



City of Lafayette
Staff Report
City Council

Meeting Date: September 27, 2021

From: Niroop K. Srivatsa, City Manager

Subject: **Proposed Tree Assessment Process as part of Settlement Discussions with PG&E regarding Removal of Trees within the City of Lafayette for the CPSI Project**

Summary

Background

In 2014, Pacific Gas and Electric (PG&E) initiated a region wide program titled the Pipeline Pathways project which involved the removal of trees adjacent to its gas transmission pipelines. PG&E indicated that it needed to clear areas around pipelines of trees so that first responders and crews could have immediate access to the pipes and the pipelines could be properly inspected. In addition, PG&E has asserted that tree roots pose a potential risk to pipeline safety. PG&E told the City of Lafayette that due to this project, over 1,200 trees would need to be removed within city limits. However, in 2015, PG&E provided the City with an updated list of trees along the pipeline and stated that upon further assessment, 272 trees on private and public property were deemed to be an unacceptable risk and required removal. PG&E also renamed the project the Community Pipeline Safety Initiative (CPSI). The number of trees deemed “unacceptable risk” was reduced to 207 in 2018.

The removal of more than 25 protected trees constitutes a *Major Tree Removal Project* per the Lafayette Municipal Code, requiring as mitigation, payment or planting, or combination thereof, equal to the full appraised value of the trees to be removed. The City’s Consulting Landscape Architect, Michael Baefsky, independently evaluated each tree proposed for removal by PG&E in 2016, provided a tree appraisal for each protected tree per the City’s regulations and calculated the mitigation fees for removing those trees. In March 2017, the City Council authorized the City Manager to execute the Letter Agreement for Tree Removal with PG&E requiring PG&E to submit the information in compliance with the City’s Tree Protection Ordinance and receive approval from the City before moving forward with the proposed tree removal or planting of mitigation trees, and to place the mitigation payments collected in a new restricted reserve fund.

In 2017, the City of Lafayette and PG&E were sued by Save Lafayette Trees over the Letter Agreement.

In 2019, PG&E filed for bankruptcy. In 2020, PG&E sued the City in bankruptcy court over the 2017 Letter Agreement for Tree Removal. PG&E still proposes to remove more than 200 trees, but to date has not submitted all the information necessary to process a tree removal permit.

Settlement Discussions

In an effort to settle litigation, City and PG&E representatives started meeting in early 2021 and explored an option in which the City and PG&E would bring their gas pipeline safety and tree experts together to develop criteria for jointly conducting a risk assessment evaluation of the 200+ trees. A tree assessment process outline mutually acceptable to both parties was drafted and is attached to this report. The process in the attached document calls for the following steps –

1. PG&E and the City of Lafayette each selects one (1) gas pipeline safety expert and one (1) arborist.
2. The four experts (“Tree Advisory Team”) meet to develop risk assessment criteria for evaluating the impact of preserving the 200+ trees on the gas pipeline. Criteria may include but not be limited to depth of the pipeline, type and condition of the pipeline, the species of the tree, health of the tree, and distance from the pipeline.
3. The Tree Advisory Team completes the evaluation of all 200+ trees and identifies trees for removal based on the risk assessment criteria and submits an excel spreadsheet/report to PG&E and the City of Lafayette supporting key factors in each tree decision.
4. PG&E and the City of Lafayette meet to discuss the Tree Advisory Team findings/spreadsheet and agree on the number of trees slated for removal. The recommendations of the Tree Advisory Team are made public before final resolution by PG&E and the City of Lafayette
5. If both parties agree to the recommendations of the Tree Advisory Team, PG&E follows the City’s tree protection ordinance, and the City of Lafayette expedites the process for the removal of those trees.

City staff has shared the tree assessment process outline with Save Lafayette Trees.

The hiring of the two experts to represent the City is estimated to cost \$50,000 which can be drawn from the City’s legal services-litigation fund.

Discussion

The process outlined in the attached document allows both parties to have a say in how the trees are evaluated and provides another opportunity to minimize the removal of trees while still ensuring the safety of the pipeline. If this process is successful, it could result in the resolution of the City’s pending litigation with PG&E. To that end, upon the completion of the Tree Advisory Team’s assessment and submittal of its report/spreadsheet and recommendations to the parties, PG&E and the City will have to negotiate a formal settlement agreement.

