



THE CITY OF SAN DIEGO

## Report to the Planning Commission

DATE ISSUED: May 6, 2021 REPORT NO. PC-21-018

HEARING DATE: May 13, 2021

SUBJECT: Tijuana Cross-Border Amendment, Process Five Decision

PROJECT NUMBER: [597523](#)

OWNER/APPLICANT: Otay-Tijuana Venture, LLC

REFERENCES: 1. [Planning Commission Report PC-18-055, Tijuana Cross Border Amendment](#)

2. [City Council Report, Project No 169653, Otay-Tijuana Cross-Border Facility Development Project](#)

### SUMMARY

Issues: Should the Planning Commission recommend to the City Council approval of an application for a Community Plan/General Plan Amendment, Tentative Map with Public Right-of-Way Vacation, and Planned Development Permit to vacate existing public streets and remove from the Otay Mesa Community Plan's Mobility Element, create a new lot for those streets as private drives with one-way circulation, and reconfigure allowable Retail Sales and Commercial Services uses within the development lots located at 2745 Otay Pacific Drive within the Otay Mesa Community Plan area?

#### Staff Recommendation:

1. Recommend to the City Council to ADOPT Addendum No. 597523 to Environmental Impact Report No. 169653 (SCH No. 2010121014) and the associated Mitigation Monitoring and Reporting Program; and
2. Recommend to the City Council to APPROVE Community Plan/General Plan Amendment No. 2120327, Tentative Map No. 2542691, and Planned Development Permit No. 2538300.

Community Planning Group Recommendation: On April 23, 2018, the Otay Mesa Planning Group recommended approval of the project 12-1-1, and no conditions.

Environmental Review: Addendum No. 597523 to Environmental Impact Report No. 169653 (SCH No. 2010121014) has been prepared for the project in accordance with the State of California Environmental Quality Act (CEQA) Guidelines. No changes in circumstances have occurred, and no new information of substantial importance has manifested, which would result in new significant or substantially increased adverse impacts as a result of the project when compared to the previously certified Environmental Impact Report. This addendum was not required to be circulated for public review.

Fiscal Impact Statement: None with this action. All costs associated with the processing of this application are recovered through a deposit account funded by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact: None with this action. The site's land use and zoning designations do not permit housing.

## BACKGROUND

The Otay-Tijuana Cross-Border Facility Development Project (Project No. 169653) was approved by the San Diego City Council on January 10, 2012, and included an Amendment to the General Plan/Otay Mesa Community Plan (OMCP), a Planned Development Permit (PDP), a Site Development Permit (SDP), a Tentative Map (TM), and a Public Right-of-Way Vacation. The project site is situated south of Siempre Viva Road, west of La Media Road, east of Britannia Boulevard, and just north of the Tijuana Airport in Mexico.

These approvals allowed for the phased development of a 95,000 square-foot, two-level cross border facility, a 772,000 square-foot, four-level parking structure to provide approximately 2,239 parking spaces, and up to 402,000 square feet of industrial use, 34,000 square feet of specialty retail use, 340 hotel rooms, a 12-pump gas station with convenience market and car wash, and 6,000 square feet of restaurant use on the 63.8-acre project site located at 2745 Otay Pacific Drive.

The project site has been previously graded in accordance with Project No. 169653 and is currently being developed with the Otay-Tijuana Cross Border Facility Development Project. The Cross-Border Xpress (CBX) Facility has been constructed in the southwest corner of the project site on Lot 8 and has been operational since 2015. Surface parking to serve the CBX Facility has been constructed north and east of the Facility on Lots 1-7, Lot 9, and Lot 10. A permanent parking lot is constructed on Lot 9 (northeast of the terminal). East and west of the terminal, on Lot 8, is permanent parking. Lots 12-16 and 19-30 are also currently in use as temporary parking. Lots 11, 17, and 18 have been graded but are not yet developed. Public water mains, sewer mains, and storm drains occur along Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive and currently serve the CBX Facility.

After approval of the original Otay-Tijuana Cross Border Facility Development project, an update to

the Otay Mesa Community Plan (OMCP) was adopted on March 11, 2014. The OMCP Update (OMCPU) retained the site's land use designation as "Institutional" and retained the same roadway classifications within the site. The OMCPU also added specific policies to the OMCP related to the Cross-Border Facility. The OMCPU includes the buildout of the project's remaining vacant parcels per the Otay-Tijuana Cross Border Facility Development Project EIR. The OMCP reflects roadway network classifications approved with the Otay-Tijuana Cross Border Development Project to include Otay Pacific Drive is classified as a four-lane Major Arterial; Otay Pacific Place as a four-lane Collector (with left turn lane); and Las Californias Drive as a two-lane Collector (with left-turn lane).

The project site is in the South District of the OMCP and is zoned International Business and Trade, IBT-1-1. The IBT-1-1 Zone provides for a wide variety of base sector industrial and office uses and is intended to be applied to portions of communities adjacent to the international border, ports of entry, and areas in transition to higher intensity industries. Additionally, the project is located in the Community Plan Implementation Overlay Zone (CPIOZ Type A), Airport Influence Area (AIA) Review Area 1 (Brown Field), Airport Compatibility Overlay Zone (Brown Field), Federal Aviation Administration (FAA) Part 77 Noticing Area (Brown Field), and Very High Fire Hazard Severity Zone. The project site is located in a developed area currently served by existing public services and utilities. Access to the project site is available from Siempre Viva Road to the west. Surrounding land uses include a mix of industrial and business park uses to the west and north; undeveloped land to the east; and the Tijuana Airport in Mexico to the south.

#### PROJECT DESCRIPTION:

The Tijuana Cross Border Amendment Project (Project) consists of minor modifications to the CBX project previously approved by the City Council. Allowable land uses will not change overall; however, allowable land uses will be shifted between lots within the project. The project proposes the vacation of three public streets which will be changed to private streets with one-way circulation, and related shifts in allowable land uses between specific lots.

The Project requires the following discretionary actions, which are briefly discussed in Table 1, and further discussed below:

Table 1: Required Discretionary Actions	
Discretionary Action	Reason
General Plan/Community Plan Amendment	To remove three streets internal to the project site from the Otay Mesa Community Plan Mobility Element as a result of being vacated.
Tentative Map	Vacate three public streets that serve only the project site and create a private lot comprised of the three streets.
Planned Development Permit	To change land uses that were previously approved for certain lots within the development, and to allow a deviation for lots that do not front on a public street.

### **General Plan/Community Plan Amendment:**

A Community Plan Amendment (CPA) is proposed to remove Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive from the OMCP Mobility Element's classified roadways network so they may be used as private drives. On October 25, 2018, the Planning Commission approved the initiation of this Project's Community Plan Amendment by a vote of 6-0-0. The Planning Commission directed the applicant to ensure street vacation findings could be met and was concerned with internal street and lot configurations for the Project (Attachment 13). These concerns are addressed by the proposed project.

### **Tentative Map with Public Right-of-Way Vacations:**

A Tentative Map (TM) is proposed to create a new Lot "A" for the development's private drives. The proposed TM will also vacate the portions of public rights-of-way within Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive.

Currently, Otay Pacific Drive and Las Californias Drive are classified as two-lane collector streets, and Otay Pacific Place is a three-lane collector street. With the proposed vacation of public rights-of-way, these roadways would be modified for one-way counterclockwise travel, including reconfiguration of pavement markings, modification of traffic signals for one-way counterclockwise travel, and provision of on-street bicycle facilities. Specifically, the project proposes to modify these roadways as described below:

- **Otay Pacific Drive**
  - Otay Pacific Drive would provide for one-way travel southbound.
  - A dedicated six-foot Class II bicycle lane with a two-foot buffer would be provided southbound along Otay Pacific Drive between Siempre Viva Road and Otay Pacific Place.
- **Otay Pacific Place**
  - Otay Pacific Place would provide for one-way travel eastbound.
  - A shared 16-foot vehicular travel lane and Class III bicycle route would be marked within the eastbound lanes along Otay Pacific Place between Otay Pacific Drive and Las Californias Drive.
- **Las Californias Drive**
  - Las Californias Drive would provide for one-way travel northbound.
  - A shared 14-foot vehicular travel lane and a Class III bicycle route would be marked within the northbound lanes along Las California Drive between Otay Pacific Place and Siempre Viva Road.

The existing City utility services (water and sewer) serving the site will be privatized. An easement for drainage will be reserved within the TM's Final Map in the City's favor. Existing third-party utilities in the area will also have easements reserved.

## **Planned Development Permit :**

The Project proposes to amend the existing PDP (PDP No. 609801) to change two of the six lots where Retail Sales and Commercial Services uses are permitted from Lots 1 and 2 to Lots 17 and 18. The proposed PDP Amendment would change Condition 52 in the PDP to read: *Uses within the "Retail Sales" and "Commercial Services" categories of the Land Development Code may only be developed on Lots ~~1, 2,~~ 17, 18, 19, 20, 29, and 30; hotel/visitor accommodations may only be developed on Lots 5, 6, 7, 11, 12, 13, 23, 24, 25, and 26.* This change is requested due to the proposed change to one-way circulation.

The proposed PDP will also approve a deviation from the Land Development Code requirement for lots to have a minimum of frontage on a public street per SDMC 131.0631. This is required because internal circulation will now be private. As a requirement of this deviation, a Reciprocal Access Agreement would be recorded for all properties to assure vehicular access to all lots with frontage on the three streets proposed for vacation.

### *PDP Deviation Justification:*

Permitting lots 2-17 and 20-29 to have no frontage on a public street where at least 100 feet is required by the IBT-1-1 zone facilitates the proposed street vacation, which in turn facilitates the Cross Border facility's operational needs consistent with the policies of the OMCP, enhancing the capacity of the Cross Border facility in promoting international business and trade.

Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive were originally intended to serve multiple industrial properties. All lots served by these streets were subsequently consolidated into one ownership via the previous Cross Border Express project. The Project proposes to vacate these streets to allow more effective management of the use and traffic flow based upon changing conditions within the air terminal. In order to vacate Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive while retaining the existing lot configuration, lots served by these streets must be allowed to deviate from the frontage requirement.

This deviation would benefit the public by removing streets from City legal and maintenance responsibilities, potentially increasing revenue from property taxes while still providing appropriate amenities, multimodal circulation, and access to the CBX facility, benefiting the Otay Mesa community and the San Diego region as a whole.

### *SDP No Longer Required:*

The previously approved Site Development Permit (SDP) was required due to the site's former location within the Otay Mesa Development District (OMDD) Planned District and the

presence of Environmentally Sensitive Lands (ESL) on the site. The OMDD no longer applies to the site, and the site has been graded with no ESL remaining; therefore, an SDP is no longer required, and the SDP is not being amended.

All other elements of the previously approved Otay-Tijuana Cross Border Facility Development Project would remain unchanged.

#### Community Plan Analysis:

The Otay Mesa Community Plan (OMCP) designates the site as "Institutional". The OMCP also contains several policies that provide for development of a mix of uses in support of a Cross Border Facility, supplementing the "Institutional" land use designation. An OMCP policy specifically states that "[t]he Cross-Border Facility and ancillary uses such as lodging, car rental, commercial parking, and passenger supported commercial uses are encouraged uses consistent with the Community Plan." The OMCP contemplates the development and operation of the CBX facility. The Project does not change the allowable land uses from the originally approved project; it only changes their location within the site. As part of the Project's proposed PDP Amendment, Retail Sales and Commercial Services would be removed as permitted uses on Lots 1 and 2 and would be added as permitted uses on Lots 17 and 18. Allowed uses on Lots 1 and 2 would revert to those described in the previously approved PDP. This shift in permitted land uses from one portion of the site to another does not affect the community plan land use designation. The Project's land uses would retain their consistency with the OMCP policy that allows for a Cross-Border Facility and ancillary uses.

