

EMERYVILLE PLANNING COMMISSION

STAFF REPORT

Agenda Date: December 14, 2017

Report Date: December 7, 2017

TO: Planning Commission

FROM: Community Development Department
Miroo Desai, Senior Planner

SUBJECT: **Sherwin Williams – Public Park and Open Space Final Development Plan (FDP17-002)**

PROJECT LOCATION: North of Sherwin Avenue, west of Horton Street, east of the Union Pacific Railroad right-of-way, and south of Temescal Creek
(APNs: 49-1041-26-15 and -16)

APPLICANT: LMC Emeryville I Investor LLC
25 Enterprise #100
Aliso Viejo, CA 92656

OWNERS: SWACE, LLC, c/o The Sherwin-Williams Company
101 Prospect Avenue, N.W.
Cleveland, OH 44115
Attention: James C. Fallon, Timothy R. Muckley

City of Emeryville as Successor Agency to the
Emeryville Redevelopment Agency
1333 Park Avenue
Emeryville, CA 94608

PROJECT DESCRIPTION: Consideration of a Final Development Plan (FDP) for the public park and other public open spaces within the Sherwin Williams Planned Unit Development site. The Preliminary Development Plan (PDP) for the project was approved by the City Council on November 1, 2016. The project involves removal of two street trees (Hackberry trees) on Sherwin Avenue.

GENERAL PLAN DESIGNATION: Mixed Use with Residential
Park/Open Space

ZONING DISTRICT: Planned Unit Development (PUD-7)
Park Avenue District Overlay (P-A)

ENVIRONMENTAL

STATUS: Final Environmental Impact Report certified by the City Council on September 6, 2016 (Resolution No. 16-122). Since certification of the EIR, there have been no substantial changes in the proposed Project, substantial changes to the circumstances under which the project will be undertaken, and no new information of substantial importance, which would require preparation of a subsequent EIR under CEQA Section 21166 and corresponding State CEQA Guidelines Section 15162.

RECOMMENDED

COMMISSION ACTION:

1. Open public hearing and take testimony regarding the project.
2. Close public hearing and consider Staff Report and Resolution.
3. Adopt Resolution CPC No. FDP17-002 approving the project.

BACKGROUND

On November 1, 2016, the City Council unanimously approved the second reading of the ordinance for the Sherwin Williams Planned Unit Development, and the ordinance went into effect on December 1, 2016. The project will redevelop the former Sherwin Williams paint factory site and an adjacent City-owned parcel, including reuse of an existing 74,000 square foot significant structure for office use, construction of five new buildings that will accommodate approximately 500 dwelling units and a minimum of 2,000 square feet and a maximum of 8,000 square feet of commercial/retail space. The ground floor commercial space may include retail, restaurant, office, professional service, and other commercial uses allowed by the Planning Regulations. The project will also create two new streets: Hubbard Street extension and 46th Street and approximately 3.53 acres of public park/open space area on the City-owned property and in four “Park Open Space” parcels.

JANUARY STUDY SESSION COMMENTS

The Planning Commission provided comments to preliminary conceptual design plans at the January 26, 2017 meeting. One Commission felt that it should be like the High Line in New York with organic planting and sculptures. Installation of bleacher seating facing the railroad was suggested along with a need for a smooth transition between vegetation and hardscape. Other suggestions included installation of landscaping to attract wildlife, living walls, exercise equipment and a children’s play area near affordable housing building, and lots of public art. Another Commissioner stated that the park should have a strong theme and suggested a concept of a “circuit loop” of sculpture around the site. A concept called “Incredible Edibles” in Great Britain with raised beds of vegetables that anyone can pick was also suggested. A concern was expressed about the feeling of the “pass-through” with high walls on either side. It was also suggested that the sidewalks should meet minimum City requirements and be wider if possible.

A speaker from the public said that the design orientation of the park should be to the immediate neighborhood and that it should not be a destination park; the design should tie to the plaza at the end of Park Avenue; the children’s play area should be located near the affordable housing

building; the majority of the space should be unprogrammed and flexible; residents at Bay Street want the dog park at the north end, nearer to them; and public art should be distributed throughout the park. Another public comment was made regarding the recent adoption of the Public Art Master Plan and that the Sherwin Williams project was in the Park Avenue arts district. A need to carefully look at installation of the public art was suggested. In addition, a need to honor the history of the area was suggested and it was noted that this used to be site of the Oakland Trotting Park racetrack. It was also suggested that the Sherwin Williams paint factory be reflected in some form. A desire for trees that attract birds and landscaping that attracts butterflies and bees was also expressed.

APRIL STUDY SESSION COMMENTS

The Commission held a second study session on April 27, 2017, and was generally satisfied with the basic concept, stating that they were looking forward to seeing details regarding materials, play structures, benches, rest rooms and other design features. There was some discussion on the curved nature of bicycle pedestrian path connecting Horton Street and Hubbard Street Extension and whether the curvature would deter pedestrians who would prefer to see a clear path of travel. It was suggested that the path presented opportunity for a visual terminus as it connected at the new park. A similar opportunity for visual terminus at the end of 46th Street was also identified. It was noted that the bike share station should be located near the rest room and that locations of bicycle parking should be in open and clearly visible areas. The Commission cautioned against too many murals while acknowledging that walls on Building A and Building B-2 near the plaza area provided good opportunities for art work. A blanket of lights in the plaza was also suggested as it could be turned on and off and would provide a festive atmosphere in the space. A list of plants and that type of fauna each would attract was also requested. One citizen commented that the plans looked good so far and encouraged that the half basketball court be retained and that rooftop facilities in Building B-2 be open to the public.

OCTOBER STUDY SESSION COMMENTS

The Commission held a third study session on October 26, 2017 and was generally pleased with the overall design and details, including the programming and diversity of spaces, tree and plant palette, proposed sculptures, furniture, play structures, pollinator garden, and placement of the public rest room. A majority of the Commission requested that the “sport court” be redesigned as a full basketball court rather than a half court. Other requests from the Commission included an opening in the fence along the railroad tracks so that park users can see the trains passing by, more color variation in the concrete, a greater diversity of plant selection in some of the “districts”, and making the sidewalks along 46th Street as wide as possible. The Commission supported the placement of the applicant’s public art sculpture in the City park, which will require an agreement with the City for maintenance by the applicant. There were no public speakers at the October 26, 2017 study session.

APPLICANT RESPONSE AND CHANGES TO THE PROPOSAL

Attached to the staff report is a page by page description of changes that have been made to the plan set. In summary, the plans now include a regulation-size half basketball court; storage sheds and seating areas in the community garden; more lights along the east-west bicycle and pedestrian path; more water fountains; additional bicycle racks near building entrances and the basketball court; additional trash cans at key locations; a change in tree species on Sherwin Avenue from European Hackberry (*Celtis australis*) to Brisbane Box (*Lophostemon confertus*) to match the species on the south side of the street; and “sparkle flakes” added to the concrete unit pavers near the sculpture garden.

FINAL DEVELOPMENT (FDP) PROPOSAL

The overall programming of the park and open spaces have not been changed from the April Study Session plan set. Sheet LP-005 of the attached plans shows the approved Preliminary Development Plan site plan with overall programming for the entire site. Sheets LP-007 to LP-012 provide enlarged plans for the four design districts:

District 1 (Warehouse District);
District 2 (Park Districts A, B and C);
District 3 (Rail District); and
District 4 (Boulevard District)

District 1 - Warehouse (Sheet LP-007) includes the pedestrian connection between Horton Street and the Greenway as well as the gallery plaza between Building B2 and Building A. The path will have a two-colored concrete treatment while the plaza area will include two-colored concrete unit pavers (See Sheet LP-013: Hardscape). Moveable tables and chairs are proposed in the plaza area and Sheet LP0-25 provides manufacturer details on size and color.

District 2 – Park (A) (Sheet LP-008) includes a large multi-purpose lawn that could be used for group exercise, informal group sports, and special events. A sculpture is proposed at the north-west corner that serves as a “terminus” to the pedestrian path connecting Horton Street and the Greenway. Shaded seating is proposed along the perimeter of the lawn. A single use prefabricated restroom (“Portland Loo”) will be located to the southeast of the lawn outside the perimeter path adjacent to the Sherwin Avenue sidewalk. A community garden will include 4’x8’ raised garden beds. It is expected that the community garden will have a fence to secure the area. At this time, the type of fence has not been proposed. This sheet also provides the location of benches, tables and chairs, water fountains, and trash receptacles.

District 2 – Park (B) (Sheet LP-009) includes a children’s play area just east of the large lawn adjacent to Sherwin Avenue. This will accommodate interactive play structures with nearby shaded bench seats. Proposed play structures include a climbing net, slide and “paint can” play structure honoring the site’s former use. Manufacturer details of these structures are provided on Sheet LP-024).

District 2 – Park (C) (Sheet LP-010) includes an outdoor activity area proposed along the northern corner of the district between the Greenway and Building C with a half basketball court and a general activity area.

District 3 – Rail District (Sheet LP-011) incorporates the Greenway path with landscape buffer between the path and railroad as well as a dog park. The landscape buffer will include native plantings and a series of historical plaques and adult exercise stations along the length of the Greenway. Type of exercise equipment is shown on Sheet LP-023, and Sheet LP-024 provides details for plaques. A sculpture garden is also proposed in the area between Building C and Building D providing space for a permanent sculpture program. A dog park is proposed between Building D and the northern property line and proposes a variety of play structures for dogs that are shown on Sheet LP-024.

District 4 - Boulevard (Sheet LP-012) describes the landscape treatment along Hubbard Street Extension and the new 46th Street. These areas provide landscaping in the form of storm water treatment and some outdoor seating along sidewalks on Hubbard Street.

Landscape and Site Amenities. Sheet LP-013 provides a hardscape plan with Sheet LP-014 providing manufacturer details. Sheet LP-015 is the Landscape Plan (Trees) with Sheet LP-016 showing images of the proposed trees and the level of water usage. The shrub and ground cover plan on Sheet LP-017 divides the site into seven zones with Sheets LP-018 to LP-021 providing the proposed combination of shrub and ground cover in each zone. The sheets also note the species that attract bees and butterflies. Site amenities are summarized on Sheet LP-022 with manufacturer details outlined on Sheets LP-023 to LP-025. A preliminary lighting plan and preliminary photometric study are shown on Sheets LP-026 and LP-026A, respectively.

Tree Removal. The project involves removal of two street trees along Sherwin Avenue. These are European Hackberry (*Celtis australis*) trees with a size of 7” and 11” dbh (diameter at breast height). They are in fair to good condition and have created significant sidewalk displacement. Given that the trees are not big and that the entire Sherwin Avenue frontage is going to be replaced, it is a good opportunity to have a new row of trees installed in a good soil environment that would promote fast growth and minimize sidewalk damage.

The Urban Forestry Ordinance (UFO) in Chapter 10 of Title 7 of the Emeryville Municipal Code requires that, in granting a tree removal permit, the Planning Commission shall require “the planting of replacement trees of equal or cumulative diameter to the trees approved for removal and payment of the replacement value fee of the street tree(s) to be removed. When replacement of a tree of equal diameter is not feasible, for reasons related to site-specific conditions, replacement at the largest practicable diameter, as determined by the Planning Commission, shall be required. When the replacement tree cannot match the diameter of the tree to be removed, due to site-specific conditions, the Planning Commission shall require replacement planting of several trees of equal cumulative diameter to the tree being removed. In cases where the need for street tree removal is without fault of the property owner and the property owner is not otherwise responsible for maintenance of the street tree, or for other good cause shown, the Planning Commission may waive the requirement to plant a replacement tree of equal or cumulative value or payment of a replacement value fee.”

Staff recommends that the Commission waive the requirement to plant replacement trees of equal or cumulative diameter and payment of the replacement value fee. The project proposes to plant approximately 16 new street trees along Sherwin Avenue. In addition, the applicant is undertaking the cost of design and construction of a public park, Greenway, dog park, and other public open spaces. The proposed redesign of the park has been achieved with community input as well as input from the Parks and Recreation Committee, the BPAC, the Planning Commission and the City Council. Furthermore, a good faith effort has been made by the applicant and the City Arborist to preserve as many trees as possible.

CONFORMITY TO THE GENERAL PLAN AND CONSISTENCY WITH THE APPROVED PUD AND PRELIMINARY DEVELOPMENT PLAN

The General Plan land use designation of the proposed park and open space areas is Park/Open Space. The zoning for the site is Planned Unit Development (PUD-7). The PUD zoning and Preliminary Development Plan (PDP) for the project were approved by the City Council on November 1, 2016.

In approving an FDP, the Planning Commission must find that it substantially conforms to the PDP, and that any changes or conditions of approval specified by the City Council in its approval of the PDP have been met.

Specifically Conditions of Approval I.H (b), I.I; II.K; IV.C and G of the Planned Unit Development/Preliminary Development Plan (PUD13-001) that pertain to holding community meetings and soliciting comments on park design from various City Committees; approval of the Vesting Tentative Map for the project; dedication of land for public park and open spaces; installation of bike share station in the FDP plan; and soliciting comments on the park and open spaces design through a public process respectively.

