



## **STAFF REPORT TO THE CITY COUNCIL**

**DATE:** Regular Meeting of July 23, 2024

**TO:** Mayor and Members of the City Council

**VIA:** Dante Hall, City Manager

**SUBMITTED BY:** Timothy Rood, AICP, Community Development Director

**SUBJECT:** Public Hearing to amend and restate the City of Hercules' participation in the Statewide Community Infrastructure Program (SCIP) and consideration of a SCIP application from D.R. Horton for the Owl Ranch residential project.

### **RECOMMENDED ACTION:**

Staff recommends that the City Council adopt Resolution No. 24-XX (Attachment 1), an Amended and Restated Resolution making certain findings and authorizing certain actions necessary for the City of Hercules to confirm and expand its participation in SCIP and finding the action exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

Staff also recommends that the City Council adopt Resolution No. 24-XX (Attachment 2) authorizing the City Manager to approve the SCIP application from D.R. Horton, dated June 27, 2024 (Attachment 3) and finding the action exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

### **EXECUTIVE SUMMARY:**

The proposed Amended and Restated Resolution authorizes the California Statewide Communities Development Authority (CSCDA) to accept applications from owners of property within the City's planning jurisdiction to apply for tax-exempt financing of public capital improvements and development related fees through the Statewide Community Infrastructure Program (SCIP).

The SCIP program has been expanded to include, among other things, community facilities districts (“CFDs”), a type of special tax district formed when property owners within a geographic area agree to impose a tax on property in order to fund infrastructure improvements or services. The proposed Resolution amends and restates the City’s participation in SCIP to reflect updates to the program.

The Resolution also maintains the current requirement that all SCIP applications be reviewed by the City Council and that the City Council authorize the City Manager to approve or deny the application. It also authorizes CSCDA to form assessment districts and community facilities districts within our City’s boundaries, conduct assessment and special tax proceedings, and levy assessments and special taxes against the property of participating owners.

Further, the City Council is requested to review a SCIP application from D.R. Horton for the Owl Ranch residential development (Attachment 3) and authorize the City Manager to approve the application.

## **BACKGROUND:**

CSCDA is a joint powers authority sponsored by the League of California Cities and the California State Association of Counties. In total, 530 cities, counties and special districts throughout California are members of CSCDA, including the City of Hercules. SCIP was instituted by CSCDA in 2002 to allow owners of property in participating cities and counties to finance the development-related fees that would be payable by property owners upon receiving development entitlements or building permits through a pooled special assessment districts program. SCIP was expanded to include financing of public capital improvements directly in addition to development fees and has now been further expanded to include community facilities districts (“CFDs”) and an option to finance public services in respect of stand-alone bond issues, necessary to support development in the City, as provided for in the proposed Amended and Restated Resolution. Since its inception SCIP has issued over \$1 billion in land secured special assessment and CFD bonds for development projects in California.

The City joined SCIP in 2006 and participated in SCIP Series 2007A, with a bond participation par amount in excess of \$1.2 million in respect of the Venture Commerce Center project, and SCIP Series 2017A, with a bond participation par amount in excess of \$3.4 million in respect of the Muir Pointe project. The City amended the original 2006 SCIP Resolution in 2017 to allow a developer to submit the SCIP application only after the City Council has reviewed and authorized the City Manager to approve or deny the application.

## **ANALYSIS:**

It is now before the City Council to consider modifications to its SCIP participation to allow financing of fees and facilities through the formation of CFDs in addition to the current assessment district program. With CFDs, developers can finance a broader range of City fees such as the police, fire, library, general City fee and the housing in-lieu fee. It will also allow the developer more flexibility in adjusting tax rates by specific product type, assist in forming separate improvement areas when projects need to be phased, and provide for more facilities to be financed similar in type to the fees.

If a property owner applies to participate in SCIP, and the City approves the application, the selected public capital improvements, facilities and/or development related fees owed to the City will be financed by the issuance of bonds by CSCDA. Property owners, in consultation with the City and the SCIP team, can opt to have CSCDA form either an assessment district or a community facilities district. CSCDA determines whether the project will be included in the SCIP pool program (where no one developer within the SCIP pool is responsible for the payment related to any other project) or, depending on the projected bond sizing and other factors, implemented as a stand-alone financing. In either case, CSCDA will form the appropriate district and impose an assessment or special tax, as applicable, on the owner's property to repay the portion of the bonds issued to finance public capital improvements, facilities and/or development related fees.

With respect to the financing of development related fees, the property owner will either pay the development 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 both cases, the fees are subject to requisition by the City at any time to make authorized fee expenditures, and the City is never at risk for payment of its fees. If the property owner is required to construct improvements to be dedicated to the City, the proposed Amended and Restated Resolution includes a form of acquisition agreement to be used when such improvements are funded with SCIP bond proceeds, which outlines how a developer will be reimbursed for improvements as they are certified complete by the City.

The benefits of SCIP to the property owner include:

- Only property owners who choose to participate in the program will have assessments or special taxes imposed on their property.
- Instead of paying cash for public capital improvements and/or development related 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 assessments or special taxes at any time.

- For home buyers, paying for the costs of public infrastructure through an assessment or special tax 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 assessment/special tax 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 community facilities district had access to tax-exempt financing. SCIP can finance projects as low as \$500,000, which would not be economical on a stand-alone basis.

