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City Attorney
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

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PARK AND OPEN SPACE IMPROVEMENT AGREEMENT

THIS PARK IMPROVEMENT AGREEMENT (“**Agreement**”) is made and entered into this ____ day of _____, 2018, between and among SWACE, LLC, a Nevada limited liability company (“**Developer**”), and the **CITY OF EMERYVILLE**, a municipal corporation (“**City**”), collectively referred to as the “**Parties**”.

RECITALS

A. Developer is the owner of certain real property situated at 1450 Sherwin Avenue in the City of Emeryville, California (the “**Developer Property**”), and more particularly described in the legal description attached hereto as Exhibit A. The City is the owner of the adjacent property, and more particularly described in the legal description attached hereto as Exhibit A-1 (“**Adjacent Property**”). The Developer Property and Adjacent Property are collectively known as the “**Property**”.

B. On November 1, 2016, the City Council for the City of Emeryville approved Ordinance No. 16-006 adopting a planned unit development zoning designation and approving a preliminary development plan for the 10.05 acre Sherwin Williams Project Site Bounded By Sherwin Avenue to the South, the Union Pacific Railroad Tracks to the west; Horton Street to the east, and Temescal Creek to the North (APNS 49-1041-26-15 and 16) (“**Planned Unit Development** or **PUD**”).

C. On May 25, 2017, the Planning Commission for the City of Emeryville adopted Resolution CPC No. SUBDIV16-002 approving a major subdivision permit for Vesting Tentative Map 8357, subject to certain Conditions of Approval (“**Vesting Tentative Map** or **VTM**”).

D. On December 14, 2017, the Planning Commission for the City of Emeryville adopted Resolution CPC No. FDP17-002 approving a final development plan (“**Final Development Plan** or **FDP**”) for the Property and the Adjacent Property. The PUD, VTM, and FDP, as they may from time to time be amended, are collectively referred to herein as the “**Project Approvals**” and attached hereto as Exhibit B.

E. On March 6, 2018, the City Council for the City of Emeryville adopted Resolution No. _____, authorizing the City Manager to enter into this Park Improvement Agreement and authorizing the City Engineer to approve the final plans related to construction of the Project Improvements (defined below).

F. The Project Approvals require Developer to construct certain improvements on the Property, including but not limited to, a public park, open space, and greenway, as further described in VTM Condition of Approval III.A.3.h, and collectively referred to herein as the **“Project Improvements”**.

G. VTM Condition of Approval III.A.3.h provides that Developer shall enter into a Park Improvement Agreement with City to ensure the faithful performance of the design, construction, inspection, and installation of the Project Improvements secured by good and sufficient surety bond or cash deposit adequate to cover all of the costs, inspections and administrative expenses of completing such improvement in the event of default;

H. In order to accomplish the purposes described in the Project Approvals, Developer and City desire to enter into this Agreement to set forth Developer’s obligations with respect to the Project Approvals.

A G R E E M E N T

NOW, THEREFORE, IT IS HEREBY AGREED by and between the Parties as follows:

1. Incorporation by Reference. The Recitals set forth above, the Project Approvals (as they may be amended from time to time) and, as to the Project Improvements, the requirements of Article 6 of Chapter 6 of Title 9 of the Emeryville Municipal Code are each incorporated herein by this reference as if set forth in full and as may be amended from time to time pursuant to Government Code section 66498.1(e), except where expressly modified herein.

2. Design, Construction, Inspection, and Installation of Project Improvements. Developer shall, at its sole cost and expense, complete the design, construction, and installation of the Project Improvements in compliance with the requirements of the FDP, and shall do and perform and cause to be done and performed in a good and workmanlike manner the entirety of the Project Improvements in accordance with the Project Approvals and with the “Approved Design”, which shall be submitted to and approved by the City Engineer prior to the approval of the first Temporary Certificate of Occupancy for Lots 2, 3, 4 or 5 and which shall thereafter be attached hereto as Exhibit C. The Public Works Director may extend the deadline for submission of the Approved Design in his or her sole discretion. The Project Improvements shall include, but are not necessarily limited to the **“Project Improvements”** described in Conditions of Approval III.A.3 of the VTM and Conditions of Approval II.D.2 of the FDP, and all other applicable requirements as provided for in the Project Approvals.

3. Standards.

(a) All Project Improvements shall be constructed, as and to the extent applicable, in accordance with the following specifications:

- (i) The “Greenbook”, Standard Specifications for Public Works Construction, 2009 Edition, 2012 Edition and 2015 Edition;
- (ii) Amendment A to the Standard Specifications for Public Works Construction, 1985 Edition;
- (iii) Standard Plans for Public Works Construction, 2012 Edition;
- (iv) State of California Department of Transportation, Standard Specifications, May 2006 Edition, 2010 Edition and 2015 Edition;
- (v) State of California Department of Transportation Standard Plans, May 2006 Edition, 2010 Edition, and 2015 Edition;
- (vi) California Department of Transportation Highway Design Manual, latest Edition;
- (vii) The California Manual on Uniform Traffic Control Devices, 2012 Edition and 2014 Edition;
- (viii) Standard Details/Design Guidelines, revised 2016, Alameda County Public Works Agency;
- (ix) Hydrology and Hydraulics Manual, revised 2017 Alameda County Public Works Agency;
- (x) Engineering Design Guidelines, revised 2008, Alameda County Public Works Agency;
- (xi) 2010 Americans with Disabilities Act Standards for Accessible Design which consist of (a) Title II regulations at 28 CFR 35.151 and (b) 2004 ADA Accessibility Guidelines at 36 CFR Part 1191, Appendices B and D;
- (xii) 2013 California Building Code Part 2; Volume 1; Chapters 11A Housing Accessibility and 11B Accessibility to Public Building, Public Accommodations, Commercial Buildings and Public Housing; and
- (xiii) Alameda County Clean Water Program C3 Stormwater Technical Guidance, May 14, 2013, and January 1, 2015;
- (xiv) Regional Standards for Sanitary Sewer System Installation, Rehabilitation, and Repair East Bay Communities, June 30, 2016;
- (xv) Provisions C.6, Construction Site Control, Municipal Regional Stormwater NPDES Permit, Order No. R2-2015-0049 NPDES Permit No. CAS612008, November 19, 2015, California Regional Water Quality Control Board San Francisco Bay Region.

(b) Where there is a conflict among the above requirements, the stricter requirement shall govern. All Project Improvements work to be performed hereunder shall be done to the satisfaction of the City Engineer, to the extent applicable. No work on any particular portion of the Project Improvements shall commence until plans, profiles, and specifications for such portion of the Project Improvements have been submitted to and approved by the City Engineer. The Project Improvements shall be constructed in accordance with the Conditions of Approval for the VTM and FDP and the Approved Design, and Developer shall do, or cause to be done, all work and furnish all materials necessary to complete the Project Improvements in accordance with said Project Approvals and Approved Design or with any changes required or ordered by the City Engineer, which in its reasonable opinion are necessary or required to complete the work. All costs of inspections of the work have been or shall be paid by Developer. Any approval by the City Engineer shall not relieve Developer, or its engineers or architects, from liability under this Agreement.

4. Time of Commencement and Completion. The work and Project Improvements required by this Agreement shall be completed within the timeframes described in the Project Approvals. If more than two (2) years lapses from the date of issuance of a temporary certificate of occupancy for any building on Lots 2, 3, 4 or 5 as described in the Project Approvals without the issuance of a building permit for a subsequent building, the Developer shall begin construction of the Project Improvements within one hundred eighty (180) calendar days upon notice from the Public Works Director to proceed with construction of the Public Improvements.

5. Right of Entry.

(a) City hereby grants to Developer and its agents, employees and contractors the temporary right to enter onto the Adjacent Property for the purpose of design, construction, installation, and inspection of the Project Improvements and for no other purpose ("**Right of Entry**"). Developer shall apply for and obtain any other approvals from the City, including but not limited to a building permit and encroachment permit prior to starting any construction of Project Improvements on the Adjacent Property.

(b) The term of this Right of Entry shall commence as determined by the Public Works Director in consultation with the Developer ("**Effective Date**") and shall terminate as determined by the Public Works Director. The term may be extended by written notice to Developer in the sole and absolute discretion of the Public Works Director. The Right of Entry shall include the time period prior to construction of the Project Improvements ("Pre-Construction") and during construction, installation and inspection of the Project Improvements ("Construction").

(c) This Right of Entry Pre-Construction is subordinate to all prior or future rights and obligations of City in the Adjacent Property, except that City shall grant no rights inconsistent with the reasonable exercise by Developer of its rights under this Right of Entry during Construction.

(d) Developer shall not permit to be placed against the Adjacent Property, or any part thereof, any design professionals', mechanics', materialmen's contractors' or

subcontractors' liens with regard to Developer's actions upon the Adjacent Property. Developer agrees to hold City harmless for any loss or expense, including reasonable attorneys' fees and costs, arising from any such liens which might be filed against the Adjacent Property.

(e) Developer shall, in all activities undertaken pursuant to this Right of Entry, comply and cause its contractors, agents and employees to comply with all federal, state and local laws, statutes, orders, ordinances, rules, regulations, plans, policies and decrees. Without limiting the generality of the foregoing, Developer, at its sole cost and expense, shall obtain any and all permits which may be required by any law, regulation or ordinance for any activities Developer is required to conduct or have conducted pursuant to this Right of Entry.

(f) During Construction only, the Right of Entry shall be exclusive for the Developer. Notwithstanding the foregoing, City and its representatives, employees, agents or independent contractors may enter and inspect the Adjacent Property or any portion thereof or any improvements thereon at any time and from time to time at reasonable times to verify Developer's compliance with the terms and conditions of this Right of Entry.

(g) It is expressly understood that this Right of Entry does not in any way whatsoever grant or convey any permanent easement, lease, fee or other interest in the Adjacent Property to Developer.

(h) Notwithstanding any sums expended by Developer in furtherance of this Right of Entry, the right of entry granted herein is revocable and may be terminated by City in accordance with the terms of this Agreement. This Right of Entry may be terminated by City upon thirty (30) calendar days' notice in writing to be served upon the Developer pursuant to paragraph 11 below, and after notice and opportunity to cure pursuant to paragraph 11. In cases of an emergency or a significant breach of this Agreement, this Right of Entry may be terminated immediately by delivering notice.

(i) Upon the termination or revocation of this Right of Entry, Developer shall, at its own cost and expense, restore the Adjacent Property to the same condition in which it was prior to Developer's entry, if requested by the City. In case Developer shall fail to restore the Adjacent Property to its prior condition as requested by the City within thirty (30) calendar days after the effective date of the termination, the City may proceed with such work at the expense of the Developer. No termination of this Right of Entry shall release Developer from any liability or obligation hereunder resulting from any acts, omissions or events happening prior to the termination of this Right of Entry and restoration of the Adjacent Property to its prior condition.

6. Plan Check and Inspection Services. Developer acknowledges that City may review plans and specifications and inspect the construction of the Project Improvements and agrees to pay City's customary costs for these inspection services and for plan check services. Costs of inspection services include, but are not limited to, office checking of maps and plans, field checking, inspection and testing. City staff and agents shall at all times during construction

of the Project Improvements have access to the work during construction hours. Prior to or concurrent with execution of this Agreement, Developer has made or will make an initial deposit of Twenty Five Thousand Dollars (\$25,000.00) to pay for the plan check costs. In addition, prior to or concurrent with execution of this Agreement, Developer has made or will make an initial deposit of Twenty Five Thousand Dollars (\$25,000.00) to pay for the inspection costs. As necessary, but no more often than once per calendar month the City may reconcile the account throughout the construction period and request additional deposits from Developer. Developer shall deposit the required amount within fifteen (15) days after receipt of notice to Developer of the additional amount due or City may stop plan check and/or inspections of the Project Improvements. Upon preliminary acknowledgment of completion of the work, City shall reconcile the final account. If money is owing to City, Developer shall deposit the required amount within thirty (30) days after receipt of notice to Developer of the additional amount due. If funds are not received within thirty (30) days of invoicing by the City, the City may stop performing said services until payment has been received. If any inspection and/or plan check deposit funds remain after final inspection, City shall promptly refund Developer the amount owed within 90 days after acceptance of the Project Improvements.