The proposed FDP for the public park, Greenway and open spaces conforms with the approved PUD/PDP in terms of location and size, and is exactly as outlined in the approved PDP plans. All conditions of approval of the PDP have been met. Thus, in staff's view, the findings for approving the FDP can be made.

CONFORMITY WITH THE PARK AVENUE DISTRICT PLAN

The Park Avenue District Plan has the following guidelines for street trees and street furniture:

- All new street tree plantings should be *Ginkgo biloba* trees.
- Benches, trash cans and other street furniture should be made of metal and could include artistic motifs.
- The standard Emeryville light post should be used except on the Emeryville Greenway, where the light post designed for the northern sections of the Greenway should be used.

Although the Plan guidelines call for new trees to be *Ginkgo biloba*, trees the Commission felt that a variety in tree species was appropriate for the site. Street furniture and site amenities such as benches and trash cans are made of primarily metal with some wood tables and chairs. City

standard light poles are proposed on roads while Greenway light poles are proposed along the Greenway and the bicycle and pedestrian alleyway.

CONFORMITY WITH THE PARKS AND RECREATION STRATEGIC PLAN

The City's Parks and Recreation Strategic plan identifies a Recommended Park Program and Potential Program Elements for the Emeryville Greenway, including the portion through the Sherwin William site. The Recommended Park Program includes play for children; socializing, relaxing; picnicking/lunch; respite and solitude; games; recreation with dogs; exercise and fitness; viewing art; and walking, jogging, bicycling. The Potential Program Elements include education/learning and special events.

The project complies with the Parks and Recreation Strategic Plan by including play structures for small children, as well for older teenage children by proposing a regulation sized half basketball court. The fairly large green area in the Public Park provides ample opportunity for relaxing, socializing and picnicking while the Greenway, with adult exercise equipment at different locations, allows for exercise, jogging and bicycling. The proposed historical/interpretive plaques along the Greenway allows for education and learning while the lawn and the plaza areas allow opportunities for special events.

CONFORMITY WITH PUBLIC ART MASTER PLAN

The City's recently-adopted Public Art Master Plan proposes a Greenway Walk project on the existing Emeryville Greenway and its extension south on the path next to the railroad, on Horton Street, and on Sherwin Avenue. Potential art components include murals on the Sherwin-Williams site on buildings adjacent to the path; multimedia, artist-designed functional pieces such as bike racks and bollards; and crosswalk treatments.

The project complies with the Public Art Master Plan by including historical and informational plaques along the Greenway, crosswalk and pavement treatments as shown on Pages LP-12 and LP-13 of the FDP plans and having a portion of the bicycle racks to be "fun" racks.

COMMUNITY MEETING COMMENTS

The developer team has conducted two community meetings at ECCL, the first on December 30, 2016, and the second on April 6, 2017. Approximately 30 people attended the first community meeting, including Commissioner Barrera. The applicant, after a brief presentation, split the audience into four rotating groups and each group provided comments on possible programming for each of the four park open space areas. Approximately 12 people attended the second community meeting, including Council member Martinez and Commissioner Barrera. There were some clarifying questions particularly regarding the location of the restroom and the area designated for community garden. It was suggested that bike parking for the public should be included in the proposal and that it should be near the restroom. There was appreciation for the general aesthetic of the proposal.

PARKS AND RECREATION COMMITTEE COMMENTS

Parks and Recreation Committee first reviewed the proposal on February 15, 2017. Some suggestions such as two play areas for children of different ages and a dog park catering to bigger dogs have been incorporated while some features such as bocce ball court and tennis court have been eliminated as their feasibility was questioned.

The Committee reviewed the project for a second time at the July 19, 2017 meeting. The Committee generally appreciated the direction in which the plans were developing. They noted that more attention needed to be paid to the transition between the buildings and open spaces. It was suggested that seating and waste containers needed to be added to the small dog park area and that electrical outlets should be provided in the park area. Clarifications were sought for maintenance of various spaces including the proposed multi-media wall. The Committee recommended that flowering and fruiting trees that attracted pollinators and were bay-friendly should be used. They also recommended that the applicant consider adding “inclusive” features in addition to complying with ADA requirements for parks.

The Committee reviewed the plans for a third time at their November 15, 2017 meeting and recommended that the Planning Commission approve the project with the following features incorporated into the plans:

- Add “fun” bicycle racks
- Install an industry standard basketball half-court
- Add water facilities, seating and a small shed for storing equipment in the community garden

The above features have been incorporated through condition of approval (incorporation of “fun” bicycle racks) and plans (industry standard basketball half-court and development of the community garden, see Sheets LP-10 and LP-08).

BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE COMMENTS

The Bicycle and Pedestrian Advisory Committee reviewed the plans at their July 10, 2017 meeting. Committee was satisfied with the proposed location of the bike share station on Horton Street. The Committee recommended that bicycle racks be provided near all building entrances. The Committee reviewed the plans again on December 4, 2017 and recommended approval of the attached plans and suggested the locations of the Bike Fixit stations at the northern end of the Greenway and near the public park. This suggestion has been incorporated in the attached plans

CITY COUNCIL COMMENTS

The City Council reviewed the project at a study session on November 21, 2017. The Council generally liked the overall programming of the park and open spaces and had the following comments. There was a request that the community garden include a toolshed, seating and lighting, and that the plaza area near the art gallery space have moveable furniture. One Council member suggesting adding signs for trees that include edible fruit. The Council felt that the sculpture in the public park should be funded privately but that the selection of the sculpture

should include the Public Art Committee (PAC) process. There was mixed opinion on whether to have a full-sized or half-sized basketball court, but the Council decided to defer to the Planning Commission for the final decision, and indicated that, in either case, it should be a regulation-sized court.

STAFF COMMENTS

The project was reviewed by the Development Coordinating Committee (DCC) on October 11, 2017. Staff noted that the applicant had responded to some of the earlier comments by proposing dog agility equipment and adult exercise equipment; multiple historical interpretative plaques; seating near the dog park and a revised location of the restroom.

At the October 11 DCC meeting, it was suggested that more variety of shrubs be added in Zone G which then included only one shrub, Rosemary (*Rosmarinus var.*). (Sheet LP-017 and LP-021). It was noted that the proposed species of trees and shrubs had been reviewed by the City Arborist. Public Works staff noted that trash cans needed to be proposed along the Greenway and that inverted U type bicycle racks were the preferred bicycle racks. It was also suggested that a “bike fix-it” station be included on the site. There was also a discussion on including art features along the railroad fencing versus keeping the fence porous so that people and children could see trains passing by.

RECOMMENDATION

After hearing a presentation from the applicant and receiving public testimony, staff recommends that the Planning Commission approve FDP17-002 subject to the attached conditions of approval.

Attachments:

- (1) Summary of Project Changes
- (2) Resolution and Conditions of Approval
- (3) Sherwin Williams Public Park and Open Space FDP Plans

ATTACHMENT 1:

SUMMARY OF CHANGES FROM OCTOBER 26, 2017 STUDY SESSION

Sherwin Williams – Planning Commission Study Package/ FDP Submittal

LP-001 – Cover Sheet and Index

- Bike rack quantities updated

LP-005A – Composite Site Plan

- Sheet omitted

LP-005 – Open Space Site Plan

- Note number 11 added to indicate location of (2) existing Hackberry trees to be removed.
- Bike rack locations updated.
- Drinking fountain added near Community Garden

LP- 007 – Enlargement: District 1 – Warehouse

- #4 note removed as the Art Gallery will be shown for February FDP.

LP- 008 – Enlargement: District 2 – Park (A)

- Storage areas added at Community Garden

LP- 011 – Enlargement: District 3 – Rail District

- Drinking fountain relocated to near fenced entrances.

LP- 014 - Hardscape

- Grass Paving omitted as it is no longer being proposed.
- “with Sparkle Flakes” was added to Concrete Unit Pavers C to add paving interest at Sculpture Garden.

LP- 015 – Landscape (Trees)

- At the request of City Council Hackberry tree revised to Lophostemon confertus (to match existing trees along South side of Sherwin Ave.

LP- 016 – Landscape (Trees)

- At the request of City Council Hackberry tree revised to Lophostemon confertus (to match existing trees along South side of Sherwin Ave.

LP- 017 – Landscape (Trees)

- Sheet added to continue tree types and associated information updated to reflect design evolution

LP- 022 – Site Amenities

- Revised locations of bike racks along Emeryville Greenway and to include bike racks near building entry doors.
- Drinking fountain added to small dog area.
- Trash cans added at Gallery Plaza, near Lot 3, and 4.
- “Edible Plants” was added in Historical/ interpretive information legend.

LP- 024 – Site Amenities

- “Optional” was removed from Dog Park Water Fountain. Drinking fountains at Dog Park will be for humans and dogs.

LP- 025 – Site Amenities

- Sheet added to indicate proposed site amenities and general amenity information

LP- 026 – Preliminary Lighting Concept

- Added (3) Emeryville Greenway Lights between Lots 2 and 4.

RESOLUTION NO. FDP17-002

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EMERYVILLE APPROVING A FINAL DEVELOPMENT PLAN (FDP) FOR THE PUBLIC PARK, GREENWAY AND OPEN SPACES AND A TREE REMOVAL PERMIT FOR TWO STREET TREES ON SHERWIN AVENUE WITHIN THE SHERWIN WILLIAMS PLANNED UNIT DEVELOPMENT SITE, CONSISTENT WITH THE SHERWIN WILLIAMS PROJECT PLANNED UNIT DEVELOPMENT AND PRELIMINARY DEVELOPMENT PLAN (PUD13-001) APPROVED BY THE CITY COUNCIL BY ORDINANCE NO. 16-006 (APNs: 49-1041-26-15 and -16)

WHEREAS, on September 6, 2016, via Resolution No. 16-122, pursuant to the requirements of the California Environmental Quality Act (“CEQA”), the City Council certified a Final Environmental Impact Report (“EIR”) for a project consisting of up to 540 dwelling units, 94,600 square feet of commercial space, and the development of 90,605 square feet of open space on the former Sherwin Williams paint factory site (APN 49-1041-26-15) and the adjacent City owned parcel (APN 49-1041-26-16) (“City Parcel”) (collectively referred to as the “Site”); and

WHEREAS, On November 1, 2016 the City Council adopted Ordinance No. 16-006, the Sherwin Williams Planned Unit Development (PUD13-001), effective December 1, 2016, which adopted a Planned Unit Development zoning designation (PUD) and mitigation measures; approved a Preliminary Development Plan (PDP) for the Site; and authorized redevelopment of the Site, which includes the reuse of an existing 74,000 square foot significant structure for office use, construction of four new buildings that will accommodate approximately 500 dwelling units and a minimum of 2,000 square feet and a maximum of 8,000 square feet of commercial/retail space, which may include retail, restaurant, office, professional service, and other commercial uses allowed by the Planning Regulations, construction of two new streets, Hubbard Street extension and 46th Street, and development of approximately 3.53 acres of public park/open space area; and

WHEREAS, on January 5, 2017 LMC Emeryville I Investor LLC filed a Final Development Plan application for the public park, Greenway and other open spaces (“Project”); and

WHEREAS, the Planning Commission reviewed the Project at three study sessions held on January 16, 2017, April 27, 2017, and October 26, 2017; and

WHEREAS, on May 25, 2017, the Planning Commission adopted Resolution No. SUBDIV 16-002 approving a major subdivision permit for Vesting Tentative Map 8357 to reconfigure the Site (excluding City Parcel) into five building lots, four open space parcels, and one road parcel; and

WHEREAS, the City Council reviewed the Project at a study session held on November 21, 2017; and

WHEREAS, the Planning Commission held a duly and properly noticed public hearing on December 14, 2017 to solicit public comments and consider the proposed Final Development Plan for the Project; and

WHEREAS, the Planning Commission has reviewed and considered the staff report and attachments thereto, all public comments, and the Final Development Plan as set forth in this Resolution and the applicable provisions of the Emeryville Planning Regulations (“the Record”); now, therefore, be it

RESOLVED, that the Planning Commission hereby finds that the EIR (Resolution No. 16-122) applies to this Project, as since adoption of the EIR there have been no substantial changes to the Project as studied in the EIR, no substantial changes to the circumstances under which the Project will be undertaken and no new information of substantial importance requiring further environmental review, which would require preparation of a subsequent EIR under CEQA Section 21166 and corresponding State CEQA Guidelines Section 15162; and be it further

RESOLVED, that in approving this Final Development Plan the Planning Commission makes the following findings as required by Emeryville Planning Regulations Section 9-7.1004(b) and based on its review and consideration of the Record:

Final Development Plan Pursuant to Section 9-7.1004(b):

1. The final development plan substantially conforms to the preliminary development plan.

The proposed final development plan for the public park, Greenway and open spaces conforms exactly to the preliminary development plan.

2. Changes and conditions of approval specified by the City Council in its approval of the preliminary development plan have been met.

