

RESOLUTION NUMBER R- 307763

DATE OF FINAL PASSAGE OCT 22 2012

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE SITE DEVELOPMENT PERMIT NO. 685774 AND NEIGHBORHOOD USE PERMIT NO. 873083; RESCISSION OF SITE DEVELOPMENT PERMIT NO. 182929/CONDITIONAL USE PERMIT 8283921 FOR OUTLETS AT THE BORDER – PROJECT NO. 194101.

WHEREAS, Shamrock/Las Americas Venture I, LLC, Owner/Permittee, filed an application with the City of San Diego for a Site Development Permit (SDP) No. 685774 and Neighborhood Use Permit (NUP) No. 873083 to construct a 140,000 square foot commercial retail development known as the Outlets at the Border project, on a 8.06-acre site located west of Virginia Avenue and immediately north of the United States and Mexico International Border, within the CT-2-3 Zone of the San Ysidro Planned District, the Coastal Height Limit Overlay Zone, the San Ysidro Community Plan Area, the San Ysidro Redevelopment Area and the Federal Aviation Administration (FAA) Part 77 Noticing Area of Brown Field; and

WHEREAS, the project site is legally described as Parcel 3, 2004 East Side Map, Map No. 19628 recorded on December 16, 2004, in the Official Records of the San Diego County Recorder's Office as file No. 2004-1184765; and

WHEREAS, on July 26, 2012, the Planning Commission of the City of San Diego considered approval of SDP No. 685774 and NUP No. 873083, and rescission of SDP No. 182929 and CUP No. 8283921, and pursuant to Resolution No. 4824-PC voted to recommend City Council approval of the actions; and

WHEREAS, the matter was set for public hearing on OCT 22 2012, 2012, 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 Conditional Use Permit No. 8283921 and Site Development Permit No.182929, granted by the Hearing Officer on January 16, 2005 for the existing parking lot development, are hereby rescinded pursuant to SDP No. 685774 and NUP No. 873083; and

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following written findings with respect to SDP No. 685774 and NUP No. 873083:

I. SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0504

1. The proposed development will not adversely affect the applicable land use plan. The project proposes construction of a 140,000 square foot commercial retail development on an 8.06 acre parcel located west of Virginia Avenue and immediately north of the United States and Mexico International Border, within the CT-2-3 Zone of the San Ysidro Planned District, the San Ysidro Community Plan (SYCP) area and the San Ysidro Redevelopment Plan (SYRP) area. The adopted SYCP designates this site for Border Commercial land use. The site is located within the Commercial (District 6) and International Gateway Elements area, which calls for tourist-oriented development such as retail, entertainment, and limited professional office uses. As one of a few remaining undeveloped commercial properties in the vicinity, development of the project site with a retail shopping center will implement the goals of the SYCP and SYRP to provide a tourist-oriented development in this location compatible with the image of San Ysidro as a major tourist/commercial/cultural center, and to increase commercial development at the border.

The project site lies adjacent to the existing Las Americas Premium Outlets shopping center and at build-out will provide 140,000 square feet of commercial retail development, public improvements, and landscaping of the existing Virginia Avenue street frontage and relocation of an existing drainage easement. Utilizing a Spanish colonial style, the project will provide architectural interest and implement the SYCP Urban Form objective to provide a harmonious transition between existing and proposed development by incorporating a similar color palette, ornamental ironwork, Spanish tile roofing, landscape, and hardscape features. The project has been designed to provide physical and visual continuity with the existing Las Americas shopping center by matching finished grade elevations and infrastructure services and incorporating a similar architectural styling. The project will implement the SYCP Transportation and Urban Form objectives for pedestrian orientation by providing connecting pedestrian pathways between Virginia Avenue to the east and the Las Americas Premium Outlets

project to the west. The project will engage pedestrian activity on Virginia Avenue with an approximately 6000-square-foot plaza open to the public, project signage, landscaping, decorative hardscape, and benches. Ultimately, the project's Virginia Avenue frontage could become a major link in the federal government's anticipated Port of Entry project, providing a shopping destination for citizens of the United States and Mexico.