7. Acceptance of Project Improvements. The City Engineer shall have the right to reject any and all work on any portion of the Project Improvements to be performed under this Agreement, if such work does not conform in his/her judgment, with the Standards described in Paragraph 3 of this Agreement for such portion of the Project Improvements; the Approved Design; and/or the ordinances and standards of the City. Final acceptance of the Project Improvements shall be by the City Engineer. No work of any portion of the Project Improvements shall be accepted by City unless and until any and all liens and stop notices have been paid, discharged and released with respect to such portion of the Project Improvements or City has been provided with other assurances which City deems, in its sole discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of City from the effect of such lien or bonded stop notice. No periodic or progress inspection or approval shall bind the City to accept the Project Improvements or to waive any defect in the same or any breach of this Agreement.

8. Repairs and Replacement. Developer shall replace or repair any portion of the Project Improvements which have been destroyed or damaged prior to final acceptance of completed work by the City Engineer; provided, however, the Project Improvements shall not be opened to the public prior to final acceptance by the City Engineer. Any such repair or replacement shall be to the satisfaction and subject to the approval of the City Engineer. Developer shall repair to the satisfaction of the City Engineer any damage to the utilities systems, concrete work, street paving or other public improvements that may occur in connection with the Project Improvements work.

9. Project Improvements Security.

(a) Performance Security. Developer shall, concurrently with execution of this Agreement, deposit with City for the benefit of City an adequate and satisfactory improvement security equal to one hundred percent (100%) of the estimated total cost of the Project Improvements and otherwise meeting all applicable requirements of Chapter 5 of Division 2 of Title 7 of the California Government Code, to guarantee performance

of design, construction and installation of each portion of the Project Improvements, and to guarantee payment of the City's costs (including staff time) and reasonable expenses, which includes, but is not limited to, attorneys' fees. The estimated total cost of the Project Improvements is calculated to be one hundred fifty percent (150%) of the estimated cost of design and construction based on prevailing wage rates, which is **Three Million, Five Hundred, Thirty-Four Thousand Dollars and no cents (\$3,534,000) ("Performance Bond Amount")**. The Performance Bond Amount shall be adjusted per the Engineering News Record Adjustment annually on the anniversary of the Effective Date of this Agreement. The performance security for each portion of the Project Improvements shall be kept in full force until City accepts such portion of the Project Improvements. The City Engineer, in his sole discretion, may upon application by Developer release a portion of the security given for faithful performance of each portion of the Project Improvements as the work on such portion of the Project Improvements progresses upon application by Developer; provided, however, no release shall be for an amount less than twenty-five percent (25%) of the total improvement security given for such portion of the Project Improvements. In no event shall the City Engineer authorize a release of security for a portion of the Project Improvements which would reduce the security for such portion of the Project Improvements to an amount below that required to guarantee the completion of such portion of the Project Improvements.

(b) Developer shall, concurrently with execution of this Agreement, deposit with City, for the benefit of City, adequate security to ensure payment to the contractors, subcontractors, laborers, suppliers and material men performing each portion of the Project Improvements work, consistent with all applicable requirements of Chapter 5 of Division 2 of Title 7 of the California Government Code. At all times, the total amount of the labor and materials payment security shall be equal to the Performance Bond Amount. Security given to secure payment to the contractors, subcontractors and to persons furnishing labor, materials or equipment with respect to each portion of the Project Improvements shall, six (6) months after the completion and acceptance of the work for such portion of the Project Improvements, be reduced to an amount equal to the total claimed by all claimants for whom liens have been filed with respect to such portion of the Project Improvements and of which notice has been given to the City, plus an amount reasonably determined by the City Engineer to be required to assure the performance of any other obligations secured by the security with respect to such portion of the Project Improvements. The balance of the security for such portion of the Project Improvements shall be released upon the settlement of all claims and obligations for which the security was given.

(c) Warranty Period Security. Prior to the release by City of the performance security for each portion of the Project Improvements, Developer shall deposit with City as to the Project Improvements, adequate security warranting the Project Improvements for a period of one (1) year after the date of City's acceptance of such work. At all times, the amount of the Warranty Period Security shall be equal to ten percent (10%) of the Performance Bond Amount.

(d) General Requirements for Security. All security required under this Agreement shall be provided as a certified check, a bond in the forms attached hereto as

Exhibit D or in a form otherwise acceptable to City Attorney and issued by an admitted and authorized surety in California and acceptable to City Attorney, or an irrevocable standby letter of credit issued by a bank and in a form acceptable to City Attorney. Any additions, alterations or modifications to this Agreement or to the approved plans and specifications for any portion of the Project Improvements, including any extension of time within which the work hereunder may be completed, shall not release or exonerate any surety or sureties of improvement securities given in connection with this Agreement. City may retain for any security released an amount sufficient to cover costs and reasonable expenses and fees, including reasonable attorneys' fees. Neither a preliminary acknowledgment of completion, nor acceptance, nor the existence of any security for any portion of the Project Improvements shall be construed as a limitation on liability on the part of Developer under this Agreement.

10. Warranty. Developer warrants for a period of one (1) year after City acceptance of the Project Improvements that the Project Improvements shall fulfill their design functions and be fit for their ordinary and intended purposes, be free from material defects in design, materials and workmanship, and perform satisfactorily. Developer agrees that for a period of one year after acceptance of the Project Improvements, respectively, Developer will: (a) promptly repair any defects or failures which may appear in such portion of the Project Improvements during the one-year period; and (b) correct the causes of said defects or failures in such portion of the Project Improvements. If Developer fails to act promptly or in accordance with this requirement, following written notice and an opportunity to cure as provided for in this Agreement, or should an emergency require immediate action, City may, at its option, make the necessary repairs, replacements or other work and Developer shall reimburse City such actual costs incurred including a fifteen percent (15%) administrative fee. No security given for the warranty of work shall be released until the expiration of the warranty period and until any claims filed during the warranty period have been settled. The warranty described herein is in addition to the Operation and Maintenance Agreement, and cumulative to any maintenance obligations set forth in the Project Approvals, Emeryville Municipal Code, and/or other applicable regulation or law.

11. Breach of Agreement: Performance by City. If Developer refuses or fails to satisfactorily complete any portion of the Project Improvements work within the time specified herein, and thereafter does not commence to complete such work within thirty (30) days of written notice from the City of such failure and thereafter diligently pursue such work to completion, or if Developer or Developer's contractors, subcontractors, agents or employees otherwise violate this Agreement and do not cure or commence to cure such violation within thirty (30) days after receipt of written notice from City of such violation and thereafter diligently pursue such cure to completion, or if delay in the construction of any portion of the Project Improvements, in the reasonable opinion of the City Engineer, poses any danger to property or public safety, or if Developer should be adjudged a bankrupt, or shall make a general assignment for the benefit of creditors, or if a receiver should be appointed in the event of Developer's insolvency, the City may, without relieving Developer of any of its obligations hereunder, take over the work and prosecute same to completion by any method City may deem advisable for the account and at the expense of Developer.

12. Encroachment Permits for Others. Developer hereby agrees that in that period of time between execution of this Agreement and the acknowledgment of completion and acceptance by City of the Project Improvements, City may require persons other than Developer to obtain encroachment permits for work other than that contemplated by this Agreement. In the event of issuance of such encroachment permits, the Developer shall not be relieved from responsibility as set forth in this Agreement, and acceptance or issuance of such encroachment permits shall not be construed as an act indicating acknowledgment of completion of any work required by this Agreement. Developer shall not be liable for any damage caused by such persons to which such encroachment permits have been granted.

13. Cost of Project Improvements. Except as expressly provided in this Agreement, City shall not be responsible for any of the costs of the Project Improvements or for the performance or non-performance of the work of construction of the Project Improvements, and Developer shall hold City free and harmless from any claim or liability regarding the costs of the Project Improvements resulting from or arising out of the same.

14. No Liability of City. Neither the City nor any of its officers, agents, or employees shall be liable to Developer, its contractors, subcontractors, officers, agents, or employees, for any error or omission, injury or damage that may result to any person or property or any obligations or any obligation whatsoever, arising out of or in connection with any work to be performed or the failure to perform under this Agreement.

15. Release. Developer shall be deemed to have waived, relinquished and released the City (and its respective employees, officers, attorneys, representative and agents, collectively referred to as "**City Parties**"), from and against any and all known or unknown, claims, demands, causes of action (including, without limitation, causes of action in tort, for contribution or indemnity), losses, damages, liabilities, obligations, costs and expenses (including reasonable attorneys' and expert fees and costs) of any kind or character, including, without limitation, all those arising out of environmental conditions, liabilities, or obligations (under federal, state, or local environmental statute, regulation, ordinance, or program) in any way relating to or arising from the Property ("**Environmental Claims**"), which Developer could or might have a stated or alleged against the City (and City Parties) at any time by reason of or arising out of any latent or patent defect or physical or environmental condition or liabilities, violations of any applicable statutes, regulations, ordinance, programs or law and any and all other acts, commissions, events circumstances or matters regarding the Property. The City and City Parties are hereby released from all responsibility and liability to Developer regarding the condition, including, valuation marketability or utility of the Property, or it's the suitability for any purpose whatsoever, the presence in the soil, air, soil vapor, or groundwater of hazardous waste, materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable, or subject to regulation and that may need to be specially treated, handled and/or removed from the Property under current or future federal, state and local laws, regulations or guidelines. . Developer expressly assumes the risk of all such environmental liabilities and obligations, known or unknown. The foregoing release shall in no event be deemed to be applicable to or affect in any manner whatsoever the obligation of the Developer to complete the site work as required by the dedication or this Agreement.

16. Indemnification. Developer shall indemnify, defend (with counsel reasonably acceptable to City) and hold harmless City and City Parties from and against any and all third party suits or actions at law or in equity, claims, liabilities, obligations, losses, damages, costs and expenses (including reasonable attorneys' fees), including, but not limited to, bodily injury, sickness, disease or death of any person or damage to real or personal property, tangible or intangible (collectively "**Claims**") arising directly from the performance or failure to perform the provisions of this Agreement or acts, omissions, negligence or willful misconduct of Developer or its contractors, subcontractors, agents or employees under this Agreement, including but not limited to Claims arising from or caused by (a) any activities on the Property by Developer or any agent, employee, consultant or representative of Developer, or (b) presence or release of any hazardous waste, materials or substances on the Property or in the soil, soil vapor or groundwater prior to City's acceptance of the Project Improvements under Paragraph 7 of this Agreement. Developer's indemnity obligations under this Paragraph 16 shall not extend to Claims to the extent occasioned by the active negligence or willful misconduct of City or City Parties. Developer's indemnity obligations shall apply regardless of whether any insurance policies, or self-insurance maintained by City has been determined to be applicable to such Claims and regardless of whether or not City has prepared, supplied or approved of the Plans and Specifications for the Project Improvements. This indemnification provision shall survive expiration or termination of this Agreement.

17. Use and Maintenance of Project Improvements. Developer agrees that the use of any and all of the Project Improvements by Developer and its officers, agents, employees, contractors and subcontractors, shall be at the sole and exclusive risk of the Developer at all times prior to final acceptance by City.