The proposed TM's public right-of-way vacations includes a Community Plan Amendment (CPA) to remove three improved streets from the OMCP's Mobility Element. Because the streets are within the Mobility Element's classified streets network, the public right-of-way vacation require a CPA to remove the streets from the network. The removal of the streets from the network would establish consistency with the community plan.

The removal of these three streets from the streets network and approval of the public right-of-way vacations does not adversely affect OMCP goals and policies related to circulation, access, and public services for the Cross Border Facility. Streets within the community plan's classified network are intended to provide connectivity throughout the community as well as maintain regional access. The specific street classifications are also intended to support traffic volumes for public streets at levels of service evaluated in the Environmental Impact Report for the community plan. These three streets do not provide through access to adjacent properties or connectivity to other areas of the community. The streets are located entirely within property owned by the applicant and provide internal circulation to the development from Siempre Viva Road. Vehicular, bicycle, and pedestrian access to the site will be maintained, and the private streets will remain open to the public. Private facilities are not included within the community plan's classified roadway network.

The proposed TM's public right of way vacations will allow the developer more flexibility in managing the use and traffic flow of on-site private streets based upon changing conditions within the air terminal. Facilitating operation of the Cross-Border Facility is supported by General Plan and OMCP

policies related to economic prosperity, specifically international business and trade. The community plan specifically identifies the Cross Border Facility to provide secure and convenient access to air travelers using Mexico's Rodriguez International Airport as an alternative to existing Ports of Entry. Land uses in this portion of the community are also intended to promote international business and trade. Facilitating operation of the Cross Border Express development and supports international business and trade.

#### Environmental Analysis:

An Environmental Impact Report (EIR), No. 169653 / SCH No. 2010121014, was prepared for the Otay-Tijuana Cross Border Facility Development Project and certified by the San Diego City Council on January 10, 2012. The EIR analyzed the following issue areas:

- Land Use
- Transportation/Circulation
- Noise
- Air Quality
- Greenhouse Gas Emissions
- Energy
- Paleontological Resources
- Public Utilities
- Biological Resources
- Visual Effects and Neighborhood Character

The EIR found that the project would result in significant environmental impacts associated with Transportation/Circulation, Air Quality, Noise, Paleontological Resources, and Biological Resources. Except for impacts related to Transportation/Circulation and Air Quality (operational emissions), mitigation measures were proposed that would reduce project impacts to below a level of significance. The EIR determined that significant and unavoidable impacts would be associated with Transportation/Circulation and Air Quality. The project's cumulative Transportation/Circulation impacts would be mitigated to the extent feasible, with one street segment and several freeway ramps only partially mitigated. Air Quality impacts are largely connected to long-term operational emissions of reactive organic gases (ROG)/volatile organic compounds (VOC) and carbon monoxide (CO). The OMCP Program EIR concludes that long-term operational emissions cannot be fully mitigated. As presented in the OMCP Program EIR, the primary source of such emissions is vehicles accessing the site, which could not be adequately quantified at the time the analysis for the OMCP was conducted, as future developments and their actual operational emissions were unknown. A Statement of Overriding Considerations was adopted for the project in concert with certifying the EIR for unavoidable impacts relative to Transportation/Circulation and Air Quality (operational emissions).

Addendum No. 597523 to EIR No. 169653 has been prepared for the Project in accordance with the State of California Environmental Quality Act (CEQA) Guidelines. This Addendum supplements information provided in the Otay-Tijuana Cross Border Facility Development Project EIR No. 169653 / SCH No. 2010121014, and includes subsequent analysis to demonstrate that any potential environmental impacts associated with the proposed Tijuana Cross Border Amendment project are

consistent with or less than the impacts disclosed in the previously certified Otay-Tijuana Cross Border Facility Development Project EIR. The analysis includes the environmental issues analyzed in detail in the Otay-Tijuana Cross Border Facility Development Project EIR, as well as project-specific analysis pursuant to CEQA. The analysis in this document evaluates the adequacy of the Otay-Tijuana Cross Border Facility Development Project EIR relative to the Project, documents that the proposed Tijuana Cross Border Amendment project would not cause new or more severe significant impacts than those identified in the 2012 Otay-Tijuana Cross Border Facility Development Project EIR. Therefore, the Addendum has been prepared in accordance with Section 15164 of the CEQA State Guidelines. Public review of the Addendum is not required per CEQA.

Conclusion:

City staff has reviewed the proposed project and all issues identified through the review process have been resolved in conformance with adopted City Council policies and regulations of the Land Development Code. The proposed project meets all applicable regulations and policy documents, and staff finds the project consistent with the recommend land use, development regulations, and development standards in effect for the site per the SDMC, General Plan, the Otay Mesa Community Plan, and the Subdivision Map Act. Staff has provided draft findings and conditions of approval to support the proposed project. Staff recommends that the Planning Commission recommend City Council approve the project as proposed.

1. Recommend to the City Council to ADOPT Addendum No. 597523 to Environmental Impact Report No. 169653 (SCH No. 2010121014) and the associated Mitigation Monitoring and Reporting Program and APPROVE General Plan/Community Plan Amendment No. 2120327, Tentative Map No. 2542691 and Planned Development Permit No. 2538300, with modifications.
2. Recommend to the City Council to NOT ADOPT Addendum No. 597523 to Environmental Impact Report No. 169653 (SCH No. 2010121014) and the associated Mitigation Monitoring and Reporting Program and NOT APPROVE General Plan/Community Plan Amendment No. 2120327, Tentative Map No. 2542691 and Planned Development Permit No. 2538300, if the findings required to approve the project cannot be made.

Respectfully submitted,



Tim Daly  
Assistant Deputy Director  
Development Services Department  
Attachments:



Travis Cleveland  
Development Project Manager  
Development Services Department

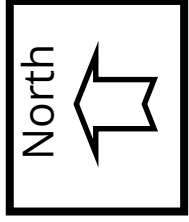
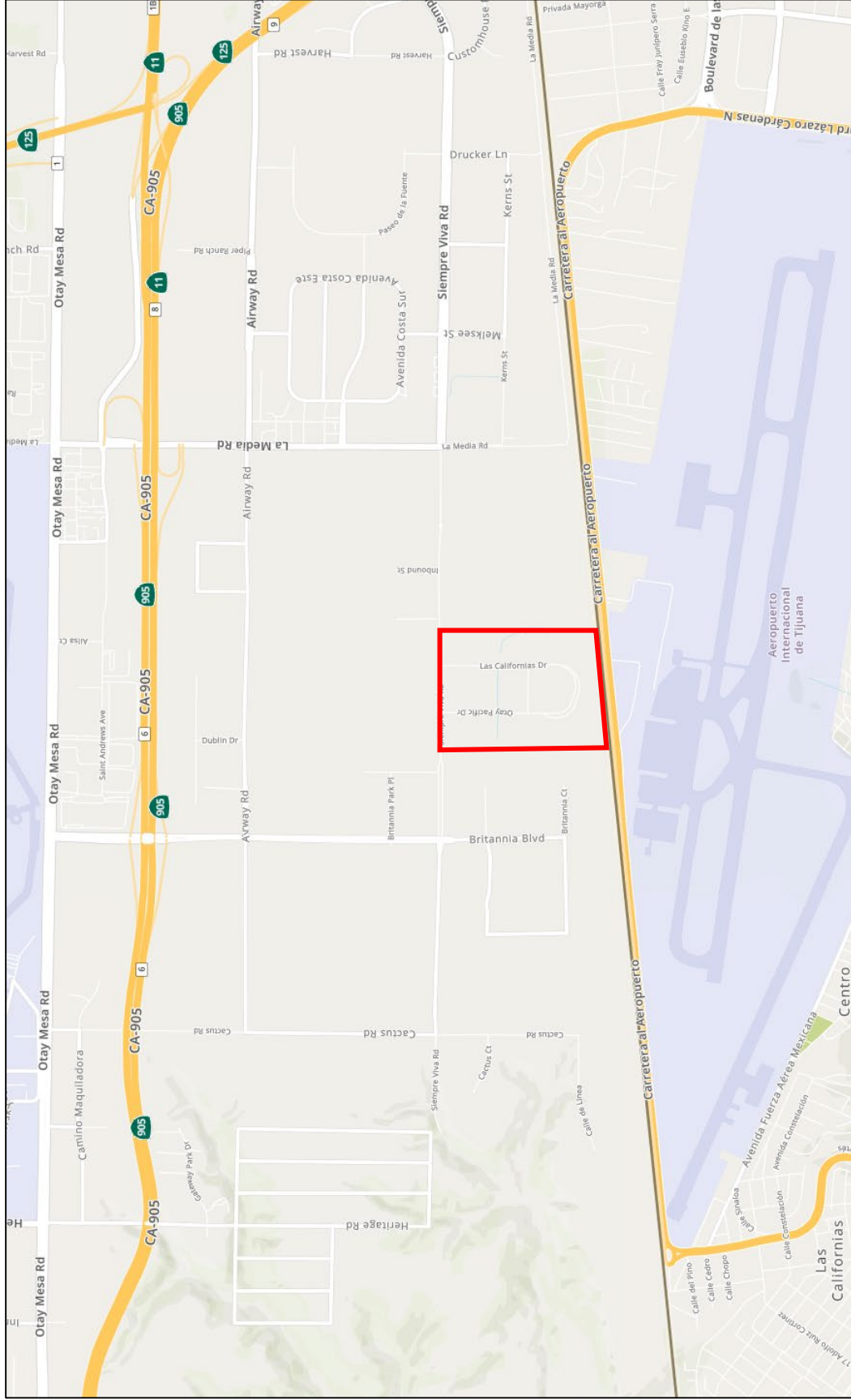
1. Project Location Map
2. Aerial Photograph



3. Site Photographs
4. Community Plan Land Use Map
5. Draft Permit Resolution with Findings
6. Draft Permit with Conditions
7. Draft TM Resolution with Findings and Conditions
8. Draft Community Plan Amendment and General Plan Amendment Resolution
9. Draft Environmental Resolution with MMRP
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Tentative Map Exhibit and Project Plans
13. Planning Commission Resolution 4965-PC



