



Staff Report

June 13, 2017

TO: Honorable Mayor and Town Council
FROM: Roger Carroll, Treasurer/Finance Officer
DATE: June 2, 2017
RE: Statewide Community Infrastructure Program

RECOMMENDED ACTION:

Hold public hearing and adopt resolution.

ISSUE STATEMENT AND DISCUSSION:

Description: This item includes a brief staff presentation regarding participation in the Statewide Community Infrastructure Program ("SCIP"), which is sponsored by the California Statewide Communities Development Authority ("CSCDA"), followed by Council discussion, a public hearing to take public testimony on SCIP and bonds to be issued by CSCDA, and consideration of a resolution making certain findings and authorizing certain matters necessary to participate in SCIP.

Background: 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 approximately 383 cities and 56 counties throughout California, including the Town of Loomis (the "Town").

SCIP was instituted by CSCDA in 2002 to allow owners of property 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. If a property owner chooses to participate, the selected public capital improvements and the development impact fees owed to the Town 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 Town is required to pay the fees over to SCIP, and in the latter case, SCIP holds the bond proceeds representing the fees. In both cases the fees are subject to requisition by the Town *at any time* to make authorized fee expenditures. But by holding and investing the money until it is spent, SCIP is able to monitor the investment earnings (which come to the Town) for federal tax law arbitrage purposes. SCIP encourages the Town to spend those amounts *before* any other fee revenues of the Town. If the fees are paid by the property owner and bonds are never issued, the fees are returned to the Town by SCIP. In this way, the Town is never at risk for the receipt of the impact fees.

The benefits to the property owner include:

- Only property owners who choose to participate in the program will have assessments imposed on their property.
- 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.
- The property owner can choose to pay off the special assessments at any time.
- For home buyers, paying for the costs of public infrastructure through a special assessment is superior to having those 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. Moreover, because the special assessment financing is at tax-exempt rates, it typically comes at lower cost than mortgage rates.
- 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 communities facilities district had access to tax-exempt financing.

The benefits to the Town include:

- As in conventional assessment financing, the Town is not liable to repay the bonds issued by CSCDA or the assessments imposed on the participating properties.
- 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.
- Providing tax-exempt financing helps participating cities and counties cushion the impact of rising public capital improvements costs and development impact fees on property owners.
- 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 revenues stretched out 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.
- In some cases, the special assessments 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 applicable federal tax limitations.

The proposed resolution authorizes CSCDA to accept applications from owners of property within our 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 our Town's boundaries, conduct assessment proceedings and levy assessments against the property of participating owners. It approves the form of an Acquisition Agreement, attached to the resolution as Exhibit B, to be entered into between the Town 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 bond 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 A is a "Form of Resolution of Intention to be Adopted by CSCDA". This is for informational purposes and does not require action by this Council.

Recommended Action: After Council discussion and questions, open the public hearing to order and invite any interested members of the public to provide testimony regarding SCIP and the proposed action. Upon the close of the hearing, if the Council wishes to join SCIP and become a participating member agency in this program, it should adopt the proposed resolution.

POLICY AND/OR FINANCIAL IMPLICATIONS:

None.

Attachments: Resolution

RESOLUTION NO. 17-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS AUTHORIZING THE TOWN TO JOIN THE STATEWIDE COMMUNITY INFRASTRUCTURE PROGRAM; 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 TOWN OF LOOMIS; APPROVING FORM OF ACQUISITION AGREEMENT FOR USE WHEN APPLICABLE; AND AUTHORIZING RELATED ACTIONS

WHEREAS, the California Statewide Communities Development Authority (the "Authority") is a joint exercise of powers authority the members of which include numerous cities and counties in the State of California, including the Town of Loomis (the "Town"); and

WHEREAS, the Authority has established the Statewide Community Infrastructure Program ("SCIP") to allow the financing of certain development impact fees (the "Fees") levied in accordance with the Mitigation Fee Act (California Government Code Sections 66000 and following) and other authority providing for the levy of fees on new development to pay for public capital improvements (collectively, the "Fee Act") through the levy of special assessments pursuant to the Municipal Improvement Act of 1913 (Streets and Highways Code Sections 10000 and following) (the "1913 Act") and the issuance of improvement bonds (the "Local Obligations") under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 and following) (the "1915 Act") upon the security of the unpaid special assessments; and

WHEREAS, SCIP will also allow the financing of certain public capital improvements to be constructed by or on behalf of property owners for acquisition by the Town or another public agency (the "Improvements"); and

WHEREAS, the Town desires to allow the owners of property being developed within its jurisdiction ("Participating Developers") to participate in SCIP and to allow the Authority to conduct assessment proceedings under the 1913 Act and to issue Local Obligations under the 1915 Act to finance Fees levied on such properties and Improvements, provided that such Participating Developers voluntarily agree to participate and consent to the levy of such assessments; and

WHEREAS, in each year in which eligible property owners within the jurisdiction of the Town elect to be Participating Developers, the Authority will conduct assessment proceedings under the 1913 Act and issue Local Obligations under the 1915 Act to finance Fees payable by such property owners and Improvements and, at the conclusion of such proceedings, will levy special assessments on such property within the territory of the Town;

