



# COUNTY OF SAN DIEGO

## LAND USE AGENDA ITEM

### BOARD OF SUPERVISORS

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**DATE:** June 25, 2025

**03**

**TO:** Board of Supervisors

### SUBJECT

**COUNTY OF SAN DIEGO TRACT NO. 5505-1: APPROVAL OF AMENDMENT TO AGREEMENT FOR PUBLIC AND PRIVATE IMPROVEMENTS FOR OTAY BUSINESS PARK VESTING TENTATIVE MAP NO. 5505R2, SET HEARING TO CONSIDER PURCHASING TWO CALTRANS PARCELS LOCATED IN THE OTAY COMMUNITY PLAN AREA AND RELATED CEQA EXEMPTION (DISTRICT: 1)**

### OVERVIEW

The Otay Business Park (Final Map No. 16562) is an approved subdivision of 121.9 acres into eleven (11) lots, including nine (9) commercial/industrial lots, one (1) public street lot, and one (1) sewer pump station located in East Otay Mesa within unincorporated San Diego County. The Final Map was approved by the Director of Planning & Development Services on April 4, 2023. At the time the Final Map was approved, the County of San Diego (County), San Diego County Sanitation District, and the developer/owner of the Otay Business Park, CH REALTY X-ELC I OTAY MESA BUSINESS PARK L.P (Owner), entered into a Subdivision Improvement Agreement (IA) to guarantee the construction of private and public improvements as a condition of approval of the subdivision. These improvements include the construction of Siempre Viva Road, a planned 4-lane major road in the County's General Plan from the project site to the City of San Diego boundary, which will enhance regional mobility and help economic growth and binational trade by providing additional access to the new planned Otay port of entry into Mexico.

Subdivision IAs and their financial security protect the County by ensuring any required improvements are constructed. In the event of a default by the applicant, financial security can be used by the County to complete the required improvements. Under certain circumstances, the County can grant amendments to allow an applicant additional time or the ability to complete the improvements, while simultaneously preserving the County's rights to have the public improvements constructed by the applicant. If approved, the IA for this project would remain valid through April 4, 2027, at which point the applicant could request an amendment if additional time is required to complete work.

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A condition of this project requires the completion of certain offsite improvements to Siempre Viva Road that were studied under the California Environmental Quality Act (CEQA) as part of the project approval, of which a portion is currently owned by the State of California Department of Transportation (Caltrans). Caltrans cannot sell its excess property directly to a private party, unless such private party is the owner of adjoining property and certain findings are met, without conducting a public auction or calling for competitive bids. However, Caltrans can sell its excess property to a public entity without competitive bids and California Government Code allows the County to acquire the needed property from Caltrans. If the County does not purchase the property, the condition will have to be waived. The property is in East Otay Mesa and is approximately 0.81 acres in size. Caltrans is willing to enter negotiations to sell it directly to the County. This acquisition will allow the Owner to complete the offsite improvements in accordance with the terms of the Amendment to the Joint Agreement to Improve Major Subdivision (Attachment A), and the County will maintain ownership of the Property. The Owner agrees to pay all costs incurred by County, including, but not limited to, the full appraised value of the property, as determined by a Caltrans appraisal, attorney fees, preparation of maps, services by the County, engineering, appraisal fees, and any other fees or costs incurred by the County in connection with the acquisition of the Property in accordance with the terms of the Agreement to Pay Acquisition Costs (Attachment B). The County would maintain the property and road once it is constructed to County standards similar to other development projects.

Today's request is for the Board to approve an Amendment to the subdivision improvement agreement for the Otay Business Park to pay the cost for the County to acquire a portion of property owned by Caltrans to construct Siempre Viva Road. Staff is also requesting the Board set a hearing on ~~September 10~~ October 22, 2025, to consider approval of the purchase of the Caltrans Property and to direct the Clerk of the Board to provide public notice of the hearing. If the Board approves the request, then on ~~September 10~~ October 22, 2025, after making the necessary findings, the Board will be requested to authorize the purchase of the Property from Caltrans for the estimated appraised value of \$645,000, which will be fully funded by the Owner. An updated appraisal will be provided as part of the future purchase and sale agreement.

If the ~~Board does not approve the~~ Amendment is not approved, nor ~~set~~ a hearing set for the Board to consider purchasing the Property, the County cannot move forward with the financial security provided with the original agreement and move forward with construction of the road. If the road is not constructed, traffic from the Otay Business Park project and other projects would use other existing roads, which would lead to increased traffic congestion in the area. However, the County is not obligated to build the road and there is no guarantee the secured amount will be enough to cover the cost of the improvements if constructed by the County.

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**RECOMMENDATION(S)**

**CHIEF ADMINISTRATIVE OFFICER**

1. Find that the approval of the First Amendment to Agreement (Attachment A on file with the Clerk of the Board) and associated actions for County Tract No. 5505-1 are not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15060(c)(3) and 15378(b)(4 and 5).
2. Approve and authorize the Clerk of the Board of Supervisors (Clerk) to execute the First Amendment to Agreement, which includes an Agreement to Pay Acquisition Costs incurred by County in acquiring the property owned by Caltrans.
3. Find that the proposed action to set a hearing is not subject to CEQA because it is an administrative action and not an approval of a project as defined by CEQA and does not commit the County of San Diego (County) to a definite course of action under sections 15352 and 15004(b)(2)(A).
4. Set a hearing for ~~September 10~~ October 22, 2025, at which time the Board of Supervisors (Board) may consider authorizing the Director, Department of General Services, or designee, to enter into a purchase and sale agreement with Caltrans for the acquisition of parcels DD 30305-01-01 and DD 30306-01-02 for the estimated appraised value of \$645,000.
5. Direct the Clerk of the Board to provide notice of the hearing via publication and posting as required by law.