18. Insurance. Prior to commencing the Work, Developer shall obtain and maintain, or cause to be maintained, in full force at Developer's own expense, insurance as described below against claims which may arise out of or result from the performance of the Work by the Developer, its Contractor and Subcontractors of any tier, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All policies shall be written on an occurrence basis. All insurance shall be written by companies that are authorized to write business in the State of California and have, at all times, a Best's rating of "A- X" (A minus X) or better by AM Best & Company, and with coverage and policy limits as follows (unless otherwise specified herein):

(a) Commercial General Liability insurance written on Insurance Services Office ("ISO") Commercial General Liability Coverage "occurrence" form CG 00 01 or another Commercial General Liability "occurrence" form providing equivalent coverage and including Broad Form Comprehensive General Liability coverage, blanket contractual liability coverage, Independent Contractors coverage, coverage for bodily injury (including death), property damage (including loss of use thereof) and products and completed operations with limits of not less than \$2,000,000 per occurrence. Limits may be provided in a "layered" program utilizing primary, umbrella or excess liability policies and shall be maintained for at least 1 year following completion of the Work.

(b) Comprehensive auto liability for all owned, hired and non-owned vehicles brought onto City premises with combined single limits of not less than \$1,000,000 per occurrence.

(c) Worker's Compensation insurance as required by the State of California.

(d) Employer's liability insurance on all employees, for occupational accidents or disease, with limits of not less than \$1,000,000 per occurrence

(e) Equipment and Personal Property insurance adequate to cover the value of all tools and equipment, including rentals, used in performing the Work.

(f) Professional Liability for a period of five (5) years following City acceptance of the Project Improvements, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 per claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

(g) Pollution liability coverage with limits of not less than \$1,000,000 per occurrence and \$2,000,000.00 in the aggregate.

In each policy of insurance described above, Developer shall name or, cause the City, and City Parties to be named, as an Additional Insured under the policies required in clauses 17 (a), (b), (d) and (g) above. All policies shall provide for (i) at least thirty (30) days written notice to City prior to cancellation, and (ii) at least ten (10) days written notice to City for cancellation due to non-payment of applicable premiums. All policies of insurance shall contain full Waivers of Subrogation in favor of City. Developer or their Contractors' insurance coverage shall be primary insurance with respect to any other insurance or self-insurance programs maintained by City and such other insurance or self-insurance programs shall be excess and non-contributory. Prior to the commencement of any Work, Developer shall deliver to City a certificate of insurance evidencing the coverage provided by each policy and provide replacement certificates fifteen (15) days prior to the expiration of any required coverage. City shall fully cooperate with Developer in connection with any claim against City that is in whole or in part caused by Developer, its Contractor or any of its Subcontractors.

19. Title to Project Improvements. Title to and ownership of each portion of the Project Improvements accepted by the City shall vest absolutely in the City.

20. Final Drawings. Upon completion of the Project Improvements and prior to final acceptance thereof, Developer shall provide the City with one set of "as built" drawings in the format specified by the City Engineer. The drawings shall be certified by Developer as being "as-built" and shall reflect the job actually constructed including any changes.

21. Attorneys' Fees. In the event that any action is brought by any party hereto as against another party hereto for the enforcement or declaration of any right or remedy in or under this Agreement or for the breach of any covenant or condition of this Agreement, the prevailing party shall be entitled to recover, and the other party agrees to pay, all fees and costs to be fixed by the court therein, including reasonable attorneys' fees.

22. Compliance with Law. Developer shall, at Developer's expense, obtain all necessary permits and licenses for the Project Improvements hereunder, give all necessary notices and pay all fees and taxes required by law. In the performance of this Agreement, Developer shall comply with all applicable laws, ordinances, and regulations.

23. Assignment. This Agreement may be assigned by Developer with the prior approval of City, not to be unreasonably withheld, conditioned or delayed.

24. Governing Law and Venue. The interpretation and enforcement of this Agreement shall be governed by the laws of the State of California. The exclusive venue for any action brought pursuant to this Agreement shall be the State of California Superior Court for the County of Alameda or the United States District Court for the Northern District of California.

25. Notices. All notices shall be in writing and delivered in person, by facsimile (provided notice is also delivered using one of the other permitted methods of delivery), by nationally recognized overnight courier service (such as FedEx) or sent by registered mail, postage prepaid to the following addresses:

City:

City of Emeryville
1333 Park Avenue
Emeryville, California 94608
Attention: City Manager
Facsimile: (510) 596-3724

with a copy to:

City of Emeryville
1333 Park Avenue
Emeryville, California 94608
Attention: City Attorney
Facsimile: (510) 596-3724

And with a copy to:

City of Emeryville
1333 Park Avenue
Emeryville, California 94608
Attention: City Engineer
Facsimile: (510) 596-3724

Developer:

SWACE LLC
492 9th Street, Suite 300
Oakland, CA 94607
Attention: Kevin Ma and Tyler Wood

with a copy to:
Anna Shimko
Burke Williams & Sorensen, LLP
101 Howard Street, Suite 400
San Francisco, CA 94105

26. Authority. The parties represent that the individuals executing this Agreement have the authority to do so.

27. Further Assurances; Amendments. City and Developer agree to mutually consider reasonable requests for amendments to this Agreement that may be made by any of them, or by lending institutions or bond counsel or financial consultants to City or Developer, provided such requests are consistent with this Agreement and would not materially alter the basic business terms hereof. No amendment hereto shall be effective unless in writing and signed by the parties hereto.

28. Counterparts. This Agreement may be executed in counterparts, and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument.

29. Interpretation. This Agreement is the product of negotiations between the parties, and it shall not be construed as if it had been prepared by one of the parties, but rather as if all parties have prepared the same. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement.

29. Partial Invalidity. If any term, provision, or portion of this Agreement or the application thereof to any person or circumstance is found to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each such term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

30. Prevailing Wage. Developer has been alerted to the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the work to be performed under this Agreement by Developer is being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, Developer agrees to fully comply with such Prevailing Wage Laws. Developer shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Developer and its contractors to comply with all California Labor Code provisions, which

include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815), public works contractor registration (Labor Code Sections 1725.5 and 1771.1) and debarment of contractors and subcontractors (Labor Code Sections 1777.1). It shall be the sole responsibility of Developer to determine whether to comply with Prevailing Wage Laws for any or all work required by this Agreement. As a material part of this Agreement, Developer agrees to assume all risk of liability arising from any decision not to comply with Prevailing Wage Laws for work required by this Agreement.

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the date first above written. The **Effective Date** of this Agreement is the date of execution by City.

Dated: _____, 2018

CITY:

CITY OF EMERYVILLE, a municipal corporation

By: _____

Carolyn Lehr, City Manager
[notary acknowledgement required]

APPROVED AS TO FORM:



Michael Guina, City Attorney

-AND-

Dated: Feb. 15, 2018


DEVELOPER:

SWACE, LLC, a Nevada limited liability company

By: _____

Name: _____

Its: _____


Kevin Ma
Vice President
[notary acknowledgement required]

List of Exhibits	
A and A-1:	Legal Description of Property
B:	Project Approvals
C:	Approved Design
D:	Bond Forms

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of ALAMEDA)On FEBRUARY 15, 2018 before me, LORRAYNE LEONG, NOTARY PUBLIC,
Date Here Insert Name and Title of the Officerpersonally appeared KEVIN MA
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached DocumentTitle or Type of Document: PARK & OPEN SPACE IMPROVEMENT AGREEMENT
Document Date: FEB. 15, 2018 Number of Pages: 15
Signer(s) Other Than Named Above: N/A**Capacity(ies) Claimed by Signer(s)**Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer is Representing: _____Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer is Representing: _____

EXHIBITS A AND A-1

LEGAL DESCRIPTIONS

EXHIBIT A

LEGAL DESCRIPTION

REAL PROPERTY, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF EMERYVILLE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

ALL OF PARCEL B, AS SAID PARCEL IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "TRACT 8357, SHERWIN WILLIAMS - PHASE 1" RECORDED _____, 2018, FILED IN BOOK _____ OF MAPS, AT PAGES _____ THROUGH _____, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY.

TOGETHER THEREWITH:

THOSE AREAS OF LAND SHOWN AND SO DESIGNATED AS PUBLIC ACCESS EASEMENT ("PAE") ON SAID MAP ENTITLED "TRACT 8357, SHERWIN WILLIAMS – PHASE 1" FILED IN SAID OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY.

EXHIBIT A -1

LEGAL DESCRIPTION OF GREENWAY @ PARCEL D

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF EMERYVILLE, ALAMEDA COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL B, AS DESCRIBED IN THAT CERTAIN CERTIFICATE OF COMPLIANCE AND LOT LINE ADJUSTMENT BETWEEN SHERWIN-WILLIAMS COMPANY AND SOUTHERN PACIFIC TRANSPORTION COMPANY, RECORDED ON SEPTEMBER 30, 1994, AS DOCUMENT NO. 94320319, ALAMEDA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH EASTERLY CORNER OF SAID PARCEL B (94320319), SAID CORNER BEING ON THE NORTHERLY RIGHT OF WAY OF SHERWIN AVE.; THENCE ALONG THE EXTERIOR BOUNDARY OF SAID PARCEL B (94320319) THE FOLLOWING SEVEN (7) COURSES: 1) SOUTH 14°39'16" EAST 40.08 FEET; 2) SOUTH 72°28'00" WEST 30.04 FEET; 3) SOUTH 14°39'15" EAST 18.00 FEET; 4) SOUTH 72°28'00" WEST 238.52 FEET; 5) NORTH 17°24'00" WEST 18.00 FEET; 6) SOUTH 72°28'00" WEST 117.29 FEET; 7) SOUTH 14°40'41" EAST 20.02 FEET TO THE SOUTH LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS THE MEE ESTATE AS DESCRIBED IN THAT CERTAIN DOCUMENT RECORDED IN BOOK 1286 OF DEEDS AT PAGE 182; THENCE ALONG SAID SOUTH LINE OF SAID MEE ESTATE SOUTH 72°28'00" WEST 84.11 FEET; THENCE LEAVING SAID EXTERIOR BOUNDARY OF SAID PARCEL B (94320319) ALONG THE ARC OF A NON-TANGENT 2142.68 FOOT RADIUS CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS SOUTH 89°46'22" EAST, THROUGH A CENTRAL ANGLE OF 02°51'40", AN ARC DISTANCE OF 107.00 FEET; THENCE NORTH 06°03'36" EAST 384.65 FEET; THENCE ALONG THE ARC OF A NON-TANGENT 590.90 FOOT RADIUS CURVE TO THE LEFT, THE CENTER OF WHICH BEARS NORTH 82°36'32" WEST, THROUGH A CENTRAL ANGLE OF 07°26'24", AN ARC DISTANCE OF 76.76 FEET TO A POINT OF COMPOUND CURVATURE; THENCE ALONG THE ARC OF A NON-TANGENT 1156.14 FOOT RADIUS CURVE TO THE LEFT, THE CENTER OF WHICH BEARS SOUTH 89°48'12" WEST, THROUGH A CENTRAL ANGLE OF 02°05'32", AN ARC DISTANCE OF 42.22 FEET; THENCE NORTH 02°54'32" WEST 212.50 FEET; THENCE ALONG THE ARC OF A NON-TANGENT 9847.05 FOOT RADIUS CURVE TO THE LEFT, THE CENTER OF WHICH BEARS SOUTH 87°13'51" WEST, THROUGH A CENTRAL ANGLE OF 00°03'06", AN ARC DISTANCE OF 8.88 FEET; THENCE SOUTH 14°39'15" EAST 49.33 FEET; THENCE SOUTH 03°40'30" EAST 159.50 FEET TO A POINT ON SAID EXTERIOR BOUNDARY OF SAID PARCEL B (94320319); THENCE ALONG SAID EXTERIOR OF SAID PARCEL B (94320319) THE FOLLOWING FOUR (4) COURSES: 1) SOUTH 14°39'15" EAST 220.24 FEET; 2) NORTH 75°20'45" EAST 20.50 FEET; 3) SOUTH 14°39'15" EAST 295.00 FEET; AND 4) NORTH 72°28'04" EAST 235.30 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.95 ACRES (84,911 SQUARE FEET) OF LAND, MORE OR LESS.