WHEREAS, there has been presented to this meeting a proposed form of Resolution of Intention to be adopted by the Authority in connection with such assessment proceedings (the "ROI"), a copy of which is attached hereto as Exhibit A, and the territory within which assessments may be levied for SCIP (provided that each Participating Developer consents to such assessment) shall be coterminous with the Town's official boundaries of record at the time of adoption of each such ROI (the "Proposed Boundaries"), and reference is hereby made to such boundaries for the plat or map required to be included in this Resolution pursuant to Section 10104 of the Streets and Highways Code; and

WHEREAS, there has also been presented to this meeting a proposed form of Acquisition Agreement (the "Acquisition Agreement"), a copy of which is attached hereto as Exhibit B, to be approved as to form for use with respect to any Improvements to be constructed and installed by a Participating Developer and for which the Participating Developer requests acquisition financing as part of its SCIP application; and

WHEREAS, the Town will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Local Obligations or any other bonds issued in connection with SCIP; and

WHEREAS, pursuant to Government Code Section 6586.5, notice was published at least five days prior to the adoption of this resolution at a public hearing, which was duly conducted by this Council concerning the significant public benefits of SCIP and the financing of the Improvements and the public capital improvements to be paid for with the proceeds of the Fees;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Loomis as follows:

Section 1. The Town hereby consents to the conduct of special assessment proceedings by the Authority in connection with SCIP pursuant to the 1913 Act and the issuance of Local Obligations under the 1915 Act on any property within the Proposed Boundaries; provided, that

(1) Such proceedings are conducted pursuant to one or more Resolutions of Intention in substantially the form of the ROI; and

(2) The Participating Developers, who shall be the legal owners of such property, execute a written consent to the levy of assessment in connection with SCIP by the Authority and execute an assessment ballot in favor of such assessment in compliance with the requirements of Section 4 of Article XIID of the State Constitution.

Section 2. The Town hereby finds and declares that the issuance of bonds by the Authority in connection with SCIP will provide significant public benefits, including

without limitation, savings in effective interest rate, bond preparation, bond underwriting and bond issuance costs and the more efficient delivery of local agency services to residential and commercial development within the Town.

Section 3. The Authority has prepared and will update from time to time the “SCIP Manual of Procedures” (the “Manual”), and the Town will handle Fee revenues and funds for Improvements for properties participating in SCIP in accordance with the procedures set forth in the Manual.

Section 4. The form of Acquisition Agreement presented to this meeting is hereby approved, and the [Mayor] is authorized to execute and the Town Clerk is authorized to attest the execution of a completed Acquisition Agreement in substantially said form and pertaining to the Improvements being financed on behalf of the applicable Participating Developer.

Section 5. The appropriate officials and staff of the Town are hereby authorized and directed to make SCIP applications available to all property owners who are subject to Fees for new development within the Town and/or who are conditioned to install Improvements and to inform such owners of their option to participate in SCIP; provided, that the Authority shall be responsible for providing such applications and related materials at its own expense. The staff persons listed on the attached Exhibit C, together with any other staff persons chosen by the Town Manager from time to time, are hereby designated as the contact persons for the Authority in connection with the SCIP program.

Section 6. The appropriate officials and staff of the Town are hereby authorized and directed to execute and deliver such closing certificates, requisitions, agreements and related documents, including but not limited to such documents as may be required by Bond Counsel in connection with the participation in SCIP of any districts, authorities or other third-party entities entitled to own Improvements and/or to levy and collect fees on new development to pay for public capital improvements within the jurisdiction of the Town, as are reasonably required by the Authority in accordance with the Manual to implement SCIP for Participating Developers and to evidence compliance with the requirements of federal and state law in connection with the issuance by the Authority of the Local Obligations and any other bonds for SCIP. To that end, and pursuant to Treasury Regulations Section 1.150-2, the staff persons listed on Exhibit C, or other staff person acting in the same capacity for the Town with respect to SCIP, are hereby authorized and designated to declare the official intent of the Town with respect to the public capital improvements to be paid or reimbursed through participation in SCIP.

Section 7. This Resolution shall take effect immediately upon its adoption. The Town Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of the Authority.

* * *

PASSED AND ADOPTED this 13th day of June, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINED:

Mayor

ATTEST:

APPROVED AS TO FORM:

Town Clerk

Town Attorney

EXHIBIT A TO THE RESOLUTION

**FORM OF RESOLUTION OF INTENTION
TO BE ADOPTED BY CSCDA**

RESOLUTION OF INTENTION OF THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO FINANCE IMPROVEMENTS AND/OR THE PAYMENT OF DEVELOPMENT IMPACT FEES FOR PUBLIC CAPITAL IMPROVEMENTS IN THE PROPOSED ASSESSMENT DISTRICT NO. _____ (COUNTY OF _____, CALIFORNIA), APPROVING A PROPOSED BOUNDARY MAP, MAKING CERTAIN DECLARATIONS, FINDINGS AND DETERMINATIONS CONCERNING RELATED MATTERS, AND AUTHORIZING RELATED ACTIONS IN CONNECTION THEREWITH