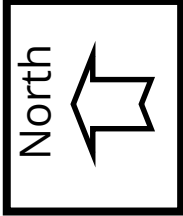
# Project Location Map



**Project No. 597523, Tijuana Cross Border Amendment  
2745 Otay Pacific Drive**



# Aerial Photo



**Project No. 597523, Tijuana Cross Border Amendment**  
**2745 Otay Pacific Drive**

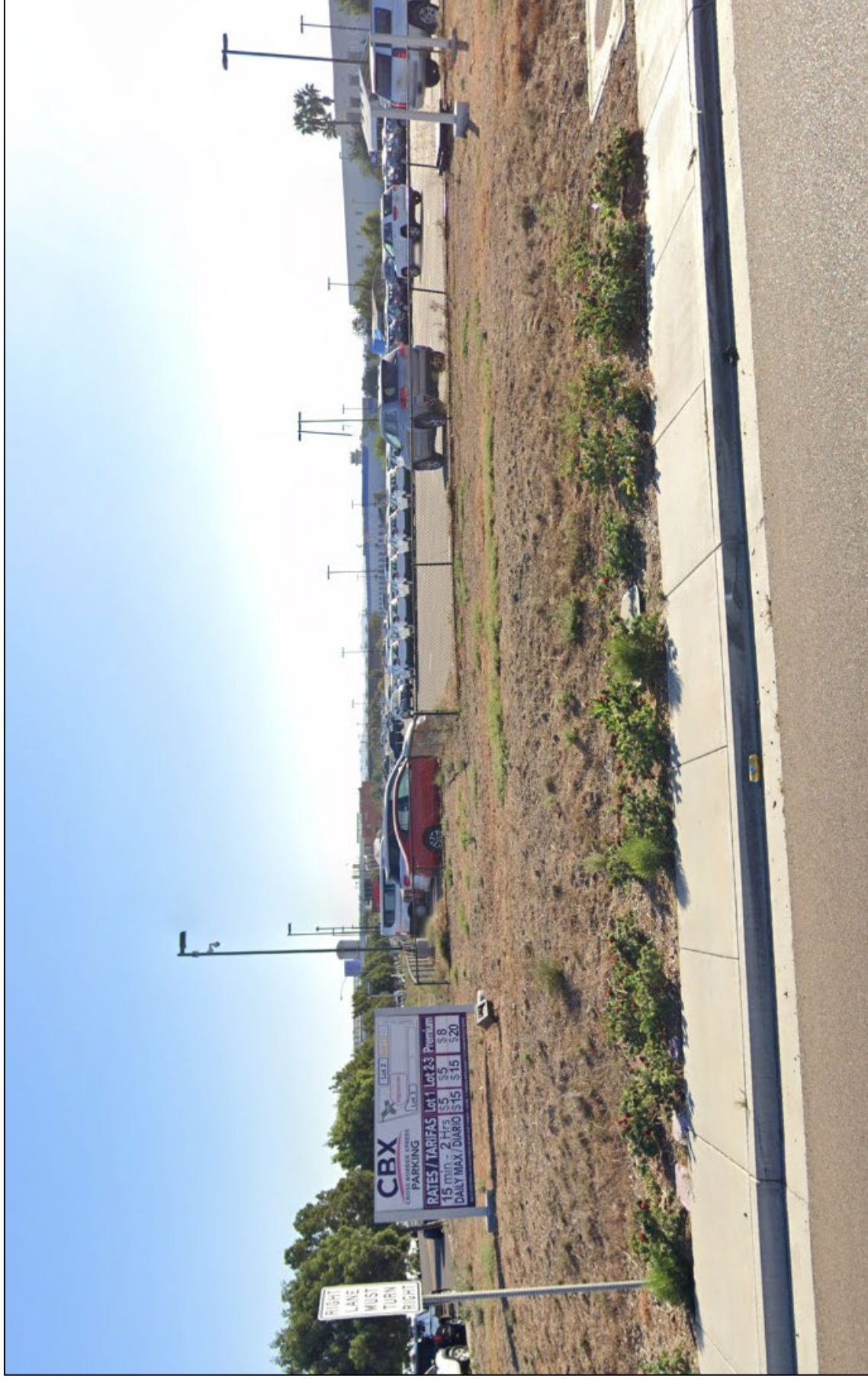




# 597523 - Tijuana Cross Border Amendment Site Photos



## 597523 - Tijuana Cross Border Amendment Site Photos



Picture 1



## 597523 - Tijuana Cross Border Amendment Site Photos



Picture 2

## 597523 - Tijuana Cross Border Amendment Site Photos



Picture 3



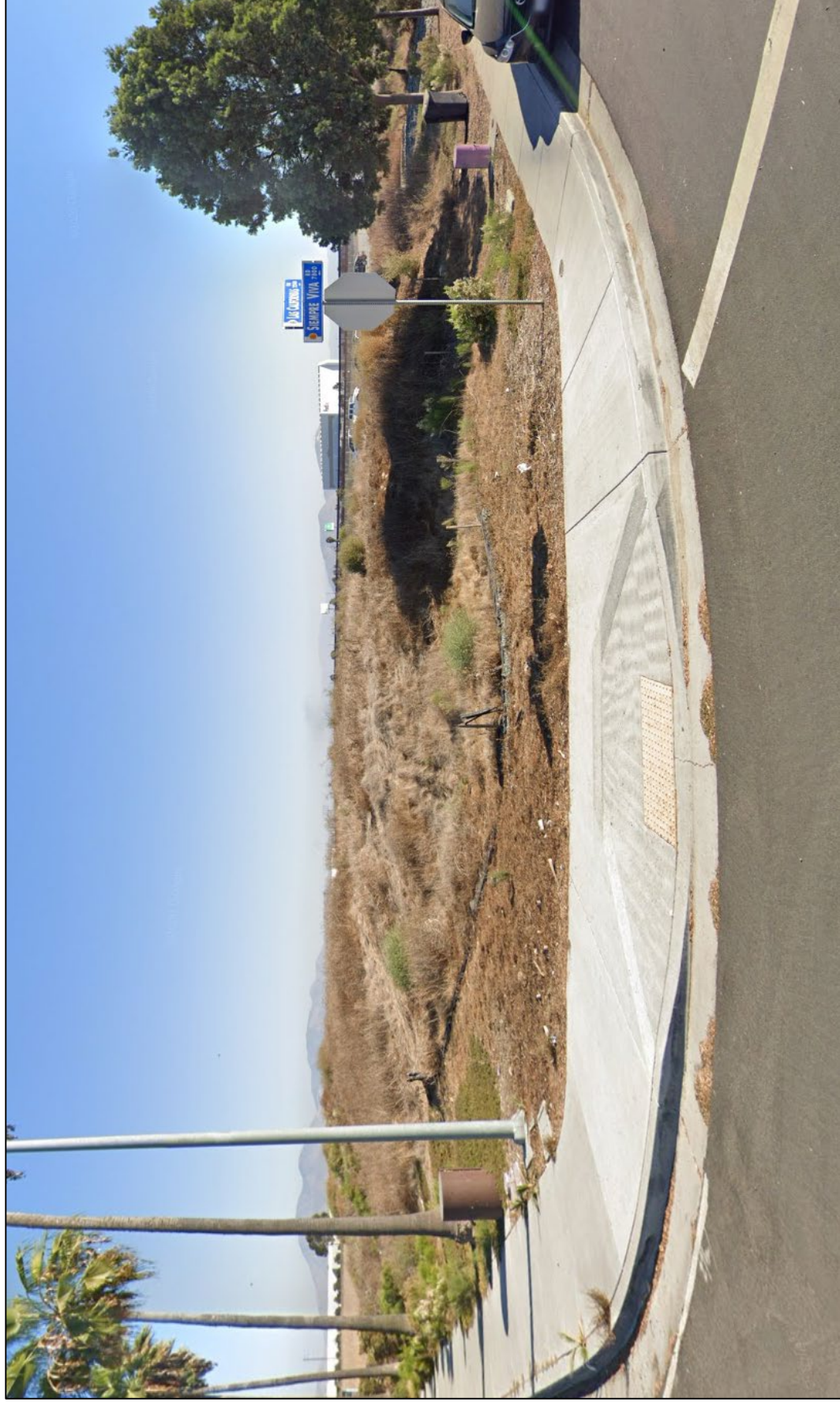
## 597523 - Tijuana Cross Border Amendment Site Photos



Picture 4



## 597523 - Tijuana Cross Border Amendment Site Photos



Picture 5



## 597523 - Tijuana Cross Border Amendment Site Photos



Picture 6

## 597523 - Tijuana Cross Border Amendment Site Photos



Picture 7



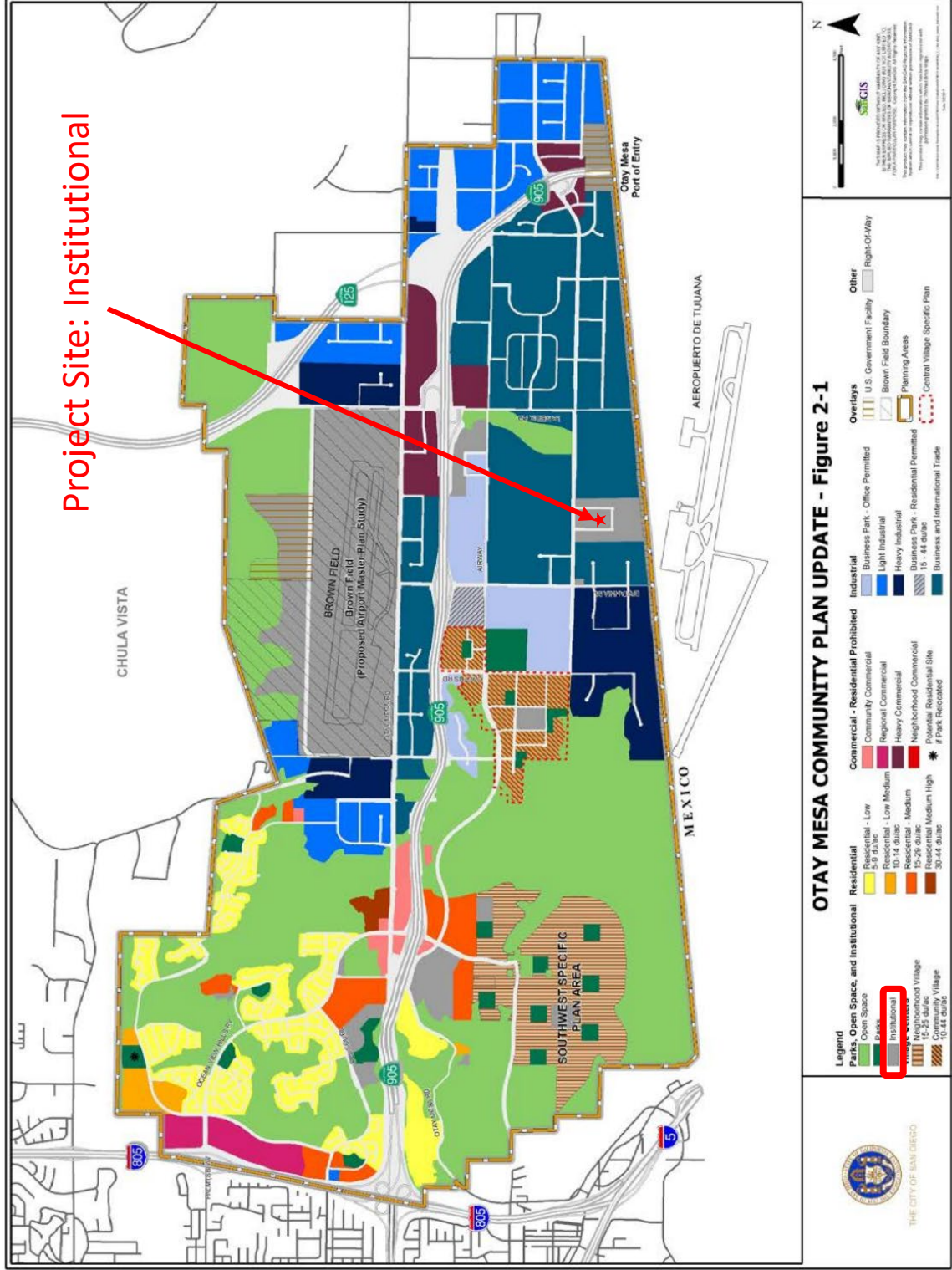
## 597523 - Tijuana Cross Border Amendment Site Photos



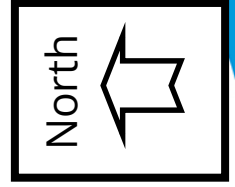
Picture 8



# Community Plan



Project No. 597523, Tijuana Cross Border Amendment  
2745 Otay Pacific Drive



CITY COUNCIL RESOLUTION NO. XXXXXXX  
PLANNED DEVELOPMENT PERMIT NO. 2324693  
**TIJUANA CROSS BORDER AMENDMENT - PROJECT NO. 597523 [MMRP]**  
(AMENDMENT TO PLANNED DEVELOPMENT PERMIT NO. 609801 - PROJECT NO. 169652)

WHEREAS, OTAY-TIJUANA VENTURE, LLC, Owner/Permittee, filed an application with the City of San Diego for Planned Development Permit 2324693 to reconfigure allowable Retail Sales and Commercial Services uses within the development lots and deviate from the Land Development Code requirement for lots to have a minimum of frontage on a public street. The project site is located at 2745 Otay Pacific Drive, in the IBT-1-1 Zone within the Otay Mesa Community Plan and is legally described as Lots 1 through 30 of Otay Business Park Map No. 15548; and

WHEREAS, on May 13, 2021, the Planning Commission of the City of San Diego considered Planned Development Permit 2324693, and pursuant to Resolution No. \_\_\_\_\_-PC voted to recommend City Council approve the Permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on \_\_\_\_\_, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit 2324693:

**A. PLANNED DEVELOPMENT PERMIT – San Diego Municipal Code (SDMC) SECTION 126.0604****1. The proposed development will not adversely affect the applicable land use plan.**

The Tijuana Cross Border Amendment Project (Project) consists of minor modifications to the Otay-Tijuana Cross Border Facility project; Project No. 169652, previously approved by the City Council on January 10, 2012 to construct a U.S. Customs and Immigration Processing Facility ("cross border facility"), industrial office/warehouse uses, commercial uses, and hotel uses within the Otay Mesa Community Plan (Community Plan).