EXHIBIT B

PROJECT APPROVALS

ORDINANCE NO. 16-006

Ordinance Of The City Council Of The City Of Emeryville Adopting A Planned Unit Development Zoning Designation And Approving A Preliminary Development Plan On The 10.05-Acre Sherwin Williams Project Site Bounded By Sherwin Avenue To The South, The Union Pacific Railroad Tracks To The West, Horton Street To The East, And Temescal Creek To The North (APNs: 49-1041-26-15 And -16), And Adopting An Amendment To The Planning Regulations To Add The Sherwin Williams Mixed Use Project To The List Of Planned Unit Developments In Section 9-3.310

WHEREAS, LMC Emeryville I Investor LLC ("Applicant") proposes to construct a mixed use project comprised of up to 500 multi-family residential units, a minimum of 2,000 square feet and a maximum of 8,000 square feet of ground floor retail/restaurant/office space, 74,000 square feet of office space, parking garages, open, space, infrastructure and landscaping on the former Sherwin Williams paint factory parcel and adjacent City-owner parcel bounded by Sherwin Avenue to the south, the Union Pacific Railroad tracks to the west, Horton Street to the east, and Temescal Creek to the north ("Project; and

WHEREAS, the Project requires an amendment to the General Plan to modify the Land Use Diagram (Figure 2-2) to reflect the proposed relocation of Park/Open Space and Mixed Use with Residential on the Project site and to modify the Maximum Residential Densities map (Figure 2-6) to be consistent with the Land Use Diagram; and

WHEREAS, on September 6, 2016, the Emeryville City Council certified the Final Environmental Impact Report for the Project, including the proposed General Plan amendment, as adequate under California Environmental Quality Act (Resolution No. 16-122); and

WHEREAS, on September 22, 2016, at a duly and properly noticed public hearing, the Planning Commission adopted Resolution No. EIR 16-03, reviewing and applying the Final EIR to the Project; recommending that the City Council adopt the Mitigation Measures and making findings as required by the California Environmental Quality Act; and

WHEREAS, on September 22, 2016, at a duly and properly noticed public hearing, the Planning Commission recommended that the City Council approve the proposed amendment to the General Plan, and recommended adoption of a Planned Unit Development (PUD) zoning designation and approval of a Preliminary Development Plan (PDP) (Resolution No. PUD 13-001); and

WHEREAS, on October 18, 2016, the City Council held a duly and properly noticed public hearing and took testimony about the Project, including the proposed amendment to the General Plan; and



WHEREAS, on October 18, 2016, following the public hearing, the City Council adopted Resolution No. 16-147, applying the Final EIR to the Project, and making certain findings of fact regarding impacts, adopting the Mitigation Monitoring and Reporting Program, and making certain findings related to alternatives and a statement of overriding considerations; and

WHEREAS, on October 18, 2016, following the public hearing, the City Council adopted Resolution No. 16-148, adopting the proposed amendment to the General Plan to modify the Land Use Diagram (Figure 2-2) to reflect the proposed relocation of Park/Open Space and Mixed Use with Residential on the Project site and to modify the Maximum Residential Densities map (Figure 2-6) to be consistent with the Land Use Diagram; and

WHEREAS, the City Council has reviewed and considered the staff report and attachments thereto, the plans, all public comments, and the proposed Sherwin Williams Mixed Use Project, subject to the conditions and requirements set forth in Exhibit B attached to this Resolution and the applicable standards of the Emeryville Planning Regulations ("the Record");

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. PURPOSE AND INTENT

The purpose and intent of this Ordinance is to adopt a Planned Unit Development zoning designation and to approve a Preliminary Development Plan on the 10.05-acre Sherwin Williams project site bounded by Sherwin Avenue to the south, the Union Pacific railroad tracks to the west, Horton Street to the east, and Temescal Creek to the north (APNs: 49-1041-26-15 and -16), and to adopt an amendment to the Planning Regulations to add the Sherwin Williams Mixed Use Project to the list of Planned Unit Developments in Section 9-3.310.

SECTION TWO. REQUIRED FINDINGS FOR ADOPTING ORDINANCE

Planned Unit Development. The City Council makes the following findings to create a PUD zone and adopt a preliminary development plan, pursuant to Section 9-7.1004(a) of the Emeryville Municipal Code:

- (1) The proposed planned unit development conforms to the adopted General Plan and any other applicable plans.

General Plan goals (G) and policies (P) that are particularly germane, and with which the project is consistent, include:

- LU-G-2** *A mix of housing types – A diversity of housing types to accommodate a variety of household sizes and incomes.*
- LU-G-9** *Appropriately scaled buildings – heights and massing that do not appear monolithic.*
- LU-P-1** *Land uses will be consistent with the Land Use Classifications in section 2.4 and the Land Use Diagram, Figure 2-2.*
- LU-P-5** *Retail uses will be concentrated in areas with Neighborhood or Regional Retail overlays, near neighborhood centers, and in the Emeryville Marketplace.*
- LU-P-18** *The reuse of the Sherwin Williams site shall include a mix of residential and nonresidential uses with ample open space, centered on an extension of the Emeryville Greenway connecting Horton Landing Park and the Park Avenue District.*
- PP-P-6** *The north-south Emeryville Greenway will be expanded, enhancing its role as an open space corridor and connector across the City, and a source of inspiration and community pride. The City will support the expansion of a park at the Sherwin Williams site, in coordination with the development of Horton Landing Park and the Greenway.*

The project will provide a standalone affordable housing building in addition to market rate units in three other buildings. In addition, live-work units are also contemplated in the project. The building footprint along street frontages maintain a setback and the building heights are also stepped back so as to maintain the scale of the surrounding buildings.

General Plan goals policies (P) that are related to Urban Design, and with which the project is consistent, include:

- UD-P-46** *Street trees shall be provided on City streets where feasible. Street trees shall be planted in a row along the curb, between the vehicle roadway and sidewalk, unless this is physically impossible due to constraints such as underground water or sewer lines.*
- UD-P-47** *Streetscape landscaping shall follow Bay-Friendly Landscaping guidelines and serve the dual purpose of treating stormwater runoff and providing shade and beauty to the urban realm.*

New street trees have been provided along the new Hubbard Street extension and 46th Street and are proposed in a row along the curb between the road and sidewalk. In addition, conditions of approval require the project to follow Bay-Friendly Landscaping guidelines and the plans allow the use of the trees to treat stormwater where possible.

General Plan goals (G) and policies (P) that are related to Transportation, and with which the project is consistent, include:

- T-G-4** *A walkable city – provide an accessible, safe, pleasant, convenient, and integrated pedestrian system that provides links within the city and to surrounding communities, and reduces vehicular conflicts.*
- T-P-1** *The City's circulation plan shall be as set forth in Figures 3-1 through 3-8 and based on typologies described in the Transportation Chapter of the General Plan.*
- T-P-2** *The design, construction, operation, and maintenance of city streets shall be based on a "complete streets" concept that enables safe, comfortable, and attractive access and travel for pedestrians, bicyclists, motorists, and transit users of all ages and abilities.*
- T-P-4** *Transportation planning shall be coordinated with emergency service providers to ensure continued emergency service operation and service levels.*
- T-P-10** *The pedestrian circulation system shall be as set forth in Figure 3-4 and based on the typologies described in the General Plan Transportation Chapter.*

T-P-12 *The City will plan, upgrade, and maintain pedestrian crossings at intersections and mid-block locations by providing safe, well-marked crosswalks with audio/visual warnings, bulb-outs, and median refuges that reduce crossing widths.*

The design of two new streets, Hubbard Street extension and 46th Street is based on the “complete” streets concept that allows for on-street parking, wide sidewalks that provide street trees between the curb and pedestrian path, and adequate lighting via light poles. In addition, the project provides ample pedestrian connections within and to the project site by creating an east-west “pass through” pedestrian and bicycle alley in the existing Building 1-31 that will align with 45th Street on the east and terminate at the new public park on the west. In addition, walkability is further increased by extension of the Greenway along the western property edge.

General Plan policies (P) related to Conservation, Safety, Noise, and Sustainability that are particularly germane, and with which the project is consistent, include:

- CSN-P-10** *New development is required to incorporate source control, site design, and storm water treatment to reduce pollutants in stormwater runoff.*
- CSN-P-11** *Exterior uses of water for landscaping and other purposes shall be reduced to minimize or eliminate runoff and water waste.*
- CSN-P-33** *In order to reduce light pollution and use less energy, lighting (including on streets, recreational facilities, and in parking areas) should be designed to prevent artificial lighting from illuminating natural resources or adjacent residential neighborhoods.*
- CSN-P-44** *The City will continue to require development projects to implement on-site stormwater management measures through the City's development permit process.*
- ST-P-5** *The City shall encourage, promote, practice, and where feasible, require Bay-Friendly landscaping practices as defined in the Bay-Friendly Landscape Guidelines, Sustainable Practices for Landscape Professionals.*

The Citywide design guidelines that apply and are particularly germane, and with which the project is consistent via design and/or Conditions of Approval, include:

Site Planning:

- C-1 Consider the three-dimensionality of buildings: how they are perceived from the ground level, public streets, and side streets; and how they can contribute to, or detract from, the views, neighborhood or district character, and overall quality of life.***
- C-2 Site buildings and locate plazas, building entrances, seating, and visually interesting architectural features to encourage interaction among occupants and passersby.***
- C-4 Consider edge conditions and transition areas during site design to ensure compatibility between existing and new development.***
- C-6 Conceal all mechanical, electrical, and other building equipment from the public right-of way and from other existing buildings, where feasible. Use screening materials and other buffers to minimize noise and visual impacts. Mechanical equipment should not be located along the ground floor street frontage.***

Building heights are stepped back such that the tallest edge of the buildings are not within line of sight as seen from the street. In this way, the project heights are in proportion and compatible to the surrounding buildings as seen from the public streets outside the project i.e. Sherwin Avenue and Horton Street. Conditions of Approval ensure that all mechanical and other equipment will be adequately screened from the public right-of-way. In addition, the new public park as well as two public plazas allow opportunities for designing building entrances that encourage interaction among occupants and passersby.

Building Massing:

- D-1 In areas where building heights transition, step back upper levels of buildings to transition to adjacent lower building heights.***



- D-2 Encourage variation and articulation through changes in height and massing.***
- D-3 Create buildings openings that permit midblock pedestrian connections, thereby breaking up “super blocks” and expanding the pedestrian network.***
- D-7 Design of new buildings should consider shadow impacts on surrounding areas. 3D modeling is recommended to test the effect of building heights and massing on sidewalks and streets, in terms of shadows.***

Sidewalks and Green Streets (Policies A-1 to A-3 and I-23)

Generally, the Design Guidelines call for a minimum of 11.5 foot wide sidewalk, including 7.5 feet for a pedestrian pathway and 4 feet for a landscaped area between the pedestrian pathway and curb. Additionally, Sherwin Avenue, Hubbard Street extension, and Horton Street between Sherwin Avenue and 45th Street are designated “Green Streets” that calls for a 15-foot minimum sidewalk corridor, including 8 feet for a pedestrian pathway, 5 feet for a landscaped area next to the curb, and 2 feet for a landscaped area next to the adjacent property (Figure 3-6 of Emeryville Design Guidelines). Where the Greenway is separate from a street, the Design Guidelines call for a 20 foot minimum corridor including a 10 foot paved pedestrian/bicycle pathway and a 6 foot unpaved path separated by 4 feet of landscaping (Figure 3-5 of Emeryville Design Guidelines).

