

330A
5/25/2021

(R-2021-468)
COR. COPY

RESOLUTION NUMBER R- 313554

DATE OF FINAL PASSAGE JUN 07 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DETERMINING THAT THE GRANT OF FRANCHISES TO USE THE STREETS OF THE CITY FOR FACILITIES AND OPERATIONS USED FOR TRANSMITTING AND DISTRIBUTING GAS AND ELECTRICITY AND ENTERING INTO AN ENERGY COOPERATION AGREEMENT ARE NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), ARE EXEMPT FROM CEQA PURSUANT TO CEQA GUIDELINES SECTION 15301(b), AND ARE CONSISTENT WITH THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (PEIR) PREPARED FOR THE CLIMATE ACTION PLAN (PROJECT NO. 416603 / SCH NO. 2015021053), WHICH WAS CERTIFIED BY SAN DIEGO CITY COUNCIL RESOLUTION NO. R-310176 ON JANUARY 4, 2016.

WHEREAS, on December 17, 1970, by San Diego Ordinance No. O-10465, the Council of the City of San Diego (Council) granted a franchise to an investor owned public utility gas and electrical corporation, San Diego Gas & Electric Company (SDG&E), to use streets in the City to place, operate, and maintain pipes and appurtenances to distribute and transmit gas to customers inside and outside the City, and to use and maintain those public utility facilities (Existing Gas Franchise); and

WHEREAS, pursuant to the Existing Gas Franchise, the public utility has placed gas transmission and distribution facilities (Existing Gas Facilities) on, in, and under the streets of the City, and is presently operating and maintaining those Existing Gas Facilities; and

WHEREAS, on December 17, 1970, by San Diego Ordinance No. O-10466, the Council granted a franchise to SDG&E to use streets in the City to place, operate, and maintain poles, wires, conduits, and appurtenances to distribute and transmit electricity to customers inside and

outside the City, and to use and maintain those public utility facilities (Existing Electric Franchise); and

WHEREAS, pursuant to the Existing Electric Franchise, the public utility has placed electric transmission and distribution facilities (Existing Electric Facilities) on, in, and under the streets of the City, and is presently operating and maintaining those Existing Electric Facilities; and

WHEREAS, the Existing Gas Franchise is expiring in June 2021, and the Council desires to award a new gas franchise to provide for the continued use of the streets for Existing Gas Facilities and operations (New Gas Franchise); and

WHEREAS, the Existing Electric Franchise is expiring in June 2021, and the Council desires to award a new electric franchise to provide for the continued use of the streets for Existing Electric Facilities and operations (New Electric Franchise); and

WHEREAS, historically, the Existing Gas Franchise and Existing Electric Franchise have also handled energy procurement for their customers. The City of San Diego Climate Action Plan sets a goal of 100 percent renewable energy for the City by 2035. To meet this goal, the City formed San Diego Community Power (SDCP), a Community Choice Aggregator (CCA), with the cities of La Mesa, Chula Vista, Encinitas, and Imperial Beach. SDCP is expected to be operational and begin procurement of energy in 2021 with the goal of supplying 100 percent renewable energy to San Diegans by 2035, significantly reducing the role of the franchisee as an energy procurer. The New Gas Franchise and New Electric Franchise require the franchisees to make "good faith efforts" in helping the City achieve its Climate Action Plan goals. Specifically, the franchisees are required to develop a Joint Policies Guide with the City that will outline programs and policies to address, at a minimum, climate action, local energy, and energy justice; and

WHEREAS, the New Electric Franchise also includes provisions regarding the undergrounding of franchisee's facilities. Paid for by Rule 20 funds and a separate Municipal Undergrounding Surcharge on City ratepayers, the undergrounding program is fully separate from the franchisee's regular administrative practices and subject to a Memorandum of Understanding Regarding Implementation of Franchise Undergrounding Obligations (Undergrounding MOU) approved by San Diego Resolution No. R-295892 on December 11, 2001. The New Electric Franchise includes provision for the negotiation of a new or amended Undergrounding MOU, which is required to be presented to the Council for approval by resolution in a future action. That new or amended Undergrounding MOU would be required to comply with all applicable rules, regulations, and policies, to the fullest extent required by law. There is currently insufficient information available regarding a future undergrounding Memorandum of Understanding to be able to meaningfully conduct environmental review at this time. In any event, projects in the undergrounding program go through a distinct and separate planning process, which includes adherence to Council Policy 600-08, and would be subject to environmental review, as appropriate. Nothing in this action would foreclose review of alternatives or mitigation measures by the public as part of any subsequent CEQA review process for any future activities; and