The project is consistent with the conditions of approval of the Sherwin Williams Preliminary Development Plan (PUD13-01) as approved by the City Council by Ordinance No. 16-006 on November 1, 2016. Specifically, Conditions of Approval I.H (b); I.I; II.K; IV.C and G of the Planned Unit Development/Preliminary Development Plan (PUD13-001) that pertain to holding community meetings and soliciting comments on park design from various City Committees; approval of the Vesting Tentative Map for the project; dedication of land for public park and open spaces; installation of bike share station in the FDP plan; and soliciting comments on the park and open spaces design through a public process respectively.

and be it further

RESOLVED, that the Planning Commission hereby approves Final Development Plan FDP17-002 for the public park, Greenway, and open spaces, and a Tree Removal Permit for two street trees located on Sherwin Avenue, all within the Sherwin Williams Planned Unit Development site, as outlined in the plans entitled “Sherwin Williams Final Development Plan Package” dated December 7, 2017 and subject to the Conditions of Approval as set forth in Exhibit A to this resolution, and waives the requirement to plant replacement trees of equal or cumulative diameter and payment of the replacement value fee.

APPROVED by the Planning Commission of the City of Emeryville at a regular meeting held on Thursday, December 14, 2017 by the following votes:

AYES: _____

NOES: _____ **ABSTAINED:** _____

EXCUSED: _____ **ABSENT:** _____

CHAIRPERSON

APPROVED AS TO FORM:

RECORDING SECRETARY

CITY ATTORNEY

CONDITIONS OF APPROVAL

**Sherwin Williams Public Park and Open Space
Final Development Plan (FDP17-002)
Exhibit A. Conditions of Approval
December 14, 2017**

Planned Unit Development/Preliminary Development Plan (PUD 13-001) (“PDP”), Conditions of Approval dated November 1, 2016 attached as an exhibit to Ordinance No. 16-006 and Vesting Tentative Map 8357 (SUBDIV16-002) (“VTM”) Conditions of Approval dated May 25, 2017, apply to FDP17-002 in addition to conditions outlined below. In the event of any inconsistencies between the Conditions of Approval for the PDP and the VTM and the conditions set forth below, the Community Development Director shall determine which condition of approval shall take precedence.

I. COMPLIANCE WITH APPROVALS

A. **PROJECT APPROVALS.** The project shall be constructed and operated in accordance with the following actions by the Planning Commission and as modified by these conditions:

1. A Final Development Plan for public park, greenway and public open spaces within Sherwin Williams Planned Unit Development Property (defined below in Condition I.G).

Any additional uses or design modifications, including signs, will require a separate application and approval. No private development-related signs shall be permitted in the Public Park, Open Space or the Greenway. Public Park, Open Space and Greenway related signs may be approved by the Community Development Director as part of the grading/building permit application review. The terms Public Park, Open Space and Greenway are defined below in Condition I.D.

2. A Tree Removal Permit to allow removal of 2 street trees on Sherwin Avenue.

3. All streets within the Sherwin Williams Planned Unit Development Property and frontages of Horton Street and Sherwin Avenue shall be constructed in conformance with the Final Development Plan (FDP17-002) and with approved

VTM (SUBDIV16-002). Any inconsistencies between FDP17-002 and VTM shall be reconciled by the Community Development Director and the Public Works Director.

- B. APPROVED PLANS. Final plans submitted for a building permit shall be reviewed by the Community Development Director to confirm that the plans substantially conform to the following except as modified by these Conditions of Approval: **[Planning]**
1. The drawings entitled, “Sherwin Williams Public Park and Open Space Final Development Plan”, LMC, A Lennar Company sheets LP-001 to LP-032 dated December 7, 2017.
- C. APPROVAL EFFECTIVENESS AND DURATION. In the event Applicant undertakes no construction pursuant to the PDP or action under the VTM, then Applicant shall have no obligation under these conditions of approval. Otherwise, this permit shall be valid for the term of the PDP and the VTM.
- D. INSTALLATION AND MAINTENANCE OF IMPROVEMENTS. All improvements shall be installed in accordance with these approvals, as well as the Conditions of Approval for the PDP and VTM (if applicable). Once constructed or installed, all improvements shall be maintained by the Applicant or the Master Association required to be formed pursuant to VTM Condition of Approval III.A.4.h (p. 16). Pursuant to PDP Condition of Approval II.K (p. 16) and VTM Condition of Approval III.D.4 (p. 21), prior to building permit issuance for the Property (defined below in Condition I.G), the parties shall enter into an operation and maintenance agreement for the Public Park, Open Space and Greenway to be approved by the City Council. The term “**Public Park**” refers to the area and improvements depicted on sheets LP-008 to LP-10 of the Approved Plans, and includes, but is not limited to the community garden, bathroom, tot lot, basketball court, and art. The term “**Greenway**” refers to the area and improvements depicted as the Greenway on sheet LP-011 of the Approved Plans. The term “**Open Space**” refers to all areas and improvements excluding Public Park Greenway as depicted on the Approved Plans. Minor changes to installations may be approved by the Community Development Director and Public Works Director.
- E. COMPLIANCE WITH THE MUNICIPAL CODE AND GENERAL PLAN. No part of this approval shall be construed to be a violation of the Emeryville Municipal Code or the General Plan. Operations on the Property (as defined in I.G) shall be conducted in a manner that does not create a public or private nuisance or otherwise violate the Emeryville Municipal Code.
- F. FAILURE TO COMPLY WITH CONDITIONS OF APPROVAL. If Applicant constructs buildings or makes improvements in accordance with these approvals,

but fails to comply with any of the conditions of approval or limitations set forth in these Conditions of Approval and does not cure any such failure within a reasonable time after notice from the City of Emeryville (“**City**”), then such failure shall constitute breach of the Park and Open Space Improvement Agreement entered into between the City and Applicant, and required by Condition II.D.2 (below) and VTM Condition of Approval III.A.3.h (p. 9) and allow for the City to exercise its right to cure the breach as provided for in the Park and Open Space Improvement Agreement. The City may also exercise any other remedies allowed at law or equity for Applicant’s failure to comply with these Conditions of Approval.

- G. APPLICATION TO SUCCESSORS IN INTEREST. These Conditions of Approval shall apply to any successor in interest in the Property. The term “**Property**” herein refers to the entire site subject to the PDP and includes the City-owned parcel (APN 049-1041-026-16), referred to herein as “**City Parcel**” unless otherwise specifically excluded. Applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this zoning approval.

II. GENERAL CONDITIONS

- A. INDEMNIFICATION. Applicant, its assignees, and successors-in-interest shall defend, hold harmless, and indemnify the City of Emeryville, the Bay Cities Joint Powers Insurance Authority and their respective officials, officers, agents and employees (the Indemnified Parties) against all claims, demands, and judgments or other forms of legal and or equitable relief, which may or shall result from: 1) any legal challenge or referendum filed and prosecuted to overturn, set-aside, stay or otherwise rescind any or all final project or zoning approvals, analysis under the California Environmental Quality Act or granting of any permit issued in accordance with the Project; or 2) Applicant’s design, construction and/or maintenance of the public improvements set forth in the final building plans. Applicant shall pay for all direct and indirect costs associated with any action herein. Direct and indirect costs as used herein shall mean but not be limited to attorney’s fees, expert witness fees, and court costs including, without limitation, City Attorney time and overhead costs and other City Staff overhead costs and normal day-to-day business expenses incurred by the City including, but not limited to, any and all costs which may be incurred by the City in conducting an election as a result of a referendum filed to challenge the project approvals. The Indemnified Parties shall promptly notify the Applicant, its assignees, and successors-in-interest of any claim, demand, or legal actions that may create a claim for indemnification under this section and shall fully cooperate with Applicant, its assignees and successors-in-interest. [**City Attorney**]

B. PRIOR TO ISSUANCE OF A GRADING/BUILDING PERMIT

1. Fees, Dedications and Exactions. Conditions of Approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions, attached as Exhibit A. Pursuant to Government Code Section 66020(d)(1), this set of Conditions of Approval constitutes written notice of a statement of the amount of such fees and a description of the dedications, reservations and other exactions. Applicant is hereby further notified that the 90-day approval period in which these fees, dedications, reservations and other exactions may be protested, pursuant to Government Code Section 66020(a) will begin upon approval of the aforementioned project approvals by the City of Emeryville Planning Commission. If Applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, Applicant will be legally barred from challenging such exactions.

Prior to the issuance of a grading/building permit, the Building Official shall confirm that all applicable fees due at the issuance of a grading/building permit have been paid. **[Building]**

2. Cost Recovery Planning Fees. Prior to the issuance of a grading/building permit, the Community Development Director shall confirm that all cost recovery planning fees have been paid to date. **[Planning]**

C. PRIOR TO THE FINAL INSPECTION OF GRADING/BUILDING PERMIT FOR PARK, OPEN SPACE AND GREENWAY

1. Fees, Dedications and Exactions. Prior to the finalization of grading/building permit, the Building Official shall confirm that all applicable fees due at the finalization of grading/building permit have been paid. **[Building]**
2. Cost Recovery Planning Fees. Prior to the finalization of grading/building permit, the Community Development Director shall confirm that all cost recovery planning fees have been paid in full. **[Planning]**

D. PRIOR TO THE ISSUANCE OF ANY GRADING/BUILDING PERMIT TO THE APPLICANT FOR THE PROPERTY SUBJECT TO THE PDP:

1. Dedications. Prior to the issuance of any grading/building permit for the Property (excluding City Parcel), Applicant shall irrevocably offer for dedication public easements in a form approved by the City Attorney for all Open Space, Greenway and Public Park areas as depicted on the Approved Plans, which includes, but is not limited to: a 20 foot wide public access easement connecting Lot 1 to Parcel B as depicted in the

VTM, an easement through Lot 1 from Horton Street to the aforementioned public access easement connecting Lot 1 to Parcel B the width of the pass-through in the building located on Lot 1 as depicted in the VTM, a 20 foot wide public access easement connecting the City Parcel to the Horton Landing Park site north of the Property, and easements for public access/open space purposes across Parcels C, D and E as depicted in the VTM.

An easement on Parcel B as depicted in the VTM shall be dedicated to the City for public park and open space purposes in accordance with Condition of Approval III.A.3.h of the VTM (p. 9) in a form approved by the City Attorney. The easement shall allow for temporary construction staging and temporary parking by the Applicant for no more than five years from the date the Offer of Dedication is made. **[City Attorney/Public Works]**

2. Prior to the issuance of any grading/building permit to the applicant for the Property, the Applicant shall enter into a Park and Open Space Improvement Agreement with the City to obtain all applicable approvals for design and ensure the faithful performance of the design, construction, installation and inspection of the Public Park, the Greenway and the improvements along Sherwin Avenue and Horton Street as required by VTM Condition of Approval III.A.3.b, secured by good and sufficient payment, performance, and one (1) year warranty bonds or cash deposit adequate to cover all of the costs, inspections and administrative expenses of completing such improvements in the event of a default. The value of the bonds or cash deposit shall include 150% of the cost of construction based on prevailing wage rates. The value of the warranty bond or cash deposit shall be equivalent to 10% of the value of the performance security. The Park and Open Space Improvement Agreement shall provide for security to be released in portions as work is completed and accepted. The Park and Open Space Improvement Agreement shall provide that if more than two years lapse from the date of issuance of a temporary certificate of occupancy for any building on Lots 2, 3, 4 or 5 as depicted in the VTM without the issuance a building permit for a subsequent building, the Developer shall be obligated to begin construction of the park within 180 calendar days upon notice from the Public Works Director to proceed with construction of the park. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given. The Park and Open Space Improvement Agreement may be approved by the City Manager as recommended by the City Engineer and approved as to form by the City Attorney pursuant to Emeryville Municipal Code Section 9-6.603. Among other requirements, the Park and Open Space Improvement Agreement shall require Applicant to make an initial deposit of \$25,000 with the City

to cover actual costs of Public Works Plan Check on a cost recovery basis. The Park and Open Space Improvement Agreement shall also require the Applicant to make an initial deposit of \$25,000 with the City to cover the actual cost of Public Works Inspections on a cost recovery basis. The Applicant shall be responsible to maintain a sufficient balance of funds in the cost recovery accounts for the plan check and public works inspections services. If funds are not received within 30 days of invoicing by the City, the City may stop said services until payment has been received.

Prior to the issuance of any grading/building permit for the Property (excluding City Parcel), the City Engineer shall approve the plans and specifications for the Public Park, Greenway and Open Space for the improvements in the Approved Plans (“**Approved Plans**”). The Applicant shall construct the Public Park, Greenway and Open Space in accordance with the Approved Plans.

