



City of San Leandro

Meeting Date: July 6, 2021

Staff Report

File Number: 21-362 **Agenda Section:** CONSENT CALENDAR

Agenda Number: 8.B.

TO: City Council

FROM: Fran Robustelli
City Manager

BY: Keith Cooke
Engineering & Transportation Director

FINANCE REVIEW: Not Applicable

TITLE: Staff Report for a City of San Leandro City Council Resolution to Authorize the City Manager to Execute an Agreement with Pacific Gas and Electric Company for Abandoned Facilities

SUMMARY AND RECOMMENDATIONS

This agreement memorializes best practices and City standards with respect to abandoning unused underground gas and electric conveyance systems within the City's right of way.

Staff recommends authorizing execution of the agreement by the City Manager or her designee.

BACKGROUND

Pacific Gas and Electric Company (PG&E) holds a franchise agreement for distribution of natural gas and electricity within San Leandro. The franchise agreement permits use of the public right of way for construction and maintenance of a transport and distribution system but is silent with respect to abandoned facilities that are no longer in use.

Section 5-1-300 of the San Leandro Municipal Code authorizes the Engineering and Transportation Director to establish standards for encroachments within the public right of way as required to protect the safety and convenience of the public.

Utility companies have historically left abandoned facilities in the roadway but in 2015, after an abandoned gas transmission line delayed storm drain work on the Siempre Verde Park project for several months, the practice of abandoning underground utilities in place was put on hold within San Leandro.

Analysis

In exchange for permission to leave abandoned underground facilities in place, PG&E has

offered to maintain records of the location of the facilities, provide records upon request, mark locations of abandoned facilities upon request, and remove the portion of abandoned facilities in conflict with new or proposed improvements. These terms are included in the proposed agreement.

As abandoned facilities can be difficult to identify, this agreement obligates PG&E to keep accurate records of any facilities that they abandon. Abandoned facilities occupy some of the finite space under City roadways and that space may someday be required for new active underground utilities such as fiber optics or storm drains. PG&E has agreed to remove their abandoned facilities when the space they occupy is needed for another improvement.

The City could require that unused facilities be completely removed rather than abandoned in place to eliminate any future utility conflicts. Unfortunately, wholesale removal significantly increases the duration of construction work which results in higher costs and more inconvenience for the public. To balance cost impacts and public inconvenience, it is recommended that our standard shall be to remove only the portions of abandoned underground utility in conflict with new work and to require accurate recording and locating abandoned utilities left in place as to minimize these impacts, maximize the effectiveness of PG&E's maintenance budget, and ensure that the underground space will be available when needed.

Current Agency Policies

- Maintain and enhance San Leandro's infrastructure

Previous Actions

- On January 24, 1938 by Ordinance No. 535 N.S. the City council granted a franchise agreement for gas distribution to PG&E.
- On January 24, 1938 by Ordinance No. 536 N.S. the City council granted a franchise agreement for electricity distribution to PG&E.

Applicable General Plan Policies

Goal CSF-6: Ensure that local water, sewer, storm drainage, solid waste, energy, and telecommunication facilities are well maintained; improvements meet existing and future needs; and land use decisions are contingent on the adequacy and maintenance of such facilities.

Environmental Review

Operation and repair of existing facilities is exempt from environmental review per section 15301 of the California Code of Regulations (California Environmental Quality Act).

Fiscal Impacts

The City will not incur any costs as a result of this agreement. On future projects, PG&E's tracking of abandoned facilities will reduce the City's costs of coordination and potentially construction.

Attachment to Related Legislative File

- PG&E Abandoned Facility Agreement

PREPARED BY: Nick Thom, City Engineer, Engineering and Transportation Department



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Resolution - Council

File Number: 21-363

Agenda Section: CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Fran Robustelli
City Manager

BY: Keith Cooke
Engineering & Transportation Director

FINANCE REVIEW: Not Applicable

TITLE: RESOLUTION of the City of San Leandro City Council Authorizing the City Manager to Execute an Agreement with Pacific Gas and Electric Company for Abandoned Facilities (memorializes City standards with respect to abandoned underground gas and electric conveyance systems)

WHEREAS, fiber-optic cable and other utilities have increased the demand for underground space and obsolete underground utilities are typically abandoned in place; and

