

## **RESOLUTION NO. 16-**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE SHERWIN WILLIAMS DEVELOPMENT PROJECT AND MAKING FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, on December 16, 2014, the City of Emeryville, acting as the Lead Agency under the California Environmental Quality Act (CEQA), published a Notice of Preparation and initiated work on a Draft Environmental Impact Report (DEIR) for the Sherwin Williams Development Project on a 10.05-acre site bounded by Sherwin Avenue to the south, Horton Street to the east, the Union Pacific Railroad right-of-way to the west, and Temescal Creek to the north; and

**WHEREAS**, the City of Emeryville completed the DEIR in January 2016 and circulated it for a 60-day public comment period from January 8, 2016 to March 8, 2016; and

**WHEREAS**, a public hearing to consider the DEIR was held before the Planning Commission on February 25, 2016; and

**WHEREAS**, the City received oral and written comments regarding the DEIR, and the City prepared responses to all comments received during the public comment period; and

**WHEREAS**, the City of Emeryville prepared the Final Environmental Impact Report (FEIR) for the Sherwin Williams Development Project, which is composed of the DEIR; comments received about the DEIR during the public comment period and responses to those comments; and changes, clarifications and corrections to the DEIR; and

**WHEREAS**, as required by CEQA, the FEIR was mailed to those public agencies that commented on the DEIR, was posted on the City website; and a Notice of Availability was sent to all commenters and residences within 300 feet of the project site on June 28, 2016; and

**WHEREAS**, on July 28, 2016, the City of Emeryville Planning Commission considered the FEIR and made no recommendation to the City Council on certifying the document; and

**WHEREAS**, on September 6, 2016, the City of Emeryville City Council reviewed and considered the FEIR as it relates to the environmental review, analysis, and conclusions pertaining to the Sherwin Williams Development Project; and

**WHEREAS**, the Emeryville City Council has reviewed the following environmental documentation for the Sherwin Williams Development Project EIR ("CEQA Documentation"):

- Final EIR for the Sherwin Williams Development Project, consisting of the DEIR dated January 2016, written comments received on the DEIR during the comment period, verbal comments received at the Planning Commission's public hearing on February 25, 2016, and the Response to Comments Document dated June 2016.

**NOW, THEREFORE, BE IT RESOLVED**, that, based on its review and consideration of the foregoing documents, and any remaining public testimony heard at the September 6, 2016 meeting, the Emeryville City Council makes the following specific findings:

- A. Compliance with CEQA Requirements: The Emeryville City Council, acting as a Lead Agency under CEQA Guidelines Section 15090, has received, reviewed and considered the CEQA Documentation and other substantive and procedural components of CEQA compliance for the Sherwin Williams Development Project. The CEQA Documentation prepared for the project has been completed, and review procedures required by CEQA for a Lead Agency have been completed in conformance with CEQA as set forth in the recitals to this resolution.

Pursuant to CEQA, including without limitations CEQA Guidelines Section 15090, the City Council hereby finds, determines and certifies that the City of Emeryville has complied with all of its duties as a Lead Agency for the Sherwin Williams Development Project FEIR, that the FEIR was presented to the City Council and the City Council has reviewed and considered the information contained in the FEIR. Further, the City Council finds that the FEIR was completed in compliance with CEQA.

Specifically:

1. that a Notice of Preparation was published on December 16, 2014, giving public agencies and citizens until February 27, 2015 to review and respond to the proposed scope of the Sherwin Williams Development Project EIR, and that a copy of such notice was mailed to every property owner within 300 feet of the project site, as well as surrounding cities and other public agencies; and a public scoping session was held on January 27, 2015;
2. that the DEIR was prepared in compliance with CEQA Guidelines Sections 15120 through 15132;
3. that the DEIR was published in January 8, 2016 and circulated for public review and comment until March 8, 2016, thus complying with the 45-day review period requirement, and as part of this review period a Notice of Availability was posted and mailed to all property owners within 300 feet of the site, to all parties who had previously expressed interest to be notified about the matter and to all surrounding cities and public agencies; and

4. that the FEIR has been prepared, consisting of the comment letters received; the response to written comments; the response to oral comments received at the February 25, 2016 public hearing; and a comprehensive list of changes, clarifications and corrections to the DEIR.

B. The FEIR reflects the Lead Agency's independent judgment and analysis. The City Council finds that the FEIR, as certified and finally revised, reflects the independent judgment and analysis of the City Council and the City of Emeryville. The City Council specifically finds that at this time, the FEIR for the Sherwin Williams Development Project accurately and completely presents adequate information upon which to base future environmental decisions about a proposed project at the Sherwin Williams site and that there is no need to prepare a subsequent or supplemental EIR to evaluate the information and comments received about the DEIR, changes in circumstances, or new information presented to the City during the DEIR public comment period. The City Council further confirms that no new information of substantial importance showing new significant environmental effects or a substantial increase in the severity of previously identified significant environmental effects beyond those effects analyzed in the DEIR for the Sherwin Williams Development Project were identified during the public comment period or during the preparation of the FEIR.

**AND BE IT FURTHER RESOLVED**, that the Emeryville City Council hereby certifies the Final Environmental Impact Report for the Sherwin Williams Development Project pursuant to CEQA Guidelines Section 15090.

**ADOPTED** by the Emeryville City Council at a regular meeting held on Tuesday, September 6, 2016 by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

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MAYOR

ATTEST:

APPROVED AS TO FORM:



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CITY CLERK

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CITY ATTORNEY