4. Parking Deed Restriction. Prior to the issuance of any grading/building permit for the Property, applicant shall record a parking deed restriction as required by Condition of Approval Number III. B of the Planned Unit Development/Preliminary Development Plan (PUD13-001)

III. BUILDING AND CONSTRUCTION REQUIREMENTS

A. PRIOR TO ISSUANCE OF A GRADING/BUILDING PERMIT FOR THE PUBLIC PARK AND GREENWAY

1. Plans. Prior to the issuance of a grading/building permit, the Building Official shall verify that the title sheet for the building permit drawings contains the following: **[Building]**
 - a. Permit number.
 - b. Zoning district.
 - c. Lot area in square feet.
 - e. Total number of bicycle parking spaces
 - f. Total Impervious Surface area in square feet (from "Impervious Surface and Stormwater Treatment Measures - Final Form" provided by the City of Emeryville Public Works Department).
 - g. Scorecard Summary from the most recent Bay-Friendly Landscaping Guidelines checklist, as developed by StopWaste.org. (with electronic version with notes on claimed points to be emailed to the Emeryville Public Works Department Environmental Programs Staff person.)
2. Compliance with Applicable Codes. Prior to the issuance of a grading/building permit, the Building Official shall confirm that the

building permit plans, specifications and other related information conform to the California Codes in effect at the time, and all other applicable local ordinances. Compliance with the California Codes and local ordinances shall include, but not be limited to, seismic and geotechnical requirements for Seismic Zone 4, and Title 24 energy conservation and disabled access requirements. **[Building]**

3. Utility Service. Prior to the issuance of a grading/building permit, the Building Official shall confirm that the building permit plans, specifications and information include detailed plans for providing water, electrical, gas, telephone, sewer, and other like utilities services to the site, including a review of the existing services to the site and measures or improvements on-site that will be required to adequately serve the site, including the location and design of transformers (if above ground and if required) and all connections. All new and existing on-site electrical and communication lines shall be placed underground. All transformers shall be placed underground unless prior permission is granted by the City to place them above ground, in which case they shall be screened from public view by fencing, dense landscaping, or other acceptable means. **[Public Works]**
4. Traffic and Parking Management Plan during Construction. Prior to issuance of a grading/building permit for any portion of the project, Applicant shall submit a Traffic and Parking Management Plan for review and approval by the Public Works Director. The plan shall include any City restrictions and limitations on using certain local streets for construction traffic, proposed truck delivery and haul routes, parking arrangements for construction personnel that minimizes use of public on-street parking in the vicinity of the project, ingress and egress, noise, efforts to address street debris and dust control and proposed on-site staging and equipment/material storage areas. **[Public Works]**
5. Construction Sign. Prior to the issuance of a grading/building permit, Applicant shall submit a construction sign for approval by the Community Development Director in accordance with the prototype provided. The sign shall be made of a permanent material with professional lettering. The sign shall be at least 3 feet by 4 feet with a minimum letter size of 3 inches. The sign shall include this information: the project name; name of the owner/developer; the name and phone number of a contact person, available at all times to address complaints and with the authority to control construction activity on the site; name and phone number of the contractor; and the approved hours of construction. The contact person should be the Noise Disturbance Coordinator listed below in Condition III.B.1.c.

The sign shall be posted at the time of placing temporary fencing and start of construction activity, and shall remain in place until temporary fencing is removed. At least one sign shall be placed along each public street frontage of the site in a location facing the street where the information can be easily read. Street frontages exceeding 300 feet in length shall have one sign per each 300-foot segment or fraction thereof. **[Planning]**

6. Fencing. Prior to the issuance of a grading/building permit, Applicant shall install temporary construction fence around the perimeter of the construction site that provides for continued pedestrian traffic meeting the standards of the Americans with Disabilities Act as approved by the Public Works Director. **[Public Works]**
7. Approval of Regulatory Agencies. Prior to the issuance of a grading/building permit, Applicant shall submit to the Building Official copies of all other permits necessary from the applicable regulatory agencies. **[Building]**
8. Approval of Hazardous Material Regulatory Agencies. Prior to issuance of a grading/building permit, the Applicant shall submit to the Community Development Director confirmation that: (1) the State of California Department of Toxic Substances Control (DTSC) has determined that the Property (excluding City Property) will be acceptable for its proposed purpose, following the successful implementation of the DTSC approved Implementation Plan Memorandum of the Soil Management Plan (IMP), Health and Safety Plan or similar documents requested by DTSC for redevelopment of the property that is subject of the permit (the "Environmental Plan"); (2) the City has approved the Environmental Plan; (3) the Community Development Director and Public Works Director have received copies of the Environmental Plan; and (4) the Applicant shall comply with all provisions of such approved remedial documents. **[Planning and Public Works]**
9. Archaeological Resources. Archaeological monitoring shall be conducted for construction-related ground disturbance. Project ground disturbance shall cease within 25 feet of an archaeological discovery or discovery of human remains. The archaeological deposit shall be evaluated in accordance with an Archaeological Monitoring and Evaluation Plan (AMEP) prepared and implemented for the project. The purpose of the AMEP is to ensure that significant archaeological deposits discovered during construction are identified, evaluated, and appropriately treated through the use of a pre-established research design and field evaluation strategy, consistent with the requirements of CEQA Guidelines §15126.4 (b)(3)(C). The AMEP shall be approved by the City well in advance of construction, and its implementation shall be made a condition of the

issuance of a grading or building permit for the project. The AMEP shall be prepared by professionals who meet or exceed the Secretary of the Interior's Professional Qualifications Standards in archeology. The AMEP shall include a construction monitoring component and an evaluation component. The monitoring component of the AMEP shall describe the specific methods and procedures for archaeological monitoring, including the frequency of such monitoring and notification procedures in the event archaeological deposits are identified. The evaluation component of the AMEP would guide fieldwork if archaeological resources or human remains are identified during monitoring. The purpose of this component is to establish the procedures and methods to evaluate the significance of discoveries made during archaeological monitoring, as well as the recovery and analysis of significant discoveries. The treatment of human remains during the evaluation process shall be addressed, including the respectful treatment of such remains in consultation with appropriate descendant communities.

- B. DURING CONSTRUCTION. Violations of the following conditions and any other applicable conditions may result in a stop work notice being issued or any other measures that the City deems necessary.
1. Construction Noise.
 - a. *Hours*. Unless the City Council grants a waiver allowing different construction hours pursuant to Section 5-13.06 of the Emeryville Municipal Code, construction hours shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, except that pile driving and similarly loud equipment, including but not limited to jack hammering, grading, compacting, dump trucks, generators, and chain saws shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday. In an urgent situation, the City Manager, Community Development Director, or Public Works Director may approve weekend or night work pursuant to Section 5-13.05(e) of the Emeryville Municipal Code.
 - b. *Equipment*. All heavy construction equipment used on the project shall be maintained in good operating condition, with all internal combustion, engine-driven equipment equipped with intake and exhaust mufflers that are in good condition and as deemed to be practically feasible. All non-impact tools shall meet a maximum noise level of no more than 85 dB when measured at a distance of 50 feet. All stationary noise-generating equipment shall be located as far away as possible from neighboring property lines especially residential uses.

- c. *Noise Disturbance Coordinator.* Applicant shall designate a “Noise Disturbance Coordinator” who shall be responsible for responding to any complaints about construction noise. The Noise Disturbance Coordinator shall determine the cause of the noise complaint and shall require that reasonable measures warranted to correct the problem be implemented. Applicant shall conspicuously post a telephone number for the Noise Disturbance Coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. The Noise Disturbance Coordinator shall be the contact person listed on the construction sign required by Condition III.A.5 above.
2. Traffic Measures. Applicant, through its contractor, shall implement comprehensive traffic control measures as set forth in the approved Traffic and Parking Management Plan, including scheduling of major truck trips and deliveries to avoid peak hours (normally 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.).
3. Street Debris. Mud, dirt and construction debris shall not be permitted in the public right-of-way. Failure to adequately sweep the streets may result in the City undertaking the effort at Applicant’s cost.
4. Dust Control Measures. Dust control measures shall be implemented including site-specific Best Management Practices (BMPs) that may include a combination of BMPs from:
 - a. Caltrans Stormwater Quality Handbooks, Construction Site Best Management Practice Manual. This manual is available online at:http://www.dot.ca.gov/hq/construc/stormwater/BMP_Field_Master_FullSize_Final-Jan03.pdf
 - b. The CASQA BMP Handbook, Construction, latest version (requires a subscription to CASQA)
 - c. New BMPs available since the release of these handbooks, and
 - d. Other BMPs shown to provide equivalent protection.
5. Archeological Resources.
 - a. Should paleontological resources be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be stopped and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the

discovery. If found to be significant, and project activities cannot avoid the paleontological resources, adverse effects to paleontological resources shall be mitigated. Mitigation may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Public educational outreach may also be appropriate. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review, and, if paleontological materials are recovered, a paleontological repository, such as the University of California Museum of Paleontology. The applicant shall inform its contractor(s) of the sensitivity of the project area for paleontological resources and shall include the following directive in the appropriate contract documents. The City shall verify that the following directive is included in the appropriate contract documents: "The subsurface of the construction site may be sensitive for paleontological resources. If paleontological resources are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Paleontological resources include fossil plants and animals, and such trace fossil evidence of past life as animal tracks."

- b. The treatment of human remains and of associated or unassociated funerary objects discovered during project ground disturbance shall comply with applicable State laws. This shall include immediate notification of the County Coroner, and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Public Resources Code Section 5097.98). The archeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5(d)). The agreement shall take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.

IV. PUBLIC IMPROVEMENTS

A. PRIOR TO ISSUANCE OF ANY GRADING/BUILDING PERMIT TO THE APPLICANT FOR THE PROPERTY

1. The Applicant shall be responsible for constructing the following Public Improvements throughout the Property in conformance with City of Emeryville Standards, the City of Emeryville Urban Forestry Ordinance, the Americans with Disabilities Act and implementing regulations, and the California accessibility regulations as shown on the Approved Plans and as required by the Conditions of Approval to the PDP and the VTM.

Prior to the issuance of any grading/building permit for the Property (excluding City Parcel), the Public Works Director shall confirm that detailed improvement plans and specifications have been prepared for:

- a. Constructing the improvements along Sherwin Avenue and Horton Street as required by VTM Condition of Approval III.A.3.b, which includes, but is not limited to, all new curb, gutter, and sidewalk on the Sherwin Avenue frontage and on Horton Street frontage in areas where existing driveways are no longer needed. All existing curb ramps abutting the Property shall be brought into ADA compliance. The replaced sidewalks shall match the finish of existing sidewalks including bricks, colored concrete and scoring. Installation of all landscaping and irrigation to meet Bay Friendly requirements.
 - b. The Public Park and Greenway.
 - c. Installation of all landscaping and irrigation to meet Bay Friendly requirements. Installation of all new street trees with a minimum 24" box size trees, with tree grates if required by the Public Works Director, including structural soil beneath the sidewalks as needed to achieve rootable soil requirements.
 - d. Preparing and implementing a tree protection plan for all trees to remain within the Property, particularly street trees along Horton Street. The applicant shall post bond deposit in the amount equal to replacement value of all trees to be protected and shall be responsible for replacing any tree that dies during construction of the complete Sherwin Williams PUD/PDP project.
2. Site Grading and Storm Drainage. Development that contributes additional stormwater to an existing off-site drainage facility shall be required to perform a hydraulic review of the off-site drainage systems and

shall be required to make improvements to the system as may be necessary to accommodate the additional stormwater flow. **[Public Works]**

3. Underground Utility Lines. All new and existing on-site electrical and communication lines shall be placed underground, including the existing utility lines to Union Pacific Railroad (UPRR) support facility, which shall be placed underground subject to the approval of UPRR.

B. PRIOR TO BEGINNING CONSTRUCTION IN THE PUBLIC RIGHT OF WAY OR CITY PARCEL

1. Encroachment Permit. Prior to beginning any construction in the public right of way, Applicant shall apply for and receive an encroachment permit for all work and improvements within the City's right of way or City easements. As required by the Public Works Director, Applicant shall post the required security in the form of a Performance and Payment Bond equivalent to 100% of the valuation of the project improvements plus triple the value of the trees to be protected, and provide evidence of liability insurance as part of the encroachment permit process. Applicant shall pay for all Public Works Inspection fees associated with work within the City's right of way **[Public Works]**
2. Right of Entry. Prior to beginning any construction on the City Parcel, Applicant and City shall enter into a right of entry agreement, approved by the City Council. Applicant shall post the required security in the form of Performance and Payment Bonds. **[Public Works/City Attorney]**

C. PRIOR TO THE FINALIZATION OF THE GRADING/BUILDING PERMIT

1. Completion of Public Improvements. Prior to the issuance of a temporary certificate of occupancy for the last new residential building on the Property, all Public Improvements approved by this Final Development Plan, shall be accepted by the City and open to the public. In the event that more than two years lapse from the date of issuance of a temporary certificate of occupancy for any building on Lots 2, 3, 4 or 5 as depicted in the VTM, without the issuance of a building permit for a subsequent building, the Applicant shall be obligated to begin construction of the Public Improvements within 180 calendar days upon notice from the Public Works Director to proceed. The Public Works Director shall confirm that all off-site and on-site public improvements are completed in accordance with the final building permit and improvement plans or that other arrangements acceptable to the Public Works Director have been made for ensuring that the work is completed, such as an irrevocable standby letter of credit. **[Public Works]**

D. ONGOING

1. Damage to Public Facilities. Applicant shall be deemed responsible for any damage to public improvements that occurs during construction and shall repair such damage at its expense and to the satisfaction of the Public Works Director, including but not limited to sidewalk repair, street slurry seal or street reconstruction.
2. Operation and Maintenance Agreement. Prior to building permit issuance for the Property (excluding City Parcel), the parties shall enter into an operation and maintenance agreement for the Public Park, Greenway and Open Space to be approved by the City Council. The operation and maintenance agreement shall provide that the Public Park will be operated by the Community Services Department, as all other public parks. The operation and maintenance agreement shall also provide that open space adjacent to the arts center (depicted as Parcel E in the VTM) may be made available for the exclusive use of events occurring at the arts center. The operation and maintenance agreement shall also address Applicant's obligations as set forth above in Condition I.D.