The Hubbard Street extension is designed as a 66-foot right of way with a 36- foot roadway, 5-foot planter strip between the curb and pedestrian pathway, 8-foot pedestrian pathway, and 2-foot landscaped area adjacent to the property line, thereby providing a minimum sidewalk width of 15 feet on both sides of the street. Thus, Hubbard Street extension is in compliance with the “Green Street” requirement.

The Sherwin Avenue street section shows compliance with the Green Street sidewalk width with an 8-foot clear pedestrian path, a 5-foot landscape area next to the curb; and a 2-foot landscape corridor between the sidewalk and the building wall.

In the interest of preserving existing mature trees along the Horton Street frontage, it is not possible to comply with the Green Street

sidewalk width; however, there is a clear pedestrian pathway of 8 feet.

The Greenway along the railway tracks provides a 20 foot multi-use trail with a 15-foot concrete pathway and a 5 foot decomposed granite path, in conformance with the Design Guidelines.

Sherwin Avenue between Hubbard Street and Halleck Street is designated as a Class II/III bikeway in the General Plan, and as a Class III Bicycle Route in the Pedestrian and Bicycle Plan, meaning that the roadway should be designed to be shared with bicycles. Condition of Approval Number II.E.4 requires bicycle signage on Sherwin Avenue.

The Park Avenue District Plan guidelines that apply and are particularly germane, and with which the project is consistent via design and/or Conditions of Approval, include:

- Work with surrounding property owners and businesses to time-share parking.
 - Residential projects should include units with multiple bedrooms that could accommodate families.
 - Development of large sites (1 acre or greater) should include residential or live/work units.
 - Encourage new development north of Sherwin Avenue and west of Horton Street (i.e. on the Sherwin Williams site) to include a public park or parks with ample green space.
 - Provide active uses on the street frontage of buildings.
 - Create a cultural arts center or a permanent home for Emeryville Art Exhibition.
- (2) The proposed planned unit development will provide for a cohesive, integrated, well-planned development which will contribute to the general well-being of the surrounding neighborhood or community.

The Project will create a new neighborhood that is fine-grained, providing bicycle and pedestrian connections via the Greenway, a new Green Street (Hubbard Street extension) to other neighborhoods and a “pass through” alley in an existing building that will result in



extension of the 45th Street corridor through the site terminating at a new public park. Building massing has been appropriately designed such that building heights are stepped back from the street frontages. In addition, ground floor spaces have been assigned for active uses such as retail, restaurant, residential amenities and other similar uses to create an integrated, well-planned development that provides well-lit tree-lined streets with ample sidewalks.

- (3) The project site is suitable for the uses permitted in the planned unit development in terms of access, size of parcel and relationship to similar or related uses.

The site is large and accessible enough to accommodate the proposed primarily residential use with 74,000 square feet of office and approximately 2,000-8,000 square feet of other commercial uses. The project will primarily redevelop existing vacant space of the former paint factory site and provide for a balanced in-fill development in a neighborhood that is a mix of commercial and residential development including the adjacent Artists Cooperative housing.

The site is currently zoned Mixed Use (M-U) and Park/Open (PO); the proposed uses are consistent with the types of uses permitted in a Mixed Use district and the project provides the required amount of Park/Open Space.

- (4) The location, size, coverage, density, design and operating characteristics of the proposed planned unit development will be compatible with, and will not adversely affect, the surrounding area, including neighborhood character, street design and capacity, safety, noise, and lighting.

The project design incorporates building setbacks; building heights and a creation of a more grid-like street pattern to ensure that the urban grid pattern of Emeryville is reflected and that building scale and massing are consistent with surrounding and adjacent land uses that primarily consist of residential and commercial development that are two to three stories high.

- (5) The subject property will be developed with due regard for aesthetic quality and landscaping so as to reduce, to the extent feasible, significant negative impacts on the environmental quality, value, or stability of the site or the environmental quality or value of improved or unimproved property in the area.

The streetscape reflects an urban setting and will be enhanced with broad sidewalks, trees, flowering plants, street furniture, and lighting. The project also proposes a new City park and other open areas thereby providing substantial open space amenities for all development in the vicinity. At the time of approval of Final Development Plans for each building, the design of buildings will be required to comply with applicable design guidelines, and will therefore include design features that incorporate well-articulated architecture with variations in building planes, colors and materials, balconies and trellises.

- (6) The proposed planned unit development will be developed to allow originality which does not have significant adverse impacts on the environmental quality or value of improved or unimproved property or prevent appropriate development and use of such areas.

The proposed planned unit development reconfigures the required open space by providing a new public park, extension of the Greenway and two other public plazas. The adverse environmental impacts that are identified in the Final EIR have been mitigated to a less than significant level or have been deemed acceptable because of overriding considerations as set forth in City Council Resolution No. 16-147.

- (7) The proposed planned unit development has been designed to include open space, parking areas; pedestrian walks, signs, illumination and landscaping (including irrigation) to enhance the environmental quality of the site.

The project consolidates a City parcel adjacent to the railroad to build a new public park, the Greenway extension and two public plazas. In addition, the development pattern is designed to provide maximum pedestrian circulation via a "pass through" alley within an existing building for cyclists and pedestrians and landscaping throughout the site. Other features such as car -share, bike share station, bike lockers and a new shuttle running to West Oakland are proposed to encourage non-vehicular modes of travel.

Significant Structures. The City Council makes the following finding for preservation and reuse of a significant structure pursuant to Emeryville Municipal Code Section 9.5.1206(a)(1):

- (1) That the proposed project will retain and enhance all or most of the features of the structure that make it significant, as described and indicated in Table 9-5.1210.

The project proposed preserve and reuse the existing Building 1-31 which is identified as Significant Structure Number 37 in Table 9-5.1210 with the following significant features: contrasting concrete and brick, three stories, window pattern, windows recessed with concrete sills, north end symmetric concrete and windows around entrance. The proposal involves installing a 24-foot wide "pass through" alley for pedestrians and cyclists that will involve removal of a roll up door which is not considered a significant feature. All the significant features of Building 1-31 will be retained and enhanced with the general upgrade and retrofit of the building.

Affordable Housing. The City Council makes the following finding to allow the project's affordable units to be contained within a single building rather than dispersed throughout the project, pursuant to Emeryville Municipal Code Section 9.5.408(c):

The provision of affordable units in a single building is compelling for the following reasons: a stand-alone building allows for a provision of deeper levels of affordability, it allows for partnering with a affordable housing developer with experience to provide on-site social services on a continuing basis; and as conditioned, its impact on the land uses for other proposed and existing affordable housing projects within the City will be mitigated by not competing for the funding that supports those land uses.

SECTION THREE: ADOPTION OF PLANNED UNIT DEVELOPMENT ZONING DESIGNATION AND APPROVAL OF PRELIMINARY DEVELOPMENT PLAN

Based on the findings set forth in this Ordinance, and the evidence in the record as a whole, the City Council hereby establishes a Planned Unit Development (PUD) zoning designation for the Sherwin Williams Project site by amending the Zoning Map as depicted in Exhibit A, and approves the Sherwin Williams Preliminary Development Plan (PDP) dated September 13, 2016 for the 10.05 acre site bounded by Sherwin Avenue to the south, the Union Pacific Railroad tracks to the west, Horton Street to the east, and Temescal Creek to the north. (APNs 49-1041-26-15 and 49-1041-26-16), attached hereto as Exhibit C, subject to the Conditions of Approval as set forth in Exhibit B. By approving the Sherwin Williams PDP, the uses, building intensity, building height, setbacks, landscaping, screening, off-street parking and loading, signage, illumination and basic guidelines for development shall be governed by the Sherwin Williams PDP.

SECTION FOUR: AMENDING PLANNING REGULATIONS

The City Council hereby amends the Planning Regulations in Title 9 of the Emeryville Municipal Code as follows:

Figure 9-3.103(a), Zoning Map, is amended as depicted in Exhibit A.

Section 9-3.310 is amended to add subsection (a)(7) to read as follows:

- (7) Sherwin Williams Mixed Use Project. Created by Ordinance No. 16-__ passed on November 1, 2016.

SECTION FIVE: CEQA DETERMINATION

On September 6, 2016, the City Council certified the Final Environmental Impact Report for the Project as adequate under California Environmental Quality Act (Resolution No. 16-122). On October 18, 2016, by Resolution No. 16-147, the City Council has applied the Sherwin Williams Environmental Impact Report to the Sherwin Williams Development Project; and made findings as required by the California Environmental Quality Act (CEQA); and adopted mitigation measures for the Project. Pursuant to State CEQA Guidelines Section 15094, the City Council hereby directs staff to file a Notice of Determination with the Alameda County Clerk.

SECTION SIX. SEVERABILITY

The City Council hereby declares that every section, paragraph, clause and phrase of this Ordinance is severable. If, for any reason, any section, paragraph, clause or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

SECTION SEVEN. CODIFICATION.

Section Four of this Ordinance shall be codified in the Emeryville Municipal Code. Sections One, Two, Three, Five, Six, Seven, and Eight shall not be codified.

SECTION EIGHT. EFFECTIVE DATE AND POSTING.

This Ordinance shall take effect 30 days following its final passage. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by California Government Code Section 33693.

This Ordinance was introduced and first read by the City Council of the City of Emeryville at a regular meeting held on Tuesday, October 18, 2016, and passed and adopted by the City Council at a regular meeting held on Tuesday, November 1, 2016 by the following vote:

AYES:	<u>5</u>	Mayor Martinez, Vice Mayor Donahue and Council Members Asher, Atkin and Davis
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

Dianne Martinez

MAYOR

ATTEST:

APPROVED AS TO FORM:

[Signature]
DEPUTY CITY CLERK

Michael Guind
CITY ATTORNEY

Attachments:

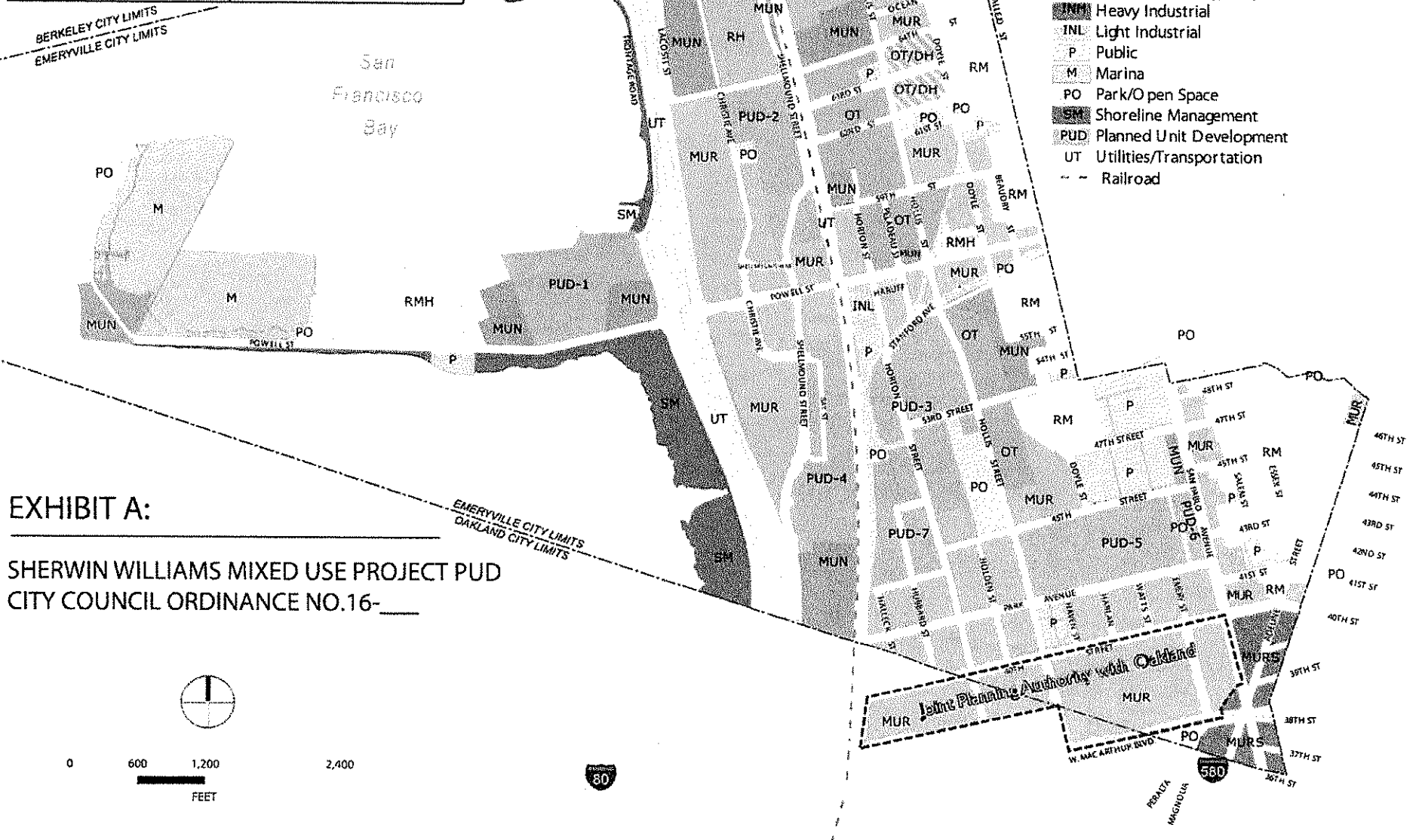
- Exhibit A – Zoning Map showing designation of the new PUD classification
- Exhibit B – Conditions of Approval
- Exhibit C – Preliminary Development Plan dated September 13, 2016



