

RESOLUTION NUMBER R- 307236

DATE OF FINAL PASSAGE JAN 10 2012

A RESOLUTION APPROVING VESTING TENTATIVE MAP
NO. 609579 INCLUDING A PUBLIC RIGHT-OF-WAY
VACATION FOR OTAY-TIJUANA CROSS BORDER
FACILITY - PROJECT NO. 169653.

WHEREAS, Otay-Tijuana Venture, LLC, Subdivider, submitted an application to the City of San Diego for a Vesting Tentative Map and Public Right-of-Way Vacation to resubdivide the parcel for a U.S. Customs and Immigration processing facility (Cross Border Facility), industrial office/warehouse uses, commercial uses, and hotel uses, Otay-Tijuana Cross Border Development Project (Project); and

WHEREAS, the project site is located east of Britannia Boulevard, south of Siempre Viva Road (at the cross street of Otay Pacific Drive), and immediately adjacent to the U.S.–Mexico International border in the Otay Mesa Development District, Industrial Subdistrict zone of 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 re-subdivision of a 63.8-site into 30 lots; 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 December 8, 2011, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 609579 including the Public Right-of-Way Vacation. Although Planning Commission Resolution No. 4753-PC states that the Planning Commission recommended “adoption and approval of . . . Vesting Tentative Map No. 609579 . . . ,” the

motion made by the Planning Commission was with the with the proviso that additional information regarding the infeasibility of traffic mitigation measures identified in Environmental Impact Report No. 169653 and the statement of overriding considerations be provided to the City Council; 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 JAN 10 2012, the City Council of the City of San Diego considered Vesting Tentative Map No. 609579 including a Public Right-of-Way Vacation, and pursuant to San Diego Municipal Code sections 125.0440, 125.0430, and 125.0941 and Subdivision Map Act sections 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 Vesting Tentative Map No. 609579 as more fully explained in the Findings for Vesting Tentative Map No. 609579 (Including Public Right-Of-Way Vacation) for the Otay-Tijuana Cross Border Facility Project, on file in the Office of the City Clerk as Document No. RR-307236, with respect to Vesting Tentative Map No. 609579:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (San Diego Municipal Code Section 125.0440(a) and Subdivision Map Act Sections 66473.5, and 66474(a), and 66474(b)).
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 (San Diego Municipal Code Section 125.0440(b) and Subdivision Map Act Sections 66473.5, 66474(a), and 66474(b)).
3. The site is physically suitable for the type and density of development (San Diego Municipal Code Section 125.0440(c) and Subdivision Map Act Sections 66474(c) and 66474(d)).
4. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (San Diego Municipal Code Section 125.0440(d) and Subdivision Map Act Section 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (San Diego Municipal Code Section 125.0440(e) and Subdivision Map Act Section 66474(f)).
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 (San Diego Municipal Code Section 125.0440(f) and Subdivision Map Act Section 66474(g)).
7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (San Diego Municipal Code Section 125.0440(g) and Subdivision Map Act Section 66473.1).
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 (San Diego Municipal Code Section 125.0440(h) and Subdivision Map Act Section 66412.3).

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

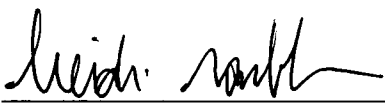
BE IT FURTHER RESOLVED, that portions of Las Californias Drive and Otay Pacific Drive, located within the project boundaries as shown in Vesting Tentative Map No. 609579, shall be vacated, contingent upon the recordation of the approved Final Map for the Project, and that the following findings are supported by the Findings for Vesting Tentative Map No. 609579 (Including Public Right-Of-Way Vacation) for the Otay-Tijuana Cross Border Facility Project,

on file in the Office of the City Clerk as Document No. RR- 307236, and the minutes, maps, and exhibits, all of which are herein incorporated by reference:

1. There is no present or prospective use for the public right-of-way, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated. (San Diego Municipal Code Section 125.0941(a)).
2. The public will benefit from the vacation through improved use of the land made available by the vacation. (San Diego Municipal Code Section 125.0941(b)).
3. The vacation does not adversely affect any applicable land use plan. (San Diego Municipal Code Section 125.0941(c)).
4. The public facility for which the right-of-way was originally acquired will not be detrimentally affected by this vacation. (San Diego Municipal Code Section 125.0941(d)).