WHEREAS, Pacific Gas and Electric retains ownership of abandoned pipelines and therefore responsibility for recording, locating, and removing them to facilitate new construction; and

WHEREAS, an agreement between the City of San Leandro and Pacific Gas and Electric Company was presented to this City Council to standardize the recording, locating and removing of abandoned underground utilities; and

WHEREAS, the City Council is familiar with the contents thereof; and

WHEREAS, the City Manager recommends approval of said agreement.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

1. That said agreement in the form presented is hereby approved and execution by the City Manager is hereby authorized; and

2. That an original executed agreement shall be attached to and made a part of this resolution.

ABANDONED FACILITIES AGREEMENT
BETWEEN PACIFIC GAS AND ELECTRIC COMPANY AND CITY OF SAN LEANDRO

This ABANDONED FACILITIES AGREEMENT (the "Agreement") is made and entered into on this, _____ the _____ of _____, 2021 (the "Effective Date") by and between the Pacific Gas and Electric Company ("PG&E") and the City of San Leandro, a California municipal corporation ("City").

R E C I T A L S

- A. The City administers public right of way within city limits and maintains street improvements within said right of way.
- B. PG&E has a franchise agreement with City granting use of the City's right of way for both a gas and electricity supply system and operates and maintains said systems.
- C. Portions of the gas and electric supply system which are no longer used for supplying gas or electricity are defined as abandoned.

A G R E E M E N T

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the Parties agree as follows:

1. PG&E may leave in place abandoned pipes and conduits within City's public right of way.
2. Abandoned gas and electric facilities shall remain the property of PG&E. Abandoned facilities shall be considered PG&E facilities governed by the Franchise act of 1937.
3. PG&E shall keep accurate records of all newly abandoned pipes and conduits from effective date April 1, 2021. Said records shall at a minimum include the material, horizontal location, and size.
4. PG&E shall furnish records of such abandoned facilities to the City and any other entity authorized to build facilities within the City's public right of way upon request through the "Agency Projects and PG&E" process.
5. In accordance with California Govt. Code 4216, PG&E shall mark abandoned facilities on the ground surface when an Underground Service Alert request is made. Field marks for abandoned facilities shall be distinguished from those for active facilities.
6. In accordance with PG&E's obligations under its gas franchise agreement (City of San Leandro Ordinance No. 535 NS) PG&E shall remove abandoned facilities upon request by the City. Removal shall include restoring the ground surface and all improvements thereon. Restoration shall be done in accordance with City standards. Removal shall be done at PG&E's expense.
7. In accordance with the Franchise Act of 1937 (Public Utilities Code section 6296), PG&E shall indemnify, defend, and hold harmless City and its officers, officials, employees, and agents from and against any and all liability, loss, damage, claims, expenses, and costs

(including attorney's fees) (collectively, "Liability") of every nature arising out of or in connection with the presence of the abandoned pipes and conduits within City's right-of-way or its failure to comply with any of its obligations contained in this Agreement.

8. Any notices relating to this Agreement shall be given in writing and shall be deemed sufficiently given and served for all purposes when delivered personally, by United States Postal Service, or by generally recognized overnight courier service, addressed as follows:

PG&E: Pacific Gas and Electric Company
Attn: Enterprise Public Works
6121 Bollinger Canyon Road
San Ramon, CA 94583

City: City of San Leandro
Engineering and Transportation Department
835 E. 14th Street
San Leandro, CA 94577
Attn: City Engineer

9. No waiver of any provision of this Agreement or any breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving party, and any such waiver shall not be deemed a waiver of any other provision of this Agreement or any other or subsequent breach of this Agreement. In the event that the City contends that PG&E is in alleged breach or default of its obligations hereunder the City shall provide written notice to PG&E specifying the nature of the breach or default and a reasonable time and opportunity for PG&E to respond to and cure any such breach or default.
10. The parties may amend this Agreement only by a written document signed by all of the parties.

IN WITNESS WHEREOF, City and PG&E have caused this Agreement to be executed on their behalf by their respective representatives as of the Effective Date.

CITY:
CITY OF SAN LEANDRO, a
California municipal corporation

Dated: _____, 2021

By: Keith Cooke, Director Engineering
and Transportation Department

PG&E:
Pacific Gas and Electric Company

Dated: _____, 2021


By: Jeffrey Gravelle, Director - DPM&E