**EQUITY IMPACT STATEMENT**

Planning & Development Services (PDS) ensures that public improvements are constructed as part of new developments, such as roads and stormwater drainage systems. PDS ensures the completion of the public improvements through agreements and financial security, which ensures communities are safe. This amendment to the improvement agreement will allow the applicant the ability to complete the required public improvements, which will help provide roads needed for commercial and industrial development that will provide additional jobs for unincorporated communities.

**SUSTAINABILITY IMPACT STATEMENT**

Planning & Development Services (PDS) is committed to promoting sustainable community growth by ensuring that essential public infrastructure, such as roads and stormwater drainage systems, is appropriately constructed in new housing developments. These improvements are essential for creating safe, resilient, and environmentally responsible communities. Extension of time for improvement agreements provide additional time for applicants to complete essential required improvements for projects. This ensures that housing developments in the unincorporated communities meet both current and future sustainability standards.

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### **FISCAL IMPACT**

There is no fiscal impact associated with today's action. If approved, the developer will pay all staff costs to complete the transaction and will pay for the purchase price of the property, which is estimated at \$645,000. The final purchase price will be determined based on an updated appraisal of the property. There will be no change in net General Fund cost and no additional staff years.

### **BUSINESS IMPACT STATEMENT**

N/A

### **ADVISORY BOARD STATEMENT**

N/A

### **BACKGROUND**

The East Otay Mesa Specific Plan Area (Specific Plan) was approved by the Board of Supervisors on July 27, 1994. The Specific Plan is a regulatory document that establishes standards for development, environmental conservation, and public facilities to implement the objectives of the County of San Diego General Plan. The Specific Plan was envisioned as a modern industrial and business center near the international border and was created as a major employment area for southern San Diego County. The most recent amendment to the Specific Plan was approved by the Board of Supervisors on March 17, 2021 (5).

Projects in the Specific Plan are required to construct all roads necessary to provide access to their site and ensure the roads meet County standards and implement the Specific Plan. The Otay Business Park (Project) was approved by the Planning Commission on November 4, 2011. The Project required several improvements to off-site roads including Siempre Viva Road. Siempre Viva Road is a planned 4-lane major road in the County's General Plan and Specific Plan. The Project is required to improve Siempre Viva Road from Enrico Fermi Drive to the existing Caltrans bridge located at the eastern boundary of the project site. Siempre Viva Road, once fully improved, will ultimately connect the City of San Diego to the new planned Otay Port of Entry into Mexico.

A portion of the offsite improvements to Siempre Viva Road that are required as part of the project are located on property (Property) owned by the State of California Department of Transportation (Caltrans). Caltrans cannot sell its excess property directly to a private party, unless such private party is the owner of adjoining property and certain findings are met, without conducting a public auction or calling for competitive bids. However, Caltrans can sell directly to the County without calling for competitive bids. Caltrans is willing to enter negotiations to sell the Property to the County, which will ultimately allow the Owner to complete the offsite improvements in accordance with the terms of the Amendment to the Joint Agreement to Improve Major

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Subdivision (Attachment A). The developer will have until April 4, 2027, to complete the improvements to Siempre Viva Road, which are estimated at \$8,371,100.

If the **Board chooses not to approve the Amendment** as recommended, nor ~~set~~ a hearing set for the Board to consider purchasing the Property, the County could move forward with the financial security provided with the original agreement and move forward with the construction of the road. However, the County is not obligated to build the road and there is no guarantee the secured amount will be enough to cover the cost of the improvements if constructed by the County.

**ENVIRONMENTAL STATEMENT**

The proposed action includes the amendment of a Subdivision Improvement Agreement and authorization of a hearing to provide for the acquisition of property necessary to complete road improvements required as a condition of approval of a tentative map. CEQA review was completed in connection with the approval of the tentative map for the project. A Subsequent Environmental Impact Report (EIR) was approved on November 4, 2011, for the Otay Business Park Project and is on file with Planning & Development Services. The proposed action to set a hearing is not subject to CEQA because it is an administrative action and is not considered a Project as defined by CEQA and does not commit the County to a definite course of action under sections 15352 and 15004(b)(2)(A).

CEQA review was completed in connection with the approval of each of the Tentative Maps, which were conditioned on completion of improvements identified in the improvement agreements. The proposed action does not change any improvement obligations imposed at the time of Tentative Map approval. Therefore, the proposed action is not subject to CEQA review pursuant to Sections 15061(b)(3) of the CEQA Guidelines.

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**LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN**

Today's proposed actions support all the Initiatives in the County of San Diego's 2024-2029 Strategic Plan. The project proposes the Draft Ordinance which provides affordable and workforce housing opportunities that help meet the needs of a diverse community (Equity Initiative), provides a program that helps increase the well-being of our residents by improving housing opportunities (Community Initiative), and incorporates equity and environmental justice to reduce disproportionate housing access (Justice Initiative).

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Dahvia Lynch', is placed over a light gray rectangular background.

**DAHVIA LYNCH**

Deputy Chief Administrative Officer

**ATTACHMENT(S)**

Attachment A – First Amendment to Agreement to Improve Major Subdivision

Attachment B – Agreement to Pay Acquisition Costs

Attachment C – Vicinity Map