The benefits of SCIP to the City include:

- As in conventional assessment district and CFD financing, the City is not liable to repay the bonds issued by CSCDA or the assessments or special taxes, as applicable, imposed on the participating properties.
- CSCDA handles all district formation, district administration, bond issuance and bond administration functions. A participating city, county or special district 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 related fees on new development. Many developers rely on assessment district or CFD financing through SCIP in making the decision to purchase land, thereby improving the City's competitive advantage in attracting new development.
- The availability of financing will encourage developers to pull permits and pay fees in larger blocks, giving the participating city, county or special district 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 assessments or special taxes on successful projects can be refinanced through refunding bonds. Savings achieved through a refinancing may be directed to lower property taxes subject to applicable federal tax limitations.

The proposed Amended and Restated 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 related fees through SCIP. It also authorizes CSCDA to form assessment districts and community facilities districts within our City's boundaries, conduct assessment and special tax proceedings and levy assessments and special taxes against the property of participating owners. The authorization of CSCDA to form assessment districts within the City's boundaries, conduct assessment proceedings, and levy assessments against the property of

participating owners previously approved by this City Council would remain in effect. The Amended and Restated Resolution approves the form of an acquisition agreement, attached thereto as Attachment 1A, to be entered into between the City 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.

In addition to the funding of public capital improvements and development related fees, the proposed Amended and Restated Resolution authorizes CSCDA to form community facilities districts within our jurisdiction to levy special taxes to fund public services necessitated by new development projects, if approved by the participating property owner. Similar to the funding of public capital improvements and development related fees, once an application is received by the participating property owner and approved by the City, CSCDA handles all district formation and district administration. CSCDA will coordinate with the City annually to prepare the budget for the levy, and will levy and collect the special taxes for disbursement to the City when collected. Public services will only be included in a community facilities district formed for a stand-alone project.

Owl Ranch:

A site-specific SCIP application (Attachment 3) dated June 27, 2024 has been received from D.R. Horton, requesting approval to utilize SCIP to finance up to \$500,000 of the \$783,276 total of eligible development impact fees and improvements for the Owl Ranch residential development, as shown below:

**ELIGIBLE IMPACT FEES:**

<b>Type (water, sewer, road, etc.)</b>	<b>Collecting Local Agency</b>	<b>Fee Recipient (if different)</b>	<b>Total Amount of Fee</b>	<b>Amount of Fee per Unit</b>
Park & Recreation Fee	City of Hercules	City of Hercules	\$64,790	\$1,705
Transportation Facilities fee	City of Hercules	City of Hercules	\$227,126	\$5,977
Sewer Facilities Fee	City of Hercules	City of Hercules	\$177,802	\$4,679
West County Sub-Regional Transportation Mitigation Fee	City of Hercules	WCCTAC	\$262,808	\$6,916
<b>TOTAL</b>			<b>\$732,526</b>	<b>\$19,277</b>

**ELIGIBLE IMPROVEMENTS:**

<b>Description</b>	<b>Local Agency Acquiring Improvements</b>	<b>Amount</b>
Skelly Road – Bulb Out	City of Hercules	\$50,750

As indicated in the application, the SCIP district would include the 38 market-rate homes at Owl Ranch; the two below market-rate homes would not be subject to the assessment.

A May 9, 2024 memo from D.R. Horton's SCIP consultant to CSCDA, provided to staff by D.R. Horton on June 25, 2024 (Attachment 4) indicates that the SCIP special tax to finance the \$500,000 in fees and improvements is estimated to be about \$1,475 annually per participating unit, assuming an interest rate on the bonds of 5.5%. Combined with the baseline property tax burden of 1.47%, the SCIP assessment would bring the total annual property tax rate for the average home in Owl Ranch to an estimated 1.65%. Thus, for the anticipated average sales price of \$826,184, a homeowner's estimated total annual property tax bill including the SCIP special tax would be about \$13,632.

**Community Benefits**

On June 25, 2024, D.R. Horton indicated to staff their willingness to provide community benefits in consideration of the Owl Ranch SCIP application. Prior to the first home occupancy, D.R. Horton is willing to provide a \$40,000 voluntary payment to the City for community benefit items to be utilized at the City's discretion. The attached resolution reflects this voluntary payment.

**ENVIRONMENTAL DETERMINATION**

The proposed City participation in the expanded SCIP program is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) – the common sense exemption – because the proposed actions would only establish and clarify administrative processes and would not facilitate new construction or other groundbreaking activities. It can be seen with certainty that there is no possibility that the City's participation in the SCIP program would result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment. Further, none of the circumstances described in CEQA Guidelines Section 15300.2 applies.

Similarly, the same exemption (15061(b)(3)) applies to the SCIP application provided by D.R. Horton, for the Owl Ranch project. The application details the applicant's use of the program to finance improvements will not to cause a direct or indirect physical change to the environment.

**FISCAL IMPACT OF RECOMMENDATION:**

The proposed amendments to the SCIP program give a development team greater flexibility to finance development-related fees. Payment of City fees will continue if the expanded SCIP program is approved, therefore, there is no fiscal impact.

**ATTACHMENTS:**

- Attach 1 – Draft Resolution 24-XX, Expanded SCIP Participation
- Attach 2 – Draft Resolution 24-XX, Owl Ranch SCIP Request
- Attach 3 – Owl Ranch SCIP Application dated June 27, 2024
- Attach 4 – Supplemental Memo dated May 9, 2024