V. DESIGN CONDITIONS AND SITE STANDARDS

A. PRIOR TO ISSUANCE OF A GRADING/BUILDING PERMIT TO THE APPLICANT FOR THE PROPERTY

1. Plant Palette. Prior to the issuance of a grading/building permit for the Property (excluding City Parcel), Applicant shall submit a detailed landscaping and irrigation plan for the Public Park, Greenway, and Open Spaces the approval of the Community Development Director. The plans shall conform to Article 5 of Chapter 4 of Title 9 of the Municipal Code and Section B of the attached Stormwater Pollution Prevention and Source Control Measures. The plans shall include species, number of plantings, size of plantings and specifications for the irrigation system as well as soil test reports. The final plant palette including size of the plants shall be approved by the Community Development Director on the advice of the City Arborist. **[Planning]**
2. Landscape Plan. The Applicant shall submit a landscape plan for the Public Park, Greenway and Open Spaces for approval by the Public Works Director that includes the recommended depth and the amount of new top soil and/or amended existing top soil for proposed trees and other plant materials.
3. Bay Friendly Requirements. Pursuant to Article 6 of Chapter 4 of Title 9 of the Emeryville Municipal Code, the Applicant shall install all

landscaping and irrigation to meet the Bay Friendly requirements. The Applicant shall apply and obtain Bay-Friendly certification for the Property by achieving a minimum score of 60.

4. Lighting Plan. Prior to the issuance of a grading/building permit to the applicant for the Property, Applicant shall provide a revised lighting plan and associated photometric study for the Public Park, Greenway and Open Spaces approval by the Community Development Director and the Public Works Director. If the photometric study shows inadequate lighting in any portion of the Public Park, Greenway or Open Spaces, additional lighting shall be added as determined by the Public Works Director and Community Development Director. Additional light(s) shall be added in the sculpture garden to the satisfaction of the Public Works Director. A light pole with a timer may be required near the basketball court if deemed necessary by the Public Works Director.
5. Electrical Outlets in Public Park and Plazas. Electrical outlets shall be required and shown on the building permit plans in for the Public Park and Open Spaces. The type of electrical outlets to be installed shall be to the satisfaction of the Public Works Director.
6. Site Amenities. All site amenities indicated on Sheet LP-22 to LP25 including the bike share station on Horton Street and Bike Fix-it shall be purchased and installed by the Applicant. In addition, a portion of the proposed bicycle racks shall be non-City standard “fun” type racks.
7. Interpretative Plaques. All information on the historical and informative interpretative plaques shall be developed in consultation with, reviewed and approved by the Community Development Director prior to issuance of any grading/building permit associated with the Public Park and Open Space FDP.
8. Greenway Fencing. The fence along the western perimeter of the project Property shall match the fence along the western side of the railroad adjacent to the Bay Street development. The fence details shall be shown on the building permit plans.
9. UPRR Transformer. The UPRR transformer within the proposed community garden shall be screened with growing vines and other similar vertical growing plants.
10. Recycled Water. Applicant shall submit an application to East Bay Municipal Utility District (EBMUD) for a new reclaimed water service for the Property. The Applicant shall be responsible to pay all required fees to EBMUD for the new reclaimed water service. The irrigation system for

the site shall be designed using purple piping to comply with the City and EBMUD's requirements. **[Planning]**

11. Trash, Recycling and Composting Facilities. At time of submittal of project plans for grading/building permit plan check comments, the Applicant shall submit a Trash, Recycling and Composting Plan for review and comment by the City. Prior to the issuance of a grading/building permit, the Community Development Director and Public Works Director shall confirm that all comments received by the City and all improvements necessary for the Trash, Recycling and Composting Plan are incorporated into the project plans.
 - a. Install City-approved public litter containers (see City Street Furniture Catalog) at intervals approved by the Public Works Director along public walkways and sidewalks.
 - b. Install City-approved public litter container(s) 10 feet from the entrance/exit of any food-generating or food-selling store or eating establishment.
 - c. On the privately owned street and other areas, install City-approved public litter containers as in (a) and (b) above.
 - d. Installation and maintenance of both private and public litter containers in all spaces will be the responsibility of the developer and property management.
 - e. Collection from public litter containers on public City-owned property will be conducted by the City's trash hauler. These cans must be installed in accessible locations for the hauler. Submit suggested can locations on a plan sheet to City staff, to be approved by both the hauler and City staff.
 - f. Collection from public litter containers on the private property street, or internal areas that are inaccessible by the hauler, will be the responsibility of the property management.
 - g. In public places where food may be present, install a clearly-signed combined 3-compartment trash-recycling-compost litter station.
 - h. Install at least one City-approved public 3 compartment litter container in picnic areas, one per 3 picnic tables.
 - i. Dedicate and identify one single page for your Trash Management Plan, showing can locations and types of cans, distance from and

location of parking for trash collection truck and using notes to indicate who is responsible for installation, collection and maintenance, as included above.

- j. Refer to attached Trash Management Plan guidelines for other details.
12. Development Sign. The project is allowed one development sign indicating developer, architect, contractor, etc. during construction that shall not exceed twelve square feet. Other development/marketing signs may be approved administratively by the Community Development Director provided that they are removed prior to finalization of the grading/building permit. **[Planning]**
 13. Dog Waste Collection Bag Dispensers. The building permit plans shall include dog waste collection bag dispensers at locations specified by the Public Works Director.
 14. Public Art.
 - a. Prior to the issuance of a grading/building permit for the Property (excluding City Parcel), Applicant shall submit evidence of compliance with the Art in Public Places Ordinance (Article 4 of Chapter 2 of Title 3 of the Emeryville Municipal Code). This shall include a signed contract to commission or purchase art work; completion of the Public Art Requirement in Development Projects Form; submittal of sketches, renderings and site plan; artist scope of work in narrative; and artist's qualifications. Applicant shall install the artwork on the development site, and, at completion, shall provide high resolution photographs, and an artist statement. Alternatively, Applicant may pay the full amount of the in-lieu public art fee. If Applicant intends to install on-site art rather than pay the in-lieu public art fee, but has not supplied the above-specified information prior to the issuance of the grading/building permit, payment of the in-lieu public art fee shall be required and will be repaid to Applicant only at such time the above-specified information is provided to City. **[Economic Development]**
 - b. Sculpture Garden. The Applicant may use Public Art fees assessed for Sherwin Williams Architecture Final Development Plan (FDP-17-001) towards the commissioning of multiple pieces of art to be configured as a sculpture garden on the Property (excluding City Parcel). All art work shall be both visually and physically accessible from all view points of the art and ADA accessible.

Final location of the art is subject to the Community Development Director's approval. **[Economic Development]**

- c. Public Art on City Property: In addition, subject to City Council approval, the Applicant may use no more than 25% of the Public Art fees assessed for the Sherwin Williams Architecture Final Development Permit (FDP-17-001) for an art work to be installed at the terminus of the pathway from Hubbard Street to the City Parcel provided that the Applicant satisfies the following conditions: 1) submittal to the Public Art Committee (PAC) for review, possible revision, and recommendation; and acceptance by the City Council on recommendation of the PAC, and 2) prior to issuance of a grading/ building permit for the Public Park, the applicant enters into an ongoing maintenance agreement regarding the installed art, consistent with the Art in Public Places Ordinance (Article 4 of Chapter 2 of Title 3 of the Emeryville Municipal Code) **[Economic Development]**

B. PRIOR TO THE FINAL INSPECTION OF THE GRADING/BUILDING PERMIT

1. Completion of Landscaping. Prior to the final inspection of the grading/building permit, the project landscape architect shall confirm to the Community Development Director that all Property landscaping is completed and in accordance with the final grading/building permit and improvement plans, including off-site and public improvements, or that other acceptable arrangements acceptable have been made for ensuring that the work is completed, such as an irrevocable standby letter of credit to cover all costs of the unfinished work plus 25 percent. **[Planning and Public Works]**

C. ONGOING

1. Hours of Operation. The Public Park, and dog park (depicted as Dog Adventure Play Area on sheet LP-005 of the Approved Plans) shall maintain hours in accordance with Section 5-24.11 of the Municipal Code as it exists, and as it may be amended. Subject to Condition IV.D.2 above, all other Open Space and the Greenway shall remain open to the public at all times.
2. Bike Share and Bike Fixit Stations. All operation and maintenance costs of bike share station and Bike Fixit Station shall be the responsibility of the Applicant and its successors. This includes, but is not limited to, replacing any missing or damaged tools, pumps and signage.

VI. STORMWATER

A. GENERAL.

1. Design, Construction, Operation, and Maintenance. The project shall be designed, constructed, operated and maintained in accordance with the City of Emeryville's attached "Stormwater Pollution Prevention and Source Control Measures" ("Stormwater Measures"). In addition, compliance with Emeryville's Stormwater Ordinance, <http://www.codepublishing.com/CA/Emeryville/#!/emeryville06/Emeryville0613.html#6-13>, along with, as applicable, the latest technical guidance manual available from the Alameda County Clean Water Program, https://cleanwaterprogram.org/images/uploads/C3_Technical_Guidance_v6_Oct_2017_FINAL.pdf are required.
2. Cost Recovery. The Applicant shall pay cost recovery fees related to the verification of permanent stormwater treatment drainage facilities planned and implemented on the site. Fees will be charged for plan check and engineering analysis of stormwater treatment system, inspection during construction of stormwater treatment facilities, and inspection before the finalization of grading/building permit to verify that the stormwater treatment systems are properly functioning. Applicant shall also permit city representatives to perform inspection of said treatment facilities to enter the property during and after construction to perform said duties **[Public Works]**

B. PRIOR TO ISSUANCE OF A GRADING/BUILDING PERMIT TO THE APPLICANT FOR THE PROPERTY

1. Compliance with Stormwater Measures. At time of submittal of project plans for building permit plan check comments, the Applicant shall provide a separate C3 Stormwater Permit Packet and application to the Public Works Department for review and comment. Said Stormwater Permit shall be approved by the City prior to the issuance of a building permit. The project shall comply with the attached Stormwater Measures, in particular with the provision C.3 requirements (or new development section) of the City's NPDES Stormwater Permit and with plans and calculations showing how the project meets the numeric hydraulic sizing requirements as described in Section A of the City's Stormwater Measures document. The Applicant shall also provide calculations showing the percentage of on-site stormwater treatment through mechanical means and percentage of on-site treatment through vegetative means. If a portion of on-site stormwater treatment is through mechanical means, then the Applicant shall provide justification as to why all on-site treatment by vegetative means is not feasible. **[Public Works]**

2. Site Grading and Storm Drainage. Prior to the issuance of a building permit, the Public Works Director shall confirm that the building permit plans, specifications and information include detailed site drainage, grading plans and hydraulic calculations in conformance with the City's stormwater runoff requirements and specifications. All runoff from the site shall be intercepted at the project boundary, and shall be collected, treated and conducted via an approved drainage system through the Property to an approved public storm drain facility. Roof drainage from the structure shall be collected, treated and conducted to an approved drainage facility. No concentrated drainage of surface flow across sidewalks shall be permitted. Grading and drainage plans shall conform to Section A of the City's Stormwater Measures document. **[Public Works]**
 3. All storm drain inlets within the project and/or construction boundaries must be equipped with a full trash capture device approved by the San Francisco Regional Water Quality Control Board and the Alameda County Mosquito Abatement District. These full trash capture devices shall be purchased, installed and maintained by the applicant and their successors, and shall stay in operation until or unless stricter requirements are put in place by the City. A list of approved devices can be found at https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/rash_implementation/a1_certified_fcd.pdf.
 4. Site Plan. The site plan shall conform to Section B of the City's Stormwater Measures document. **[Public Works]**
- C. DURING CONSTRUCTION. Applicant and contractor shall comply with Section C of the City's Stormwater Measures document. **[Public Works]**
- D. PRIOR TO THE FINALIZATION OF GRADING/BUILDING PERMIT
1. Commitment to the Stormwater Pollution Prevention Practices. Prior to the finalization of grading/building permit, Applicant shall submit evidence of commitment to the stormwater pollution prevention practices, as detailed in Section D of City's Stormwater Measures document. **[Public Works]**
 2. Completion of Construction of Stormwater Treatment Systems. Prior to finalization of grading/building permit, the Public Works Director shall confirm that the stormwater treatment systems are properly installed and functioning. **[Public Works]**

Attachments:

- Fee Chart
- Construction Sign Prototype

Trash Management Plan Guidelines
Stormwater Pollution Prevention and Source Control Measures