The approval allowed for the phased development of a 95,000 square-foot, two-level cross border facility, a 772,000 square-foot, four-level parking structure to provide approximately 2,239 parking spaces, and up to 402,000 square feet of industrial use, 34,000 square feet of specialty retail use, 340 hotel rooms, a 12-pump gas station with convenience market and car wash, and 6,000 square feet of restaurant use on the 63.8-acre project site.

The Project site has been previously graded in accordance with Project No. 169652 and is currently being developed with the Otay-Tijuana Cross Border Facility Development Project. The Cross-Border Xpress (CBX) Facility has been constructed in the southwest corner of the Project site on Lot 8 and has been operational since 2015. Surface parking to serve the CBX Facility has been constructed north and east of the Facility on Lots 1-7, Lot 9, and Lot 10. A permanent parking lot is constructed on Lot 9 (northeast of the terminal). East and west of the terminal, on Lot 8, is permanent parking. Lots 12-16 and 19-30 are also currently in use as temporary parking. Lots 11, 17, and 18 have been graded but are not yet developed. Public water mains, sewer mains, and storm drains occur along Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive and currently serve the CBX Facility. The Community Plan designates the CBX property as "Institutional" which allows for the existing permitted development of a private airport terminal and supporting commercial uses.

The Project proposes a General Plan/Community Plan Amendment and subdivision to vacate existing public streets; Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive and remove them from the Otay Mesa Community Plan Mobility Element; create a new lot for those vacated portions of streets as private drives with one-way circulation; and move allowable Retail Sales and Commercial Services uses from lots 1 and 2 to lots 17 and 18 at 2745 Otay Pacific Drive, in the IBT-1-1 Zone. The project will establish a public storm drain easement with recordation of the Project's Final Map.

The proposed subdivision with public right-of-way vacations includes a General Plan/Community Plan Amendment (CPA) to remove the three improved streets from the community plan's classified streets network:

- Otay Pacific Drive which is classified as a 4-lane major road;
- Otay Pacific Place which is classified as a 4-lane collector street; and
- Las Californias Drive which is classified as a 2-lane collector street.



The right-of-way vacations and removal of these three streets from the streets network does not adversely affect Community Plan goals and policies related to circulation, access, and public services for the Cross-Border Facility. Streets within the Community Plan's classified network are intended to provide connectivity throughout the community as well as maintain regional access. The specific street classifications are also intended to support traffic volumes for public streets at levels of service evaluated in the Environmental Impact Report for the Community Plan. These three streets do not provide through access to adjacent properties or connectivity to other areas of the community. The streets are located entirely within property owned by the applicant and provide internal circulation to the development from Siempre Viva Road. Vehicular, bicycle, and pedestrian access to the site will be maintained, and the private drives will remain open to the public. Private facilities are not included within the Community Plan's classified roadway network.

Facilitating operation of the Cross-Border Facility is supported by General Plan and OMCP policies related to economic prosperity, specifically international business and trade. The Community Plan specifically identifies the Cross-Border Facility to provide secure and convenient access to air travelers using Mexico's Rodriguez International Airport as an alternative to existing Ports of Entry. Land uses in this portion of the community are also intended to promote international business and trade. Facilitating operation of the CBX development supports international business and trade.

The Project also proposes to change two of the six development lots where Retail Sales and Commercial Services uses are permitted from Lots 1 and 2 to Lots 17 and 18. This proposed land use change is requested due to the proposed change to one-way circulation. The development also requires a deviation from the Land Development Code requirement for lots to have a minimum of frontage on a public street. This is required because internal circulation will now be private. Therefore, the Permit herein is conditioned to require a Reciprocal Access Agreement to be recorded to assure vehicular access to all lots with frontage on the three streets proposed for the vacation.

The Project does not change the mix of land uses within the previously approved project site, and it does not fundamentally alter the previously approved project. Based on the above, the proposed development will continue to not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.**

The proposed development is consistent with the relevant SDMC, policies, and regulations whose primary focus is the protection of the public's health, safety, and welfare. The permit for the Project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of SDMC in effect for the Project. Such conditions within the permit have been determined necessary to avoid adverse impact upon the public health, safety, and general welfare of persons residing or working in the surrounding area. The Project shall comply with the development conditions in effect for the subject property and other regulations and guidelines pertaining to the subject property per the SDMC.



Prior to issuance of any construction permits for the proposed development, the plans shall be reviewed for compliance with all building, electrical, mechanical, plumbing and fire Code requirements, and the owner/permittee shall be required to obtain grading and public improvement permits. Compliance with these regulations during and after construction will be enforced through building inspections completed by the City's building inspectors.

Furthermore, the Project has been reviewed pursuant to the California Environmental Quality Act, and the environmental analysis did not find any significant impacts to the public health and safety beyond those which have been addressed by previous permits, environmental documents, or Statements of Overriding Consideration. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

**c. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone, and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.**

The Project proposes a General Plan/Community Plan Amendment, Vesting Tentative Map with Public right of Way Vacation, and an Amendment to Planned Development Permit No. 609801 to vacate existing public streets Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive and remove them from the Otay Mesa Community Plan Mobility Element, create a new lot for those streets as private drives with one-way circulation, move allowable Retail Sales and Commercial Services uses from lots 1 and 2 to lots 17 and 18, and establish a public storm drain easement at 2745 Otay Pacific Drive, in the IBT-1-1 zone.

The Project complies with the regulations of the Land Development Code (LDC), as applicable, including the Planned Development Permit Regulations, the Tentative Map Regulations, and the Public Right of Way Vacation Regulations, as well as the entitlements in the original Planned Development Permit No. 609801 and Site Development Permit 896755, except as herein amended by this permit. Specifically, the Project addresses all applicable zoning regulations, except where deviations are allowed herein pursuant to SDMC Section 126.0602(b)(1).

The Project request a single deviation to allow lots to have no frontage on a public street, where at least 100 feet is required in the IBT-1-1 Zone per SDMC 131.0631. Strict conformance with the IBT-1-1 Zone would dictate that lots must retain access to public streets, precluding the desired lot reconfiguration with allowable Retail Sales and Commercial Services uses from lots 1 and 2 to lots 17 and 18. The deviation supports the privatization of internal circulation for access and is appropriate for transportation facilities of this type. The Project would benefit the community by removing public streets benefitting only one development from City legal and maintenance responsibilities, while still providing

appropriate amenities, multimodal circulation, and access to the CBX facility, benefiting the Otay Mesa community and the San Diego region as a whole. The streets proposed for vacation, Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive, are contained within a private development. The CBX development will ensure all necessary utility and public access rights are preserved despite the vacation. The vacation will cause approximately 5.2 acres of land to revert to private ownership and, thereby, become private property subject to property taxes. Additionally, this reversion will reduce City liability and maintenance responsibilities related to approximately 1,400 lineal feet of public street. The public will benefit through increased revenue to the City through property taxes paid on improvements. The public will also benefit from the action through improved utilization of the CBX development as the owners of the property retain the ability develop in response to market demands. The deviation is supported because the Project is consistent with community plan policies, would facilitate the CBX Project's operational needs, and would not adversely impact the public's health and safety.

The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the Land Development Code and San Diego Municipal Code. Therefore, the proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone, and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.

BE IT FURTHER RESOLVED, that Planned Development Permit 2324693 (amendment to Planned Development Permit 609801) is granted to OTAY-TIJUANA VENTURE, LLC, under the terms and conditions set forth in the attached permit which is made a part of this resolution and contingent upon final passage of R-\_\_\_\_\_ approving amendments to the General Plan/Otay Mesa Community Plan.

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION  
501

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

INTERNAL ORDER NUMBER: 24008268

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED DEVELOPMENT PERMIT NO. 2324693  
TIJUANA CROSS BORDER AMENDMENT - **PROJECT NO. 597523 [MMRP]**  
CITY COUNCIL

This Planned Development Permit No. 2324693, an amendment to Planned Development Permit No. 609801, is granted by the City Council of the City of San Diego to OTAY-TIJUANA VENTURE, LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0404. The 63.8-acre site is located east of Britannia Boulevard, south of Siempre Viva Road (at the cross street of Otay Pacific Drive), at 2745 Otay Pacific Drive in the IBT-1-1 zone, immediately adjacent to the U.S.-Mexico International border and is legally described as Lots 1 through 30 of Otay Business Park Map, No. 15548.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to implement the Tijuana Cross Border Amendment project and associated site improvements as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June XX, 2021, on file in the Development Services Department.

The project shall include:

- a. Change two of the six development lots where Retail Sales and Commercial Services uses are permitted from Lots 1 and 2 to Lots 17 and 18, and allow a deviation to SDMC section 131.0631 to create lots 2-17 and 20-29 with zero public street frontage where 100 feet of frontage is otherwise required in the IBT-1-1 Zone; and
- b. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1

of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by [ENTER DATE 3 years from Approval].

2. Except as amended herein, all conditions of Planned Development Permit No. 609801 and Site Development Permit No. 896755 (Project No. 169653) remain in full force and effect.

3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder.

4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the federal Endangered Species Act [ESA] and by the California Department of Fish and Wildlife [CDFW] pursuant to California Fish and Wildlife Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFW, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation

lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, in accordance with Section 17.1D of the IA.

9. The Owner/Permittee shall secure all necessary construction permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

10. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

13. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

14. The mitigation measures specified in the MMRP and outlined ADDENDUM No. 597523 TO ENVIRONMENTAL IMPACT REPORT No. 169653 (SCH NO. 2010121014) shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the MMRP as specified in ADDENDUM No. 597523 TO ENVIRONMENTAL IMPACT REPORT No. 169653 (SCH NO. 2010121014) to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented.

**CLIMATE ACTION PLAN REQUIREMENTS:**

16. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

**TRANSPORTATION REQUIREMENTS:**

17. Prior to the issuance of any construction permit for development in excess of 13,683 ADTs, the Owner/Permittee shall assure by permit and bond the installation of a traffic signal at the intersection of Siempre Viva Road / Las Californias Drive, satisfactory to the City Engineer. All improvements shall be complete and operational prior to first occupancy in Phase 2.

18. Prior to the issuance of any construction permit for development in excess of 24,652 ADTs, the Owner/Permittee shall install dual westbound left-turn lanes at the intersection of Otay Pacific Drive / Siempre Viva Road, satisfactory to the City Engineer. All improvements shall be complete and operational prior to first occupancy in Phase 3.

19. Prior to the issuance of any construction permit for development in excess of 24,652 ADTs, the Owner/Permittee shall install dual southbound left-turn lanes at the intersection of Otay Pacific Drive / Otay Pacific Place, satisfactory to the City Engineer. All improvements shall be complete and operational prior to first occupancy in Phase 3.

