

ORDINANCE NUMBER 2019-1187

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH
AUTHORIZING AND ENABLING THE IMPLEMENTATION OF A COMMUNITY CHOICE
AGGREGATION PROGRAM**

WHEREAS, Assembly Bill 117 (Stat. 2002, ch. 838; see California Public Utilities Code section 366.2; the "Act"), added statutes to the Public Utilities Code authorizing local governmental bodies to individually or jointly provide retail electric commodity service to an aggregation of customers within their jurisdictions, a service referred to as Community Choice Aggregation (CCA); and

WHEREAS, the City of Imperial Beach (City) adopted a Climate Action Plan on July 17, 2019, which contains a goal for 100% percent of electricity used in the City to be generated from renewable fuel sources by 2030; and

WHEREAS, the City has been actively investigating the feasibility of commencing CCA service for electric customers within the City, with the objective of making greater renewable electric portfolio content available to customers, providing greater local involvement over the provision of electric commodity services, and promoting competitive commodity rates; and

WHEREAS, a CCA Feasibility Study has been completed that determined that a CCA program could result in local benefits including the use of renewable energy at levels above the State Renewables Portfolio Standard, the provision of competitive rates to consumers, and economic opportunity for the City; and

WHEREAS, pursuant to Sections 331.1(b) and 366.2 of the Act, two or more entities authorized to be a community choice aggregator may participate jointly in a CCA program through a Joint Powers Authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, if each entity adopts the Ordinance required by Public Utilities Section 366.2; and

WHEREAS, the City wishes to implement a CCA program at this time through a Joint Powers Authority together with other Founding Member local governments which will be called the San Diego Regional Community Choice Energy Authority (SDRCCEA); and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt out of the CCA program and continue to receive bundled electric commodity service from the incumbent utility; and

WHEREAS, Public Utilities Code section 366.2(c)(12) provides that an entity which elects to implement a CCA program within its jurisdiction must do so by Ordinance; and

WHEREAS, This ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, as it is not a “project” and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (14 Cal. Code Regs. § 15378(a).) Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant negative effect on the environment. (14 Cal. Code Regs. § 15061(b)(3).) The ordinance is also categorically exempt because it is an action taken by a regulatory agency to assure the maintenance, restoration, enhancement or protection of the environment. (14 Cal. Code Regs. § 15308.) The Director of Community Development shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

NOW, THEREFORE, the City Council of the City of Imperial Beach does Ordain as follows:

Section 1. That the recitals set forth above are true and correct and are incorporated as though fully set forth herein.

Section 2. Based upon the findings and declarations set forth in this Ordinance, and to provide businesses and residents within the jurisdictional boundaries of the City with a choice of electric commodity providers and with the benefits described in the recitals above, the City Council hereby elects pursuant to Public Utilities Code section 366.2(c)(12) to implement a CCA program within the jurisdiction of the City of Imperial Beach by participating in the CCA program of the SDRCCCEA, under the terms and conditions provided in its Joint Powers Agreement, on file with the Office of the City Clerk.

Section 3. If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section 4. This Ordinance shall take effect and be in force on the thirtieth day from and after its final passage. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, on the 18th day of September 2019; and

THEREAFTER ADOPTED at a regular meeting of the City Council of the City of Imperial Beach, California, on the 2nd day of October 2019, by the following vote:

AYES: COUNCILMEMBERS: WEST, SPRIGGS, PATTON,
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: AGUIRRE, DEDINA



**ROBERT PATTON,
MAYOR PRO TEMPORE**

ATTEST:



**JACQUELINE KELLY,
CITY CLERK**

APPROVED AS TO FORM:



**JENNIFER M. LYON,
CITY ATTORNEY**