TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER
DATE: APRIL 03, 2006
DEPARTMENT: UTILITIES
CMR: 174:06

SUBJECT: ADOPTION OF AN ORDINANCE AMENDING SECTIONS 12.16.010 THRU 12.16.100 TO REVISE THE ADMINISTRATIVE PROCEDURES GOVERNING THE FORMATION OF UNDERGROUND UTILITY DISTRICTS

RECOMMENDATION
Staff recommends that Council adopt the attached Ordinance (Attachment A) to amend sections 12.16.010, 12.16.030, 12.16.050, 12.16.070, 12.16.080, 12.16.090, 12.16.091, 12.16.092, 12.16.093, 12.16.094, 12.16.095, 12.16.096 AND 12.16.100 of Chapter 12.16 of Title 12 of the Palo Alto Municipal Code (PAMC). All references to the new loan program that provides the option for property owners to pay the cost of the service connection at the end of a ten-year period should be deleted.

BACKGROUND
At its meeting of September 19, 2005, the Council approved staff’s recommendation to return with amendments to the Palo Alto Municipal Code to allow the repayment of underground utility district loans when the home is sold or transferred to a new owner. This could occur several decades in the future. Various other financing alternatives were presented and discussed during the Council meeting and, based on the pros and cons of the various programs, Council voted to approve staff’s recommendation.

As part of the review of the Municipal Code section on undergrounding, staff also revised outdated sections of the code.

DISCUSSION
The City Attorney’s Office has advised staff that a loan term must be limited to 10 years in order to comply with State laws on which the ordinance is based. To comply with these laws, all loans offered for the payment of underground service conversion cost would become a special assessment and full payment must be made within a period of 10 years. There are no provisions for extending the time for repayment of the loan. Staff asked the Attorney’s Office to ascertain if there were any other feasible methods that could be used to create this loan program without
undue risk to the City and residents. No other feasible options were identified that would ensure City’s ability to enforce its lien interest.

In order to reduce the burden of the service conversion cost to property owners in underground districts, a loan secured by property lien with no ongoing periodic repayment schedule was recommended as a possible new loan program to augment the current 10-year loan program. This loan could provide a means for the City to finance the cost of the service conversion for property owners and secure repayment by placing a lien against the property. This differs from the current 10-year program in that the property owners would not be required to meet an annual repayment schedule. The lien would attach to the property collecting interest until the property is sold, the owner changes, or the amount is repaid. It was staff’s understanding when it recommended this program that this type of loan could provide the most benefit to property owners without increasing administration costs nor causing any significant out of pocket expense to the property owners.

Staff has devised an alternative loan program that would allow repayment at the end of the tenth year for Council’s consideration. This program would provide homeowners the benefit of deferring the service conversion cost for 10 years. The result of this deferral is a bill at the end of ten years that will come due with interest. For example a $5,000 loan at 5% interest rate will result in a payment of $8,235 at the end of 10 years. Unfortunately, if a homeowner is having difficulty paying the conversion cost today, it is likely that he or she will have difficulty paying at the end of 10 years. Because this program provides limited benefit to the property owners, it is staff’s recommendation that references to this loan alternative in the attached ordinance be stricken at time of approval.

During the review, staff also identified changes to sections of the Municipal Code to address minor changes in the administrative procedures for forming underground utility districts and to update the various authorized and designated positions referenced in the PAMC. Other changes include revising the fine established in 1965 for the failure to remove poles from the underground district from $500 to $1,000 in order to account for inflation, and extending the filing period for the assessment from the time of district formation to the completion of the undergrounding project. The second change will allow residents additional time to make a decision on accepting a loan from the City. Staff recommends that these revisions be approved as proposed in the ordinance, with the exception of all reference to the new loan program that provides the option for property owners to pay the cost of the service connection at the end of a period of 10 years.

**RESOURCE IMPACT**
The increase in staff time for the administration of the new loan program, if approved, will be minimal. All additional cost will be reimbursed through fees charged to property owners obtaining loans.

If a large number of property owners opt to use the new program, additional funding will need to be added to the Underground Reserve Fund. This could have a minimal impact on rates.

**POLICY IMPLICATIONS**
The impact of adopting the policy change incorporating the new loan program will result in an increase in the amount of reserves required to fund the loan program and could tie up the funds for ten years or until the outstanding loans are collected when the liens are cleared.

ENVIRONMENTAL REVIEW
This project is categorically exempt from the California Environmental Quality Act under Section 15302.

ATTACHMENTS
A: Ordinance

PREPARED BY:

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CITY MANAGER APPROVAL:

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