



CITY OF POMONA

COUNCIL REPORT

November 16, 2020

To: Honorable Mayor and Members of the City Council

From: James W. Makshanoff, City Manager

Submitted By: Chris Diggs, Water Resources Director

SUBJECT: APPROVE ENTERING INTO AN ESCROW AND DEPOSIT ACCOUNT CONTROL AGREEMENT WITH RIVER CITY BANK AND SOUTHERN CALIFORNIA EDISON ON BEHALF OF POMONA CHOICE ENERGY TO COMPLY WITH CALIFORNIA PUBLIC UTILITIES COMMISSION FINANCIAL SECURITY REQUIREMENTS

RECOMMENDATION:

It is recommended that the City Council take the following actions:

- 1) Approve entering into an Escrow and Deposit Control Agreement (Escrow Agreement) with River City Bank and Southern California Edison (SCE) on behalf of Pomona Choice Energy to comply with California Public Utilities Commission (CPUC) financial security requirements (Bond); and
- 2) Authorize the City Manager, or designee, to execute an Escrow Agreement in a form substantially Attachment No. 1.

EXECUTIVE SUMMARY:

Staff is seeking City Council approval to enter into an Escrow Agreement with River City Bank and SCE on behalf of Pomona Choice Energy. As a community choice aggregation (CCA), Pomona Choice Energy is required to meet certain state mandated obligations, including the posting of a Bond per CPUC requirements.

FISCAL IMPACT: Pomona Choice Energy previously submitted a \$100,000 bond payment to CPUC as part of Pomona Choice Energy's registration packet. The Bond payment was approved by City Council at the April 1, 2019. The bond was paid through the loan from the Water Fund account. Due to the CPUC approving Resolution E-5059 on October 8, 2020, Pomona Choice Energy will need to transfer \$147,000 from 551-8201-52299-00000 to an escrow account in the

name of City of Pomona. Once the new Bond has been satisfied, the City will be refunded the \$100,000 currently being held by the CPUC and returned to the Water Fund.

PREVIOUS RELATED ACTION:

On April 1, 2019, City Council adopted Resolution No. 2019-37 authorizing the City to enter into an Administrative Services Agreement with CalChoice in order to, among other things, perform administrative and operational support services for Pomona Choice Energy, to include procurement of energy and energy products.

DISCUSSION:

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), like SCE, were required to comments on the new requirements, now that all the issues surrounding the comment have been addressed. On October 8, 2020, the CPUC adopted a resolution setting the Bond requirement 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 Bond is to cover reentry fees borne by the IOU in the event a CCA terminating their operation. In order to meet the CPUC requirement, CalChoice on behalf of Pomona Choice Energy, has been working with River City Bank on a form of escrow agreement that SCE can agree with. Additionally, the attached resolution requires Pomona Choice Energy submit an advice letter to the CPUC with the Bond 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 Bond is demonstrated, the current bond of \$100,000 held by the CPUC will be returned to the City.

Staff recommends that City Council approve the City of Pomona to enter into an Escrow and Deposit Account Control Agreement with River City Bank and SCE, for the purpose of satisfying the financial security requirement as required by the CPUC, and to authorize the City Manager, or designee, to execute an agreement in a form substantially as attached.

Prepared by:

Julie Carver
Environmental Compliance Supervisor

ATTACHMENT: No. 1 – Escrow and Deposit Account Control Agreement