The project will support the goals of the Commercial, Environmental and Design Element objectives of the SYCP by ensuring a well designed, healthful, and safe environment. The proposed shopping center development complies with the development regulations, standards, and policies in effect for the project site per the San Ysidro Planned District Ordinance, the San Ysidro Community Plan, the San Ysidro Redevelopment Plan, and all other City regulations, policies, guidelines, design standards, and adopted land use plans applicable to this site. Therefore, the proposed retail development will not adversely affect the goals and objectives of the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project proposes construction of a 140,000 square foot commercial retail development on an 8.06 acre parcel located west of Virginia Avenue and immediately north of the United States and Mexico International Border, within the CT-2-3 Zone of the San Ysidro Planned District, the San Ysidro Community Plan (SYCP) area, and the San Ysidro Redevelopment Plan (SYRP) area. The project site has been previously analyzed via Environmental Impact Report SCH No. 95-101015 (1996 EIR), certified in 1996 in association with the adoption of the SYRP, and via Mitigated Negative Declaration and Initial Study (1998 MND) (SCH 98031064), certified in 1998 in association with the approval of the Disposition and Development Agreement (DDA) for the development of the International Gateway of the Americas (IGA) Project. The proposed project, in combination with existing development in the SYRP area, will entail substantially less commercial retail development than was analyzed in the 1996 EIR and 1998 MND. Based upon a detailed review of the current project, it has been determined that there are no new significant environmental impacts that were not already considered in the previous EIR. No substantial changes have occurred with respect to the circumstances under which the project is undertaken, and there is no new information of substantial importance to the project that would result in significant impacts. Therefore, Addendum No. 194101 to EIR SCH No. 95-101015 and 1998 MND (SCH 98031064) has been prepared in accordance with Section 15164 of the California Environmental Quality Act (CEQA) Guidelines. The Outlets at the Border project will comply with all necessary mitigation measures outlined within the Mitigation, Monitoring and Reporting Program (MMRP) of the 1996 EIR and the 1998 MND as specifically outlined in Addendum No. 194101.

The Project has been conditioned through Site Development Permit No. 685774 and Neighborhood Use Permit No. 873083 to comply with the development regulations in effect for the subject property as set forth in the Land Development Code, and will be required to obtain building permits to show that construction will comply with all applicable Building and Fire Codes. As conditioned, the proposed shopping center development will comply with the development regulations, standards, and policies in effect for the project site per the SY PDO, the SYCP, the SYRP and all other City regulations, policies, guidelines, design standards, and

adopted land use plans applicable to this site, and will not be detrimental to the public health, safety or welfare.

3. The proposed development will comply with the applicable regulations of the land development code. The project proposes construction of a 140,000 square foot commercial retail shopping center on an 8.06 acre parcel located within the CT-2-3 Zone of the San Ysidro Planned District, the San Ysidro Community Plan (SYCP) area, and the San Ysidro Redevelopment Plan (SYRP) area. Per San Diego Municipal Code (SDMC) Section 1518.0202, the San Ysidro PDO regulations allow the consideration of variances to development standards through the Site Development Permit process in order to provide design flexibility resulting in a project which benefits surrounding properties and the community. The project includes a variance from SDMC Section 142.0407(b) to provide 14 trees along perimeter of the Vehicular Use Area (VUA), where a minimum of 11 trees within the VUA is required; a variance from SDMC Section 142.1240(c) to allow construction of a monument sign with 168 square feet of copy area where 150 square feet of ground sign copy area would be allowed; and a variance to SDMC Section 142.1225 to allow approximately 444 square feet of combined wall sign area where 350 square-foot is allowed. Allowing the project flexibility in the VUA landscaping will result in an equivalent amount of shade at the perimeter of the parking lot and will support the SYCP goal of enhancing the pedestrian environment. Allowing a larger sign copy area will improve visibility and identification of the project from the major intersection of Camino de la Plaza and Virginia Avenue, implementing the International Gateway objective to create a sense of entry into the community through special treatment of all major entry points. The Land Development Code allows the applicant to request each of these variances, and other than the requested variances, the project as proposed complies with the SY PDO, SYCP, SYRP, and all applicable regulations of the Land Development Code.

II. SAN YSIDRO DEVELOPMENT PERMIT – SDMC SECTION 1518.0202:

1. The proposed use and project design meet the purpose and intent of the San Ysidro planned district ordinance, comply with the recommendations of the San Ysidro community plan, and will not adversely affect the San Ysidro community plan, the general plan or other applicable plans adopted by the City Council. The project proposes construction of a 140,000 square foot commercial retail development on an 8.06 acre parcel located west of Virginia Avenue and immediately north of the United States and Mexico International Border, within the CT-2-3 Zone of the San Ysidro Planned District, the San Ysidro Community Plan (SYCP) area and the San Ysidro Redevelopment Plan (SYRP) area. The proposed shopping center use and project design will meet the purpose and intent of the San Ysidro PDO by utilizing reasonable development criteria for the construction of quality commercial development in the San Ysidro community through the use of urban design standards. As detailed in Site Development Permit Finding I (1) previously, the project complies with the recommendations of the SYCP and will not adversely affect the SYCP, the General Plan or other applicable plans adopted by the City Council.

