

RESOLUTION NO. 201138 OCT 29 1970

RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO RESCINDING RESOLUTION NO. 201040  
ADOPTED OCTOBER 20, 1970, WHICH AWARDED TO  
SAN DIEGO GAS & ELECTRIC COMPANY A FRANCHISE  
TO CONSTRUCT, MAINTAIN AND USE PIPES AND  
APPURTENANCES FOR TRANSMITTING AND DISTRI-  
BUTING GAS IN THE STREETS OF THE CITY OF  
SAN DIEGO.

WHEREAS, the Council of The City of San Diego, upon due consideration, after public hearings, and upon the recommendation of the City Manager, did determine on October 6, 1970, to advertise the fact that it is in the best interest of the City of San Diego and its inhabitants to grant a franchise for a period of fifty (50) years to construct, maintain and use pipes and appurtenances for transmitting and distributing gas in the streets of the City of San Diego and invited sealed bids in writing for the award of such a franchise according to the terms set forth in Exhibits "A" and "B" of Resolution No. 200942; and

WHEREAS, the Council of The City of San Diego invited said bids in writing to be received for such franchise up to the hour of 9:00 a.m. of Tuesday, the 20th day of October, 1970, at which time the Council, in open session, shall open and publicly declare all bids; and

WHEREAS, said franchise as above described shall then be struck off, sold and awarded to the person, firm or corporation making the highest cash bid therefor, but not less than Fifty Thousand Dollars (\$50,000.00), provided that at the time of opening said bids any responsible

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person, firm or corporation present or represented may bid for said franchise a sum not less than ten percent (10%) above the highest sealed bid therefor, and said bid so made be raised not less than ten percent (10%) by any other responsible bidder, and said bidding so continue until finally said franchise shall be struck off, sold and awarded by said Council to the highest bidder therefor, in lawful money of the United States; and

WHEREAS, the Council further provided that each sealed bid shall be accompanied with cash or a certified check payable to the Treasurer of The City of San Diego for the full amount of said bid, and no sealed bid shall be considered unless said cash or check is enclosed therewith; and further required the successful bidder within five (5) days after such franchise is awarded to file a surety bond running to the City, to be approved by the Council, in the sum of Five Hundred Thousand Dollars (\$500,000.00), guaranteeing that such bidder shall well and truly observe, fulfill and perform each and every term and condition of such franchise, and that in case of any breach of any condition of the franchise the whole amount of the sum named in the bond may be recoverable from the principal and sureties of said bond; and

WHEREAS, one sealed bid in writing has been received for such franchise up to the hour of 9:00 a.m., Tuesday, October 20, 1970; and

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WHEREAS, after said sealed bid(s) have been opened, the Mayor has asked if any responsible person, firm or corporation present or represented wishes to bid for such franchise a sum not less than ten percent (10%) above the highest sealed bid therefor and has done such other things as set forth in the recitals above; and

WHEREAS, bids have been received in the amount indicated and accompanied with cash or a certified check payable to the Treasurer of The City of San Diego from the following:

<u>Name of Bidder</u>	<u>Amount of Bid</u> (In cash or by certified check)
San Diego Gas & Electric Company	\$50,000 - certified check

; and

WHEREAS, said bid contained the phrase that the bid was made "subject to approval of Application No. 52250 by the California Public Utilities Commission"; and

WHEREAS, that condition was construed as being one which did not condition the bid and make it nonresponsive at the time it was received; and

WHEREAS, based on that interpretation of the bid, the Council of The City of San Diego did strike off, sell and award to San Diego Gas & Electric Company a franchise to construct, maintain and use pipes and appurtenances for transmitting and distributing gas in the streets of the City of San Diego and instructed the City Attorney to prepare an ordinance granting said franchise in the form

set forth as Exhibit "A" on Resolution No. 200942 of October 6, 1970, inserting therein the name of San Diego Gas & Electric Company where appropriate; and

WHEREAS, on October 23, 1970, attorneys for San Diego Gas & Electric Company furnished the City Attorney with a letter, a copy of which is on file as Document No. 733849 in the office of the City Clerk, which, among other things, indicates that the Company's intent with respect to the bid was that Application No. 52250 to the California Public Utilities Commission be approved in all respects by the Commission as a condition of its bid; and

WHEREAS, this information causes said bid to be conditional and nonresponsive; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

That Resolution No. 201040, adopted October 20, 1970, be and it is hereby rescinded, and the City Clerk is hereby directed to return to San Diego Gas & Electric Company its certified check in the amount of \$50,000.00.

APPROVED: JOHN W. WITT, City Attorney

By *C. M. Fitzpatrick*  
C. M. Fitzpatrick, Chief Deputy

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Passed and adopted by the Council of The City of San Diego on OCT 29 1970,  
by the following vote:

RECEIVED  
CITY CLERK'S OFFICE

1970 OCT 29 AM 8:44

SAN DIEGO, CALIF.

Councilmen	Yeas	Nays	Excused	Absent
Helen Cobb	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam T. Loftin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Landt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allen Hitch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Schaefer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Frank Curran	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

FRANK CURRAN

Mayor of The City of San Diego, California.

JOHN LOCKWOOD

City Clerk of The City of San Diego, California.

(Seal)

By *Dorlene Villani*, Deputy *LR*

Office of the City Clerk, San Diego, California

Resolution Number 201138 Adopted OCT 29 1970

FORM CC-1276 (1-69)

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