Legislation Text

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TO:
Honorable Mayor and Members of the City Council

THROUGH:
Bruce Moe, City Manager

FROM:
Steve S. Charelian, Finance Director
Stephanie Katsouleas, Public Works Director
Henry Mitzner, Controller

SUBJECT:
Consider Assessment Deferment Program for Qualifying Households in Utility Underground Districts (Finance Director Charelian and Public Works Director Katsouleas).
DISCUSS AND PROVIDE DIRECTION

RECOMMENDATION:
Staff recommends that City Council discuss and provide direction regarding providing an Assessment Deferment Program (ADP) for qualifying households in Utility Underground Assessment Districts (UUADs or Districts) that are formed following a Proposition 218 majority protest process.

FISCAL IMPLICATIONS:
The fiscal implications of the ADP are unknown at this time and will depend on the number of properties that go to bond, and qualifying households that apply to the program and the funding parameters established by City Council.

BACKGROUND:
On March 21, 2006, City Council approved the creation of a financial assistance (loan) program to help those households with limited income cover the cost of utility undergrounding upon formation of a UUAD. This followed the higher-than-expected assessments presented to property owners in Districts 2, 4, and 6, and concerns about the ability of some residents to afford the annual assessment payments for undergrounding. The program allowed qualifying households to defer all or a portion of their annual debt service assessments until the sale or transfer of their homes through a loan provided by the City at a fixed interest rate. The 2006 ADP loan parameters included:

- Either the applicant or spouse must be 62 years of age or greater; or blind, or disabled in accordance with standards used by the Internal Revenue Service for tax return purposes.
- The assessment for which the loan is being made must be for the applicant's primary residence only. Investment properties are not eligible to receive financial assistance from the City.

- The applicant or spouse must own the property (it may also be held in the owner's revocable trust).
- For purposes of qualification, a registered domestic partner under the laws of the State of California will be considered a spouse.
- Excluding the applicant's primary residence, which is the subject of the assessment, and the cash value of a life insurance policy with a death benefit to age 100 at guaranteed rates, the applicant and spouse's total available assets may not exceed $1 million. Assets in a revocable trust shall be considered owned by the applicant.
- Any loan amount plus residential debt senior to the new debt (assessment loan) may not exceed 80% loan to value.

In addition to the criteria above, there was also an income test utilized to determine the level of support the City would provide each household. For example, households grossing between $24,001 and $40,000 were eligible to defer 100% of the annual assessment (plus applicable utility hook-up costs and program administration fees), while households grossing in the $90,001 to $100,000 range were required to contribute 5% of their income towards the total annual cost of the assessment. The base tier of $24,000 for 1-2 person households matched Southern California's Lifeline Program, a state program that allowed individuals making less than $24,000 per year to defer all property taxes and assessments until the sale of the property. The complete 2006 tiered income and corresponding support levels were as follows:

Income	Program	Resident Contribution as a % of Gross Income
$0-24,000	State Program	N/A
$24,001 - $40,000	City Deferral	0%
$40,001 - $70,000	City Deferral	2%
$70,001 - $80,000	City Deferral	3%
$80,001 - $90,000	City Deferral	4%
$90,001 - $100,000	City Deferral	5%

The risks and drawbacks associated with implementation of the ADP were also highlighted in the 2006 staff report, which included:

- The use of general funds for loans to individuals precludes the use of those funds for other internal and community-wide purposes;
- There is risk in making such loans; the City may be in a subordinate debt position after first trust deeds, second mortgages, home equity lines of credit, etc. and unable to recover those funds in the event of a foreclosure with inadequate homeowner equity;
- As a local government, lending is not the City's core business. There is significant staff time involved in screening and processing ADP loans initially and during annual reviews.
- Commercial solutions to this issue (e.g. reverse mortgages) are available and, if utilized, would preclude the need for a government sponsored solution.

Once assessments were levied, the City's ADP program would pay the annual property assessment amount due as a “loan” to the property, with interest. The loan value accumulated each year until either: 1) the assessment obligation was met, or 2) the property was sold or transferred in title. Annual loan payments could be made for up to 20 years, while the interest would continue to accrue until the loan was fully repaid. Residents who qualified in the first year were considered admitted to the program for the entire term of the 20-year assessment period and were not required to qualify annually. Residents could only opt-in to the program during the first 90 days following approval of the assessments. Repayment of the loan was permissible at any time, but mandatory upon sale or transfer of the property or at bond term. The fixed interest rate charged by the City was tied to the rate of the bonds sold to finance the Districts.