2. The proposed development shall be compatible with existing and planned land use on adjoining properties and shall not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community shall be achieved as far as practicable. The project proposes construction of a 140,000 square foot commercial retail development on an 8.06 acre parcel located west of Virginia Avenue and immediately north of the United States and Mexico International Border, within the CT-2-3 Zone of the San Ysidro Planned District, the Coastal Height Limit Overlay Zone, the San Ysidro Community Plan (SYCP) area, and the San Ysidro Redevelopment Plan (SYRP) area. As one of a few remaining undeveloped commercial properties in the vicinity, development of the project site with a retail shopping center will implement the goals of the SYCP and SYRP to provide a tourist oriented development in this location compatible with the image of San Ysidro as a major tourist/commercial/cultural center, and to increase commercial development at the border. Utilizing a Spanish colonial style, the project will implement the SYCP Urban Form objective to provide an architecturally harmonious transition between existing and proposed development by incorporating a similar color palette, ornamental ironwork, Spanish tile roofing, landscape, and hardscape features. The project has been designed to provide physical and visual continuity with the existing Las Americas shopping center by matching finished grade elevations and infrastructure services and incorporating a similar architectural styling. The project will implement the SYCP Transportation and Urban Form objectives for pedestrian orientation by providing connecting pedestrian pathways between Virginia Avenue to the east and the Las Americas Paseo project to the west. The project will engage pedestrian activity on Virginia Avenue with an approximately 6000-square-foot plaza open to the public, project signage, landscaping, decorative hardscape, and benches. The proposed development will be compatible with existing and planned land use on adjoining properties, will not constitute a disruptive element to the neighborhood and community, and will achieve architectural harmony with the surrounding neighborhood and community as far as practicable.

3. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity. The project proposes construction of a 140,000 square foot commercial retail development on an 8.06 acre parcel located west of Virginia Avenue and immediately north of the United States and Mexico International Border, within the CT-2-3 Zone of the San Ysidro Planned District, the San Ysidro Community Plan (SYCP) area, and the San Ysidro Redevelopment Plan (SYRP) area. The project site has been previously analyzed via Environmental Impact Report SCH No. 95-101015 (1996 EIR), certified in 1996 in association with the adoption of the SYRP, and via Mitigated Negative Declaration and Initial Study (1998 MND) (SCH 98031064), certified in 1998 in association with the approval of the Disposition and Development Agreement (DDA) for the development of the International Gateway of the Americas (IGA) Project. The proposed project, in combination with existing development in the SYRP area, will entail substantially less commercial retail development than was analyzed in the 1996 EIR and 1998 MND. Based upon a detailed review of the current project, it has been determined that there are no new significant environmental impacts that were not already considered in the previous EIR. No substantial changes have occurred with respect to the circumstances under which the project is undertaken, and there is no new information of substantial importance to the project that would result in

significant impacts. Therefore, Addendum No. 194101 to EIR SCH No. 95-101015 and 1998 MND (SCH 98031064) has been prepared in accordance with Section 15164 of the California Environmental Quality Act (CEQA) Guidelines. The Outlets at the Border project will comply with all necessary mitigation measures outlined within the Mitigation, Monitoring and Reporting Program (MMRP) of the 1996 EIR and the 1998 MND as specifically outlined in Addendum No. 194101.

The Project has been conditioned through Site Development Permit No. 685774 and Neighborhood Use Permit No. 873083 to comply with the development regulations in effect for the subject property as set forth in the Land Development Code, and will be required to obtain building permits to show that construction will comply with all applicable Building and Fire Codes. As conditioned, the proposed shopping center development will comply with the development regulations, standards, and policies in effect for the project site per the SY PDO, the SYCP, the SYRP and all other City regulations, policies, guidelines, design standards, and adopted land use plans applicable to this site. The proposed retail development, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity.