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the City Council, Vesting Tentative Map No. 609579, including the Public Right-of-Way vacation is hereby granted to Otay-Tijuana Venture, LLC, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Heidi K. Vonblum
Deputy City Attorney

HKV:hm
12/16/2011
01/11/2012 REV.1
Or.Dept: DSD
Document No. 302457

FINDINGS FOR VESTING TENTATIVE MAP NO. 609579
(INCLUDING PUBLIC RIGHT-OF-WAY VACATION)
FOR THE OTAY-TIJUANA CROSS BORDER FACILITY PROJECT
ADOPTED BY RESOLUTION NO. R- **307236**
ON JAN 10 2012

VESTING 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 (San Diego Municipal Code Section 125.0440(a) and Subdivision Map Act Sections 66473.5, and 66474(a), and 66474(b)).** The project proposes to construct a Cross Border Facility, industrial office/warehouse uses, commercial uses, and hotel uses. The property is located east of Britania Boulevard, south of Siempre Viva Road (at the cross street of Otay Pacific Drive), and immediately adjacent to the U.S.-Mexico International border, in the Otay Mesa Development District, Industrial Subdistrict zone of the Otay Mesa Community Plan.

The proposed use of the property shown on Vesting Tentative Map No. 609579 is consistent with the Otay Mesa Community Plan as it is proposed to be amended as shown in the Community Plan Amendment (CPA) for this project. The CPA would change the project site from industrial use to institutional use with the Cross Border Facility and ancillary retail and hotel uses allowed under Planned Development Permit No. 609801. The Project is a re-subdivision of an approximately 63.8-acre property zoned Industrial through the filing of a Vesting Tentative Map and request for a CPA and Planned Development Permit (PDP) to allow the development of a 95,000 square foot (SF) Cross Border Facility (CBF), a 772,000 SF parking structure, and up to 706,000 SF of industrial office/warehouse uses.

As an option to the industrial office/warehouse uses, the PDP will allow the development of hotel uses with a maximum of 340 rooms and up to 40,000 SF of visitor-serving commercial uses on certain portions of the site and up to 402,000 SF of industrial office/warehouse uses on the balance of the site.

With the adoption of the CPA, the proposed project will implement the goals of the General Plan in addition to the Otay Mesa Community Plan goals adopted by the City of San Diego in 1981 and updated in 1993. Specifically, the project is consistent with the following Community Plan Goals:

- To coordinate efforts of the City, County, State, Federal Governments and Mexico in providing for orderly development of Otay Mesa.
- To foster a “good neighbor” policy with Mexico and promote commercial and industrial inter-cooperation.
- To establish a reference for the future use of customs and immigration authorities and to facilitate international commerce

In addition, the project supports the General Industrial Objectives of the Community Plan, including:

- To alleviate high unemployment in the border area through the development of large industrial parks.
- To provide for a future “Foreign Trade Zone” supportive of the industrial parks

The Public Facilities, Services and Safety Element provides direction for the timely provision of public facilities and services for both the existing population and new growth. The project EIR fully addresses and identifies the demand for public facilities and services generated by the proposed project and outlines specific transportation and utilities/services improvements which are related to and in rough proportionality with the project impacts. Implementation of the improvements by the project would assure that current levels of service associated with those public facilities and services are maintained consistent with Policy PF-C.1. However, some of the identified impacts are deemed infeasible, and if not provided, would result in deficiencies of public facilities and services.

Certain transportation impacts would be mitigated consistent with Policy PF-C.1, while others would be infeasible to mitigate as discussed in the project Findings. The project will provide offsite traffic improvements at several locations in the vicinity of the project on Siempre Viva Road, Britannia Boulevard, Otay Mesa Road, Heritage Road and at the intersections of Otay Mesa Road/Britannia Boulevard and La Media Road and Airway Road in order to implement the goals of the Community Plan. For those specific locations where transportation mitigation measures are deemed infeasible and would not be provided within a reasonable time period, current levels of service may not be maintained or improved and the Public Facilities Financing Plan would not be updated to reflect that with this project. However, the PFFP will be updated with the community plan update in the next year, which will include the CBF land use and associated impacts. The applicant has agreed and is conditioned to pay the FBA fees based on the updated PFFP, thus paying fees commensurate with the update that all Otay Mesa property owners will be subject to for development purposes, thus not adversely affecting the overall goals and objectives of the General Plan.