Planned Development (PUD)		
Zone	Ordinance	Name
PUD-1	ORD #99-007	Watergate Office Towers
PUD-2	ORD #08-004	Marketplace Redevelopment (Public Market)
PUD-3	ORD #01-001	Chiron (Novartis)
PUD-4	ORD #99-009	South Bayfront (Bay Street)
PUD-5	ORD #04-004	Pixar
PUD-6	ORD #99-003	Emery Village (Promenade/CSV)
PUD-7	ORD #16-	Sherwin Williams Mixed Use Project

ZONING MAP

- RH High Density Residential
- RMH Medium-High Density Residential
- RM Medium Density Residential
- MUR Mixed Use with Residential
- MURS Mixed Use with Residential South
- MUN Mixed Use with Non-Residential
- OT Office/Technology
- OT/DH Office/Technology Doyle Hollis North Area
- INH Heavy Industrial
- INL Light Industrial
- P Public
- M Marina
- PO Park/Open Space
- SM Shoreline Management
- PUD Planned Unit Development
- UT Utilities/Transportation
- Railroad



CONDITIONS OF APPROVAL

**Sherwin Williams Mixed Use Project
Planned Unit Development/Preliminary Development Plan
1450 Sherwin Avenue (APNs: 49-1041-26-15 and -16)
File Number: PUD 13-001
Exhibit B. Conditions of Approval
November 1, 2016**

As approved by the City Council pursuant to Ordinance No. 16-006 on November 1, 2016. ("Ordinance Of The City Council Of The City Of Emeryville Adopting A Planned Unit Development Zoning Designation And Approving A Preliminary Development Plan For The 10.05-Acre Sherwin Williams Project Site Bounded By Sherwin Avenue To The South, The Union Pacific Railroad Tracks To The West; Horton Street To The East, And Temescal Creek To The North (APNs 49-1041-26-15 And 16), And Adopting An Amendment To The Planning Regulations To Add The Sherwin Williams Mixed Use Project To The List Of Planned Unit Developments In Section 9-3.310.")

"Applicant" in these Conditions of Approval shall mean an applicant for any Preliminary Development Plan (PDP) or Final Development Plan (FDP) approval for this project unless otherwise expressly limited to an applicant for a particular FDP approval.

I. COMPLIANCE WITH APPROVALS

- A. **PROJECT APPROVALS.** All phases of the project shall be constructed and operated in accordance with the following actions by the City Council:
1. General Plan Amendment (Resolution No. 16-148) to modify the Land Use Diagram (Figure 2-2) to reflect the proposed relocation of Park/Open Space and Mixed Use with Residential on the site, and to modify the Maximum Residential Densities map (Figure 2-6) to be consistent with the Land Use Diagram.

2. Approval of a rezoning of the Sherwin Williams project site identified by Assessor's Parcel Numbers 49-1041-26-15 and 49-1041-16 from Mixed Use (M-U) and Park/Open (PO) to Planned Unit Development (PUD) (Ordinance No.16-006).
3. Approval of Preliminary Development Plan (PDP) (Ordinance No. 16-006) with the following major components, as may be modified in accordance with these Conditions of Approvals so long as the floor area ratio (FAR) does not exceed 3.0 in the aggregate, and the height and general massing are within the limits shown on the approved PDP (defined below):

Construction of:

- (a) Up to 500 residential units (includes live-work units)¹;
- (b) Up to 74,000 square feet of office space on Parcel A;
- (c) A minimum of 2,000 square feet and a maximum of 8,000 square feet of ground floor commercial space (exclusive of the public art gallery and community room described in Section II.D.2 (b)(2). At a minimum, one commercial tenant space shall include infrastructure for a café/restaurant space (such as Type 1 grease exhaust, hood and duct systems)
- (d) A total of 3.53 acres of public park and open space that includes 2.08 acres on the Sherwin Williams property (APN 49-1041-26-15) and 1.45 acres on the Successor Agency-owned parcel (APN 49-1041-26-16) (the "City parcel"), including a public park of approximately 2.07 acres fronting on Sherwin Avenue, a Greenway running along the western edge of the project area adjacent to the railroad tracks, and other open areas as identified on Page 6 of the approved plans; and
- (f) Construction and dedication of new public streets: Hubbard Street extension between Sherwin Avenue and new 46th Street, and new 46th Street between Horton Street and Hubbard Street extension.

The maximum heights permitted on each parcel are:

Parcel A: Existing Building Height of 42 feet

¹ For purposes of calculation of required affordable units, live-work units will be considered as residential units.

- Parcel B-1: 45 feet; 65 feet and 75 feet as shown on Pages 7 and 8 of the approved PDP plans
- Parcel B-2: 45 feet; 65 feet and 75 feet as shown on Pages 7 and 8 of the approved PDP plans
- Parcel C: 65 feet and 75 feet as shown on Pages 7 and 8 of the approved PDP plans
- Parcel D: 100 feet

Projections above these height limits shall be allowed pursuant to Section 9-4.202(c) of the Planning Regulations.

4. Uses Allowed on Ground Floor in All Buildings. Uses are allowed on ground floor areas of all buildings as follows:
 - (a) All uses permitted in the MUR zone pursuant to Table 9-3.202 of the Planning Regulations as effective on October 18, 2016 are permitted;
 - (b) All uses conditionally permitted in the MUR zone pursuant to Table 9-3.202 of the Planning Regulations as effective October 18, 2016 shall require a Minor Conditional Use Permit; and
 - (c) Residential units including live-work units are permitted.
5. Uses Permitted in Building 1-31. In addition to office use (general, government, and walk-in clientele), all non-residential uses that are permitted in the MUR zone that have an estimated parking demand that is the same as or less than that of office uses are permitted. All non-residential uses that are conditionally permitted in the MUR zone and that have an estimated parking demand that is the same as or less than that of office uses, shall require a Minor Conditional Use Permit. Any other uses that are permitted or conditionally permitted in the MUR zone shall require Planning Commission approval of a Major Conditional Use Permit.
6. Modification to the Requirements of the Planning Regulations.
 - (a) Parking. The maximum parking allowed for residential uses shall be 1 space per unit (including live-work units). For all other uses, including residential guest parking, the parking requirements shall be as set forth in Article 4 of Chapter 4 of the Planning Regulations. The affordable units shall be assigned one parking space per unit.

- (b) Other Requirements. All other requirements of the Planning Regulations as effective on October 18, 2016, including but not limited to bicycle parking, loading, courts, open space, landscaping and screening, water use, recycling and trash areas, and lighting and illumination, shall apply.
- B. APPROVED PLANS. The future Final Development Plans of the project shall substantially comply with the PDP plans dated September 13, 2016, entitled "Sherwin Williams Preliminary Development Plan" prepared by LPAS and CBG, pages 1 to 29 except as modified by these Conditions of Approval.
- C. APPROVAL EFFECTIVENESS AND DURATION. This permit shall automatically expire if an application for a Final Development Plan has not been filed and fees have not been paid within three years from the date of this approval. Pursuant to Section 9-7.1009(a) of the Emeryville Municipal Code, this time limit may be extended by the City Council.
- D. INSTALLATION AND MAINTENANCE OF IMPROVEMENTS. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved. Minor changes may be approved by the Community Development Director. In constructing all public improvements, Applicant shall agree to all security, guarantee, warranty, and indemnification provisions as set forth in City's encroachment agreement in a form approved by the City Attorney.
- 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. This approval is contingent upon Resolution No. 16-148, amending the General Plan being effective. Operations on this site 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 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 be cause for non-issuance of a certificate of occupancy, revocation or modification of these approvals or any other remedies available to the City.
- G. APPLICATION TO SUCCESSORS IN INTEREST. These Conditions of Approval shall apply and shall be binding upon any successor in interest in the property and Applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this zoning/PUD/PDP approval.

- H. FINAL DEVELOPMENT PLAN (FDP) APPLICATION. The Applicant may submit one or more FDP applications for the project, as follows:
- (a) New and Existing Buildings. The Applicant shall submit an FDP application for approval prior to submission of any building permit or grading permit for any building, including the existing Building 1-31 on Parcel A.
 - (b) Parks. The Applicant shall hold at least two community meetings to solicit community input, and shall also obtain recommendations from relevant City Committees (including but not limited to the Parks and Recreation Committee and the Bicycle/Pedestrian Advisory Committee) for the design of the public park, open spaces, plazas, Greenway, and bicycle and pedestrian paths as part of a Final Development Plan (FDP). All park and open space related work in the approved FDP shall be completed and shall be open to the public no later than prior to the issuance of a temporary certificate of occupancy for the last new residential building; as will be further detailed in the Tentative Map for the project.
- I. SUBDIVISION APPROVAL. Prior to the approval of the first Final Development Plan, the Public Works Director shall confirm that the Applicant has received Planning Commission approval of the Tentative Map for the project and has applied for the reapportionment of the Bay-Shellmound Assessment as applicable.

II. GENERAL CONDITIONS

- A. INDEMNIFICATION. Applicant, its assignees, and successors-in-interest shall defend, hold harmless, and indemnify the City of Emeryville, the Successor Agency to the Emeryville Redevelopment Agency, 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 project, general plan amendment, and/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.