PROJECT

1450 Sherwin Ave - Sherwin Williams Park Open S

PRELIMINARY FEE CALCULATIONS

Valuation

\$ 3,300,000.00

Print Date: November 30, 2017

SUMMARY OF ALL FEES	FEES	PAYMENT DATE	AMOUNT PAID	AMOUNT DUE	NOTES
Building Permit Fee	\$ 26,400.00			\$ 26,400.00	
Plan Review Fee	\$ 17,160.00			\$ 17,160.00	
Energy Review Fee	\$ 3,300.00			\$ 3,300.00	
Electrical Permit Fee	\$ 5,280.00			\$ 5,280.00	
Plumbing Permit Fee	\$ 4,752.00			\$ 4,752.00	
Mechanical Permit Fee	\$ -			\$ -	Assumed no Mechanical
S.M.I.P.	\$ 924.00			\$ 924.00	
Microfiche	\$ 264.00			\$ 264.00	
Fire Department Fees	\$ -			\$ -	
Fire Suppression Fees	\$ -			\$ -	
Sewer Connection Fees	\$ -			\$ -	TBD @\$265/trap
Bay-Shell-Mound Contingent Fees	\$ -			\$ -	
Transportation Facility Fees	\$ -			\$ -	N.A.
School Fees	\$ -			\$ -	
Art In Public Places	\$ -			\$ -	N.A. per Amber Evans 11/30/17
Technology Fee	\$ 3,300.00			\$ 3,300.00	
Building Standards Commission Fee	\$ 132.00			\$ 132.00	
General Plan Maintenance Fee	\$ 16,500.00			\$ 16,500.00	
Affordable Housing	\$ -			\$ -	N.A.
Park and Recreation	\$ -			\$ -	N.A.
TOTAL:	\$ 78,012.00		\$ -	\$ 78,012.00	78,012.00

FEES TO BE PAID AT PLAN CHECK SUBMITTAL:					
Plan Review Fee	\$ 17,160.00		\$ -	\$ 17,160.00	
Energy Review Fee	\$ 3,300.00		\$ -	\$ 3,300.00	
Other Fees	**				
Sub Total:	\$ 20,460.00		\$ -	\$ 20,460.00	

FEES TO BE PAID AT PERMIT ISSUANCE:					
Building Permit Fee	\$ 26,400.00		\$ -	\$ 26,400.00	
Electrical Permit Fee	\$ 5,280.00		\$ -	\$ 5,280.00	
Plumbing Permit Fee	\$ 4,752.00		\$ -	\$ 4,752.00	
Mechanical Permit Fee	\$ -		\$ -	\$ -	
S.M.I.P.	\$ 924.00		\$ -	\$ 924.00	
Microfiche	\$ 264.00		\$ -	\$ 264.00	
Fire Department Fees	\$ -		\$ -	\$ -	
Fire Suppression Fees	\$ -		\$ -	\$ -	Under separate permit
Sewer Connection Fees	\$ -		\$ -	\$ -	
Bay-Shell-Mound Contingent Fees	\$ -		\$ -	\$ -	
Transportation Facility Fees	\$ -		\$ -	\$ -	
School Fees	\$ -		\$ -	\$ -	
Art In Public Places	\$ -		\$ -	\$ -	
Technology Fee	\$ 3,300.00		\$ -	\$ 3,300.00	
Building Standards Commission Fee	\$ 132.00		\$ -	\$ 132.00	
General Plan Maintenance Fee	\$ 16,500.00		\$ -	\$ 16,500.00	
Affordable Housing	\$ -		\$ -	\$ -	
Park and Recreation	\$ -		\$ -	\$ -	
Sub Total:	\$ 57,552.00		\$ -	\$ 57,552.00	

Business License Fees	\$ 3,300.00				{Fees Calculated By Finance}
-----------------------	-------------	--	--	--	------------------------------

CITY OF EMERYVILLE CALCULATION OF BUILDING FEES:

PROJECT: 1450 Sherwin Ave - Sherwin Williams Park Open Sp. **PRELIMINARY FEE CALCULATIONS**
DATE: November 30, 2017
PREPARED BY: Courtney Barrett

FEES ARE BASED UPON THE VALUATION OF THE PROJECT. "VALUATION OF A BUILDING SHALL BE THE ESTIMATED COST TO REPLACE THE BUILDING AND STRUCTURE IN KIND, BASED ON CURRENT COSTS "

This fee calculation is based upon the information submitted to the Building Department.

FEES BASED ON VALUATION OF:		\$	3,300,000.00
TYPE OF PERMIT OR FEE		AMOUNT	
BUILDING PERMIT FEE (See calculation below)		\$	26,400.00
PLAN REVIEW FEE (65% of Building Permit Fee / 50% for Residential <)		\$	17,160.00
ENERGY CONSERVATION REVIEW FEE (12.5% of Building Permit Fee)		\$	3,300.00
ELECTRICAL PERMIT FEE (20% of Building Permit Fee)		\$	5,280.00
PLUMBING PERMIT FEE (18% of Building Permit Fee)		\$	4,752.00
MECHANICAL PERMIT FEE (17% of Building Permit Fee)		\$	-
S.M.I.P. (Res. <= 3 story = 0.00013 or 0.00028 of the Valu.)		\$	924.00
MICROFICHE	Valuation < \$ 100,000 = \$ 1.00/ Page.	# of Pages	
	Valuation > \$ 100,000 = 1% of Bldg. Permit F	Bldg.. Permit Fee * 1%	\$ 264.00
FIRE DEPARTMENT FEES (New Construction, T.I's - 35% of Building Permit Fee)		\$	-
FIRE SUPPRESSION FEES - Separate Submittal - (See calculation below)		\$	-
SEWER CONNECTION FEE * \$265.00 per Trap or \$1325.00 per Dwelling Unit	New traps - traps removed	\$	-
	Number of Dwelling Units		
BAY SHELLMOUND FEES		\$	-
TRANSPORTATION FACILITY FEE (effective July 1, 2016 - June 30, 2017)		\$	-
EMERY UNIFIED SCHOOL DISTRICT FACILITIES DEVELOPMENT FEE (See calculation below)		\$	-
ART IN PUBLIC PLACES (Commercial Projects > \$300k valu. Artwork or in-lieu fee -1% of valu.)		\$	-
TECHNOLOGY FEE (Effective February 3, 2010 - 0.1% of Valuation)		\$	3,300.00
BUILDING STANDARDS COMMISSION FEE (\$ 1.00 per \$ 25k Valuation)		\$	132.00
GENERAL PLAN MAINTENANCE FEE (Effective May 20, 2004 - 0.5% of Valuation)		\$	16,500.00
AFFORDABLE HOUSING (effective July 1, 2016 - June 30, 2017)		\$	-
PARKS AND RECREATION (effective July 1, 2016 - June 30, 2017)		\$	-
TOTAL		\$	78,012.00

*** Unable to determine the sewer connection fees at this time with the information provided.**

FEES ARE BASED ON THE USE, GROSS FLOOR AREA, TYPE OF CONSTRUCTION, NUMBER OF STORIES, AND NUMBER OF PLUMBING TRAPS. IF ANY OF THESE FACTORS CHANGE, THE FEES WILL CHANGE.

FEE PAYMENT SCHEDULE:

AT SUBMITTAL OF INITIAL BUILDING PERMIT APPLICATION AND PLANS:

- 1 Plan Review Fee for the Entire Project .
- 2 Energy Conservation Review Fee.

AT ISSUANCE OF FIRST BUILDING PERMIT

(All of the following fees shall be paid with the issuance of the first permit for phased permits.)

- 1 Building Permit Fee. (Plumbing, Electrical & Mechanical permits may be taken out by the General Contractor or by the subs. These permits may not be divided into phases. The entire sewer connection fee shall be paid with the plumbing permit.)
- 2 S.M.I.P
- 3 Microfiche Fee
- 4 Bay/Shellmound Contingent Assessment
- 5 School District Facilities Impact Fee
- 6 General Contractor's Business License
- 7 Art in Public Places: For non-residential projects exceeding \$300,000 valuation 1% of the project valuation is required for Art in Public Places.
- 8 Business Licenses: City of Emeryville Business Licenses are required from the contractor.

PRIOR TO OCCUPANCY OF THE BUILDING AND RELEASE OF THE FINAL UTILITY METER:

- 1 Traffic Impact Fee.
- 2 Any and all outstanding fees; including charges for review of changes to approved plans or increased fees due to increased project valuation.
- 3 Final business license fees will be calculated by the finance department for all projects with a valuation in excess of 1,000,000.00 (one million) dollars. These fees must be paid prior to building occupancy.
- 4 If public art is to be installed it shall be in place.

VALUATION CALCULATIONS:									
Type of Const.	Use	Number of Floors	Gross Floor Area	Square Foot Cost	Sprinklers + \$5.02	Air Cond. + 8.11/6.76	Modifier x 1.16	Story > 3, +5% ea.	Total Valuation
			(sq.ft.)	(\$)	\$5.02	\$8.11	1.16	(\$)	(\$)
N.A.	Park				\$ 5.02	\$ 8.11	\$ 8.11	\$ 8.11	\$ -
				\$ -	\$ 5.02	\$ 13.13	\$ 13.13	\$ 13.13	\$ -
					\$ 5.02	\$ 13.13	\$15.23	\$ 15.23	\$ -
Totals									\$ -
Exist. Bldg. Adjustment - 80% (No credit for existing sprinklers or HVAC)									
	W'House	3		\$ 53.10	\$ 55.50	\$ 55.50	\$62.72		\$ -
T.I. ONLY Adjustment * 20%									
				\$ -	\$ 1.00	\$ 2.63	\$ 2.97		\$ -
DECLARED VALUATION									\$ 3,300,000.00
TOTAL									\$ 3,300,000.00

BUILDING PERMIT FEE CALCULATIONS: (Valuation is the replacement cost of the project once it is completed.) Grading, Demolition and Fire Sprinkler Permits are calculated in the same way except that the contract price may be used instead of the valuation.				
TOTAL VALUATION		\$ 3,300,000.00		
VALUATION BASIS	AMOUNT	CENTAGE		TOTAL
\$ 1.00 - \$ 50,000.00	\$ 50,000.00	0.80%	\$	400.00
\$ 50,000.00 - \$ 250,000.00	\$ 200,000.00	0.80%	\$	1,600.00
Over \$ 250,000.00	\$ 3,050,000.00	0.80%	\$	24,400.00
BUILDING PERMIT FEE:			\$	26,400.00

EMERY UNIFIED SCHOOL FACILITIES DEVELOPMENT FEE CALCULATION: (D78)			
TYPE OF PROJECT	AREA	FEE/SQ.FT.	TOTAL FEE
Commercial		\$ 0.47	\$ -
Live/work		\$ 1.72	\$ -
Residential		\$ 2.97	\$ -
Existing Building Credit			\$ -
Low Income Housing Credit			\$ -
SCHOOL DISTRICT FEE:			\$ -

(School fees reflect the new fees effective May 29, 2007)

School Facilities Development Fees are due and payable at the Building Division at the time of issuance of the first building permit for the project. An applicant who believes the fee is not justified shall pay the fee and appeal directly to the Emery School District.

Construction Sign - Minimum 3" letters

XYZ PROJECT
ACE DEVELOPMENT COMPANY
Approved Construction Hours:
7am to 6pm
(Pile Driving 8am to 5pm)
Monday through Friday
Contractor: Acme Construction
123-456-7890
For complaints or concerns call
Joe Smith at 098-765-4321

3 feet

4 feet



CITY OF EMERYVILLE

Requirements for a Trash at New or Remodeled

Management Plan Projects

Please note: These requirements are based on City of Emeryville Municipal Code Section 9-4.704, for residential projects of 10 units or more, and non-residential projects of 10,000 square feet or more. In addition, for all projects, City Conditions of Approval, Alameda County Mandatory Recycling Ordinance 2012-01, the City and haulers' Franchise Agreement (references and link at end), and other considerations apply.

1. **Your plan set must include a page(s) dedicated to your Trash Management Plan (TMP). The TMP page submitted for a building permit must match the TMP page approved by City Planning.**
2. **Confirm that the hauler can collect as shown on your TMP. Confirmation must be shown by email with the hauler and City staff.**
3. **Storage of trash bins is never permitted in the public right-of-way (PROW). Setting out of trash in the PROW is permitted under certain circumstances, if approved by City staff.**
4. **Label everything, including but not limited to the following on that page:**
 - a) Any parking space designated for any trash collection truck must be 36' in length and 11 feet wide to accommodate the full length of the truck with loading forks deployed
 - b) If using public street parking spaces for trash collection truck parking, show signage and curb painted red, designed to reserve space for the collection truck .
 - c) A ramp, curb cut or driveway within 15 feet of front of truck to be used by hauler personnel for moving trash bins to and from the truck
 - d) Measurement of maximum distance of 50' from bin storage or staging location to the front of the truck
 - e) Lockable door or gate on an outside wall, within 15 feet of trash truck parking space, to an interior trash room, with locked door, where the hauler will access collection bins
 - f) Interior dimensions of trash room
 - g) Collection bins of adequate size for all 3 collection streams (trash, recycling & compost) inside the trash room(s). See *attached* bin size document. Contact Waste Management of Alameda County for help determining adequate bins and sizes for your project.
 - h) Disabled access, including the ability to open the tenant door to trash room
 - i) In public access spaces, such as retail show collection bins for customers for all 3 streams.
 - j) Ensure centralization and equal access to all collection stations and rooms wherever they are located.
 - k) Food-generating businesses must include food-scrap bins in convenient locations for employees and for customers (if bins are provided in customer area)
 - l) Paths of travel from all collection areas to trash room for all trash room users

All Projects:

1. Show path that tenants and employees will use when disposing of materials in waste collection bins
2. Franchised hauler (Waste Management of Alameda County or WMAC) is required to pull bins out for collection, and return them, provided measurements are as indicated in #4, c, d. and

e above. Bins are not to be set out for collection, or stored in the public right-of-way, unless approved by City staff.