The Planned Development Permit includes design guidelines to ensure consistency with the City Council adopted (2008), General Plan’s Urban Design Element. These provisions include:

- Design and retrofit streets to improve walkability, bicycling, and transit integration; to strengthen connectivity; and to enhance community identity.
- Provide landscape materials and design that compliment structures, create and define public and private spaces, provide shade, aesthetic appeal, and environmental benefits.
- Create street frontages with architectural and landscape interest to provide visual appeal to the streetscape that enhance the pedestrian experience.

- Design buildings that contribute to a positive neighborhood character and relate to neighborhood and community context.
- Provide expanded opportunities for local access and address the circulation needs of pedestrians within and among office and business park developments.
- A 30-foot distance separation is required provided between hotels and industrial structures to minimize hotel visitors' exposure to noise and air quality effects associated with industrial operations.

The proposed project helps implement many of the goals and objectives of the General Plan. It would provide for development of the site with two or more land uses in an integrated, compatible, and comprehensively planned manner consistent with GP Land Use policy LU-B.3. The proposed project would allow the site to be developed with industrial and commercial uses in conjunction with a CBF. While the proposed project is not specifically a transportation project, it would provide improved accessibility and more mobility choices for passengers accessing the TIJ Airport, and could help to reduce congestion at the existing POE's, thus implementing policies within the Mobility Element for modal choices and accessibility. The provision of a variety of uses that encourages activity and the presence of users throughout the day along with a public plaza and continuous landscaping help to implement urban design goals and objectives for crime prevention and using landscaping as an aesthetic element for development. The provision of new industrial and commercial uses as economic and employment generators, as well as an efficient passenger transportation system help to implement goals and policies within the Economic Prosperity Element. The limited provision of facilities and services does not fully mitigate impacts, thus not fully implementing the policies of the Public Facilities, Services, and Safety Element. Due to the competing nature of some of the General Plan goals and policies, the proposed project would substantially implement the major General Plan goals and policies. Therefore, the project will be 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 (San Diego Municipal Code Section 125.0440(b) and Subdivision Map Act Sections 66473.5, 66474(a), and 66474(b)). The project proposes to construct a Cross Border Facility, industrial office/warehouse uses, commercial uses, and hotel uses. The property is located east of Britannia Boulevard, south of Siempre Viva Road (at the cross street of Otay Pacific Drive), and immediately adjacent to the U.S.-Mexico International border, in the Otay Mesa Development District, Industrial Subdistrict zone of the Otay Mesa Community Plan.

The project includes a minor zoning deviation for reduced frontage on public streets and to allow encroachment into the rear yard setback. . With adoption of the Planned Development Permit, the project will comply with the zoning and development regulations of the Land Development Code.

The project is requesting street frontage deviations allowed in the City's PDP regulations. Instead of providing public street frontage for Lots 7, 8, 10 and 11, private access will be

provided to these lots either through reciprocal access easements from adjacent lots with adequate public street frontage, or from the private drive that serves the Cross Border Facility site. Vehicular ingress and egress will provide appropriate access controls to the CBF, such as the one way configuration with a center island to delineate the public passenger drop off area from the bus, van, shuttle island to the left side resulting in less than standard vertical curves.

These considerations could not be addressed by constructing the roadway in strict accordance with the City's Street Design Manual without extensive deviations from street standards. Nevertheless, the private driveway is designed for safe public travel.

As a private driveway, the use of roadway is 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 second deviation would allow a deviation to rear yard setback. The project cannot fulfill its purpose without the proposed rear yard deviation. In order for the project to function as a cross border airport passenger terminal, it must cross the international border to connect with Rodriguez International Airport in Tijuana. The project proposes to make that connection via an above grade, completely enclosed pedestrian bridge. Out of necessity, the bridge will be located in (above) the rear yard setback.

The deviations meet the goals and objectives of the applicable land use regulations by providing for public safety, avoiding excessive public maintenance costs, and minimizing public liability. The development complies with all other land development requirements. Therefore, the proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code.

