

STAFF REPORT
City of Lancaster

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Date: October 14, 2014

To: Mayor Parris and City Council Members

From: Barbara Boswell, Finance Director
Nicole Rizzo, Operations Manager

Subject: **Resolution Authorizing Participation in Program to Fund Property Tax Delinquencies and Approving Amendments to Fiscal Agent Agreements and Execution of Other Agreements as Necessary for Such Purposes**

Recommendation:

Adopt **Resolution No. 14-62**, authorizing the sale of delinquent taxes and assessments, in whole or in part, for any one or more of the covered fiscal years, for a minimum purchase price of 110% of the amount thereof.

Fiscal Impact:

Assuming each district meets the underwriting criteria and Tower Capital Management (Tower) purchases 85% of all liens, the City expects to receive all amounts due at closing. The funds are to be deposited into the appropriate fund that corresponds to the assessment.

Background:

The City is entitled to revenues from property tax levies made for a variety of different purposes. The 1% “Ad Valorem” levy is levied county-wide and allocated to public agencies in accordance with certain allocation factors and other applicable state laws. Other levies, like those made for sewer maintenance services, special taxes, and assessments levied for community facilities districts (“CFDs”) and/or assessment districts (“ADs”) and levies made in any landscape and lighting districts, and so on, are considered “direct levies,” the proceeds of which belong 100% to the City.

Each year, a small percentage of property owners (usually between 2% and 5% of all properties) fail to pay their property taxes and those taxes thereafter become “delinquent.” Each year the County produces a “Delinquent Property Tax Roll” showing all of the delinquent property taxes county-wide. Generally speaking, the fact that some property taxes are delinquent does not impair the City’s entitlement to those tax revenues, along with penalties and interest accrued thereon, if and when the delinquent taxes are eventually collected. One way to view these delinquent taxes is as a “receivable” of the City. As such, it is a City asset, but the City cannot use it yet.

Staff has identified a program being offered by the California Statewide Community Development Authority (a statewide joint powers authority sponsored by the League of California Cities and the California State Association of Counties) (the "CSCDA") under which qualified tax delinquencies will be advanced in full to the City by the CSCDA, along with a 10% premium, in exchange for an assignment or sale of the rights to the payments later made by the property owners, if and when such payments are ever made, along with all penalties and interest thereon.

CSCDA finances the Program by pooling the tax delinquencies of different local agencies and selling one or more Certificates of Participation for the amount of all of the accumulated delinquencies to Tower each year. In the first year of an agency's participation, CSCDA will purchase delinquencies that are up to six years old, meaning CSCDA will pay the City 100% of the qualified taxes remaining delinquent from any time during the last six years. The City is able to immediately realize cash for this otherwise stagnant asset. The City also receives a 10% premium on the purchase of the delinquencies which can be used in any lawfully available fund.

CSCDA requires a three-year commitment to sell the delinquencies. Should Council adopt the attached Resolution, Tower will then conduct due diligence to determine which delinquencies qualify for the program and on what terms. Thereafter, the results will be reviewed and then set a schedule to proceed to closing, at which point the City receives its money for the sold delinquencies. After the first year, Tower may seek to extend the agreement for one additional year. If the City ever wants to exit the program, it need only decline to extend the term and wait out the completion of the existing term.

The attached Resolution authorizes the City Manager, or his designee, to execute amendments as necessary to each of the Fiscal Agent Agreements (or other agreements) governing the bonds issued on behalf of each CFD or AD, or any general obligation or other bonds (if applicable), to approve the Purchase and Sale Agreement between the City and CSCDA for the transaction (the "Agreement"). It also authorizes staff to execute the Agreement and any other documents, and to perform such acts as are necessary or appropriate, to consummate the sale and assignment of the qualified delinquencies to CSCDA for the 2013-14 fiscal year (including all prior year delinquencies for the prior five years on the tax roll) and granting an option to the CSCDA to purchase future delinquencies of levies made for fiscal years 2014-15 and 2015-16.

Each of the amendments will be reviewed by Bond Counsel to the Authority. The consummation of the transaction is contingent upon the agreement of the bond trustees or fiscal agents (and their counsel), if appropriate, under existing agreements and the City's receipt of an opinion from Bond Counsel to the effect that the amendments being made in the attached resolution comply with the requirements of each respective Bond Indenture or Fiscal Agent Agreement, as applicable.

NR:jw

Attachment:
Resolution No. 14-62