



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Adopt a Resolution Authorizing the City Manager to Execute a Loan Guaranty in an Amount Not to Exceed \$1,020,000 plus Enforcement Costs with River City Bank

#### **BACKGROUND**

Since formation, the Silicon Valley Clean Energy Authority (SVCEA) has convened its Board of Directors, hired a Chief Executive Officer, and made significant progress toward launch of a CCE program. In July, SVCEA submitted its Implementation Plan for certification by the California Public Utilities Commission, and it established a tentative customer rollout approach that seeks a swift implementation of all customers between April and October 2017. Actions in progress related to staffing the organization, procuring energy and additional support services, and community engagement are all geared toward that launch period. As part of the startup, the SVCEA also conducted a competitive procurement and secured banking and credit services with River City Bank of Sacramento.

The credit facility provided by River City (as detailed in the November 29<sup>th</sup> Report to Council) required a guaranty to back the credit. Originally, the Cities of Sunnyvale and Mountain View anticipated sharing this guaranty in shares of two thirds to Sunnyvale and one third to Mountain View. However the City of Gilroy and the County of Santa Clara also agreed to share the risk and back the credit.

In support of the SVCEA launch, the City Council adopted Resolution No. 792-16 on November 29, 2016 authorizing the City Manager to execute a loan guaranty in an amount not to exceed \$1,020,000 with River City Bank and to execute other necessary documents. This action was also completed by three other agencies, the City of Mountain View, the City of Gilroy, and the County of Santa Clara.

#### **EXISTING POLICY**

**Climate Action Plan, *Provide a Sustainable Energy Portfolio (EP)***, Reduction Measure EP-1.1: Create or join a community choice aggregation (CCA) program to take control of power generation for city residents and businesses

#### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project” with the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines sections 15378(b)(4) and (5) in that it is a governmental fiscal, organizational or administrative activity that will not result in direct or indirect changes in the environment.

#### **DISCUSSION**

Subsequent to the Council taking action, the City began to work with the other agencies and River City Bank to finalize the documents. During the review process two of the partners identified that they could be liable for additional costs related to enforcement of the Guaranty if the SVCEA were to default on its loan. It was determined that this would require additional approval from their governing bodies as it could exceed the dollar amounts they had previously obtained.

With the launch of the agency nearing, and the financing needed soon to get the agency started, the cities of Mountain View and Sunnyvale staff have tentatively agreed to recommend that their respective cities take on the full risk of the enforcement costs. Staff is recommending a change to the Guaranty Agreement (Attachment 2) to accept up to 67% (two thirds) of the risk for the enforcement costs.

### **FISCAL IMPACT**

Should SVCEA default on its loan agreement, the City would be required to provide up to \$1,020,000 in funds per the guaranty agreement. This amount could be less if the outstanding balance were less. Each of the guarantors would share proportionally up to their respective totals. Under the recommendations in this report, Sunnyvale could be liable for up to 67% of any enforcement costs. However, default by SVCEA is unlikely, as evidenced by the successful launch of several other local Community Choice programs. Even in the event of default, the accrual of enforcement costs is unlikely given that the guarantors are all public agencies; however how much might be incurred is unknown. Additionally, SVCEA is projecting net revenues of almost \$40 million in 2018 and is expected to build up reserves, suggesting that the debt will be quickly retired.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **RECOMMENDATION**

Adopt a Resolution Authorizing the City Manager to Execute a Loan Guaranty in an Amount Not to Exceed \$1,020,000 plus up to 67% of any Enforcement Costs with River City Bank for the Silicon Valley Clean Energy Authority.

Prepared by: Timothy J. Kirby, Director of Finance  
Reviewed by: Walter C. Rossmann, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Resolution Authorizing the City Manager to Execute a Loan Guaranty for the Silicon Valley Clean Energy Authority
2. Revised Loan Guaranty, Redline Version