3. The site is physically suitable for the type and density of development (San Diego Municipal Code Section 125.0440(c) and Subdivision Map Act Sections 66474(c) and 66474(d)). The project proposes to construct a Cross Border facility, industrial office/warehouse uses, commercial uses, and hotel uses. The property is located east of Britania Boulevard, south of Siempre Viva Road (at the cross street of Otay Pacific Drive), and immediately adjacent to the U.S.-Mexico International border, in the Otay Mesa Development District, Industrial Subdistrict zone of the Otay Mesa Community Plan.

The property has previously been entitled for industrial development, received development permits for grading and public infrastructure, and grading and public infrastructure for an industrial park development has been completed and accepted by the City. Subsequent technical and scientific reports (hydrology, water quality, noise, traffic, biology, waste management, and geotechnical) have been prepared to address the proposed project and have not identified any constraints that would prevent the proposed development from being physically suitable for the project. Therefore, as was determined in the original entitlement for the property, the site is physically suitable for the type and density of development proposed.

4. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (San Diego Municipal Code Section 125.0440(d) and Subdivision

Map Act Section 66474(e). The project proposes to construct a Cross Border Facility, industrial office/warehouse uses, commercial uses, and hotel uses. The property is located east of Britania Boulevard, south of Siempre Viva Road (at the cross street of Otay Pacific Drive), and immediately adjacent to the U.S.-Mexico International border, in the Otay Mesa Development District, Industrial Subdistrict zone of the Otay Mesa Community Plan.

Environmental Impact Report (EIR) No.169653 has been prepared for the project in accordance with the California Environmental Quality Act (CEQA), which addresses potential impacts to biological resources. A Mitigation, Monitoring, and Reporting Program (MMRP) will be implemented with this project to reduce biological impacts to a level below significance.

With the exception of burrowing owl habitat, the site does not contain environmentally sensitive lands. The proposed project would directly impact the burrowing owl and secondary off site biological impacts would occur at four locations for traffic mitigation required for the project.

The proposed off-site roadway improvements would occur along portions of Siempre Viva Road, Britannia Boulevard and Otay Mesa Road in the project vicinity, and would affect sensitive habitats including non-native grassland, freshwater marsh, southern willow scrub, and disturbed wetland. Sensitive wildlife were not observed within the impact footprint for the off-site roadway improvements and would not be directly affected by the improvements. Impacts to sensitive habitats are considered significant, based on the City's significance determination thresholds. Identified off-site impacts to non-native grassland along Otay Mesa Road would also result in potential indirect impacts to burrowing owl, due to observed occurrences of burrowing owls nearby and the related conclusion that non-native grassland habitat within the proposed Otay Mesa Road roadway improvement area is owl-occupied. Mitigation measures are included in the EIR that would reduce the identified off-site biological resource impacts to below a level of significance. No significant and unavoidable impacts to biological resources are identified in the EIR. It should also be noted that the identified off-site roadway improvements are identified as General Plan Circulation Element improvements, and these improvements (and related impacts) would therefore ultimately occur with or without implementation of the proposed project. Therefore, the design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (San Diego Municipal Code Section 125.0440(e) and Subdivision Map Act Section 66474(f)). The project proposes to construct a Cross Border Facility, industrial office/warehouse uses, commercial uses, and hotel uses. The property is located east of Britania Boulevard, south of Siempre Viva Road (at the cross-street of Otay Pacific Drive), and immediately adjacent to the U.S.-Mexico International border, in the Otay Mesa Development District, Industrial Subdistrict zone of the Otay Mesa Community Plan.

This Vesting Tentative Map No. 609579, the associated Planned Development Permit No. 609801, and exhibits for the project include conditions of approval relevant to achieving compliance with the applicable regulations of the San Diego Municipal Code in effect for design of this subdivision and related improvements. Such conditions have been determined by the decision maker as necessary and sufficient to avoid adverse impacts upon the public health,

safety, and welfare. These conditions address, among other things, traffic/circulation improvements, noise attention and landscape requirements.

Therefore, the design of the subdivision or the type of improvements 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 (San Diego Municipal Code Section 125.0440(f) and Subdivision Map Act Section 66474(g)). The project proposes to construct a Cross Border Facility, industrial office/warehouse uses, commercial uses, and hotel uses. The property is located east of Britania Boulevard, south of Siempre Viva Road (at the cross-street of Otay Pacific Drive), and immediately adjacent to the U.S.-Mexico International border, in the Otay Mesa Development District, Industrial Subdistrict zone of the Otay Mesa Community Plan.