20. Otay Pacific Drive between Siempre Viva Road and Otay Pacific Place: Prior to issuance of any construction permit for development in excess of 13,683 ADT, the Owner/ Permittee shall restripe Otay Pacific Drive, from Siempre Viva Road and Otay Pacific Place with 60 feet curb-to-curb (10-foot parallel parking, two foot buffer, six-foot Class II bicycle lane, 12-foot southbound travel lane, 12-foot southbound travel lane, 18-foot angled parking) within 80 feet of right-of-way and provide curb,

gutter, and a minimum 5.5-foot contiguous sidewalk within a 10-foot curb-to-property line distance on both sides, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy in Phase 2.

21. Otay Pacific Place: Prior to issuance of any construction permit for development in excess of 13,683 ADT, the Owner/ Permittee shall restripe Otay Pacific Place between Otay Pacific Drive and Las Californias Drive with 70 feet curb-to-curb (20-foot angled parking, 16-foot eastbound travel lane, 16-foot eastbound travel lane with a marked Class III shared bicycle facility, and 20-foot angled parking) within 94 feet of right-of-way and provide curb, gutter, and five-foot noncontiguous sidewalk within a 14-foot curb-to-property line distance on the south side, and a five and a half-foot contiguous sidewalk within a 10-foot curb-to property distance on the north side, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy in Phase 2.

22. Las Californias Drive between Otay Pacific Place and Siempre Viva Road: Prior to issuance of any construction permit for development in excess of 13,683 ADT, the Owner/ Permittee shall restripe Las Californias Drive between Otay Pacific Place and Siempre Viva Road with 44 feet curb-to-curb (18-foot angled parking, 12-foot northbound travel lane, 14-foot northbound travel lane with a marked Class III shared bike facility) within 64 feet of right-of-way and provide curb, gutter, and 5.5-foot contiguous sidewalk within a 10-foot curb-to-property line distance on both sides, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy in Phase 2.

### **ENGINEERING REQUIREMENTS:**

23. This Planned Development Permit shall comply with all Conditions of Tentative Map No. 2542691.

### **PLANNING/DESIGN REQUIREMENTS:**

24. The automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing authorized by the appropriate City decision maker in accordance with the SDMC.

25. Planned Development Permit No. 609801, Condition 52 is hereby amended to read: "Uses within the 'Retail Sales' and 'Commercial Services' categories of the Land Development Code may only be developed on Lots, 17, 18, 19, 20, 29, and 30; hotel/visitor accommodations may only be developed on Lots 5, 6, 7, 11, 12, 13, 23, 24, 25, and 26.

26. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

27. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.

28. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

### **PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:**

29. Prior to the issuance of any construction permits, the Owner/Permittee shall finalize water and sewer capacity charges. Capacity charges, as well as service and meter size, are determined by Water Meter Data Card which is completed during the building plan review process. Any questions regarding water and sewer capacity fees should be addressed to Information and Application Services (619-446-5000).

30. Prior to the issuance of any construction permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way. The Public Utilities Department will not permit the required BFPDs to be located below grade or within the structure.

31. All public water and sewer facilities are to be in accordance with the established criteria in the most current City of San Diego Water and Sewer Design Guides.

32. All proposed private water and sewer facilities are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

33. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.

34. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to disconnect (kill) at the main any existing unused water service.

### **INFORMATION ONLY:**

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.



- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on [INSERT Approval Date] and [Approved Resolution Number].

DRAFT

## ATTACHMENT 6

Planned Development Permit 2324693

Date of Approval: \_\_\_\_\_

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

\_\_\_\_\_  
Travis Cleveland  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

\_\_\_\_\_  
**The undersigned Owner/Permittee**, by execution hereof, agrees to each and every condition of  
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

**OTAY-TIJUANA VENTURE LLC**  
Owner/Permittee

By \_\_\_\_\_  
BY:  
TITLE:

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

CITY COUNCIL RESOLUTION NUMBER R-\_\_\_\_\_

TENTATIVE MAP NO. 2542691  
TIJUANA CROSS BORDER AMENDMENT PROJECT NO 597523  
[MMRP]

WHEREAS, OTAY-TIJUANA VENTURE, LLC, Subdivider, submitted an application to the City of San Diego for Tentative Map No. 2542691 for the Tijuana Cross Border Amendment Project, to vacate existing public streets Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive and remove them from the Otay Mesa Community Plan Mobility Element, create a new lot for those streets as private drives with one-way circulation, and move allowable Retail Sales and Commercial Services uses from lots 1 and 2 to lots 17 and 18. The project site is located at 2745 Otay Pacific Drive, in the IBT-1-1 Zone within the Otay Mesa Community Plan. The project site is legally described as Lots 1 through 30 of Otay Business Park Map No. 15548; and

WHEREAS, the Map proposes the vacation of existing public streets Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive and the creation of one (1) lot, Lot "A", to allow those streets to operate as private streets serving Lots 1 through 30 of Otay Business Park Map No. 15548; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to Subdivision Map Act sections 66490 and 66491(b)-(f) and San Diego Municipal Code section 144.0220; and

WHEREAS, on May 13, 2021, the Planning Commission of the City of San Diego considered Tentative Map No. 2542691, and pursuant to Resolution No. \_\_\_\_\_, the Planning Commission voted to recommend City Council \_\_\_\_\_ of the map; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public

hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, on \_\_\_\_\_, the City Council of the City of San Diego considered Tentative Map No. 2542691 and pursuant to San Diego Municipal Code (SDMC) sections 125.0440, 125.0901 *et seq*, and Subdivision Map Act section 66428, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the City Council having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 2542691 and SDMC 125.0440 and 125.0901:

#### **TENTATIVE MAP FINDINGS**

**1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan.**

The Tijuana Cross Border Amendment Project (Project) consists of minor modifications to the Otay-Tijuana Cross Border Facility project; Project No. 169652, previously approved by the City Council on January 10, 2012 to construct a U.S. Customs and Immigration Processing Facility ("cross border facility"), industrial office/warehouse uses, commercial uses, and hotel uses within the Otay Mesa Community Plan (Community Plan).

The approval allowed for the phased development of a 95,000 square-foot, two-level cross border facility, a 772,000 square-foot, four-level parking structure to provide approximately 2,239 parking spaces, and up to 402,000 square feet of industrial use, 34,000 square feet of specialty retail use, 340 hotel rooms, a 12-pump gas station with convenience market and car wash, and 6,000 square feet of restaurant use on the 63.8-acre project site.

The Project site has been previously graded in accordance with Project No. 169652 and is currently being developed with the Otay-Tijuana Cross Border Facility Development Project. The Cross-Border Xpress (CBX) Facility has been constructed in the southwest corner of the Project site on Lot 8 and has been operational since 2015. Surface parking to serve the CBX Facility has been constructed north and east of the Facility on Lots 1-7, Lot 9, and Lot 10. A permanent parking lot is constructed on Lot 9 (northeast of the terminal). East and west of the terminal, on Lot 8, is

permanent parking. Lots 12-16 and 19-30 are also currently in use as temporary parking. Lots 11, 17, and 18 have been graded but are not yet developed. Public water mains, sewer mains, and storm drains occur along Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive and currently serve the CBX Facility. The Community Plan designates the CBX property as "Institutional" which allows for the existing permitted development of a private airport terminal and supporting commercial uses.

The Project proposes a General Plan/Community Plan Amendment and subdivision to vacate existing public streets; Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive and remove them from the Otay Mesa Community Plan Mobility Element; create a new lot for those vacated portions of streets as private drives with one-way circulation; and move allowable Retail Sales and Commercial Services uses from lots 1 and 2 to lots 17 and 18 at 2745 Otay Pacific Drive, in the IBT-1-1 Zone. The project will establish a public storm drain easement with recordation of the Project's Final Map.

The proposed subdivision with public right-of-way vacations includes a General Plan/Community Plan Amendment (CPA) to remove the three improved streets from the community plan's classified streets network:

- Otay Pacific Drive which is classified as a 4-lane major road;
- Otay Pacific Place which is classified as a 4-lane collector street; and
- Las Californias Drive which is classified as a 2-lane collector street.

The right-of-way vacations and removal of these three streets from the streets network does not adversely affect Community Plan goals and policies related to circulation, access, and public services for the Cross-Border Facility. Streets within the Community Plan's classified network are intended to provide connectivity throughout the community as well as maintain regional access. The specific street classifications are also intended to support traffic volumes for public streets at levels of service evaluated in the Environmental Impact Report for the Community Plan. These three streets do not provide through access to adjacent properties or connectivity to other areas of the community. The streets are located entirely within property owned by the applicant and provide internal circulation to the development from Siempre Viva Road. Vehicular, bicycle, and pedestrian access to the site will be maintained, and the private drives will remain open to the public. Private facilities are not included within the Community Plan's classified roadway network.

Facilitating operation of the Cross-Border Facility is supported by General Plan and OMCP policies related to economic prosperity, specifically international business and trade. The Community Plan specifically identifies the Cross-Border Facility to provide secure and convenient access to air travelers using Mexico's Rodriguez International Airport as an alternative to existing Ports of Entry. Land uses in this portion of the community are also intended to promote international business and trade. Facilitating operation of the CBX development supports international business and trade.

The Project also proposes to change two of the six development lots where Retail Sales and Commercial Services uses are permitted from Lots 1 and 2 to Lots 17 and 18. This proposed land use change is requested due to the proposed change to one-way circulation. The development also requires a deviation from the Land Development Code requirement for lots to have a minimum of

frontage on a public street. This is required because internal circulation will now be private. Therefore, the Permit herein is conditioned to require a Reciprocal Access Agreement to be recorded on all of the lots to assure vehicular access to all lots with frontage on the three streets proposed for the vacation.

The Project does not change the mix of land uses within the previously approved project site, and it does not fundamentally alter the previously approved project. Based on the above, the proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan.

**2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code, including any allowable deviations pursuant to the land development code.**

The Project proposes a General Plan/Community Plan Amendment, Tentative Map with Public ROW Vacation, and an Amendment to Planned Development Permit No. 609801 to vacate existing public streets Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive and remove them from the Otay Mesa Community Plan Mobility Element, create a new lot for those streets as private drives with one-way circulation, move allowable Retail Sales and Commercial Services uses from lots 1 and 2 to lots 17 and 18, and establish a public storm drain easement at 2745 Otay Pacific Drive, in the IBT-1-1 zone.

The Project complies with the regulations of the Land Development Code (LDC), as applicable, including the Planned Development Permit Regulations, the Tentative Map Regulations, and the Public Right of Way Vacation Regulations, as well as the development criteria specified in the original Planned Development Permit No. 609801 and Site Development Permit No. 896755, except as herein amended by this permit. Specifically, the Project addresses all applicable zoning regulations, except where deviations are allowed herein pursuant to SDMC Section 126.0602(b)(1).

One deviation is requested, which is to allow lots 2-17 and 20-29 to have no frontage on a public street, where at least 100 feet is required in the IBT-1-1 zone per SDMC 131.0631. The requested deviation is minor in scope, and is in support of privatizing internal circulation, which is appropriate for facilities of this type. The frontage deviation is supported because the Project is consistent with community plan policies, would facilitate the CBX Project's operational needs, and would not adversely impact the public's health and safety. The existing streets will remain roadways and be converted to a private lettered lot owned and maintained by CBX. A declaration of easement will allow for vehicular access to all existing private lots that will be losing their public street frontage. Easements for public utilities and access have been reserved on the CBX property. Further, there will be no decrease in access to public serving uses as public access easements will be recorded to ensure that every lot will retain public access.

As a private driveway, the use of roadway will be controlled by the Permittee, which is warranted for a facility of the development's type. The maintenance of the driveway and any liability arising from its operation are obligations of the Permittee. The project would benefit the community by removing streets from City legal and maintenance responsibilities, while still providing appropriate amenities, multimodal circulation, and access to the CBX facility, benefiting the Otay Mesa community and the San Diego region as a whole. The proposed development has otherwise

been designed and conditioned to ensure conformance to the requirements of the Land Development Code and San Diego Municipal Code. Therefore, the proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the LDC.