WHEREAS, the Council desires to enter an Energy Cooperation Agreement with SDG&E to work cooperatively to address the impacts of climate change toward the achievement of the goals in the City's Climate Action Plan, including equity-focused investments and programming; and

WHEREAS, the California Environmental Quality Act (CEQA) (California Public Resources Code section 21000, *et seq.*), section 21084, states that the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, section 15000, *et seq.*) shall list those

classes of projects which have been determined not to have a significant effect on the environment and which shall be exempt from CEQA; and

WHEREAS, pursuant to that authority, CEQA Guidelines sections 15300 through 15333 list the categorical exemptions promulgated by the California Office of Planning and Research and adopted by the Secretary of the California Natural Resources Agency for those classes of projects which have been determined not to have a significant effect on the environment; and

WHEREAS, pursuant to CEQA Guidelines section 15060(c), an activity is not subject to CEQA if the activity does not involve the exercise of discretionary power by a public agency, will not result in a direct or indirect physical change in the environment, or is not a project as defined in CEQA Guidelines section 15378; and

WHEREAS, the Environmental Policy Section of the Planning Department has completed a CEQA review of the granting of the City's New Gas Franchise and New Electric Franchise, as well as entry into an Energy Cooperation Agreement (collectively referred to as Activities); and

WHEREAS, the Activities do not involve any commitment to any particular expansion activities beyond the Existing Gas Facilities and Existing Electric Facilities, nor do they involve any planned increases in operations; and

WHEREAS, any future expansion of facilities and operations associated with the New Gas Franchise or the New Electric Franchise would require specific future discretionary approvals; and

WHEREAS, the Activities will not foreclose review of alternatives or mitigation measures by the public as part of any subsequent CEQA review process for any implementing projects. Any future projects undertaken under the Activities will also be subject to California Public Utilities Commission Rule 2.4, as applicable; and

WHEREAS, the Council certified the Final Program Environmental Impact Report (PEIR) prepared for the Climate Action Plan (Project No. 416603 / SCH No. 2015021053) on January 4, 2016, in San Diego Resolution No. R-310176; and

WHEREAS, the Council has considered the potential environmental effects of the Activities; and

WHEREAS, the Council has held a public hearing, and has reviewed and considered the written and verbal testimony and evidence presented at or before the public hearing, regarding the subject matter of this Resolution; NOW, THEREFORE,

BE IT RESOLVED, that the Council of the City of San Diego determines that the Activities are not subject to CEQA pursuant to CEQA Guidelines section 15060(c)(3) because they are a fiscal and administrative activity of a government that will not result in a direct or indirect physical change in the environment.

BE IT FURTHER RESOLVED, that the Council determines that the Activities are also categorically exempt from CEQA pursuant to CEQA Guidelines section 15301(b) (Existing Facilities) because the Activities relate to existing facilities of an investor owned public utility gas and electrical corporation used to provide gas and electric power service to the public and the Activities involve negligible or no expansion of existing or former use, and that none of the exceptions to the exemption, as set forth in CEQA Guidelines section 15300.2, apply.

BE IT FURTHER RESOLVED, that the Council determines that the Activities, which further the achievement of the goals in the Climate Action Plan, are consistent with the Final Program Environmental Impact Report (PEIR) prepared for the Climate Action Plan (Project No. 416603 / SCH No. 2015021053), which was certified by San Diego Resolution No. R-310176 on January 4, 2016.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Exemption and a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego within five business days of the final passage of the Ordinances granting the New Gas Franchise and New Electric Franchise.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/Jean Jordan
Jean Jordan
Assistant City Attorney

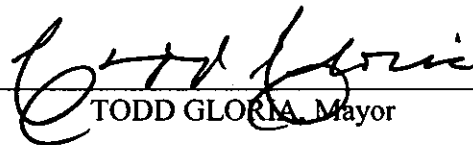
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5/18/21
5/24/21 COR. COPY
Or. Dept: Office of the Mayor
Doc. No.: 2665919

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 05/25/2021

ELIZABETH S. MALAND
City Clerk

By /s/Linda Irvin
Deputy City Clerk

Approved: 6/7/21
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on MAY 25 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 07 2021.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy
for Linda Irvin

Office of the City Clerk, San Diego, California

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