4. The proposed use will comply with the relevant regulations in the municipal code. The project proposes construction of a 140,000 square foot commercial retail shopping center, on an 8.06 acre parcel located within the CT-2-3 Zone of the San Ysidro Planned District, the San Ysidro Community Plan (SYCP) area and the San Ysidro Redevelopment Plan (SYRP) area. Per San Diego Municipal Code (SDMC) Section 1518.0202, the San Ysidro PDO regulations allow the consideration of variances to development standards through the Site Development Permit process in order to provide design flexibility resulting in a project which benefits surrounding properties and the community. The project includes a variance from SDMC Section 142.0407(b) to provide 14 trees along perimeter of the Vehicular Use Area (VUA), where a minimum of 11 trees within the VUA is required; a variance from SDMC Section 142.1240(c) to allow construction of a monument sign with 168 square feet of copy area, where 150 square feet of ground sign copy area would be allowed; and a variance to SDMC Section 142.1225 to allow approximately 444 square feet of combined wall sign area where 350 square feet is allowed. Allowing the project flexibility in the VUA landscaping will result in an equivalent amount of shade at the perimeter of the parking lot and will support the SYCP goal of enhancing the pedestrian environment. Allowing a larger sign copy area will improve visibility and identification of the project from the major intersection of Camino de la Plaza and Virginia Avenue, implementing the International Gateway objective to create a sense of entry into the community through special treatment of all major entry points. The Land Development Code allows the applicant to request each of these variances, and other than the requested variances, the project as proposed complies with all the relevant regulations in the Municipal Code.

III. NEIGHBORHOOD USE PERMIT – SDMC SECTION 126.0205:

1. The proposed development will not adversely affect the applicable land use plan. The project proposes construction of a 140,000 square foot commercial retail shopping center, including signage with automated copy. The SDMC (Section 141.1105) allows projects to request signage utilizing automated copy pursuant to a Neighborhood Use Permit (NUP). Two signs are proposed utilizing automated copy, Sign M, a monument ground sign to be located on the northeast corner of the project site, and Sign C, a 336-square-foot wall sign on the Virginia Avenue façade of Building E6. An existing 50 foot monument sign associated with the Las Americas shopping center is located at the intersection of Virginia Avenue and Camino de la Plaza within the Las Americas Paseo, and includes changing sign copy with approximately 307 SF of copy area. Designed to be the same color range and light intensity as the existing sign, proposed Sign M and Sign C will provide project identification and will be compatible with existing signage type and character in the vicinity. Additionally, Sign C will enhance an international sense of place and support the SYCP recommendation that development of Site L promote the image of San Ysidro as a major tourist/commercial/cultural center by providing information in English and Spanish. As detailed in Site Development Permit Finding I.1 previously, the project complies with the recommendations of the SYCP and will not adversely affect the SYCP, the SYRP, the General Plan or other applicable plans adopted by the City Council.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project proposes construction of a 140,000 square foot commercial retail development on an 8.06 acre parcel located west of Virginia Avenue and immediately north of the United States and Mexico International Border, within the CT-2-3 Zone of the San Ysidro Planned District, the San Ysidro Community Plan (SYCP) area, and the San Ysidro Redevelopment Plan (SYRP) area. The project site has been previously analyzed via Environmental Impact Report SCH No. 95-101015 (1996 EIR), certified in 1996 in association with the adoption of the SYRP, and via Mitigated Negative Declaration and Initial Study (1998 MND) (SCH 98031064), certified in 1998 in association with the approval of the Disposition and Development Agreement (DDA) for the development of the International Gateway of the Americas (IGA) Project. The proposed project, in combination with existing development in the SYRP area, will entail substantially less commercial retail development than was analyzed in the 1996 EIR and 1998 MND. Based upon a detailed review of the current project, it has been determined that there are no new significant environmental impacts that were not already considered in the previous EIR. No substantial changes have occurred with respect to the circumstances under which the project is undertaken, and there is no new information of substantial importance to the project that would result in significant impacts. Therefore, Addendum No. 194101 to EIR SCH No. 95-101015 and 1998 MND (SCH 98031064) has been prepared in accordance with Section 15164 of the California Environmental Quality Act (CEQA) Guidelines. The Outlets at the Border project will comply with all necessary mitigation measures outlined within the Mitigation, Monitoring and Reporting Program (MMRP) of the 1996 EIR and the 1998 MND as specifically outlined in Addendum No. 194101.