**3. The site is physically suitable for the type and density of development.**

The project site has been previously graded in accordance with VTM No. 609579 and is currently being developed with the Otay-Tijuana Cross Border Facility Development Project. The Cross-Border Xpress (CBX) Facility has been constructed in the southwest corner of the project site on Lot 8 and has been operational since 2015. Surface parking to serve the CBX Facility has been constructed north and east of the Facility on Lots 1-7, Lot 9, and Lot 10. A permanent parking lot is constructed on Lot 9 (northeast of the terminal). East and west of the terminal, on Lot 8, is permanent parking. Lots 12-16 and 19-30 are also currently in use as temporary parking. Lots 11, 17, and 18 have been graded but are not yet developed. Public water mains, sewer mains, and storm drains occur along Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive and currently serve the CBX Facility.

There will be no material changes to the previously approved VTM No. 609579 other than the restriping of Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive for one-way circulation. This change was evaluated by City Staff and determined to be safe provided that the conditions herein and in Planned Development Permit 2324693 are implemented.

Therefore, the site is physically suitable for the type and density of development.

**4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.**

The project proposes a Public ROW vacation of three streets, Otay Pacific Drive, Otay Pacific Place, and Las Californias Road, without any proposed construction. As a result of the Public ROW vacation, a new lot is being created; therefore, a Tentative Map is required to be processed. The physical development of the project site was addressed as a part of the previously approved project per Environmental Impact Report No. 169653 (SCH No. 2010121014). The site has already been mass graded, and all projects roadways paved and currently in use.

Addendum No. 597523 to Environmental Impact Report No. 169653 (SCH No. 2010121014) has been prepared for the project in accordance with the State of California Environmental Quality Act (CEQA) Guidelines. This Addendum supplements information provided in the Otay-Tijuana Cross Border Facility Development Project EIR (Project No. 169653 / SCH No. 2010121014) and includes subsequent analysis to demonstrate that any potential environmental impacts associated with the proposed Tijuana Cross Border Amendment project are consistent with or less than the impacts disclosed in the previously certified Otay-Tijuana Cross Border Facility Development Project EIR. The analysis includes the environmental issues analyzed in detail in the Otay-Tijuana Cross Border Facility Development Project EIR, as well as project-specific analysis pursuant to CEQA. The analysis in this document evaluates the adequacy of the Otay-Tijuana Cross Border Facility Development Project EIR relative to the project, documents that the proposed Tijuana Cross Border Amendment

project would not cause new or more severe significant impacts than those identified in the 2012 Otay-Tijuana Cross Border Facility Development Project EIR.

Therefore, the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish and wildlife or their habitat.

**5. The design of the subdivision or the type of improvement will not be detrimental to the public health, safety, and welfare.**

The physical development of the project site was addressed as a part of the previously approved project per Environmental Impact Report No. 169653 (SCH No. 2010121014) and is consistent with the relevant City of San Diego codes, policies, and regulations whose primary focus is the protection of the public's health, safety, and welfare. The site has already been mass graded, and all projects roadways paved and currently in use. The proposed vacation of internal public roadways and their operation as private, one-way streets was also evaluated by City Staff according to accepted engineering practices and determined to be safe provided that the conditions herein and in Planned Development Permit 2324693 are implemented.

The permit for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the SDMC in effect for this project. Such conditions within the permit have been determined necessary to avoid adverse impact upon the public health, safety, and general welfare of persons residing or working in the surrounding area. The project shall comply with the development conditions in effect for the subject property and other regulations and guidelines pertaining to the subject property per the SDMC.

Additionally, as demonstrated by the Transportation Impact Analysis prepared with the proposed project, converting the three streets to one-way traffic is expected to result in improved Levels of Service (LOS) at the intersections of Siempre Viva Rd. & Otay Pacific Drive and Siempre Viva Rd. & Las Californias Drive. Therefore, all of the lots currently served by the three streets proposed for vacation not be detrimentally affected by the vacation. The right-of-way vacation has been reviewed by City staff and is consistent with the City's policies and requirements. Additionally, the permit controlling the development and continued use of the development proposed for this site contain conditions addressing the project compliance with the City's regulations and policies, and other regional, state, and federal regulations to prevent detrimental impacts to the public health, safety, and welfare.

Therefore, the design of the subdivision or the type of improvement will not be detrimental to the public health, safety, and welfare.

**6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.**

The vacation of public streets Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive and their restriping for one-way circulation does not conflict with any such easement. The vacated



streets serve property that is currently under one unified ownership, and the granting of private access easements and general utility and access easements will provide the necessary alternative access over lots within this subdivision. Public access to all internal lots, including the Cross-Border Terminal facility, will be maintained via internal, private roadways. As a private development, the use of roadway will be controlled by the Permittee, which is warranted for a facility of the development's type. The maintenance of internal roadways and any liability arising from their operation are obligations of the Permittee. Easements granted are substantially equivalent to the ones previously acquired by the public.

The three streets proposed for vacation, Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive, were originally dedicated via the final subdivision map for circulation, access and public services for multiple industrial properties prior to the development of the CBX facility, a privately funded and operated facility. Easements for public utilities and access have been reserved on the CBX property and a declaration of easement is being made which allows for vehicular access to all existing private lots that will be losing their public street frontage. Additionally, as demonstrated by the Transportation Impact Analysis prepared with the proposed project, converting the three streets to one-way traffic is expected to result in improved Levels of Service (LOS) at the intersections of Siempre Viva Rd. & Otay Pacific Drive and Siempre Viva Rd. & Las Californias Drive.

Therefore, the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

**7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities.**

The design of the proposed subdivision provides each future commercial or industrial development therein with the opportunity through building materials, site orientation, architectural treatments, placement and selection of plant materials to provide, to the extent feasible, for future passive or natural heating and cooling opportunities. Therefore, the design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities.

**8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.**

With the approval of the project's General Plan/Community Plan Amendment, the project would be consistent with the policies and goals of the Otay Mesa Community Plan. The Community Plan identifies land uses and intensities which will be supportive of each other and result in the buildout of a harmonious community. In addition, the environmental analysis completed for the project did not identify any significant environmental impacts on public services and the available fiscal and environmental resources which could not be mitigated to a level of less than significant.

The project proposes a Public ROW vacation of three streets, Otay Pacific Drive, Otay Pacific Place, and Las Californias Road, without any proposed development or housing. As a result of the

right of way vacation, a new lot is being created therefore a Tentative Map is required to be processed.

Therefore, the decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.

#### **PUBLIC RIGHT OF WAY VACATION FINDINGS**

**(a) There is no present or prospective public use for the public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.**

The three streets proposed for vacation, Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive, provide access to the Cross Border facility and are located entirely within property owned by the facility (i.e., no other property owners front these three streets and no other properties depend on these streets for access). When the property was originally subdivided, the planned land use and zoning was for "Industrial" development. When the three streets were dedicated via the final subdivision map, the property was undeveloped, and the rights-of-way were intended to serve multiple industrial properties.

CBX acquired the subdivided property and subsequently obtained City Council approval for a Community Plan Amendment that allows the property to be used for a privately funded airport terminal along with ancillary uses, including a hotel, gas station, restaurant and car rentals. Being solely contained within property owned by CBX, these three streets are no longer needed as public streets as was intended when the project was originally configured. Instead, these streets serve as private driveways for the current development.

Therefore, there is no present or prospective use of the existing public rights-of way, either for the facilities which for which it was originally acquired or for any other public use.

**(b) The public will benefit from the action through improved use of the land made available by the vacation.**

The streets proposed for vacation, Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive, are contained within a private development. The CBX development will ensure all necessary utility and public access rights are preserved despite the vacation. The vacation will cause approximately 5.2 acres of land to revert to private ownership and, thereby, become private property subject to property taxes. Additionally, this reversion will reduce City liability and maintenance responsibilities related to approximately 1,400 lineal feet of public street. The public will benefit through increased revenue to the City through property taxes paid on improvements. The public will also benefit from the action through improved utilization of the CBX development as the owners of the property retain the ability develop in response to market demands. Therefore, the public will benefit from the action through the improved use of the land made available by the vacation.

**(c) The vacation does not adversely affect any applicable land use plan.**

The Otay Mesa Community Plan, as amended, designates the CBX property, including the public right-of-way, as Institutional to allow the private airport terminal with supportive commercial uses. The vacation of the public rights-of-way will facilitate the fullest and highest use of the property as designated by the Otay Mesa Community Plan. The proposed vacation affects three streets within the CBX property that do not provide access to any adjacent properties. Therefore, the proposed vacation of the three streets is consistent with the policies and goals of the adopted Otay Mesa Community Plan and will not adversely affect the applicable land use plan.

**(d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.**

The three streets proposed to be vacated, Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive, were originally dedicated via the final subdivision map for circulation, access and public services for multiple industrial properties prior to the development of the CBX facility, a privately funded and operated facility. An easement(s) for public utilities and access have been reserved on the CBX property and will not be impacted by the vacation of the three streets. CBX is the only existing use served by these streets, and there is no other use of a like nature for these specific rights-of-way which can be reasonably anticipated. The purpose for which the rights-of-way were originally acquired no longer exists. Therefore, the public facility for which the public rights-of-way were originally acquired will not be detrimentally affected by the vacation.

The above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 2542691 is hereby granted to OTAY-TIJUANA VENTURE, LLC, subject to the attached conditions which are made a part of this resolution by this reference and contingent upon final passage of R-\_\_\_\_\_ approving amendments to the General Plan/Otay Mesa Community Plan.

APPROVED: \_\_\_\_\_, City Attorney

By \_\_\_\_\_  
[Attorney]  
Deputy City Attorney

[Initials]:[Initials]  
[Month]/[Day]/[Year]  
Or.Dept:[Dept]  
R-R-[Reso Code]

ATTACHMENT: Tentative Map Conditions

Internal Order No. 24008268

DRAFT

CITY COUNCIL  
CONDITIONS FOR TENTATIVE MAP NO. 2542691  
TIJUANA CROSS BORDER AMENDMENT PROJECT NO 597523 [MMRP]  
ADOPTED BY RESOLUTION NO. R-\_\_\_\_\_ ON \_\_\_\_\_

**GENERAL**

1. This Tentative Map will expire \_\_\_\_\_.
2. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the expiration of the Tentative Map, a Final Map to consolidate and subdivide the lots within the Tentative Map boundary into 31 (thirty-one) lots shall be recorded with the County Recorder's office.
4. Prior to the recordation of the Final Map, taxes must be paid or bonded for this property pursuant to section 66492 of the Subdivision Map Act. A current original tax certificate, recorded in the office of the San Diego County Recorder, must be provided to satisfy this condition. If a tax bond is required as indicated in the tax certificate, ensure that it is paid or posted at the County Clerk of the Board of Supervisors Office and supply proof prior to the recordation of the Final Map. Prior to recordation of the Final Map, a certified copy of the approved City Council resolution to vacate a portion of Broadway shall be recorded at the San Diego County Recorder's Office.
5. The Tentative Map shall conform to the provisions of Planned Development Permit No. 2324693.
6. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify Subdivider of any claim, action, or proceeding, or if City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not required to pay or perform any settlement unless such settlement is approved by the Subdivider.

**TRANSPORTATION**

7. Prior to recordation of any Final Map, Owner/Permittee shall provide 12 foot-wide Irrevocable of Dedication (IOD) along the project frontage on Siempre Viva Road, satisfactory to the City Engineer.



