PUBLIC HEARING: PARTICIPATION IN THE STATEWIDE COMMUNITY INFRASTRUCTURE PROGRAM (SCIP)

RECOMMENDATION

Public hearing to consider public comments/testimony regarding the City of Stockton’s participation in the Statewide Community Infrastructure Program (SCIP). At the conclusion of the public hearing, it is recommended that the City Council adopt a resolution:

1. Authorizing the City of Stockton to join the Statewide Community Infrastructure Program;
2. Authorizing the California Statewide Communities Development Authority to accept applications from property owners, conduct special assessment proceedings, and levy assessments within the territory of the City of Stockton;
3. Approving form of Acquisition Agreement for use when applicable;
4. Authorizing the City Manager to enter into future Acquisition Agreements with property owners/developers; and
5. Authorizing related actions.

Summary

The Statewide Community Infrastructure Program (SCIP), which is sponsored by the California Statewide Communities Development Authority (CSCDA), is an economic development tool that allows property owners to finance development impact fees for a construction project through tax-exempt bond financing over a 30-year period. Selected public capital improvements and the development impact fees to the City will be financed by the issuance of tax-exempt bonds by CSCDA. CSCDA will impose a special assessment on the owner’s property to repay the bonds issued. CSCDA administers the SCIP on behalf of the City and handles all district formation, district administration, bond issuance, and bond administration functions. Further, the City would not incur any financial liability if a participating property owner defaulted on the associated assessments.

DISCUSSION

Background

Certain public facilities and development impact fees are collected by the City of Stockton to mitigate associated impacts from new development. These fees are typically paid by the developer at the time a building permit is issued and prior to construction commencing.

The California Statewide Communities Development Authority (CSCDA) is a joint powers authority sponsored by the League of California Cities and the California State Association of Counties. The member agencies of CSCDA include more than 500 cities, counties, and special districts throughout...
California, including the City of Stockton. SCIP was instituted by CSCDA in 2002 to allow property owners in participating cities and counties to finance the development impact fees that would be payable by property owners upon receiving development entitlements or building permits. The program has since been expanded to include financing of public capital improvements directly. Currently, over 50 local agencies throughout California are participating in SCIP, including Manteca and Tracy.

Present Situation

If a property owner chooses to participate in SCIP, the selected public capital improvements and the development impact fees owed to the City will be financed by the issuance of tax-exempt bonds by CSCDA. CSCDA will impose a special assessment on the owner's property to repay the portion of the bonds issued to finance the fees paid with respect to the property. With respect to impact fees, the property owner will either pay the impact fees at the time of permit issuance, and will be reimbursed from the SCIP bond proceeds when the SCIP bonds are issued, or the fees will be funded directly from the proceeds of the SCIP bonds. In the former case, the City is required to transfer the fees over to the SCIP trustee to be held in a trust account, and in the latter case, SCIP holds the bond proceeds representing the fees. In both cases, the fees are subject to requisition by the City at any time to make authorized fee expenditures. Funds may be requested by completing the SCIP Disbursement Form (see Appendix Q in the SCIP Manual, which is attached as Exhibit 3 to the Resolution) and are typically paid within two business days of receipt of completed disbursement request. By holding and investing the money until it is spent, SCIP is able to monitor the investment earnings (which come to the City) for federal tax law arbitrage purposes. SCIP encourages the City to spend those amounts before any other fee revenues of the City. If the fees are paid by the property owner and bonds are never issued, the fees are returned to the City by SCIP. In this way, the City is never at risk for the receipt of the impact fees.

SCIP provides the property owner the following benefits:

1. Only property owners who choose to participate in the program will have assessments imposed on their property.
2. Instead of paying cash for public capital improvements and/or development impact fees, the property owner receives low-cost, long-term, tax-exempt financing of those fees, freeing up capital for other purposes.
3. The property owner can choose to pay off the special assessments at any time.
4. For homebuyers, paying for the costs of public infrastructure through a special assessment is superior to having these costs rolled into the cost of the home. Although the tax bill is higher, the amount of the mortgage is smaller making it easier to qualify for a loan. Moreover, because the special assessment financing is at tax-exempt rates, it typically is at a lower cost than mortgage rates.
5. Owners of smaller projects, both residential and commercial, can have access to tax-exempt financing of infrastructure. Before the inception of SCIP, only projects large enough to justify the formation of an assessment or community facilities district had access to tax-exempt financing.