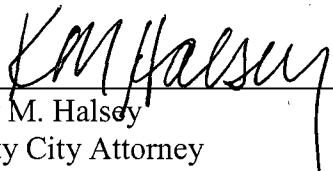
The Project has been conditioned through Site Development Permit No. 685774 and Neighborhood Use Permit No. 873083 to comply with the development regulations in effect for the subject property as set forth in the Land Development Code, and will be required to obtain building permits to show that construction will comply with all applicable Building and Fire Codes. As conditioned, the proposed shopping center development will comply with the development regulations, standards, and policies in effect for the project site per the SY PDO, the SYCP, the SYRP and all other City regulations, policies, guidelines, design standards, and adopted land use plans applicable to this site, and will not be detrimental to the public health, safety or welfare.

3. The proposed development will comply with the regulations of the land development code including any allowable deviations pursuant to the land development code. The project proposes construction of a 140,000 square foot commercial retail shopping center on an 8.06 acre parcel located within the CT-2-3 Zone of the San Ysidro Planned District, the San Ysidro Community Plan (SYCP) area, and the San Ysidro Redevelopment Plan (SYRP) area. Per San Diego Municipal Code (SDMC) Section 1518.0202, the San Ysidro PDO regulations allow the consideration of variances to development standards through the Site Development Permit process in order to provide design flexibility resulting in a project which benefits surrounding properties and the community. The project includes a variance from SDMC Section 142.0407(b) to provide 14 trees along perimeter of the Vehicular Use Area (VUA), where a minimum of 11 trees within the VUA is required; a variance from SDMC Section 142.1240(c) to allow construction of a monument sign with 168 square feet of copy area, where 150 square feet of ground sign copy area would be allowed; and a variance to SDMC Section 142.1225 to allow approximately 444 square feet of combined wall sign area where 350 square feet is allowed. Allowing the project flexibility in the VUA landscaping will result in an equivalent amount of shade at the perimeter of the parking lot and will support the SYCP goal of enhancing the pedestrian environment. Allowing a larger sign copy area will improve visibility and identification of the project from the major intersection of Camino de la Plaza and Virginia Avenue, implementing the International Gateway objective to create a sense of entry into the community through special treatment of all major entry points. The Land Development Code allows the applicant to request each of these variances, and other than the requested variances, the project as proposed complies with all applicable regulations of the Land Development Code.

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

BE IT FURTHER RESOLVED, that Site Development Permit (SDP) No. 685774 and Neighborhood Use Permit (NUP) No. 873083 is hereby granted to Shamrock/Las Americas Venture I, LLC, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Keely M. Halsey
Deputy City Attorney

KMH:als
10/05/12
10/22/12 COR.COPY
10/25/12 REV.COPY
Or.Dept:DSD
Doc. No.: 446478_3

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR

RECORDER'S USE
INTERNAL ORDER NUMBER: 24000211

SITE DEVELOPMENT PERMIT NO. 685774
NEIGHBORHOOD USE PERMIT NO. 873083
RESCISSION OF SITE DEVELOPMENT PERMIT 182929/ CONDITIONAL USE PERMIT
8283921
OUTLETS AT THE BORDER PROJECT NO. 194101 [MMRP]
CITY COUNCIL

This Site Development Permit No. 685774 and Neighborhood Use Permit No. 873083 is granted by the City Council of the City of San Diego to SHAMROCK/LAS AMERICAS VENTURE I, LLC, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) Sections 126.0504 and 126.0203. The 8.06 acre site is located west of Virginia Avenue immediately north of the United States and Mexico International Border in the CT-2-3 Zone of the San Ysidro Planned District, the Coastal Height Limit Overlay Zone, the San Ysidro Community Plan, San Ysidro Redevelopment Area and the Federal Aviation Administration (FAA) Part 77 Noticing Area of Brown Field. The project site is legally described as Parcel 3, 2004 East Side Map, Map No. 19628 recorded on December 16, 2004, in the Official Records of the San Diego County Recorder's Office as file No. 2004-1184765.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a 140,000 square foot commercial retail development, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated Oct. 22, 2012, on file in the Development Services Department.

The project shall include:

- a. Phased construction of a 140,000 square foot commercial retail development:

- (1) Phase 1: Construction of a total of 136,000 square-feet of retail development (Buildings E-1, E-2, E-3, E-4, E-5) and an approximately 6,000 square foot public plaza.
 - (2) Phase 2: Construction of an additional 4,000 square-feet of retail development (Building E-6) for a total site development of 140,000 square-feet of retail development.
- b. Variances as follows:
- (1) Vehicular Use Area (VUA) Tree Distribution: Variance to SDMC Section 142.0407(b) to allow the project to provide 14 large canopy trees within 5-ft of the perimeter of the VUA, where a minimum of 11 trees located inside the VUA would be required.
 - (2) Ground Sign Copy Area: Variance to SDMC Section 142.1240(c) to allow construction of a monument sign with 168 square feet of copy area, where 150 square feet of ground sign copy area would be allowed.
 - (3) Wall Sign Copy Area: Variance to SDMC Section 142.1225 to allow approximately 444 square feet of combined wall sign area where 350 square feet is allowed.
- c. Two (2) signs with automatic changing copy in accordance with SDMC 141.1105 (Sign C and Sign M per Sign Plan Exhibit A);
- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Vacation of an existing drainage easement and dedication of a new drainage easement via Easement Abandonment No. 873084;
- f. Off-street parking;
- g. Cancellation of Site Development Permit 182929 and Conditional Use Permit 8283921 upon issuance of the first grading permit;
- h. 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.

2. 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.
3. 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.
4. 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.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. 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.).
7. The Owner/Permittee shall secure all necessary building 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.
8. 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.
9. 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.

10. 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:

11. 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.

12. The mitigation measures specified in the MMRP and outlined in Addendum No. 194101 to Environmental Impact Report SCH No. 95-101015, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the MMRP as specified in Addendum No. 194101 to Environmental Impact Report SCH No. 95-101015 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 for the following issue areas:

- Transportation
- Paleontology
- Archaeology
- Utilities
- Public Health & Safety

ENGINEERING REQUIREMENTS:

14. The project proposes to export no material from the project site. Any excavated material that is exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2003 edition and Regional Supplement Amendments adopted by Regional Standards Committee.

15. The drainage system proposed for this development, as shown on the site plan, is public and private, and subject to approval by the City Engineer.

16. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

17. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

18. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

19. Prior to the issuance of any construction permit the Owner/Permittee shall provide evidence of coverage under the General Industrial National Pollutant Discharge Elimination System, in the form of a Notice of Intent (NOI) filed with the State Water Resources Control Board.

20. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

21. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99 08 DWQ.

22. Prior to the issuance of any construction permit the Owner/Permittee shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, consistent with the approved Water Quality Technical Report.

23. Any party, on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within 90 days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code 66020.

LANDSCAPE REQUIREMENTS:

24. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.

25. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the Development Services Department for approval. Improvement plans shall take into account a 40 sq-ft area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

26. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. Construction plans shall take into account a 40 sq-ft area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.

27. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

28. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

29. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.
30. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, consistent with the Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity.
31. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

32. All fences constructed on site shall be of wrought iron, wood, concrete or other masonry materials. Plant materials, including thorned species, may be used in lieu of fencing where appropriate.
33. Title 24 Energy Efficiency: All buildings shall install high-efficiency HVAC systems designed with programmable thermostats to ensure HVAC loads will exceed 2008 Title 24 Energy Efficiency Requirements by a minimum of 20%.
34. Title 24 Energy Efficiency - "Savings By Design": All buildings shall install a "cool roof" designed to reduce heat transfer to the building and saving energy use associated with air conditioning.
35. Prior to the issuance of a Certificate of Occupancy for the first building in Phase 1, the Owner/Permittee shall permit, assure by bond and commence construction of the Las Americas – Pedestrian Paseo & Plaza Improvements, including installation of landscaping and street trees, enhanced pavement and optional decorative banner poles on Camino de la Plaza, all as more fully described in and consistent with the Deferred Improvement Agreement between Shamrock/Las Americas Venture I, LLC and the City of San Diego, dated June 9, 2010, as amended.
36. 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.
37. All signs shall comply with San Diego Municipal Code Chapter 14, Article 2, Division 12 (Sign Regulations), except where Variances are allowed as described in this permit. Revolving signs shall not be installed on the premises.

38. Signs with automatic changing copy have been approved as a component of this project and the following shall apply:

- a. Signs with automatic changing copy may include only the following information:
 - (1) Time, temperature, weather, news, and other similar information;
 - (2) Messages pertaining to public events sponsored or promoted by civic, charitable, or other similar organizations; and
 - (3) Messages directing attention to any product that is available or establishment that is located on the premises at the time that the message is displayed.
- b. Display of messages and information on signs with automatic changing copy may be provided by the following method only:
 - (1) Message Center. A changing message contained within the sign area of the sign that remains constant for a minimum period of time with a total blackout between message changes. The message shall not travel or appear to travel in any direction.
- c. Automatic changing copy shall be electronically controlled and shall have a remote-control capacity.
- d. The sign copy area shall be reduced in light intensity at night by an automatic intensity control that is incorporated into the sign.