This VTM includes the vacation of portions of Las Californias Drive and Otay Pacific Drive, located within the project boundaries as shown in Vesting Tentative Map No. 609579. However, the granting of private access easements and general utility and access easements will provide the necessary alternative access over lots within this subdivision. Pursuant to section 66474(g) of the Subdivision Map Act, the governing body may approve a map when alternate easements for access, or use, will be provided, and that the easements granted are substantially equivalent to the ones previously acquired by the public. As such, the approval of the proposed public right of way vacation or any improvements associated with this project will not conflict with any public easements within the proposed subdivision.

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 (San Diego Municipal Code Section 125.0440(g) and Subdivision Map Act Section 66473.1). The project proposes to construct a Cross Border Facility, industrial office/ warehouse uses, commercial uses, and hotel uses. The property is located east of Britania Boulevard, south of Siempre Viva Road (at the cross-street of Otay Pacific Drive), and immediately adjacent to the U.S.-Mexico International border, in the Otay Mesa Development District, Industrial Subdistrict zone of the Otay Mesa Community Plan.

The proposed development will not impede or inhibit any future passive or natural heating and cooling opportunities. The Project is a re-subdivision of an approximately 63.8-acre previously approved, graded and fully developed industrial subdivision. Minimal grading to accommodate building improvements on existing graded pads will be needed. With the exception of the requested rear yard deviation for the Cross Border Facility building, building setbacks in accordance with the Land Development Code will be implemented to facilitate future passive or natural heating and cooling opportunities. The independent design of each structure will have 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 (San Diego Municipal Code Section 125.0440(h) and Subdivision Map Act Section 66412.3). The project proposes to construct a Cross Border Facility, industrial office/ warehouse uses, commercial uses, and hotel uses. The property is located east of Britania Boulevard, south of Siempre Viva Road (at the cross-street of Otay Pacific Drive), and immediately adjacent to the U.S.-Mexico International border, in the Otay Mesa Development District, Industrial Subdistrict zone of the Otay Mesa Community Plan.

With the approval of the project's 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.

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 (San Diego Municipal Code Section 125.0440(h) and Subdivision Map Act Section 66412.3).

PUBLIC RIGHT-OF-WAY VACATION FINDINGS:

1. There is no present or prospective use for the public right-of-way, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated. (San Diego Municipal Code Section 125.0941(a)). The Project proposes to vacate portions of Otay Pacific Drive and Las Californias Drive south of Otay Pacific Place to accommodate development of the Cross Border Facility. The proposed rights-of-way to be vacated is the southerly terminus of two streets, Otay Pacific Drive and Las Californias Drive, and their respective cul-de-sacs, and each portion of these streets to be vacated measure approximately 200 feet (including their cul-de-sacs). These sections are not identified within the Otay Mesa Community Plan Circulation Element and there are no future plans to extend these streets. There is no present use for the public rights-of-way as the public rights-of-way currently provides access to vacant lots. There is no prospective use for the public rights-of-way because the vacated portions will be replaced by General Utility Easements (GUE) to accommodate access to the Cross Border Facility and maintenance of existing public utilities. Therefore, there is no present or prospective use for the public right-of-way, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated.

2. The public will benefit from the vacation through improved use of the land made available by the vacation. (San Diego Municipal Code Section 125.0941(b)). The Project proposes to vacate public rights-of-way for the portions of Otay Pacific Drive and Las

Californias Drive that are south of Otay Pacific Place to accommodate development of the Cross Border Facility itself. The CBF is a processing facility that would facilitate border crossings for airline passengers using the Tijuana International Airport (TIJ) for flights in and out of the region as an alternative to their using the congested land ports-of-entry that occur along this portion of the International border.

The Project serves a regional need for increased capacity to facilitate secure travel and trade across the U.S./Mexico border. SANDAG estimates economic losses of \$3 billion and 35,000 jobs annually in the region due to border crossing delays. Congestion and unpredictable wait times at the existing vehicle and pedestrian border crossings in San Ysidro and Otay Mesa negatively impact tourism, travel, and trade in San Diego.