WHEREAS, under the authority of the Municipal Improvement Act of 1913 (the "1913 Act"), being Division 12 (commencing with Sections 10000 and following) of the California Streets and Highways Code, the Commission (the "Commission") of the California Statewide Communities Development Authority (the "Authority") intends to finance, through its Statewide Community Infrastructure Program, the payment of certain development impact fees for public capital improvements as described in Exhibit A attached hereto and by this reference incorporated herein (the "Fees") and to finance certain public capital improvements to be constructed by or on behalf of the property owner(s) and to be acquired by the City or another local agency (the "Improvements"), all of which are of benefit to the property within the proposed Assessment District No. _____ (County of _____, California) (the "Assessment District"); and

WHEREAS, the Commission finds that the land specially benefited by the Fees and the Improvements is shown within the boundaries of the map entitled "Proposed Boundaries of Assessment District No. _____ (County of _____, California)," a copy of which map is on file with the Secretary and presented to this Commission meeting, and determines that the land within the exterior boundaries shown on the map shall be designated "Assessment District No. _____ (County of _____, California)";

NOW, THEREFORE, BE IT RESOLVED that the Commission of the California Statewide Communities Development Authority hereby finds, determines and resolves as follows:

1. The above recitals are true and correct, and the Commission so finds and determines.

2. Pursuant to Section 2961 of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (the "1931 Act"), being Division 4 (commencing with Section 2800) of the California Streets and Highways Code, the Commission hereby declares its intent to comply with the requirements of the 1931 Act by complying with Part 7.5 thereof.

3. The Commission has or will designate a registered, professional engineer as Engineer of Work for this project, and hereby directs said firm to prepare the report containing the matters required by Sections 2961(b) and 10204 of the Streets and Highways Code, as supplemented by Section 4 of Article XIID of the California Constitution.

4. The proposed boundary map of the Assessment District is hereby approved and adopted. Pursuant to Section 3111 of the California Streets and Highways Code, the Secretary of the Authority is directed to file a copy of the map in the office of the County Recorder of the County of _____ within fifteen (15) days of the adoption of this resolution.

5. The Commission determines that the cost of the Fees and Improvements shall be specially assessed against the lots, pieces or parcels of land within the Assessment District benefiting from the payment of the Fees and the provision of the Improvements. The Commission intends to levy a special assessment upon such lots, pieces or parcels in accordance with the special benefit to be received by each such lot, piece or parcel of land, respectively, from the payment of the Fees and the provision of the Improvements.

6. The Commission intends, pursuant to subparagraph (f) of Section 10204 of the California Streets and Highways Code, to provide for an annual assessment upon each of the parcels of land in the proposed assessment district to pay various costs and expenses incurred from time to time by the Authority and not otherwise reimbursed to the Authority which result from the administration and collection of assessment installments or from the administration or registration of the improvement bonds and the various funds and accounts pertaining thereto.

7. Bonds representing unpaid assessments, and bearing interest at a rate not to exceed twelve percent (12%) per annum, will be issued in the manner provided by the Improvement Bond Act of 1915 (Division 10, Streets and Highways Code), and the last installment of the bonds shall mature not to exceed thirty (30) years from the second day of September next succeeding twelve (12) months from their date.

8. The procedure for the collection of assessments and advance retirement of bonds under the Improvement Bond Act of 1915 shall be as provided in Part 11.1, Division 10, of the Streets and Highways Code of the State of California.

9. Neither the Authority nor any member agency thereof will obligate itself to advance available funds from its or their own funds or otherwise to cure any deficiency which may occur in the bond redemption fund. A determination not to obligate itself shall not prevent the Authority or any such member agency from, in its sole discretion, so advancing funds.

10. The amount of any surplus remaining in the improvement fund after payment of the Fees, acquisition of the Improvements and payment of all claims shall be

distributed in accordance with the provisions of Section 10427.1 of the Streets and Highways Code.

11. To the extent any Fees are paid to the Authority in cash with respect to property within the proposed Assessment District prior to the date of issuance of the bonds, the amounts so paid shall be reimbursed from the proceeds of the bonds to the property owner or developer that made the payment.

[End of Form of Resolution of Intention]

EXHIBIT B TO THE RESOLUTION
FORM OF ACQUISITION AGREEMENT

CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY
STATEWIDE COMMUNITY INFRASTRUCTURE PROGRAM

ACQUISITION AGREEMENT

BY AND BETWEEN
TOWN OF LOOMIS
AND
[DEVELOPER]

Dated as of _____, 20__

EXHIBIT C TO THE RESOLUTION

LIST OF STAFF CONTACTS

All contacts can be reached at (916) 652-1840

Roger Carroll, Finance Director

rcarroll@loomis.ca.gov

_____, Town Manager

_____@loomis.ca.gov

Crickett Strock, Town Clerk

cstock@loomis.ca.gov