TRANSPORTATION REQUIREMENTS

39. Phase I Parking: For Phase I, development of a total of 136,000 square-feet of retail requires a minimum of 340 automobile spaces (including 7 standard accessible spaces and 1 van accessible space), 7 motorcycle spaces, 14 bicycle spaces with rack(s), and 5 loading areas shall be provided as required by the Land Development Code. 351 automobile spaces (including 7 standard accessible spaces and 1 van accessible space), 7 motorcycle spaces, 14 bicycle spaces with rack(s), and 6 loading areas will be provided per Sheet 1A (Interim Site Plan - Option 1/ Without GSA Port of Entry) of the project's approved Exhibit "A."

40. Phase II Parking: For Phase II, construction of an additional 4,000 square-feet of retail development (total site development of 140,000 square-feet of retail development), a minimum of 10 additional parking spaces (for a total of 350 automobile spaces, including 7 standard accessible spaces and 1 van accessible space), 7 motorcycle spaces, 14 bicycle spaces with rack(s), and 6 loading areas shall be provided as required by the Land Development Code. 390 automobile spaces (including 7 standard accessible spaces

and 1 van accessible space), 7 motorcycle spaces, 14 bicycle spaces with rack(s), and 6 loading areas will be provided per Sheet 1C ("Site Plan - Ultimate Build-Out") of the project's approved Exhibit "A."

41. 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 by the Development Services Director.

42. Owner/Permittee 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.

43. Virginia Avenue

- a) Irrevocable Offer to Dedicate: Prior to issuance of the first building permit, the Owner/Permittee shall record an Irrevocable Offer to Dedicate (IOD), to the benefit of the City, that dedicates additional right-of-way for Virginia Avenue (consisting of approximately 280 feet by 112 feet as shown on Sheet 1B (Site Plan) of the approved Exhibit "A") and gives the City the authority to execute the IOD in connection with any City purpose. At any time after December 31, 2016, the Owner/Permittee shall have the right to request that the City vacate the IOD.
- b) Public Improvements: Prior to issuance of the first building permit, the Owner/Permittee shall assure by permit and bond, or secure through a Deferred Improvement Agreement (DIA), the following improvements satisfactory to the City Engineer:
- Construction of a current City Standard curb, gutter and sidewalk, adjacent to the site on Virginia Avenue;
 - Construction of an 18" RCP Public Storm Drain in the Virginia Avenue Right-of-Way;
 - Construction of current City Standard Schedule 'J' pavement, adjacent to the site on Virginia Avenue;
 - Construction of a current City Standard SDG-114 driveway, adjacent to the site on Virginia Avenue;
 - Installation of 4 street lights adjacent to the site on Virginia Avenue per the City of San Diego Street Design Manual-Street Light Standards, and Council Policy 200-18.
 - Either the construction of half-width improvements to Virginia Avenue (25 feet curb to centerline) with curb, gutter, and a minimum 5 foot wide non-contiguous sidewalk within a minimum 15 parkway including a 35 foot radius cul-de-sac at its southern terminus (including any additional

street dedication necessary for the construction of this cul-de-sac); or, dedication of additional right-of-way for Virginia Avenue of approximately 280 feet by 112 feet as shown on Sheet 1B (Site Plan) of the approved Exhibit "A."

Under the DIA option, the Owner/Permittee shall assure these improvements by permit and bond within 180 days after the earlier of the date, either the United States General Services Administration Department ("GSA") abandons construction of the San Ysidro Border Station or December 31, 2016, and shall start construction within two (2) years after that date. The City Engineer will terminate the DIA in the event that the City executes the IOD described in subsection a) above.

44. TDM plan: Prior to issuance of first building permit, Owner/Permittee shall submit a Transportation Demand Management (TDM) plan, satisfactory to the City Engineer. This TDM plan shall include, at a minimum, details of provision for a partially subsidized mass transit ridership program for employees of the retail development.

45. MMRP: Prior to issuance of first building permit, the Owner/Permittee shall assure by permit and bond the installation of a traffic signal at the intersection of I-5 NB Ramps/Via de San Ysidro and shall assure by permit and bond the installation of traffic signal interconnect between the signals at the I-5 NB ramps/Via de San Ysidro and I-5 SB ramps/Via de San Ysidro intersections, satisfactory to the City Engineer.

