

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF FRESNO  
STATE OF CALIFORNIA

IN THE MATTER OF THE VACATION OF )  
PUBLIC ROAD RIGHT-OF-WAY ) RESOLUTION  
NORTH COLONIAL AVENUE VACATION )  
APPLICATION NO. V19-08 )

WHEREAS, the Board of Supervisors (this "Board") on April 14, 2020 adopted its Resolution of Intention to vacate public road right-of-way of North Colonial Ave, lying within Tract No. 2245, according to the map thereof recorded in Volume 26, Pages 23 and 24, Fresno County Records, approximately 8,802 square feet (Vacation Application No. V9-08); and

WHEREAS, this Board find that the Resolution of Intention to vacate said public right-of-way was duly published and posted pursuant to Chapter 3 of Part 3 of Division 9 of the Streets and Highway Code.

WHEREAS, Pacific Gas and Electric Company, Comcast Telecommunications Company, and the City of Fresno Department of Utilities are presently operating and maintaining utility facilities within the area proposed to be vacated, and Pacific Gas and Electric Company, Comcast Telecommunications Company, and the City of Fresno Department of Utilities have requested that the Board reserve permanent easements therefrom;

WHEREAS, Streets and Highway code Section 8340, subdivision (a), provides, "[a] public entity may reserve and except from the vacation the easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures in, upon, over, and across a street or highway proposed to be vacated and, pursuant to any existing franchise or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew, and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment, and fixtures for the operation of gas pipelines, telegraphic and telephone lines, railroad lines, and for the

1 transportation or distribution of electric energy, petroleum and its products, ammonia, and water,  
2 and for incidental purposes, including access to protect these works from all hazards in, upon,  
3 and over the street or highway proposed to be vacated”; and

4 WHEREAS, Streets and Highways Code section 8340, subdivision (c), provides” “[i]f there  
5 are in place public utility facilities that are in use, a public entity shall, unless the legislative body  
6 determines the public convenience and necessity otherwise require, reserve, and except from  
7 the vacation any easement and right necessary to maintain, operate, replace, remove, or renew  
8 the public utility facilities.”

9 NOW, THEREFORE, BE IT RESOLVED by the Board that this Board finds, after  
10 considering all evidence submitted, and providing the public with an opportunity to testify, and  
11 orders as follows:

12 (1) That the public road right-of-way of North Colonial Avenue, lying within Tract No. 2245,  
13 according to the map thereof recorded in Volume 26, Pages 23 and 24, Fresno County  
14 Records, approximately 8,802 square feet, is unnecessary for present or prospective  
15 public use.

16 a. The vacation is determined to meet the criteria for general vacation pursuant to  
17 Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code (collectively  
18 “Vacation Laws”; and

19 b. The right-of-way, other than the easements for the benefit of Pacific Gas and  
20 Electric (PG&E) Company, Comcast Telecommunications Company and the  
21 City of Fresno Department of Utilities, being retained, is unnecessary for  
22 present or prospective public use; and

23 c. The right-of-way is not useful as a nonmotorized transportation facility,  
24 pursuant to Section 892 of the Streets and Highways code; and

25 d. The vacation is consistent with the County General Plan

26 (2) That the proposed vacation is consistent with the General Plan adopted by the County  
27 of Fresno

28 (3) Pursuant to Streets and Highways Code Section 892, that said portion of the public

1 road right-of-way is not useful as a nonmotorized transportation facility,

2 (4) That the public road right-of-way North Colonial Ave, lying within Tract No. 2245,  
3 according to the map thereof recorded in Volume 26, Pages 23 and 24, Fresno County  
4 Records, approximately 8,802 square feet or as particularly described in Exhibit A, is  
5 hereby vacated, subject to the order (5) below.

6 (5) Public convenience and necessity require reservation and exceptions of an easement  
7 and rights-of-way for Pacific Gas and Electric Company, Comcast  
8 Telecommunications Company, and the City of Fresno Department of Utilities utility  
9 facilities. As a result, and upon request of Pacific Gas and Electric Company,  
10 Comcast Telecommunications Company, and the City of Fresno Department of  
11 Utilities, there is hereby reserved and excepted from the vacation of North Colonial Ave  
12 the following easement rights of way as described herein:

13 a. For the benefit of Pacific Gas & Electric Company Comcast  
14 Telecommunications Company, and the City of Fresno Department of Utilities  
15 an easement along the entire area of the above described excess right-of-way,  
16 and the right at any time or from time to time, as necessary, pursuant to the  
17 provisions of California Streets and Highways Code Section 8340, to construct,  
18 maintain, operate, replace, and remove pipelines, transmission lines, valves,  
19 manholes, cables, wires, conductors, poles, and other convenient structures,  
20 equipment and fixtures for the transportation or distribution of electric energy,  
21 gas, natural gas, and communications facilities, including access and the right  
22 to keep the property free from inflammable materials and wood growth, and to  
23 prevent any building or structure near the facilities and otherwise to protect the  
24 same from all hazards in, upon, over and across the described excess right of  
25 way.

26 (6) As provided in Streets and Highways Code Section 8325, subdivision (a), "[th]e clerk  
27 shall cause a certified copy of the resolution of vacation, attested by the clerk under  
28 seal, to be recorded without acknowledgment, certificate of acknowledgment, or further

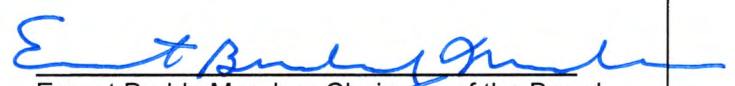
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

proof in the office of the recorder of the county in which the property is located. No fee shall be charged for recordation."

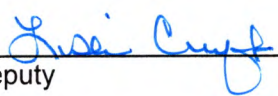
(7) That the Department of Public Works and Planning, within 3 Days after this resolution is adopted, will file with the Clerk to maintain for all time along with this resolution, a map of the area and easement described in (5)(a).

THE FOREGOING, was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this 12th day of May 2020, to wit:

AYES: Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero  
NOES: None  
ABSENT: None  
ABSTAINED: None

  
Ernest Buddy Mendes, Chairman of the Board  
of Supervisors of the County of Fresno

**ATTEST:**  
BERNICE E. SEIDEL  
Clerk of the Board of Supervisors  
County of Fresno, State of California

BY   
Deputy