3. Use notes on your TMP page to explain trash collection management plan if necessary, to describe what cannot be shown in the drawing.

4. Collection trucks access/staging:

a. Show how the Plan design avoids set-out of containers in public right-of-way (by default, unless approved otherwise by City staff) and allows for over-head emptying of collection bins with front loader truck (see 1c. under "Collection..." below), and

b. Provide sufficient length (36') of parking, to be reserved for this purpose to avoid parking and collecting from a traffic lane.

Collection of waste materials:

1. **From Conditions of Approval:** If located indoors, the trash, compost and recycling room(s) from which trash bins are pulled and emptied for collection must be located on an exterior wall of the building, with adequately-sized and lockable door or gate accessible to the street through the wall, optimally 15 feet from the collection vehicle, while parked in space provided.

a. A curb ramp must be located, in close proximity to the collection truck for rolling of trash bins to the FRONT of the truck.

b. For outdoor enclosures, see Outdoor Trash Management, 2. below.

c. If truck will be collecting on site, note that overhead clearance (from all overhead features including pipes, ductwork, etc..) necessary for emptying of trash bin is 25 feet. Check with Waste Management to verify this before finalizing plans for collection where overhead clearance may be obstructed.

2. **Per City of Emeryville Franchise Agreement:** The hauler is required to pull bins out from inside the trash room and replace them there, after collection. On-site personnel are not responsible for pulling bins out for collection.

Outdoor Trash Management:

Protect all outdoor disposal containers and enclosures for trash, recycling or compostables from rain intrusion, pursuant to the San Francisco Bay Area Municipal Regional Stormwater Permit (see References below), as with a roof for enclosures, or covered litter containers.

1. Public Litter containers:

a. Install City-approved public litter containers, per City Street Furniture Catalog, in public areas where public may gather, walk or sit, including pedestrian paths, sidewalks or café settings.

b. Ensure public litter containers are maintained. Public litter containers will be emptied by the City franchised hauler in public places near public streets. Maintenance, however, of these litter containers will be the responsibility of private property management.

c. Location of public litter containers as required by the City is required to be 10 feet from the entrance/exit of any food-generating or food-selling store or eating establishment.

d. Install cans at intervals between 250 and 300 feet apart along walkways and public sidewalks, if no retail or food areas are present.

e. Submit a single page for outdoor public litter cans, showing locations, distance from collection truck, designated parking place for collection truck and type of can. Use notes for description as necessary.

2. Outdoor eating areas, where planned:

a. Install 3 compartments stations, with clear signage describing "trash", "recycling" and "compostables" for outdoor eating areas, which must include compostables and recyclables alongside trash containers, to be considered a "station".

b. Install these stations central and visible to any eating area. Seek approval from City staff and City hauler for proper and accessible placement of these stations.

3. **Trash Enclosures (definition below):**

a. Outdoor recycling and trash collection areas shall be completely screened from off-site view by a solid fence or masonry wall at least six feet (6') high in harmony with the architecture of the building(s).

b. Outdoor enclosures must be protected from rain intrusion by a roof, preferably sloped to drain into a landscaped area.

c. Outdoor enclosures must be accessible by the collection truck. Location and access must be proven approved by the hauler (as in email statement or letter). Plans as submitted will not be considered approved by the City until and unless approved by the hauler.

c. Label roofing and all materials planned and identify locked entry accessible only to users and hauler

d. If outdoor enclosure is "walk-in", height of roof must be 7.5'.

e. A sanitary sewer drain, fire sprinklers, and roofing shall be provided per City standards. Inquire with City of Emeryville Building Department.

f. Show dimensions of enclosure. Illustrate adequate accommodation of appropriately-sized bins for proposed project use (i.e. type and size) and for all 3 discard streams

e. Show bins and their footprint sizes, inside enclosures and/or trash rooms, with identifying signage. See *attached* bin size document.

g. Refer to your Conditions of Approval for additional City requirements.

Indoor trash management:

As a general rule, for all projects, include recyclables and compostables wherever trash is shown, in trash rooms or any indoor infrastructure such as chutes, facilities or equipment.

1. **Trash collection container "stations"**

a. Show furnishings (cabinets, stations, built-ins or container clusters) that accommodate sorting of all 3 discard streams together.

Recommended: For optimum sorting, color-code containers black for trash, blue for recycling and green for compostables and include space for signage where possible.

b. Where any trash containers are shown, whether for the public or for employees, the default is to include recycling, and, if food is present, compostables. Consult with City staff for specifics.

2. **Trash rooms and chutes:**

a. Any indoor trash rooms or areas that are intended for hauler access and collection, shall be located on an exterior wall of the building, within 15 feet of the designated trash truck parking space, with an adequately sized door or gate that fits collection bins.

b. In residential projects, if a chute collection system is planned, chutes for 3 streams are required (trash, recyclables and compostables).

e. Show dimensions of both the room and appropriately-sized bins to adequately accommodate the 3 discard streams for planned use**

f. Illustrate whether and how the collection bins will be pulled to a collection staging area, if planned.

3. **Special Handling:**

From City of Emeryville Municipal Code Section 9-4.704, and in Conditions of Approval):

a. Banned from trash: Label an appropriately sized and designed area for wastes banned from regular trash containers such as electronics, fluorescent lamps and batteries.

b. Label an area for bulky item collection such as mattresses, furniture, tires and major appliances. Residential properties qualify for free collection. Contact City or WMAC.

c. Recommended (but not required): Include a recycling receptacle/area in the mail room/area for immediate disposal of unwanted mail.

Equipment

If a list of equipment to be purchased is included in your plans, include trash collection equipment (such as containers or stations) on this list.

Definitions:

“Hauler”: The City’s Franchised Hauler, Waste Management of Alameda County or WMAC (as of Jan. 2011).

“Path of Travel”: Route or routes recommended or expected to be used by users of the trash room or enclosure, including on-site and hauler employees.

“Public Right of Way” (PROW) refers to City streets and sidewalks, not privately owned property.

“Trash “bins” in this document is a “catch-all” phrase which may refer to any or all collection containers, indoor or out, recycling, compostables, dumpsters or carts.

“Trash collection Station”: An indoor location where three containers (trash, recyclables compostables or T/R/C) are either attached or placed together, forming a “station” for the public or site-employees to sort recyclables and compostables from the trash. Station containers are emptied into collection bins that are emptied by the hauler.

“Trash room”: An indoor room where collection bins for all three “streams” of materials (T/R/C) are stored behind lockable doors, between collection days. This room is usually accessible by on-site employees, residents or tenants, and, by hauler personnel, through a locking door on the outside wall.

“Trash enclosure”: An outdoor space, with lockable doors or gates and a weather-proof roof and walls, where collection bins for all three “streams” (T/R/C) are stored and where materials from inside are transferred or deposited.

****References:***

City of Emeryville Municipal Code Section 9-4.704 “Recycling and Trash Areas.”
<http://www.codepublishing.com/CA/Emeryville/#!/emeryville09/Emeryville094.html#9-4.704>)

Conditions of Approval for your project

Municipal Regional Stormwater Permit:

http://www.swrcb.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2009/R2-2009-0074.pdf

Alameda County Mandatory Recycling Ordinance: www.recyclingrulesac.org

Franchise Agreement between City of Emeryville and WMAC

<http://emeryville.org/DocumentCenter/View/8124>

****Note:** To contact or consult with **Waste Management of Alameda County (WMAC)**, for recommendations for bin volumes, sizes, requirements for any enclosure, access and truck maneuvering and space requirements, contact WMAC at - csnorthbay@wm.com; or (510) 613-8700 – Business, or Marcy Greenhut (below).

For additional information, contact:

It is recommended that you schedule a meeting with Marcy Greenhut, to review your TMP, early in the process.

Marcy Greenhut, Public Works
Environmental Programs Technician
mgreenhut@emeryville.org
510-596-3795

Navarre Oaks, Planning Dept.
Assistant Planner
noaks@emeryville.org
510-596-4362

Courtney Barrett, Building Dept.
Building Permit Technician/Plan Checker
cbarrett@emeryville.org
510-596-4310

**ATTACHMENT TO CONDITIONS OF APPROVAL
STORMWATER POLLUTION PREVENTION AND SOURCE CONTROL MEASURES
City of Emeryville
Revised 2/2016**

A. Grading and Drainage

1. Plans shall incorporate appropriate site design measures to minimize impacts to water quality. These may include, but are not limited to, the following: (a) minimizing impervious surfaces, especially directly-connected impervious surfaces, (b) clustering buildings, (c) preserving quality open space, (3) maintaining and/or restoring riparian areas and wetlands and establishing vegetated buffer areas to minimize the volume of stormwater runoff and the pollutants in the stormwater. The City has adopted an Ordinance that addresses approved treatment measures and sizing criteria, available on the City's website. A permit application and design worksheets are also on the City's website, at <http://www.ci.emeryville.ca.us/335/Stormwater>. Plans shall include stormwater pollution prevention and control features as required by the City's current NPDES permit.
2. The City of Emeryville requires that treatment measures be constructed for applicable projects, as defined in section C.3.c. of the City's NPDES permit. These measures must incorporate, at a minimum, the hydraulic sizing criteria outlined in the Alameda County Clean Water Program's Technical Guidance Manual, available at <http://www.cleanwaterprogram.org/c3-guidance-table/item/c3-guidance-table.html>.
3. The design of any stormwater treatment measures must incorporate the treatment control design guidance for vector control included in Appendix G of the Technical Guidance Manual.
4. Access to treatment devices must be maintained. Design stormwater treatment devices to be easily and safely accessible without the need for special requirements (e.g., OSHA requirements for "confined spaces.") If utilizing covers, include in the design spring-loaded or light-weight access hatches that can be opened easily for inspection.
5. All on-site storm drain inlets shall be stenciled or labeled "No Dumping! Flows to Bay" or equivalent, using methods approved by the City.
6. Construction access routes shall be limited to those approved by the City Engineer and shall be shown on the approved grading plan.
7. Prior to the commencement of any clearing, grading, and/or excavation resulting in a land disturbance of one acre or more, the applicant shall submit the following documents to the City, both of which should be checked daily, especially around storm events, and updated as necessary. A daily log should be kept stating that BMPs have been checked and are effective. The necessary documents are:
 - a. A copy of the project's Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall contain the erosion, sediment and pollution control BMPs (some of which are described in

Section C of this document), and the BMPs shall be in place before any work begins, as appropriate for that phase of construction.

- b. Evidence to the City that a Notice of Intent (NOI) has been submitted to the State Water Resources Control board.
8. For projects involving clearing, grading or excavation resulting in disturbance of less than one acre of land, the applicant shall have in place erosion, sediment and pollution controls (described in Section C of this document) to the maximum extent practicable using the current standard BMPs as required by the City.

B. Site Plan and Source Control Measures

The site plan shall include the following items:

1. Stormwater Measures and Calculations as Defined in the Technical Guidance Manual
2. Refuse and Recycling Areas
 - a. New or redevelopment projects such as food service facilities, recycling facilities, multi-family residential complexes or similar facilities shall provide a roofed and enclosed area for waste, recycling, and compostables containers. The area shall be designed to prevent water run-on to the area and runoff from the area and to contain litter and trash, so that it is not dispersed by the wind or runoff during waste removal.
 - b. Any drains installed in or beneath dumpsters, compactors, and tallow bin areas serving food service facilities shall be connected to a grease removal device and/or treatment devices prior to discharging to the sanitary sewer. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.
 - c. Runoff from food service areas, recycling areas, and/or food compactor enclosures or similar facilities shall not discharge to the storm drain system.
3. Vehicle/Equipment and Commercial/Industrial Cleaning
 - a. Wastewater from vehicle and equipment washing operations shall not be discharged to the storm drain system.
 - b. Commercial/industrial facilities having vehicle/equipment cleaning needs and new residential complexes of 25 units or greater shall either provide a roofed, bermed area for washing activities or discourage vehicle/equipment washing by removing hose bibs (faucets) and installing signs prohibiting such uses. Vehicle/equipment washing areas shall be paved, designed to prevent run-on to or runoff from the area, and plumbed to drain to the sanitary sewer. A sign shall be posted indicating the location and allowed uses in the designated wash area. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.