46. MMRP: Prior to issuance of first building permit, the Owner/Permittee shall assure by permit and bond the installation of a traffic signal at the intersection of Camino de la Plaza/Virginia Avenue intersection, satisfactory to the City Engineer.

47. MMRP: Prior to issuance of first building permit, the Owner/Permittee shall assure by permit and bond the installation of a second northbound left turn lane on East San Ysidro Boulevard at the intersection of Camino de la Plaza/East San Ysidro Boulevard, satisfactory to the City Engineer.

48. MMRP: Prior to issuance of first building permit, the Owner/Permittee shall assure the prohibition of parking on the north side of Calle Primera from Sycamore Road to Willow Road, satisfactory to the City Engineer.

49. MMRP: Prior to issuance of first building permit, the Owner/Permittee shall assure by permit and bond the widening of Calle Primera from just east of Sycamore Road to Via de San Ysidro for a length of approximately 300 feet to provide a 200 foot long westbound right turn lane on Calle Primera at Via de San Ysidro and a 60 foot long westbound left turn lane on Calle Primera on Sycamore Road, satisfactory to the City Engineer.

50. MMRP: Prior to issuance of first building permit, the Owner/Permittee shall assure the restriping of Willow Road to provide a northbound left turn lane (approximately 60 feet long) at one driveway on Willow Road just north of Willow Elementary School, satisfactory to the City Engineer.

51. MMRP: Prior to issuance of first building permit, if not already assured by others, the Owner/Permittee shall assure by permit and bond the addition of a westbound through lane with curb, gutter, and sidewalk, in the existing right-of-way to provide a total of two east bound and two west bound lanes on Camino de la Plaza between the I-5 SB ramps and Virginia Avenue, satisfactory to the City Engineer.

WATER REQUIREMENTS:

52. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of a 12-inch diameter water main within a 24' (Min.) water easement to provide fire flow and domestic demands for the project. The water main must be constructed from the existing 12-inch diameter water main in Virginia Street right-of-way adjacent to the project site. The water main must be connected to the existing 12-inch diameter water main within an existing water easement built per City drawing number 33103-9-D, in a manner satisfactory to the Director of Public Utilities.

53. The Owner/Permittee shall grant adequate water easements, including vehicular access to each appurtenances (meters, blow offs, valves, fire hydrants, etc.) for all public water facilities that are not located within fully improved public right-of-ways, satisfactory to the Director of Public Utilities. Easements shall be located within single lots, when possible, and not split longitudinally. Vehicular access roadbeds shall be a minimum of 24 feet wide and surfaced with suitable approved material satisfactory to the Director of Public Utilities and the City Engineer.

54. The Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Marshal, the Director of Public Utilities and the City Engineer. If more than two (2) fire hydrants or thirty (30) dwelling units are located on a dead-end water main then the Subdivider shall install a redundant water system satisfactory to the Director of Public Utilities.

55. The Owner/Permittee shall process encroachment maintenance and removal agreements, for all acceptable encroachments into the water easement, including but not limited to structures, enhanced paving, or landscaping; No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

56. Prior to the issuance of any building 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 Director of Public Utilities and the City Engineer.

57. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of any new water service(s) outside of any driveway, and the disconnection at the water main of the existing unused water service adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

58. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

59. The Owner/Permittee shall design and construct all proposed public water facilities in accordance with established criteria in the current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices.

WASTEWATER REQUIREMENTS:

60. Prior to the approval of the Ministerial Review, the Owner/Permittee shall record an Encroachment Maintenance and Removal Agreement (EMRA) for the proposed private sewer improvements that will encroach into the public right-of-way.

61. All proposed private sewer facilities located within a single lot 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.

62. All proposed public sewer facilities are to be designed and constructed in accordance with established criteria in the most current City of San Diego sewer design guide.

63. No trees or shrubs exceeding three feet in height at maturity may be located within 10 feet of any sewer facilities or access easements.

64. Prior to the issuance of any certificates of occupancy, all public water and sewer facilities shall be completed and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

65. The Owner/Permittee shall design and construct all proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego Sewer Design Guide and City regulations, standards and practices.

GEOLOGY REQUIREMENTS:

66. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.

67. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to exoneration of the bond and grading permit close-out.

INFORMATION ONLY:

- 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 Oct. 22, 2012 and by Resolution No. R-307763.

SDP No. 685774, NUP No. 873083
Date of Approval: _____, 2012

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Patricia J. FitzGerald
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.

SHAMROCK/LAS AMERICAS VENTURE I,
LLC, Owner/Permittee

By _____
Name:
Title:

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