As such, staff recommends that the City Council authorize the tree assessment process to proceed.

Recommendation

Approve the expenditure of \$50,000 from legal services-litigation (Fund 011-520-863250) and authorize the tree assessment process to proceed.

Attachments

Proposed tree assessment process outline

1. PG&E and the City of Lafayette each selects one (1) gas pipeline safety expert and one (1) arborist (“Tree Advisory Team”).
 - Gas pipeline safety experts must have:
 - Extensive knowledge and functional experience with pipeline integrity work practices, threats identification and risks produced by those threats, and methods to analyze and assess pipeline condition and fitness for service. The gas pipeline safety expert must also have practical working knowledge and experience interpreting gas engineering related to pipeline integrity work practices in meeting the requirements of applicable engineering standards, references and federal and state regulations. These references include, but are not limited to, 49 CFR Part 192, CPUC GO 112-F, and ASME B31.8S-2004 (as referenced in the CFR).
 - Thorough knowledge of testing concepts, theories, practices, methods and techniques as applicable to managing or understanding how to manage an effective integrity management program or processes.
 - Arborists must have:
 - Certification through International Society of Arboriculture or the American Society of Consulting Arborist.
 - To be certified, the arborist needs three years of experience in the field and to have passed the certification exam; arborist must maintain these credentials.
 - Note: Arborist will provide information on the tree (such as the species, height, diameter at breast height, root growth pattern, tree health) and the trees’ distance to pipeline. The arborist will also provide information within his or her competence that relates to the potential impact of the tree and its roots on the safety of the pipeline. The arborist does not assess the tree and determine if it is a safety concern.
2. The four experts of the Tree Advisory Team meet to develop risk assessment criteria for evaluating the impact of preserving the 200+ trees on the gas pipeline.
 - The two gas pipeline safety experts will meet and review the risk assessment criteria that will be used for evaluating the public safety impact of trees within 14 feet of the gas pipeline, determine whether any modifications to the criteria are warranted, and develop a final set of agreed-upon criteria.
 - The arborists will provide their insights into what criteria would be useful to use to evaluate if a tree poses a safety concern to the pipeline.
3. Criteria may include but not be limited to depth of the pipeline, type and condition of the pipeline, the species of the tree, health of the tree, and distance from the pipeline.
 - The criteria need to include the following items:
 - Tree species
 - Tree size at full maturity
 - Distance to the pipe
 - Depth of the pipeline
 - Pipeline diameter
 - Pipeline pressure (Percent SMYS)
 - Pipeline age/installation year

- Pipeline coating
 - Liquefaction potential
 - External corrosion parameters
 - Weather exposure – lightning, wind, flooding
 - Seismicity
 - Soil stability
 - Girth weld age/type (i.e, acetylene weld)
 - Population density
 - Damage prevention parameters
 - Emergency response parameters
4. The Tree Advisory Team should conduct the risk assessment for the specific trees of concern within the City of Lafayette
 5. The Tree Advisory Team completes the evaluation of all 200+ trees and identifies trees for removal based on the risk assessment criteria and submits an excel spreadsheet/report to PG&E and the City of Lafayette supporting key factors in each tree decision.
 - The assessment should be conducted on all trees located within the pipeline right of way.
 6. PG&E and the City of Lafayette meet to discuss the Tree Advisory Team findings/spreadsheet and agree on the number of trees slated for removal.
 - The recommendations of the Tree Advisory Team shall be made public before final resolution by PG&E and the City of Lafayette.
 7. PG&E follows the City’s tree protection ordinance and the City of Lafayette expedites the process for the removal of those trees.
 - Once the results are complete and there is a final list of trees that both parties have agreed, and the Tree Advisory Team has determined, pose an unacceptable risk and need to be removed, PG&E will file a written request with the Lafayette Planning Director for an exception to the requirements of the City’s tree protection ordinance under Chapter 6-17, section 6-1705(a) of the ordinance. The City will process PG&E’s request expeditiously and in good faith, taking into account the conclusions of the Tree Advisory Team’s public findings.
 - If the City approves PG&E’s exception request, it will prepare and file a Notice of Exemption or issue a certified document evidencing its determination that the approval is exempt from CEQA under the statutory emergency exemption (assuming sufficient evidence exists under applicable law).
 - PG&E will still provide mitigation and restoration as contemplated under the TRA.