

**RESOLUTION NO. 18-\_\_\_\_**

**Resolution Of The City Council Of The City Of Emeryville Approving A Park And Recreation Facility Impact Fee Credit For The Sherwin Williams Mixed Use Project And Authorizing The City Manager To Execute A Park And Open Space Improvement Agreement With SWACE, LLC**

**WHEREAS**, Ordinance No. 16-006 became effective on December 1, 2016, adopting a Planned Unit Development zoning designation (PUD) and approving a Preliminary Development Plan (PDP) for the Sherwin Williams Mixed Use Project on the former Sherwin Williams paint factory site and an adjacent City-owned parcel; and

**WHEREAS**, on October 16, 2016, the applicant, Lennar (SWACE predecessor-in-interest), submitted a letter requesting a credit of the City's Park and Recreation Facility Impact Fee for the project; and

**WHEREAS**, the City Council held a study session on November 21, 2017 on the Sherwin Williams Park and Open Space Final Development Plan (FDP) that included a discussion of Lennar's request for a Park and Recreation Facility Impact Fee credit; and

**WHEREAS**, the Planning Commission approved the Sherwin Williams Park and Open Space FDP by Resolution No. FDP17-002 on December 14, 2017; and

**WHEREAS**, the City Council considered the Applicant's request for an impact fee credit at a regular meeting on March 6, 2018; and

**WHEREAS**, Planning Regulations Section 9-5.1911 specifies that "[a]n applicant may be eligible for a credit against impact fees otherwise owed, in return for providing a specified public facility to the City"; and

**WHEREAS**, the approved Sherwin Williams Park and Open Space FDP will provide the City with a "specified public facility" that is eligible for funding from the Park and Recreation Facility Impact Fee; and

**WHEREAS**, to be eligible for an impact fee credit, the applicant must demonstrate, to the satisfaction of the City Council, compliance with the six requirements listed in Planning Regulations Section 9-5.1911; and

**WHEREAS**, for the City Council to provide the credit, the conditions set forth in Planning Regulations Section 9-5.1913 must be satisfied, to the extent applicable; now, therefore be it

**RESOLVED**, that the City Council of the City of Emeryville hereby finds that the applicant has demonstrated compliance with the requirements of Planning Regulations Sections 9-

5.1911 and 9-5.1912, as detailed in the staff report accompanying this resolution; and be it further

**RESOLVED**, that the City Council of the City of Emeryville hereby finds that the conditions set forth in Planning Regulations Section 9-5.1913 have been satisfied in light of the Planning Commission adopting Resolution No. FDP17-002 and the applicant's willingness to enter into the attached Park and Open Space Improvement Agreement; and be it further

**RESOLVED**, that the City Council of the City of Emeryville hereby approves a credit of the entire amount of the Park and Recreation Facility Impact Fee that will be levied on the Sherwin Williams Mixed Use project, to be determined at building permit issuance and currently estimated at approximately \$2,225,860, contingent upon the City and SWACE executing the attached Park and Open Space Improvement Agreement. The City Manager is authorized to execute the attached Park and Open Space Improvement Agreement and make minor, non-substantive amendment

**ADOPTED** by the City Council of the City of Emeryville at a regular meeting held Tuesday, March 6, 2018, by the following vote:

AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_  
ABSENT: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK

  
\_\_\_\_\_  
CITY ATTORNEY