The right-of-way proposed to be vacated currently consists of two cul-de-sacs, each serving three currently vacant lots. The vacation is necessary to accommodate development of the Cross Border Facility. The local and regional public benefits of the Project, including the Cross Border Facility, result in improved use of the land made available by the vacation. Therefore, the public will benefit from the vacation through improved use of the land made available by the vacation.

3. The vacation does not adversely affect any applicable land use plan. (San Diego Municipal Code Section 125.0941(c)). The Project proposes to vacate portions of Otay Pacific Drive and Las Californias Drive south of Otay Pacific Place to accommodate development of the Cross Border Facility. The proposed rights-of-way to be vacated is the southerly terminus of two streets, Otay Pacific Drive and Las Californias Drive, and their respective cul-de-sacs, and each portion of these streets to be vacated measure approximately 200 feet (including their cul-de-sacs). Currently, these sections are not identified in the community plan and there are no future plans to extend these streets. Therefore, the vacation does not adversely affect any applicable land use plan.

4. The public facility for which the right-of-way was originally acquired will not be detrimentally affected by this vacation. (San Diego Municipal Code Section 125.0941(d)) The Project proposes to vacate public rights-of-way for the portions of Otay Pacific Drive and Las Californias Drive that are south of Otay Pacific Place to accommodate development of the Cross Border Facility itself. The CBF is a processing facility that would facilitate border crossings for airline passengers using the Tijuana International Airport (TIA) for flights in and out of the region as an alternative to their using the congested land ports-of-entry that occur along this portion of the International border.

The public rights-of-way were originally acquired to serve lots in the existing subdivision; however, those lots remain vacant, and under the new proposed re-subdivision, lots 7 and 11 will take access from private access easements shared with other adjacent lots. Passengers using the Cross Border Facility will have access to the site through a private onsite circulation drive, located within General Utility Easements (GUE) that will also accommodate those portions of the existing public utility systems that will remain in place, along with the extension of these systems to serve the CBF. Therefore, the public facility for which the public rights-of-way were originally acquired will not be detrimentally affected by the proposed vacations.

CONDITIONS FOR VESTING TENTATIVE MAP NO. 609579

OTAY-TIJUANA CROSS BORDER DEVELOPMENT

ADOPTED BY RESOLUTION NO. R-307236 ON JAN 10 2012

GENERAL

1. This Vesting Tentative Map will expire 36 months after its approval or conditional approval.
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 recordation of the Final Map, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
4. The Final Map shall conform to the provisions and conditions of Planned Development Permit No. 609801 and Site Development Permit No. 896755, except with respect to Condition No. 10 in Planned Development Permit No. 609801 and Site Development Permit No. 896755.
5. 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.

ENGINEERING

6. Whenever street rights-of-way are required to be dedicated, Subdivider shall provide the right-of-way free and clear of all encumbrances and prior easements. The Subdivider shall secure “subordination agreements” for minor distribution facilities and/or “joint-use agreements” for major transmission facilities.
7. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
8. The Subdivider shall ensure that all existing onsite utilities serving the subdivision are undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversions have taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
9. 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 the Vesting 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.
10. To avoid expiration of this Vesting Tentative Map, a Final Map must be recorded in the Office of the County Recorder, prior to the Vesting Tentative Map expiration date.
11. The Subdivider shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.
12. The Subdivider shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. This may require (but not be limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.

LANDSCAPING

13. Prior to the recordation of the final map, the Subdivider shall submit complete landscape construction documents, including plans, details, and specifications (including a permanent automatic irrigation system), for the required right-of-

way and median improvements, and revegetation of all disturbed land in accordance with the Landscape Standards and to the satisfaction of the Development Services Department. The landscape construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. The Subdivider shall assure by permit and bond the installation of landscaping per landscape construction documents.

MAPPING

14. “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].
15. “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.”
16. The Final Map shall:
 - a. Use the California Coordinate System for its “Basis of Bearing” and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (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 Third Order accuracy or better. 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 distances shall be shown on the map.

GEOLOGY

17. Prior to the issuance of a grading permit, the Subdivider shall submit a geotechnical report prepared in accordance with the City of San Diego’s “Guidelines for Geotechnical Reports,” satisfactory to the City Engineer.

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 Vesting 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 Vesting Tentative Map, may protest the imposition within ninety days of the approval of this Vesting 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).