- B. MITIGATION MEASURES. The mitigation measures identified in the Final Environmental Impact Report (FEIR) prepared for the project are attached and incorporated by reference into this document. All mitigation measures that apply to the project's impacts shall be considered conditions of approval of the project, as may be further refined or clarified by these Conditions of Approval. Overall monitoring compliance with the mitigation measures will be the responsibility of the Community Development Director.
- C. AFFORDABLE HOUSING PROGRAM. No fewer than 17 per cent of total units in the project shall be affordable units, i.e. no fewer than 85 affordable units out of a total of 500 units. Prior to the issuance of the first building permit for a residential structure, the Community Development Director shall confirm that the Applicant has entered into an agreement (Affordable Housing Agreement) with the City and approved by the City Council to be recorded against the property which satisfies the requirements of the City of Emeryville's Affordable Housing Program, as set forth in Article 4 of Chapter 5 of Title 9 of the Emeryville Municipal Code.
1. Affordability Income Levels. Pursuant to Section 9-4.204(d)(1) of the Planning Regulations, affordable units shall, at a minimum, be affordable to households of the following income levels, as defined in Article 4 of Chapter 5 of the Planning Regulations, or at a deeper level of affordability:
- | | | |
|-----------------|-------|----------|
| Very Low Income | 3.9% | 20 units |
| Low Income | 5.9% | 30 units |
| Moderate Income | 7.2% | 35 units |
| TOTAL | 17.0% | 85 units |
- If the Applicant chooses to develop fewer than the maximum of 500 units, the number of affordable units shall be reduced proportionally, subject to the requirements of Section 9-4.204(d)(1) and the Rules for Rounding of Numbers in Section 9-2.103.
2. Stand-Alone Affordable Building. The required affordable units may be constructed in a stand-alone building on Parcel B-1 by a separate legal entity than the Applicant ("Affordable Housing Developer"), in which case the level of affordability shall be deeper than specified in Condition II.C.1 above. Specifically, 10% of the affordable units, i.e. 9 units, shall be affordable to households whose maximum annual income does not exceed

50% of Area Median Income (AMI), and 90% of the affordable units, i.e. 76 units, shall be affordable to households whose maximum annual income is 51% to 60% of AMI.

In order to ensure parity with market rate residential units the following conditions shall apply to the affordable units:

- (a) Deed Restriction. A deed restriction/affordable housing covenant shall be recorded against the parcel with the stand-alone affordable residential building in a form acceptable to the City Attorney. This deed restriction/covenant shall not be subordinate to any promissory note, deed of trust or mortgage on said parcel.
- (b) Materials and Finishes. The affordable residential building and units within the building shall be comparable with the design of market rate buildings and units within them in terms of appearance, materials, and quality of finishes.
- (c) Amenities. Residents of the stand-alone affordable residential building shall have access to and the right to use all project-wide shared amenities offered to market rate residents, under the same terms and conditions as offered to market rate residents, including but not limited to swimming pools, recreation facilities, bike facilities, car share stalls, and podium courtyards in buildings on Parcel B-2, C and D. A deed restriction on the parcels with market rate housing units shall be recorded in a form acceptable to the City Attorney to provide access and the right to use amenities to the residents of the affordable housing units to fulfill this condition.
- (d) Washer and Dryer. A clothes washer and dryer shall be provided in each affordable unit.
- (e) Maintenance. The operation and maintenance of the common areas, exterior, landscape, and units of the stand-alone affordable residential building shall be at the same level as the market rate units, and at all times, shall comply with applicable property maintenance and habitability codes. The deed restriction/affordable housing covenant shall address operation and maintenance performance standards and schedules to ensure parity of operation and maintenance between the stand-alone affordable residential building and the market rate units at all times.
- (f) Resident Manager. A full time, dedicated resident services manager shall be provided for the building. The building shall have

a dedicated office for the resident services manager, and a separate residential unit for the manager, which shall not be counted towards the required number of affordable units. The resident manager shall have at least five years' experience in the operation and management of similar size rental housing projects, and at least three years' experience in the operation and management of rental housing projects containing below-market-rate units, without any record of material violations of discrimination restrictions. No less than 10 City business days prior to hiring the manager the Affordable Housing Developer shall provide documentation to the City as is reasonably necessary to evaluate the proposed manager's experience and qualifications. No manager shall be hired, or management agreement signed or amended, without City's prior approval, which shall not be unreasonably withheld or delayed. Any change in the manager or amendment to the management agreement that impacts the level of service to the affordable housing residents shall require the prior written approval of City, which shall not be unreasonably withheld or delayed.

- (g) Unit Size and Mix. Prior to issuance of a Final Development Permit for any residential structure, the Community Development Director shall confirm that the average size and mix of affordable units, as measured by square footage and number of bedrooms, is equal to or greater than the average size of the market rate units.
- (h) Parking. Parking for affordable units shall be included in maximum rents and shall be provided in the building on Parcel B-2. Prior to issuance of a building permit for the stand-alone affordable housing building, an agreement in a form approved by the City Attorney shall be entered into between the Applicant and the Affordable Housing Developer guaranteeing that required parking to serve the stand-alone affordable housing building will be in place in the building on Parcel B-2 at all times that the affordable housing building is in operation.
- (i) Section 8 Vouchers. Section 8 vouchers shall be accepted for the affordable units.
- (j) Programs and Services. Affordable Housing Developer shall provide programs and services to residents of the stand-alone affordable housing building, such as employment/job training, after school programs, exercise classes, social activities, children's playground, and computer training. Such programs and services shall be provided by a full-time staff separate from the resident manager, and shall have an office separate from the resident

manager's office and adequate dedicated facilities within the stand-alone affordable housing building. Details of the programs and services to be provided shall be specified in the Affordable Housing Agreement.

- (k) Affordable Housing Building to be Occupied First. The stand-alone affordable housing building shall be occupied concurrently with, or prior to, the occupancy of any other new residential building, but shall not be occupied until its parking in the building on Parcel B-2 is available for use.
- (l) Funding. Applicant shall not apply for competitive funding sources for the stand-alone affordable housing project for which the City of Emeryville may apply, now or in the future.

D. BONUS POINTS. The project requires 100 bonus points for bonus floor area ratio (FAR), height, and residential density pursuant to Section 9-4.204 of the Planning Regulations. The Applicant shall obtain these 100 bonus points in the following manner:

- 1. Affordable Housing (50 points). Pursuant to Section 9-4.204(d) of the Planning Regulations, half of the required bonus points shall be earned through the provision of 17% of the total number of residential units as affordable units. Affordable units may be provided in a stand-alone building. See Condition II.C above for further details on the affordable housing requirements.
- 2. Community Benefits (50 points). Pursuant to Section 9-4.204(e) of the Planning Regulations, half of the required bonus points shall be earned through the provision of community benefits. Specifically, these points shall be earned through the provisions of public improvements, utility undergrounding, and flexible community benefits as stipulated in items (3), (4), and (7), respectively, of Table 9-4.204(e) of the Planning Regulations.
 - (a) Value of Community Benefits. Pursuant to Table 9-4.204(e) of the Planning Regulations, 10 bonus points shall be earned for each 1% of the total construction valuation of the project, i.e. 50 points requires community benefits valued at 5% of the total construction valuation of the project. This funding available for community benefits is estimated at approximately \$7 million.
 - (b) Flexible Community Benefits. Bonus points for flexible community benefits shall be earned from the following:

- (1) Retrofit Building 1-31 (Parcel A) for Permanent Public "Pass Through" Alley. The "pass through" alley shall begin with an opening at the western terminus of 45th Street at Horton Street and shall extend west through the building, unimpeded by other structures, to the park and open space. The width of the alley shall be approximately 24 feet). It shall be designed such that cyclists are not required to dismount and are able to move through the space continuously between the proposed public park and 45th Street. Construction of the "pass through" alley including any landscaping shall be completed prior to the issuance of a final certificate of occupancy of Building 1-13. (Estimated value: \$1 million)
- (2) Public Art Gallery and Community Room. Design and construction of a 2,000 square foot public art gallery and community room with walls at a height of no less than 15 feet and finishes appropriate for an art gallery (including 1000k amp service). The space shall include an office and a restroom and shall be made available as a meeting room for residents and the local community upon request in advance and subject to reasonable rules and policies. No fees shall be charged for use of this space. The Emeryville Celebration of the Arts or any successor organization shall be granted 24-hour access to the space. (Estimated value: \$600,000)
- (3) Community Shuttle to West Oakland BART. Provision of a community shuttle from the project site to the West Oakland BART station for the first five years of operation free of charge. The shuttle service shall commence within 60 days after occupancy of fifty percent of the total residential units for the project. The shuttle will operate at intervals sufficient to maximize trip reduction, as determined by the TDM. The hours of operation and location of the stop for the shuttle shall be approved by the City as part of the first residential Final Development Plan. Developer is only required to provide a secure stop at West Oakland BART and another location within 500 feet of the project site. This condition may be met by an existing shuttle provider providing the service, in which case Applicant shall not receive bonus points for this community benefit. (Estimated value: \$900,000)

- (c) Public Improvements and Utility Undergrounding. To the extent that funding for community benefits is available, bonus points for public improvements and utility undergrounding shall be earned for the following, listed in priority order:
- (1) Hubbard Street, east side between Sherwin and Park Avenues: sidewalk improvements and utility undergrounding. (Estimated value: \$700,000)
 - (2) Horton Street, between Park Avenue and new 46th Street: utility undergrounding. (Estimated value: \$1.8 million)
 - (3) Sherwin Avenue, south side, between Horton and Hubbard Streets: sidewalk improvements. (Estimated value: \$150,000)
 - (4) Hubbard Street, between Park Avenue and 40th Street: sidewalk improvements (both sides of street) and utility undergrounding. (Estimated value: \$680,000)
 - (5) Halleck Street, west side along frontage of Assessor Parcel Number 49-1036-2, extending approximately 185 feet south from Sherwin Avenue: sidewalk improvements. (Estimated value: 90,000)
 - (6) Horton Street, west side between Sherwin and Park Avenues: sidewalk improvements. (Estimated value: \$200,000)
 - (7) 45th Street, between Horton and Hollis Streets: utility undergrounding, including removal of adjacent poles on Holden Street. (Estimate value: \$1.44 million)
 - (8) Horton Street, between new 46th Street and 53rd Street: utility undergrounding. (Estimated value: \$1.05 million)
 - (9) Halleck Street, between Park Avenue and Beach Street: utility undergrounding (Estimated value: \$750,000)
- (d) Excess Funds. If there are funds remaining following completion of all of the projects listed above, or if there are not sufficient funds available to complete all of the projects, any excess funds shall be contributed by the Applicant to the South Bayfront Bridge and Horton Landing Park capital improvement project (Project Number 16475006). (See also Condition II.D.2(f) below.)

(e) Standards for Public Improvements and Utility Undergrounding.

- (1) Sidewalk Improvements. Sidewalks are to be consistent with the Park Avenue District Plan and existing side streets in the district, as follows: 12-foot total width from face of curb to edge of right-of-way, consisting of 6-inch wide curb, 4-foot wide landscape/street furniture zone containing tree wells, stormwater treatment areas, and/or concrete between curb and pedestrian pathway (trees, luminaires, street signs, and any other street furniture go in this zone), and a clear 7.5-foot wide concrete pedestrian pathway. Street trees shall be *Ginkgo biloba* at an average distance of 22 feet on center planted in 4-foot by 6-foot tree wells. Street lights shall be standard City street lights (Lumec Candela single pedestrian luminaires) spaced at 80 feet average on center per side, staggered at 40 feet average on center on opposite sides of the street, except that lights along Halleck Street shall be standard City Greenway lights (Holophane GranVille Series). Standard gutters and any roadway reconstruction necessary to match the grade of the new sidewalk shall be included.
- (2) Utility Undergrounding. Utility undergrounding shall include payment of the costs necessary to connect all properties currently served by the existing overhead utilities to the new underground utilities, and installation of new Lumec Candela single pedestrian luminaires if not done in conjunction with sidewalk improvements that include new luminaires.
- (3) Design and Construction. The design of all public improvements and utility undergrounding shall be reviewed and approved by the City Engineer prior to construction and shall be subject to Condition I.D above, including the requirement for encroachment permits.

- (f) Final True-Up of Community Benefit Costs. Prior to the issuance of a certificate of occupancy for the last building of the PUD, the total funding available for community benefits and the total value of community benefits provided shall be determined by the Community Development Director, and any remaining excess funding shall be contributed by the Applicant to the South Bayfront Bridge and Horton Landing Park capital improvement project (Project Number 16475006). The total funding available for community benefits shall equal five percent of the final total

project construction valuation as determined by the Chief Building Official. The value of community benefits provided shall be determined as follows:

- (1) "Pass-Through" Alley in Building 1-31 and Public Art Gallery/Community Meeting Room: Actual itemized costs shall be provided by Applicant and confirmed by the Chief Building Official.
- (2) West Oakland BART Shuttle: Contract for service shall be provided by Applicant. If this service is provided by an existing shuttle provider, the value of this community benefit shall not be included in the true-up.
- (3) Public Improvements and Utility Undergrounding: Actual itemized costs shall be provided by Applicant and confirmed by the Public Works Director.