- c. Commercial car wash facilities shall be designed and operated such that no runoff from the facility is discharged to the storm drain system. Wastewater from the facility shall discharge to the sanitary sewer. The applicant shall contact EBMUD for specific connection and discharge requirements.
4. Loading Docks
- a. Loading docks shall be graded to minimize run-on to and runoff from the loading area [and/or be covered]. Roof downspouts shall be positioned to direct stormwater away from the loading area. Stormwater runoff from loading dock areas shall be connected to a post-construction stormwater treatment measure prior to discharge to the storm drain system. The applicant shall contact the local permitting authority for specific connection and discharge requirements.
 - b. Door skirts between the trailers and the building shall be installed to prevent exposure of loading activities to rain, unless one of the following conditions apply:: the loading dock is covered, or the applicant demonstrates that rainfall will not result in an untreated discharge to the storm drain system.
5. Food Service Equipment Cleaning
- a. Food service facilities (including restaurants and grocery stores) shall have a cleaning area for floor mats, containers, and equipment which is connected to a grease interceptor prior to discharging to the sanitary sewer system. The cleaning area shall be large enough to clean the largest mat or piece of equipment to be cleaned. The cleaning area shall be indoors or in a roofed area outdoors; in either case it must be plumbed to the sanitary sewer. Outdoor cleaning areas shall be designed to prevent stormwater run-on from entering the sanitary sewer and to prevent stormwater run-off from carrying pollutants to the storm drain. Signs shall be posted indicating that all food service equipment washing activities shall be conducted in this area. The applicant shall contact EBMUD for specific connection and discharge requirements.
6. Outdoor Process Activities/Equipment
(Examples of businesses that may have outdoor process activities and equipment include machine shops and auto repair shops, and industries that have pretreatment facilities.)
- a. Process activities shall be performed either indoors or in roofed outdoor areas. If performed outdoors, the area shall be designed to prevent run-on to and runoff from the area with process activities.
 - b. Process equipment areas shall drain to the sanitary sewer system. The applicant shall contact EBMUD for specific connection and discharge requirements.
7. Fuel Dispensing Areas
- a. Fueling areas shall have impermeable surfaces (i.e., Portland cement concrete or equivalent smooth impervious surface) that are: a) graded at the minimum slope necessary to prevent

ponding; and b) separated from the rest of the site by a grade break that prevents run-on of stormwater to the maximum extent practicable.

- b. Fueling areas shall be covered by a canopy that extends a minimum of ten feet in each direction from each pump. Alternative: The fueling area must be roofed and the roof's minimum dimensions must be equal to or greater than the area within the grade break or fuel dispensing area which is defined as the area extending a minimum of 6.5 feet from the corner of each fuel dispenser or the length at which the hose and nozzle assembly may be operated plus a minimum of one foot, whichever is greater. The canopy or roof shall not drain onto the fueling area.

8. Pesticide/Fertilizer Application

- a. Landscapes and gardens should incorporate Bay-Friendly practices, as described at: <https://www.bayfriendlycoalition.org/BFRated-why.shtml>.
- b. Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution.
- c. Structures shall be designed to discourage the occurrence and entry of pests into buildings, thus minimizing the need for pesticides. For example, dumpster areas should be located away from occupied buildings, and building foundation vents shall be covered with screens.
- d. If a landscaping plan is required as part of a development project application, the plan shall meet the following conditions related to reduction of pesticide use on the project site:
 - i. Where feasible, landscaping shall be designed and operated to treat stormwater runoff by incorporating elements that collect, detain, and infiltrate runoff. Plants suitable for treatment areas are specified in Appendix B of the Technical Guidance document referenced above.
 - ii. Landscapes over 500 square feet in size must comply with the City's Water Efficient Landscape Ordinance (WELo) requirements, available at: <http://www.ci.emeryville.ca.us/documentcenter/view/1754>.
 - iii. Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.
 - iv. Existing native trees, shrubs, and ground cover shall be retained and incorporated into the landscape plan to the maximum extent practicable.
 - v. Proper maintenance of landscaping, with minimal pesticide use, shall be the responsibility of the property owner.

- vi. Integrated pest management (IPM) principles and techniques shall be encouraged as part of the landscaping design. Examples of IPM principles and techniques include:
 - a. Select plants that are well adapted to soil conditions at the site.
 - b. Select plants that are well adapted to sun and shade conditions at the site. Consider future conditions when plants reach maturity. Consider seasonal changes and time of day.
 - c. Provide irrigation appropriate to the water requirements of the selected plants.
 - d. Select pest- and disease-resistant plants.
 - e. Plant a diversity of species to prevent a potential pest infestation from affecting the entire landscaping plan.
 - f. Use “insectary” plants in the landscaping to attract and keep beneficial insects.

9. Interior Floor Drains

Interior floor drains shall be plumbed to the sanitary sewer system and shall not be connected to storm drains. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.

10. Parking Garages

Interior level parking garage floor drains shall be connected to the sanitary sewer system. The applicant shall contact the City of Emeryville and EBMUD for specific connection and discharge requirements.

11. Pool, Spa, and Fountain Discharges

- a. Pool (including swimming pools, hot tubs, spas and fountains) discharge drains shall not be connected directly to the storm drain or sanitary sewer system, unless the connection is specifically approved by EBMUD.
- b. Subject to local requirements, when draining is necessary, a hose or other temporary system shall be directed into a sanitary sewer clean out. The clean out shall be installed in a readily accessible area, example: within 10 feet of the pool. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.
- c. Subject to local requirements, swimming pool, spa and fountain water may be allowed to discharge to the storm drains if the water has been dechlorinated, the water is within ambient temperature, and no copper-based algae control products have been added to the water.
- e. If commercial and public swimming pool discharges are discharged to land where the water would not flow to a storm drain or to a surface water, the discharge may be subject to the requirements of the State Water Resources Control Board’s (SWRCB) Statewide General Waste Discharge Requirements (WDRs) for Discharges to Land with a Low Threat to Water Quality.

12. Outdoor Equipment/Materials Storage

- a. All outdoor equipment and materials storage areas shall be covered and bermed, or shall be designed with BMPs to limit the potential for runoff to contact pollutants
- b. Storage areas containing non-hazardous liquids shall be covered by a roof and drain to the sanitary sewer system, and be contained by berms, dikes, liners, vaults or similar spill containment devices. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.
- c. All on-site hazardous materials and wastes, as defined and/or regulated by the California Public Health Code and the local Certified Unified Program Agency (CUPA), (for Emeryville this is the Alameda County Environmental Health Department), must be used and managed in compliance with the applicable CUPA program regulations and the facility hazardous materials management plan approved by the CUPA authority.

13. Vehicle/Equipment Repair and Maintenance

- a. Vehicle/equipment repair and maintenance shall be performed in a designated area indoors, or if such services must be performed outdoors, in an area designed to prevent the run-on and runoff of stormwater.
- b. Secondary containment shall be provided for exterior work areas where motor oil, brake fluid, gasoline, diesel fuel, radiator fluid, acid-containing batteries or other hazardous materials or hazardous wastes are used or stored. Drains shall not be installed within the secondary containment areas.
- c. Vehicle service facilities shall not contain floor drains [unless the floor drains are connected to wastewater pretreatment systems prior to discharge to the sanitary sewer, for which an industrial waste discharge permit has been obtained. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.]
- d. Tanks, containers or sinks used for parts cleaning or rinsing shall not be connected to the storm drain system. Tanks, containers or sinks used for such purposes may only be connected to the sanitary sewer system if allowed by an industrial waste discharge permit. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.

14. Fire Sprinkler Test Water

Fire sprinkler test water shall be drained to the sanitary sewer system (with approval from the local permitting authority [and/or sanitary district with jurisdiction]) or drain to landscaped areas where feasible. [In the event that the sanitary district does not approve the connection and drainage to landscaped areas is infeasible, the applicant may propose an alternative method of providing for drainage of fire sprinkler test water, such as by filtering and dechlorinating the water prior to discharge to a storm drain, subject to approval by RWQCB staff.]

15. Miscellaneous Drain or Wash Water

- a. Boiler drain lines shall be directly or indirectly connected to the sanitary sewer system and may not discharge to the storm drain system. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.
- b. For small air conditioning units, air conditioning condensate should be directed to landscaped areas as a minimum BMP. For large air conditioning units, in new developments or significant redevelopments, the preferred alternatives are for condensate lines to be directed to landscaped areas, or alternatively connected to the sanitary sewer system after obtaining permission from the sanitary sewer's owner. As with smaller units, any anti-algal or descaling agents must be properly disposed of. Air conditioning condensate lines may discharge to the storm drain system provided they are not a source of pollutants.
- c. Roof drains shall discharge and drain away from the building foundation to an unpaved area wherever practicable.
- d. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge of soaps or other pollutants to the storm drain. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements. These conditions shall be required for automotive related businesses.

C. Construction Practices

Construction workers shall:

1. Maintain and replace filter materials as necessary to ensure effectiveness and prevent flooding. Dispose of filter particles in the trash.
2. Broom-sweep the sidewalk and street adjoining the site daily, scraping off caked-on mud and dirt.
3. Minimize removal of natural vegetation or ground cover, and replant as soon as possible.
4. Stabilize all cut and fill slopes as soon as possible after grading is completed.
5. Ensure that concrete, gunite and plaster supply trucks and operations do not discharge wash water into street gutters or drains.
6. Create and use a contained, covered area on the site for storing bags of cement, paints, flammables, oils, fertilizers, pesticides and any other materials used on the project site that could be discharged to the storm drain system by wind or a spill.

7. Place tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
8. Gather all construction debris daily and place it in a container which is emptied or removed weekly.
9. Never clean machinery, tools, brushes, etc. or rinse containers into a street, gutter, storm drain or stream.
10. For projects with on-site storm drain inlets, clean all inlets immediately prior to the rainy season (October 1), and as required by the City Engineer.
11. Install straw wattles, berms, check dams as appropriate to contain and/or filter stormwater and the sediments from the site.
12. Hydroseed or cover exposed soil with compost, tarps, loose straw or mats to reduce erosion and sediment suspension in stormwater.
13. Check all on-site machinery and vehicles for oil, fuel and other machine fluid leaks on a daily basis, and fix machinery as necessary and/or capture all leaked fluids.

D. Post-Occupancy Maintenance and Operational BMPs

This section describes operational best management practices (BMPs) that rely on private property owners to implement following construction of projects.

1. Operation, Maintenance and Inspection of Stormwater Treatment Measures
 - a. For commercial and industrial projects and residential projects with stormwater treatment measures, before the City issues the Certificate of Occupancy, the applicant must submit an Operations and Maintenance Agreement. This Agreement shall be executed and recorded with the County Recorder's Office of the County of Alameda. The property owner must submit five required Exhibits to the Agreement:
 - i. A legal description of the property
 - ii. A legible, recordable, reduced-scale (8.5"x11") copy of the site plan indicating treatment measures' locations and site drainage patterns
 - iii. A maintenance plan, including specific long-term maintenance tasks and schedule
 - iv. A standard Treatment Measure Operation and Maintenance Inspection Report form (template to be provided by the City), and
 - v. Checklists appropriate to the type of treatment measure(s) that will be used on the property (to be provided by the City)
 - b. All commercial and industrial projects, and all projects with an Operations and Maintenance Agreement, must allow and facilitate inspections of the stormwater treatment measures by the City or its agent.

c. In addition, all projects must adhere to the following practices.

2. Paved Sidewalks and Parking Lots

Sidewalks and parking lots shall be swept regularly to minimize the accumulation of litter and debris. Debris resulting from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Washwater containing any soap, cleaning agent or degreaser shall not be discharged to the storm drain and shall be collected and discharged to the sanitary sewer. The applicant shall contact the local permitting authority and EBMUD for specific connection and discharge requirements.

3. Private Streets, Utilities and Common Areas

- a. The owner of private streets and storm drains shall prepare and implement a plan for street sweeping of paved private roads, installation of full trash capture devices in and cleaning of all storm drain inlets.
- b. For residential developments, where other maintenance mechanisms are not applicable or otherwise in place, a property owners' association, architectural committee, maintenance assessment district, special assessment district, or similar arrangement shall be created and shall be responsible for maintaining all private streets and private utilities and other privately owned common areas and facilities on the site including landscaping. These maintenance responsibilities shall include implementing and maintaining stormwater BMPs associated with improvements and landscaping and will include the maintenance responsibilities described in the maintenance plan, which is included as an attachment to the stormwater treatment measure O&M agreement for the subject property.

4. On-site Storm Drains

- a. All on-site storm drains must be cleaned at least once a year immediately prior to the rainy season and as required by the City Engineer.
- b. All on-site storm drains shall be equipped with City-approved full trash capture devices unless the City Engineer agrees that such controls are infeasible for one or more inlets. These must be maintained according to the requirements in the Municipal Regional NPDES Permit (http://www.swrcb.ca.gov/sanfranciscobay/water_issues/programs/stormwater/Municipal/R2-2015-0049.pdf), and records of their inspections and maintenance must be made available to the City upon request.

5. Vehicle/Equipment Repair and Maintenance

- a. No person shall dispose of, nor permit the disposal, directly or indirectly, of vehicle fluids, hazardous materials, or rinsewater from parts cleaning operations into storm drains.
- b. No vehicle fluid removal shall be performed outside a building, nor on asphalt or ground surfaces, whether inside or outside a building, except in such a manner as to ensure that any

spilled fluid will be in an area of secondary containment. Leaking vehicle fluids shall be contained or drained from the vehicle immediately.

- c. No person shall leave unattended drip pans or other open containers containing vehicle fluid, unless such containers are in use or in an area that cannot discharge to the storm drain, such as an area with secondary containment.

6. Fueling Areas

The property owner shall dry-sweep the fueling area and spot clean leaks and drips routinely. Fueling areas shall not be washed down with water unless the wash water is collected and disposed of properly (i.e., not in the storm drain).

7. Loading Docks

The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill clean-up.

8. Outdoor Storage Areas

Manage outdoor storage to minimize stormwater contact with pollutants, covering stored materials as required by the City Engineer.