

RESOLUTION NO. 2022-134

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE CITY ENGINEER, ON BEHALF OF THE CITY, TO VACATE AND ABANDON A PORTION OF A PUBLIC STREET FORMERLY KNOWN AS PACIFIC AVENUE, SPECIFICALLY DESCRIBED HEREIN, LOCATED IN THE CITY OF ESCONDIDO

WHEREAS the City Council of the City of Escondido, California, on November 16, 2022, passed Resolution No. 2022-132 declaring its intention to order the vacation, abandonment and closing to public use, a portion of a public street formerly known as Pacific Avenue, located at the intersection of Vine Street and W. Fifth Avenue, as herein described, located within the City of Escondido; and

WHEREAS, on Wednesday December 7, 2022, the City Council duly heard all evidence offered by all persons interested in or objecting to the proposed vacation, abandonment and closing; and

WHEREAS, all other acts and things required by law, particularly Section 8320 *et seq.* of the California Streets & Highways Code, to confer jurisdiction upon the City Council to order said street vacation have been done; and

WHEREAS, pursuant to the provisions of Section 8340 of the California Streets & Highways Code, existing or proposed utilities require the reservation of utility easements over a portion of the area to be vacated.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California as follows:

1. That the above recitations are true.
2. That the City Council makes the following findings of fact:

(a) That the portion of a public street, formerly known as Pacific Ave., proposed for vacation is not being utilized.

(b) That the portions of vacated streets are unnecessary for present or prospective public street purposes.

(c) That the City Engineer supports the street vacation as proposed and recommends approval of the street vacation.

(d) That the proposed vacation is recommended because this land is not needed for the ultimate design of any street.

(e) That the vacated portions of rights-of-way are not useful as bikeways.

(f) Prior to recordation, the legal description shall be revised to include the following language, "Reserving and excepting therefrom pursuant to the provisions of Section 8340 of the California Streets and Highways Code and for the benefit of the City of Escondido, a permanent easement and a right-of-way for access to construct, reconstruct, maintain, operate, renew, enlarge, remove, and repair drains, sewers, water facilities, and general utilities, including any or all appurtenances thereto, and to remove any improvement, brush, trees, shrubs, and other growth, together with the right of ingress and egress over, under, along, and across, all that real property situated in the City of Escondido, County of San Diego." The following language shall also be included to reserve an SDG&E Easement: "Reserving an easement and right of way for San Diego Gas & Electric Company (SDG&E) to erect, construct, change the size of, improve, reconstruct, relocate, repair, remove, maintain and use facilities consisting of pipelines and appurtenances, communication facilities and all appurtenances together with the right of ingress thereto and egress therefrom over said easement and over other practical routes. No building or

other structure shall be permitted within the easement excepting other utility facilities that meet SDG&E's separation requirements. SDG&E's prior written consent shall be required before planting any trees or increasing/decreasing the ground elevation within the easement. Grantee shall have the right but not the duty, to trim or remove trees and brush along or adjacent to this easement and remove roots from within this easement whenever Grantee deems it necessary. Said right shall not relieve Grantor of the duty as owner to trim or remove trees and brush to prevent danger or hazard to property or persons. Upon receipt of written request from Grantor, this easement will be quitclaimed by Grantee, provided that the facilities have been removed."

3. That in view of the above findings and the applicable law, this City Council finds, from all evidence submitted, that the portion of public street, as described and delineated on Exhibits "A" and "B," which are attached to this resolution and incorporated by this reference, meet the requirements for vacation as set forth in Sec. 8320 *et seq.* of the California Streets & Highway Code..

4. That the City Council does hereby order the portions of public streets described and delineated in Exhibits "A" and "B," within the City of Escondido, closed and vacated.

5. That the City Clerk is hereby directed and authorized to record a certified copy of this Resolution, with the effective date of the vacation, of the above-described area, to be the date of recordation with the office of the County Recorder of San Diego County.