The ADP also provided assistance to cover the individual cost incurred in connecting to the new underground system (e.g., the hook-up costs). This included the cost of trenching; conduit; wiring, cabling and termination to existing equipment or a new electric panel if needed.

Lastly, realizing that not all those in need of assistance would necessarily fall within the confines of the criteria outlined above, City Council also developed a hardship program. Under this plan, applicants could submit their requests to the City, which was then reviewed by the standing Finance Subcommittee. No set criteria for hardship were established, but rather were evaluated on a case-by-case basis.

DISCUSSION:
If City Council wishes to provide an ADP for Districts 12 and 14, and all other future districts, the following program parameters should be considered:

Modification of existing loan parameters:

- Any loan amount plus residential debt senior to the new debt (assessment loan) may not exceed 80% loan to value, thus assuring adequate equity at the initiation of the loan.
- Loan amounts may include set up fees and connection fees. Set up fees would include the cost of a property appraisal and title report
- The loan is due and payable upon transfer of ownership or death of participant.

Update Existing ADP income tiers for homeowner qualification. If using the rates adopted in 2006 as the basis and adjusting for inflation, the current qualifying loan tiers would be as follows:

Income Level	Program	Resident Contribution as a % of Gross Income
$0-35,500	State Program	N/A
$35,501 - $50,900	City Deferral	1%
$50,901 - $89,000	City Deferral	2%
$89,001 - $101,800	City Deferral	3%
$101,801 - $114,600	City Deferral	4%
$114,601 - $127,300	City Deferral	5%

Staff recommends using Line 7 *(adjusted gross income*) of the IRS form 1040 to establish gross income.

The State's program allows complete property tax deferral for households earning less than $35,500. Thus, these homeowners would not need to utilize the City's program.

Determine how funds should be allocated to pay annual assessments.

Create a $250,000 revolving fund account within the General Fund for the ADP. This method is currently used for the existing UADs and is captured in the CIP Fund.

Consideration should be given to reassuring those qualifying for the program that the loans would be available over the entire bond term. However, because the use of City funds for UUAD loans does directly affect the City's ability to fund other initiatives and priorities, City Council could consider whether to establish a revolving fund limit for the ADP.

Based on estimated assessments for Districts 12 and 14, a cumulative disbursement threshold of $250,000 should be sufficient to support a revolving fund program. The $250,000 is intended to cover all new UUADs. The cumulative loan balance would build up from year one throughout the term of the bond. Based on experience with existing UUADs, staff expects approximately 50% of the loans would be paid before the end of the 20-year bond term. These repayments would refresh the revolving account. Initially, the program would be accessible to all that qualify under this structure. If in the future, cumulative disbursements less repayments for the loan program reach $250,000, then staff would report back on the status of the program and ask for further direction. City Council would then consider whether to raise the threshold by setting aside more funds.

As in the case for any budget expenditure, City Council would determine on an annual basis if funds are available to pay the annual assessment for those homeowners originally admitted to the program. If yes, funds would be provided to pay that year's property tax assessments and added to the individual loan balances. Additional funding consideration would also be needed in the year in which one-time hook-up fees were due. This option would not require a set-aside of future payments. However, future City Councils would not be obligated to make annual payments for qualifying homeowners and could suspend the program at any time. This was the method chosen in the mid-2000s when the previous districts were formed.

Require a property appraisal and a title report for each household applying to the ADP.

The purpose of these documents is to ensure that sufficient equity exists on the subject property. A title report also verifies that the individual applying for the loan is truly the property owner, among other purposes. Staff recommends that these costs, which are borne by the homeowner, be eligible to be included as part of the loan principal, recognizing that even a $1,000 expense may be difficult for some individuals.

As summarized above, there are several decision points that must be made in reestablishing the

Assessment Deferral Program. Therefore, staff recommends the following actions be considered:

1. Confirm that City Council wishes to provide an ADP for qualifying households.
2. Approve the continuation of the updated existing loan program parameters.
3. Approve the proposed income tiers for the ADP or provide direction on modifications to the income thresholds provided above.
4. Establish a revolving fund with a base of $250,000

PUBLIC OUTREACH:
No public outreach was conducted in preparing this report.

LEGAL REVIEW:
Bond Counsel has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENT:
1. PowerPoint Presentation