**ENGINEERING**

8. The Subdivider shall provide drainage easements as shown in Exhibit "A", adjacent to the site on Otay Pacific Drive and Las Californias Drive, satisfactory to the City Engineer.
9. The Subdivider shall obtain an Encroachment Maintenance Removal Agreement for all private storm drain lines connecting to the public storm drain systems, satisfactory to the City Engineer.
10. The Subdivider shall enter into an agreement to indemnify, protect and hold harmless City, its officials and employees from any and all claims, demands, causes or action, liability or loss because of, or arising out of drainage entering into the property from the Right-of-Way, satisfactory to the City Engineer.
11. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on Tentative Map and covered in these special conditions will be authorized. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

**MAPPING**

12. The proposed public right of way and Irrevocable Offer of Dedication vacations shown on the Tentative Map exhibit will be vacated pursuant to section 66434(g) of the Subdivision Map Act. The vacation of Las Californias Drive, Otay Pacific Drive, Otay Pacific Place and the IODs will be vacated upon recordation of the Final Map.
13. The Final Map shall be based on field survey and all lot corners must be marked with durable survey monuments pursuant to Section 144.0311(d) of the City of San Diego Land Development Codes and Subdivision Map Act Section 66495.

All survey monuments shall be set prior to the recordation of the Final Map, unless the setting of monuments is deemed impractical due to the proposed improvements and/or grading associated with the project, in which case, delayed monumentation may be applied on the Final Map in accordance with Section 144.0130 of the City of San Diego Land Development Codes.

14. All subdivision maps in the City of San Diego are required to be tied to the California Coordinate System of 1983 (CCS83), Zone 6 pursuant to section 8801 through 8819 of the California Public Resources Code.
15. The Final Map shall:
  - a. Use the California Coordinate System for its "Basis of Bearings" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true meridian (theta or mapping angle) and the north point of said

map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of First Order accuracy. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground shall be shown on the map.
16. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source shall be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
17. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."

#### **PUBLIC UTILITIES**

18. Prior to recording the Final Map, the Subdivider shall record an easement for Pacific Bell Telephone Company dba AT&T California as it may from time to time require to construct, place, operate, inspect, maintain, repair, replace and remove such underground communication facilities (including ingress thereto and egress therefrom) consisting of wires, cables, conduits, pipes, manholes, handholes, service boxes, aboveground markers, risers, service pedestals, underground and aboveground switches, fuses, terminals, terminal equipment cabinets, transformers with associated concrete pads, associated electrical conductors, necessary fixtures and appurtenances.
19. Prior to recording the Final Map, the Subdivider shall record an easement for San Diego Gas and Electric (SDG&E) as it may from time to time require to construct, place, operate, inspect, maintain, repair, replace and remove electrical or natural gas transmission facilities (including ingress thereto and egress therefrom) consisting of wires, cables, conduits, pipes, manholes, handholes, service boxes, aboveground markers, risers, service pedestals, underground and aboveground switches, fuses, terminals, terminal equipment cabinets, transformers with associated concrete pads, associated electrical conductors, necessary fixtures and appurtenances.
20. Improvement Plans shall show and call out all water and sewer utilities to be privatized along Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive. Also, there shall be no abandonment of water and sewer utilities along the proposed privatized streets.
21. An access easement across Lot "A" in favor of the property owners for Lots 1-30 shall be granted per recordation of the Final Map

**INFORMATION:**

- The approval of this Tentative Map by the City Council of the City of San Diego does not authorize the Subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC § 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within ninety days of the approval of this Tentative Map by filing a written protest with the San Diego City Clerk pursuant to Government Code sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider shall at no cost to the City, obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer (San Diego Municipal Code § 142.0607).

CITY COUNCIL RESOLUTION NO. [REDACTED]  
GENERAL PLAN AMENDMENT AND COMMUNITY PLAN AMENDMENT NO. 1677935  
**TIJUANA CROSS BORDER AMENDMENT - PROJECT NO. 597523**  
**[MMRP]**  
ADOPTED ON \_\_\_\_\_

WHEREAS, OTAY TIJUANA VENTURE, LLC, requested an amendment to the 2008 General Plan (General Plan) and the Otay Mesa Community Plan to remove Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive from the Community Plan Mobility Element's classified roadways network, allowing these streets to become private drives serving the Otay Mesa Cross Border Facility project site; and

WHEREAS, the site is legally described as Lots 1 through 30 of Otay Business Park Map No. 15548; and

WHEREAS, an amendment to the Otay Mesa Community Plan requires an amendment to the General Plan due to the Otay Mesa Community Plan being part of the Land Use Element of the General Plan; and

WHEREAS, on May 13, 2021, the Planning Commission of the City of San Diego found the proposed amendments consistent with the General Plan and Otay Mesa Community Plan and voted **X-X-X** to recommend City Council approval of the amendments; and

WHEREAS, on \_\_\_\_\_, the Council of the City of San Diego (City Council) held a public hearing for the purpose of considering an amendment to the General Plan and Otay Mesa Community Plan; and

WHEREAS, the City Council has considered the Planning Commission record and recommendation, as well as all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing; and

## ATTACHMENT 8

WHEREAS, under Charter section 280(a)(2) this ordinance is not subject to veto by the Mayor because this matter requires the Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council, that it adopts the amendments to the General Plan and Otay Mesa Community Plan, a copy of which is on file in the office of the City Clerk as Document No. RR-\_\_\_\_\_.

APPROVED: MARA ELLIOT, City Attorney

By \_\_\_\_\_  
Deputy City Attorney



RESOLUTION NUMBER R-XXXXXXXXXX

ADOPTED ON XX-XX-XXXX

WHEREAS, on November 25, 2008, Otay Tijuana Venture, LLC submitted an application to Development Services Department for a GENERAL PLAN/COMMUNITY PLAN AMENDMENT, PLANNED DEVELOPMENT PERMIT, SITE DEVELOPMENT PERMIT, VACATION OF PUBLIC-RIGHT-OF-WAY, TENTATIVE MAP (TM), for the Otay-Tijuana Cross Border Facility Development project (Project); and

WHEREAS, on January 10, 2012 the City Council adopted Resolution No. R-307234 certifying Environmental Impact Report No. 169653/SCH No. 2010121014, a copy of which is on file in the Development Services Department in accordance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.); and

WHEREAS, on April 23, 2018, Otay Tijuana Venture, LLC submitted an application to the Development Services Department for a GENERAL PLAN/COMMUNITY PLAN AMENDMENT, PLANNED DEVELOPMENT PERMIT, and TENTATIVE MAP to amend the Otay-Tijuana Cross Border Facility Development project (Project); and

WHEREAS, State CEQA Guidelines section 15164(a) allows a lead agency to prepare an Addendum to a final Environmental Impact Report if such Addendum meets the requirements of CEQA; and

BE IT RESOLVED, by the City Council of the City of San Diego as follows:

1. That the information contained in the final Environmental Impact Report No. 169653/SCH No. 2010121014 along with the Addendum thereto, including any comments received during the public review process, has been reviewed and considered by this City Council prior to making a decision on the Project.
2. That there are no substantial changes proposed to the Project and no substantial changes with respect to the circumstances under which the Project is to be undertaken that would require major revisions in the Environmental Impact Report No. 169653/SCH No. 2010121014 for the Project.
3. That no new information of substantial importance has become available showing that the Project would have any significant effects not discussed previously in the Environmental Impact Report No. 169653/SCH No. 2010121014 or that any significant effects previously examined will be substantially more severe than shown in the Environmental Impact Report No. 169653/SCH No. 2010121014.
4. That no new information of substantial importance has become available showing that mitigation measures or alternatives previously found not to be feasible are in fact feasible which would substantially reduce any significant effects, but that the Project proponents decline to adopt, or that there are any considerably different mitigation

measures or alternatives not previously considered which would substantially reduce any significant effects, but that the Project proponents decline to adopt.

5. That pursuant to State CEQA Guidelines Section 15164, only minor technical changes or additions are necessary, and therefore, the City Council adopts Addendum No. \_\_\_\_\_ to Environmental Impact Report No. 169653/SCH No. 2010121014 with respect to the Project, a copy of which is on file in the office of the Development Services Department.

6. That pursuant to CEQA Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this City Council in order to mitigate or avoid significant effects on the environment, which is attached hereto as Exhibit A.

7. That City Clerk is directed to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

APPROVED: [CITY ATTORNEY]

By: \_\_\_\_\_  
[NAME], [DEPUTY CITY ATTORNEY]

## EXHIBIT A

## MITIGATION MONITORING AND REPORTING PROGRAM

VACATION OF PUBLIC RIGHT-OF-WAY TENTATIVE MAP (VTM), PLANNED DEVELOPMENT PERMIT (PDP) AMENDMENT, GENERAL PLAN/COMMUNITY PLAN AMENDMENT (CPA)

PROJECT NO. 597523

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Addendum to Environmental Impact Report No. 169653/SCH No. 2010121014 shall be made conditions of General Plan/Community Plan Amendment No. 2120327, Tentative Map No. 2542691 (including a Public Right-of-Way Vacation), and Planned Development Permit No. 2538300 as may be further described below.

#### VI. MITIGATION, MONITORING, AND REPORTING PROGRAM (MMRP) INCORPORATED INTO THE PROJECT

The Tijuana Cross Border Amendment project shall be required to comply with all mitigation measures outlined within the Mitigation, Monitoring and Reporting Program of the previously certified EIR No. 169653/SCH No. 2010121014. The Otay-Tijuana Cross Border Facility Development Project EIR listed mitigation measures required for **Transportation/Circulation, Noise, Paleontological Resources, and Biological Resources**. The project site has been fully graded in accordance with VTM No. 609579. The CBX Facility has been constructed in the southwest corner of the project site; permanent surface parking has been constructed north and east of the CBX Facility on building lots 1-7, 9, and 10; the remainder of the lots have been graded but are not yet developed. Mitigation measures outlined in the MMRP for the Otay-Tijuana Cross Border Facility Development Project EIR relating to **Paleontological Resources** and **Biological Resources** have been fully implemented. **Noise** mitigation measures have been implemented for portions of the Otay-Tijuana Cross Border Facility Development Project that have been constructed. Noise mitigation presented in the Otay-Tijuana Cross Border Facility Development Project EIR would apply to any portions of the Otay-Tijuana Cross Border Facility Development Project which have not yet been constructed. Mitigation measures related to **Transportation/Circulation** outlined in the Otay-Tijuana Cross Border Facility Development Project EIR MMRP for Phase I have also been fully implemented, except for mitigation measures Tra-1, Tra-3, Tra-5, Tra-6, and Tra-8, which have been deferred via a City-approved Deferred Improvement Agreement No. 1048213 until prior to issuance of the first building permit for CBX Facility Phase 2 development.

In addition to deferred mitigation measures Tra-1, Tra-3, Tra-5, Tra-6, and Tra-8, the proposed Tijuana Cross Border Amendment project requires implementation of transportation/circulation mitigation measures associated with Phases 2 and 3 of the Otay-Tijuana Cross Border Facility

Development Project. Additionally, as addressed in the 2019 TIS for the Tijuana Cross Border Amendment project, the proposed one-way circulation of the private CBX Facility streets would require installation of a traffic signal during Phase 2 of the project's construction, which is earlier than identified in the previously approved 2011 TIS. Additional turn lanes would be required for two intersections when compared to the 2011 TIS for Phase 3 of project construction. Therefore, the following mitigation measures specifically apply to the Tijuana Cross Border Amendment project.

A summary of Transportation/Circulation mitigation measures included in the Otay-Tijuana Cross Border Facility Development Project EIR and required as part of the proposed Tijuana Cross Border Amendment project is outlined below:

### **Otay-Tijuana Cross Border Facility Development Project**

The Owner/Permittee shall be fully responsible for all mitigation measures under the Phase 2 and any Proposed Project scenario prior to issuance of any building permits beyond Phase 1, in addition to all mitigations required under Phase 1.

Intersections. The Owner/Permittee shall perform the following mitigation measures to mitigate the project's Phase 2 significant direct impacts to intersections to below a level of significance.

