



CITY OF COMMERCE AGENDA REPORT

TO: Honorable City Council **Item No. _____**

FROM: City Manager

SUBJECT: A Resolution of the City Council of the City of Commerce, California, approving an Escrow Agreement with River City Bank and Southern California Edison on Behalf of the Commerce Community Aggregation Program to Comply with California Public Utilities Commission Financial Security Requirements

MEETING DATE: NOVEMBER 17, 2020

RECOMMENDATION:

That the City Council approve entering into an Escrow Agreement with River City Bank (RCB) and Southern California Edison (SCE) on behalf of the City of Commerce (City) Community Choice Aggregation (CCA) Program, and authorize the City Manager, or designee, to execute an Escrow Agreement in substantially the same form as attached.

DISCUSSION:

On November 20, 2018, the City Council adopted Resolution No. 703 Establishing the City's CCA Program. As a CCA, the City's CCA is required to meet certain state mandated obligations, including the posting of a Financial Security Requirement (FSR) instrument per the California Public Utilities Commission (CPUC) Resolution E-5059 (Resolution).

On April 16, 2019, the City Council authorized the City to enter into an Administrative Services Agreement with California Choice Energy Authority (CalChoice) in order to, among other things, perform administrative and operational support services for the Commerce CCA, including the preparation and submission of regulatory and other state mandated requirements.

BACKGROUND:

In 2018, the CPUC issued Decision 18-05-022 (Decision), which established reentry fees and financial security requirements for CCAs. Under the Decision, Investor Owned Utilities (IOUs), including SCE, were required to submit advice letters implementing the FSR requirements. Those advice letters were submitted in August 2018; however, they were suspended by the CPUC until final implementation issues could be resolved. On

October 8, the CPUC adopted the Resolution finalizing the implementation of the IOU advice letters and setting the FSR at \$147,000. To date, CCAs have been operating under an interim amount of \$100,000, which was submitted to the CPUC as part of the City's CCA registration process.

The purpose of the FSR instrument is to cover reentry fees borne by the IOU in the event of a mass involuntary return of CCA customers to the IOU, such as the decertification of the CCA or a CCA failure. The IOU may only withhold funds from the financial security instrument for unpaid administrative or procurement costs associated with the return of CCA customers to the IOU. Any withholding of those funds must first be approved by the CPUC.

In order to meet this requirement, CalChoice on behalf of the City's CCA and its other member agencies, has been working with its legal team and RCB on a form of Escrow Agreement and will negotiate on the City's behalf with SCE. Additionally, the Resolution requires that the City's CCA submit an advice letter to the CPUC with the FSR instrument as proof of compliance no later than December 8, 2020. CalChoice is also working with its legal team to draft the advice letter, which must be submitted with a copy of the executed Escrow Agreement. In accordance with the Resolution, once the advice letter is submitted and compliance with the FSR is demonstrated by way of an attached executed Escrow Agreement, the interim financial security amount of \$100,000 currently held by the CPUC will be returned to the City.

ALTERNATIVES:

1. Approve staff recommendation
2. Disapprove staff recommendation
3. Provide further direction to staff

FISCAL IMPACT:

If the City Council approves the recommended action, an appropriation of **\$147,000** from the General Fund's unallocated fund balance (reserve) will need to be approved and subsequently transferred to an escrow account in the name of the City of Commerce. Once the new Financial Security Requirement has been satisfied, the City will be refunded the original **\$100,000** Bond currently being held by the CPUC.

Recommended & Prepared by: Vilko Domic, Assistant City Manager
Approved as to form: Noel Tapia, City Attorney
Respectfully submitted: Edgar P. Cisneros, City Manager

ATTACHMENT:

1. Resolution
2. Escrow Agreement