SCIP provides the City of Stockton the following benefits:

1. As in conventional assessment financing, the City is not liable to repay the bonds issued by
CSCDA or the assessments imposed on the participating properties.

2. CSCDA handles all district formation, district administration, bond issuance, and bond administration functions. A participating city can provide tax-exempt financing to property owners through SCIP while committing virtually no staff time to administer the program.

3. Providing tax-exempt financing helps participating cities and counties cushion the impact of rising public capital improvement costs and development impact fees on property owners.

4. The availability of financing will encourage developers to pull permits and pay fees in larger blocks, giving the participating city immediate access to revenues for public infrastructure, rather than receiving a trickle of the revenues over time. As part of the entitlement negotiation process, the possibility of tax-exempt financing of fees can be used to encourage a developer to pay fees up front.

5. In some cases, the special assessment on successful projects can be refinanced through refunding bonds. Savings achieved through refinancing will be directed back to the participating city for use on public infrastructure, subject to the applicable federal tax limitations.

Presently, the City of Stockton offers a fee deferral program. The SCIP will provide an additional economic development tool. Below is the City’s existing program:

1. Non-residential Fee Deferral Program, which allows property owners to defer certain public facilities fees over a five or ten year period. This program was originally adopted by the City Council on February 12, 1991 by Resolution No. 91-0119. Interest is applied to the deferred fees at the current 11th District Cost of Funds, plus one percent, and adjusted each July. Typically, the City places a lien against the property being developed as security against the deferred fees.

Unlike SCIP, the Fee Deferral Program does include some risk on the part of the City in that a developer could default on the deferral agreement and the City could potentially lose remaining impact fees yet to be repaid through the deferred agreement. Because funds are held in an interest bearing trust account through SCIP and monies are paid to the City upon submittal of a disbursement request, there is no risk to the City in losing public facilities fees from projects funded through SCIP.

The Economic Development Department recently received a request from a developer for the City to join SCIP in order to assist with financing for the construction of single-family homes in Stockton. In addition, the SCIP program will assist in financing eligible impact fees and improvements, such as streets, sidewalks, lighting, and landscaping associated with residential, commercial, and industrial development. Staff believes SCIP will be a useful tool in financing new development and is recommending that the Council authorize the City to join SCIP and for CSCDA to administer the SCIP on the City’s behalf.

The proposed resolution authorizes CSCDA to accept applications from property owners within the City’s planning jurisdiction to apply for tax-exempt financing of public capital improvements and development impact fees through SCIP. It also authorizes CSCDA to form assessment districts within the Stockton city boundaries, conduct assessment proceedings, and levy assessments against the property of participating owners. It approves “as to form" an Acquisition Agreement (see Exhibit 2 to the Resolution) to be entered into between the City of Stockton and the participating property owner/developer, if applicable, to provide the terms and conditions under which financing for public capital improvements will be provided and to establish the procedure for disbursement of bonds.
proceeds to pay for completed facilities. It also authorizes miscellaneous related actions and makes certain findings and determinations required by law.

Attached to the resolution as Exhibit 1 is a Form of Resolution of Intention to be adopted by CSCDA, which is for informational purposes only and does not require Council action. In addition, the SCIP Manual of Procedures and the City of Stockton Contacts for the SCIP program are attached to the resolution as Exhibits 3 and 4.

Public Notification

A notice of the public hearing was printed in The Record on May 31, 2014.

FINANCIAL SUMMARY

There is no fiscal impact associated with this item except a nominal amount of staff time to establish the City’s participation in SCIP. It’s important to note that by participating in SCIP, the City would not incur any financial liability if a participating property owner defaulted on the associated assessments.