**Tra-9** Caliente Avenue/Otay Mesa Road: Prior to issuance of any construction permit for development in excess of 13,683 ADTs, the Owner/Permittee shall assure by permit and bond the widening of the east side of Caliente Avenue to construct an additional northbound exclusive right-turn lane at the intersection of Caliente Avenue/Otay Mesa Road, satisfactory to the City Engineer.

Roadway Segments. The Owner/Permittee shall perform the following mitigation measures to reduce the project's Phase 2 significant direct traffic impacts to below a level of significance:

**Tra-12** Siempre Viva Road between Britannia Boulevard and Las Californias Drive: Prior to issuance of any construction permit for development in excess of 13,683 ADTs, the Owner/Permittee shall assure by permit and bond the widening of Siempre Viva Road between Otay Pacific Drive and Las Californias Drive to provide a four-lane collector without a two-way left turn lane, satisfactory to the City Engineer.

**Tra-16** Airway Road between Caliente Avenue and Old Otay Mesa Road: Prior to issuance of any construction permit for development in excess of 13,683 ADTs, the Owner/Permittee shall assure by permit and bond the widening of Airway Road between Caliente Avenue and Old Otay Mesa Road to a four-lane collector arterial, satisfactory to the City Engineer.

**Tra-17** Otay Mesa Road between SR-125 southbound ramp and La Media Road: Prior to issuance of any construction permit for development in excess of 13,683 ADTs, the Owner/Permittee shall assure by permit and bond the widening of the south side of Otay Mesa Road between SR-125 southbound ramp and La Media Road to provide a six-lane major arterial, satisfactory to the City Engineer.

The following mitigation measure shall be implemented by the project as each lot of the project builds out.

**Tra-86** For each development proposed within the project, the Owner/Permittee shall submit to the City a Tracking Table that provides a summary of total ADT generated, AM peak hour in, AM peak hour out, PM peak hour in, and PM peak hour out to allow for a flexible development program while ensuring that the total ADT and peak hour thresholds for the project are not exceeded. Should the buildout of the project result in an excess of any of the above trip thresholds, an amendment to this permit, or further traffic analysis demonstrating that no new significant traffic impacts would result, shall be completed by the Owner/Permittee.

The Tijuana Cross Border Amendment project would require the following modifications to mitigation measures to accommodate the proposed one-way travel on Otay Pacific Drive, Otay Pacific Place, and Las Californias Drive:

**ATra-1** Otay Pacific Drive between Siempre Viva Road and Otay Pacific Place: Prior to issuance of any construction permit for development in excess of 13,683 ADT, the Owner/ Permittee shall restripe Otay Pacific Drive, from Siempre Viva Road and Otay Pacific Place with 60 feet curb-to-curb (10-foot parallel parking, two-foot buffer, six-foot Class II bicycle lane, 12-foot southbound travel lane, 12-foot southbound travel lane, 18-foot angled parking) within 80 feet of right-of-way and provide curb, gutter, and a minimum 5.5-foot contiguous sidewalk within a 10-foot curb-to-property line distance on both sides, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy in Phase 2.

**ATra-2** Otay Pacific Place: Prior to issuance of any construction permit for development in excess of 13,683 ADT, the Owner/ Permittee shall restripe Otay Pacific Place between Otay Pacific Drive and Las Californias Drive with 70 feet curb-to-curb (20-foot angled parking, 16-foot eastbound travel lane, 16-foot eastbound travel lane with a marked Class III shared bicycle facility, and 20-foot angled parking) within 94 feet of right-of-way and provide curb, gutter, and five-foot non-contiguous sidewalk within a 14-foot curb-to-property line distance on the south side, and a five and a half-foot contiguous sidewalk within a 10-foot curb-to-property distance on the north side, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy in Phase 2.



**ATra-3** Las Californias Drive between Otay Pacific Place and Siempre Viva Road: Prior to issuance of any construction permit for development in excess of 13,683 ADT, the Owner/ Permittee shall restripe Las Californias Drive between Otay Pacific Place and Siempre Viva Road with 44 feet curb-to-curb (18-foot angled parking, 12-foot northbound travel lane, 14-foot northbound travel lane with a marked Class III shared bike facility) within 64 feet of right-of-way and provide curb, gutter, and 5.5-foot contiguous sidewalk within a 10-foot curb-to-property line distance on both sides, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy in Phase 2.

**ATra-4 Intersection #1 – Otay Pacific Drive/Siempre Viva Road:** Prior to issuance of any construction permit for development in excess of 24,652 ADTs, the Owner/Permittee shall install dual westbound left-turn lanes at the intersection of Otay Pacific Drive/Siempre Viva Road, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy in Phase 3.

**ATra-5 Intersection #2 – Las Californias Drive/Siempre Viva Road:** Prior to issuance of any construction permit for development in excess of 13,683 ADTs, the Owner/Permittee shall assure by permit and bond the installation of a traffic signal Intersections at the intersection of Las Californias Drive/Siempre Viva Road, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy in Phase 2.

**Atra-6 Intersection #3 – Otay Pacific Drive/Otay Pacific Place:** Prior to issuance of any construction permit for development in excess of 24,652 ADTs, the Owner/Permittee shall install dual southbound left-turn lanes at the intersection of Otay Pacific Drive/Otay Pacific Place, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy in Phase 3.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.



City of San Diego  
Development Services  
1222 First Ave., MS-302  
San Diego, CA 92101


THE CITY OF SAN DIEGO

## Community Planning Committee Distribution Form Part 2

<b>Project Name:</b> Tijuana Cross Border-Amendment		<b>Project Number:</b> 597523	<b>Distribution Date:</b> 04/23/2018
<b>Project Scope/Location:</b> OTAY MESA- (Process 5) Community Plan Amendment, Tentative Map and Public Right of Way Vacation(s) Of Otay Pacific Drive, Otay Pacific Place and Las Californias Drive all located south of Siempre Viva Rd immediately adjacent to the US/Mexico International Border and to privatize the existing onsite utilities. The 63.83 acre site is in the IBT-1-1 zone within the Otay Mesa Community Plan area in Council District 8.			
<b>Applicant Name:</b> Vo, Denise		<b>Applicant Phone Number:</b> (858) 837-2490	
<b>Project Manager:</b> Godwin, Paul	<b>Phone Number:</b> (619) 446-5190	<b>Fax Number:</b> (619) 446-5245	<b>E-mail Address:</b> PGodwin@sandiego.gov
<b>Committee Recommendations (To be completed for Initial Review):</b>			
<input checked="" type="checkbox"/> <b>Vote to Approve</b>	Members Yes <b>12</b>	Members No	Members Abstain <b>1</b>
<input type="checkbox"/> <b>Vote to Approve With Conditions Listed Below</b>	Members Yes	Members No	Members Abstain
<input type="checkbox"/> <b>Vote to Approve With Non-Binding Recommendations Listed Below</b>	Members Yes	Members No	Members Abstain
<input type="checkbox"/> <b>Vote to Deny</b>	Members Yes	Members No	Members Abstain
<input type="checkbox"/> <b>No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)</b>			<input type="checkbox"/> <b>Continued</b>
<b>CONDITIONS:</b>			
<b>NAME:</b> <b>ROB HIXSON</b>		<b>TITLE:</b> <b>CHAIR OM/PG</b>	
<b>SIGNATURE:</b> <i>[Signature]</i>		<b>DATE:</b> <b>5/16/18</b>	
<i>Attach Additional Pages If Necessary.</i>		Please return to: Project Management Division City of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101	
Printed on recycled paper. Visit our web site at <a href="http://www.sandiego.gov/development-services">www.sandiego.gov/development-services</a> . Upon request, this information is available in alternative formats for persons with disabilities.			

# Community Planning Committee Distribution Form Part 1

<b>Project Name:</b>	<b>Project Number:</b>	<b>Distribution Date:</b>
Tijuana Cross Border-Amendment	597 523	04/23/2018
<b>Project Scope/Location:</b>		
OTAY MESA- (Process 5) Community Plan Amendment, Tentative Map and Public Right of Way Vacation(s) Of Otay Pacific Drive, Otay Pacific Place and Las Californias Drive all located south of Siempre Viva Rd immediately adjacent to the US/Mexico International Border and to privatize the existing onsite utilities. The 63.83 acre site is in the IBT-1-1 zone within the Otay Mesa Community Plan area in Council District 8.		
<b>Applicant Name:</b>		<b>Applicant Phone Number:</b>
Vo, Denise		(358) 837-2490
<b>Project Manager:</b>	<b>Phone Number:</b>	<b>Fax Number:</b>
Godwin, Paul	(619) 446-5190	(619) 446-5245
<b>E-mail Address:</b>		
PGodwin@sandiego.gov		
<b>Project Issues (To be completed by Community Planning Committee for initial review):</b>		
<p><b>Attach Additional Pages If Necessary.</b></p> <p>Please return to:          Project Management Division          City of San Diego          Development Services Department          1222 First Avenue, MS 302          San Diego, CA 92101</p>		
<p>Printed on recycled paper. Visit our web site at <a href="http://www.sandiego.gov/development-services">www.sandiego.gov/development-services</a>.          Upon request, this information is available in alternative formats for persons with disabilities.</p>		

	<b>City of San Diego Development Services</b> 1222 First Ave., MS 302 San Diego, CA 92101 (619) 446-5000	<h1 style="margin: 0;">Ownership Disclosure Statement</h1>	<b>FORM DS-318</b>  October 2017
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**Approval Type:** Check appropriate box for type of approval(s) requested: ☐ Neighborhood Use Permit ☐ Coastal Development Permit  
☐ Neighborhood Development Permit ☐ Site Development Permit ☐ Planned Development Permit ☐ Conditional Use Permit ☐ Variance  
☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment ☒ **Other** Right-of-Way Vacation

**Project Title:** San Diego - Tijuana Airport Cross Border Facility Project - ROW Vacation

**Project No. For City Use Only:** 597523

**Project Address:** Siempre Vivo Road and Otay Pacific Drive

**Specify Form of Ownership/Legal Status (please check):**

☒ Corporation ☒ Limited Liability - or - ☐ General - What State? CA Corporate Identification No. \_\_\_\_\_  
☐ Partnership ☐ Individual

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the owner(s), applicant(s), and other financially interested persons of the above referenced property. A financially interested party includes any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver or syndicate with a financial interest in the application. If the applicant includes a corporation or partnership, include the names, titles, addresses of all individuals owning more than 10% of the shares. If a publicly-owned corporation, include the names, titles, and addresses of the corporate officers. (A separate page may be attached if necessary.) If any person is a nonprofit organization or a trust, list the names and addresses of **ANY** person serving as an officer or director of the nonprofit organization or as trustee or beneficiary of the nonprofit organization. A signature is required of at least one of the property owners. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

**Property Owner**

Name of Individual: Otay Tijuana Venture, LLC ☒ Owner ☐ Tenant/Lessee ☐ Successor Agency

Street Address: 2745 Otay Pacific Drive

City: San Diego

State: CA Zip: 92154

Phone No.: 619-751-5420

Fax No.: \_\_\_\_\_

Email: ttstory@outlook.com

Signature: \_\_\_\_\_

Date: 02/07/2018

Additional pages Attached: ☐ Yes ☒ No

**Applicant**

Name of Individual: Thomas Story ☐ Owner ☐ Tenant/Lessee ☐ Successor Agency

Street Address: 8259 Laurelridge Road

City: San Diego

State: CA Zip: 92120

Phone No.: 858-229-5442

Fax No.: \_\_\_\_\_

Email: ttstory@outlook.com

Signature: \_\_\_\_\_

Date: 02/07/2018

Additional pages Attached: ☐ Yes ☒ No

**Other Financially Interested Persons**

Name of Individual: \_\_\_\_\_ ☐ Owner ☐ Tenant/Lessee ☐ Successor Agency

Street Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

Email: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: 02/07/2018

Additional pages Attached: ☐ Yes ☒ No