financing including, but not limited to determining the propriety and extent of charges for all of TCA's consulting and lobbying agreements;

RESOLVED, FURTHER that the third party independent investigation ensure that the TCA's estimated project costs and demand in growth and revenues for any SR-241 extension or alternative(s) are not overstated.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of San Clemente,  
California

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE     )  
CITY OF SAN CLEMENTE   )

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. \_\_\_\_\_ was adopted at a regular meeting of the City Council of the City of San Clemente held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

Approved as to form:

\_\_\_\_\_  
City Attorney