E. TRANSPORTATION RELATED. The following conditions will apply to the project as identified and recommended in the Final Environmental Impact Report (FEIR) approved for the project:

1. The Applicant shall provide design details of the internal garage circulation and interface for each building with the street system. These plans shall be reviewed by the City's transportation consultant prior to approval of any Final Development Plan for Parcels A, B-1, B-2, C and D.
2. The Applicant shall coordinate with the City Engineer concerning traffic controls at the site intersections shown on Figure IV. C-18 of the FEIR, attached here as Attachment 1.
3. The Applicant shall install crosswalks on all legs of the Sherwin Avenue/Halleck Street and Sherwin Avenue/Hubbard Street intersections consistent with the Emeryville Pedestrian and Bicycle Plan.
4. The Applicant shall provide Class III bicycle facility roadway markings and signage on Sherwin Avenue.
5. The Applicant shall provide lighting at equal spacing along Sherwin Avenue and Horton Street, and provide pedestrian scale lighting along the pedestrian pathway, north of Parcel C-2 and north of Parcel D. All lighting along streets shall be standard City street lights (Lumec Candela single pedestrian luminaires), and all lighting elsewhere on the site, including along the Greenway and within park/open areas, shall be standard City Greenway lights (Holophane GranVille Series).

6. All final site design plans should show entry door swing into the public right-of-way to ensure that the 6-foot pedestrian clear zone is maintained along the corridor when doors are open. The building design should orient pedestrians away from the door zone.
 7. The Applicant shall install curb extensions and a high visibility crosswalk on the north leg of Horton Street at Sherwin Avenue such that pedestrians and transit riders accessing the site from 40th Street do not have to cross two streets to access the site. The Applicant shall also install a high visibility crosswalk and curb ramps on the north leg of Horton Street at 45th Street to improve pedestrian access to transit.
 8. The Applicant shall designate an on-street loading zone on Hubbard Street extension to facilitate small deliveries within the site and ensure that each of the four designated loading zones have the capacity to accommodate garbage trucks and moving vans.
- F. PUBLIC ART PROGRAM. The project will be subject to Art in Public Places Ordinance (Article 4 of Chapter 2 of Title 3 of the Emeryville Municipal Code) and other applicable policies and programs. At the time of Final Development Plan approval, the project will be subject to standard conditions regarding submission of evidence of compliance with the Ordinance.
- G. COMPLIANCE WITH STORMWATER MEASURES. The project shall be designed, constructed, operated, and maintained in conformance with the "Alameda County Clean Water Program C.3 Stormwater Technical Guidance and including the Alameda County Clean Water Program Stormwater Treatment Requirements for New Development and Redevelopment" ("Stormwater Measures") and the City's "Stormwater Guidelines for Green Dense Redevelopment" ("Stormwater Guidelines").
- H. LANDSCAPING AND STREET TREES. Applicant shall submit detailed landscaping and irrigation plans for the approval of the Public Works Director. The plans shall conform to Title 9 Section 4.602 "Water Efficient and Bay Friendly Landscaping" of the Emeryville Municipal Code, including guidelines from StopWaste.org, the Alameda Countywide Clean Water Program C3 Stormwater Technical Guidance, and EBMUD requirements for reclaimed water.

The plans shall include species, number of plantings, size of plantings and specifications for the irrigation system. Minimum plant sizes are flats or 1-gallon containers for ground cover, 5-gallon containers for shrubs and 24-inch box containers for trees. Street trees shall be of a species approved by the Public Works Director and shall be spaced as depicted on the approved Tentative Map and as approved by the Public Works Director. All planting areas and tree wells

shall include a 3 inch layer of bark mulch per the requirements of Bay Friendly Landscaping. Street trees may require tree grates as directed by the Public Works Director

The applicant shall install structural soil under sidewalk / hardscape areas, to provide adequate rootable soil volume areas for healthy street trees. The amount of rootable soil volume to be provided per tree shall depend on the ultimate size of the tree at maturity as follows:

600 cubic feet per small tree,
900 cubic feet per medium-sized tree
1200 cubic feet per large-sized tree.

Rootable soil volume for each tree shall be calculated by including both the structural soil beneath the hardscape areas and Bay Friendly approved horticultural soil within the planting areas. The landscape plans shall clearly show all locations of Rootable Soil including dimensions for structural soil and Bay Friendly Horticultural Soil to account for the above referenced requirements for Rootable soil volume.

The applicant shall perform horticultural soil and drainage tests on-site and in the public right of way areas that will receive tree plantings for review and approval by the City Arborist. Tree planting areas shall include drainage as necessary for all trees and could entail extensive excavation for sumps and subdrain systems. All existing native soil to be considered as rootable soil in planter areas shall be tested for chemical contaminants and horticultural suitability. Prior to importing any soil material to be used as rootable soil, the Applicant shall provide chemical and horticultural test results to the City for approval. Soil shall be amended as necessary with Bay Friendly compost per City standards in place of other soil amendments.

- I. PUBLIC SAFETY. All Final Development Plan (FDP) applications shall comply with applicable fire and emergency safety measures as required by the Fire Department, including access requirements, premises identification, key boxes, hydrants, fire protection systems and equipment and exiting and emergency illumination. All FDP applications shall also comply with the Police Department's standard specifications including requirement of knox-boxes where applicable.
- J. DESIGN REVIEW. All Final Development Plan (FDP) applications shall comply with the City's Design Guidelines as well as Park Avenue District Plan guidelines including but not limited to the requirements for shared parking, a special emphasis on the use of building materials and aesthetics that comply with the District's attention to the historic and industrial roots of the community and

screening of all mechanical and electrical equipment from the public right-of-way.

- K. DEDICATION OF LAND FOR PUBLIC PARK, OPEN SPACE USE AND ACCESS. Prior to the approval of the FDP, the City shall determine ownership, whether in fee or a permanent easement for public park, recreation, open space use, and pedestrian and bicycle access (identified as Open Space Park Parcel 1, 2, 3 and 4 in the PDP plans), with respect to that portion of the land subject to this permit which is not currently owned by the City. The City and Applicant shall enter into an agreement to convey such interest to the City and shall address, maintenance, and construction of improvements. The agreement shall be in a form acceptable to the City Attorney. If the property is to be dedicated to the City it shall not contain hazardous substances, waste or materials, as defined by State or Federal law, including petroleum, crude oil or any fraction thereof, or shall otherwise be remediated in accordance with a cleanup plan approved by the City and applicable State or Federal regulatory agencies to a level suitable for the intended use. Further, the Applicant shall agree to thereafter defend, indemnify, and hold the City harmless from all demands, claims, orders, costs, expenses, fees, penalties, and causes of action related to hazardous substances, waste or materials, as defined by State or Federal law, including petroleum, crude oil or any fraction thereof, located on or emanating from the property.
- L. BICYCLE AND PEDESTRIAN EASEMENT FOR "PASS THROUGH" ALLEY IN BUILDING 1-31 (PARCEL A). Prior to issuance of a temporary certificate of occupancy for Building 1-31 (Parcel A), the Applicant shall enter into and grant the City an irrevocable offer to dedicate an easement, at least 24 feet wide for a public pedestrian and bicycle path through the building as shown on the approved PDP plans. The Applicant shall construct this bicycle and pedestrian path prior to the issuance of a temporary certificate for occupancy for Building 1-31. Following construction, the Applicant shall be responsible for ongoing maintenance of the path. The path shall at all times remain open and accessible to the public for bicycle and pedestrian access, provided that if circumstances arise that warrant limitations on "24/7" public access, the developer may petition the City Council to establish hours for public access. No gates or other means of restricting access shall be installed or constructed at either point of entry without the prior approval of the City Council.
- M. UNIT MIX AND DESIGN. The overall project and each individual residential building within the project shall comply with the Multi-Unit Residential Development requirements of Article 20 of Chapter 5 of the Planning Regulations, including but not limited to the requirements for unit mix, design, and ownership housing. The ownership housing requirement shall not apply to a stand-alone affordable housing building.

- N. PUBLIC IMPROVEMENTS. Applicant shall be responsible for the design and construction of public improvements, including but not limited to street improvements, park and open spaces, site grading and storm drainage, sanitary sewers, traffic signals, landscaping, and underground utility lines, as will be further detailed in the Tentative Map for the project and/or the Final Development Plan(s).
- O. FENCE ALONG THE RAILROAD. The fence along the western perimeter of the project area shall match the fence along the western side of the railroad in adjacent to the Bay Street development.

III. PRIOR TO THE APPROVAL OF THE FIRST FINAL DEVELOPMENT PLAN

- A. COST RECOVERY PLANNING FEES. Prior to the issuance of any building permit, the Community Development Director shall confirm that all cost recovery planning fees have been paid to date.
- B. PARKING. All of the parking requirements for Parcels A and B-1 are being met on Parcel B-2. To ensure that this requirement continues indefinitely the Applicant shall record a deed restriction or covenant on Parcel B-2 in a form acceptable to the City Attorney.

IV. SPECIAL CONDITIONS

The following conditions have been voluntarily accepted by the Applicant and the Applicant has agreed that they will apply to the project:

- A. TRANSPORTATION DEMAND MANAGEMENT (TDM) PLAN. The Applicant shall submit a revised TDM plan prior to the approval of the first Final Development Plan that estimates a 30 per cent reduction in traffic based on the addition of transit-oriented incentives and mitigations. The TDM plan shall also include a shared parking plan that will optimized parking capacity by allowing varying uses within the project to share spaces. The shared parking plan should also allow for public parking. The TDM plan shall also include a plan to provide parking management services for time-restricted parking (including public street parking) to assist in facilitating the use of street and other parking for small businesses in the neighborhood including a description of the Applicant's financial contribution to the enforcement of those parking restrictions. The TDM shall annually quantify and report demand and usage of the car-shares, bike-shares, and bike lockers.
- B. CAR SHARE. The project shall provide ten dedicated car-share parking spaces, seven within the project site and three on streets adjacent to the project, if approved by the City. The Applicant shall obtain necessary permits from the City to designate public parking spaces for car share purposes. At the onset of

occupancy, only two of the on-site dedicated spaces need to be used for car-share purposes and the remaining five on-site spaces can be used for alternative parking purposes until the TDM provides for their use. The three off-site dedicated car-share parking spaces shall be provided in advance of occupancy of any residential structure, subject to approval by the City.

- C. BIKE SHARE AND LOCKERS. Prior to the issuance of the last temporary certificate of occupancy, the Applicant shall install a bike sharing station with an expandable capacity in a location determined by the City. The vendor for bike-shares shall be the same vendor that provides bike-share opportunities at the West Oakland BART station, which is currently Bay Area Bike Share. The cost of the bike-shares shall be subsidized by 50% of the current cost of the bike-share program and subsidized membership for the bike share program shall be provided on a per unit basis. The subsidy program details shall be outlined in the revised TDM plan.

The Applicant shall also maintain a minimum of 30 lockable, enclosed bike lockers for all residents and employees. The lockers shall be provided by the Applicant and no fee shall be charged for their use. No less than 50 percent of the bike lockers shall be sized to accommodate "cargo bikes". The project shall provide outlets to charge electric bikes in all the proposed lockers. These 30 lockers shall count towards the bicycle parking requirements in Section 9-4.408.

- D. GreenTRIP "PLATINUM" STATUS. Prior to the issuance of the last temporary certificate of occupancy, the Applicant shall demonstrate to the Community Development Director, that the project has achieved equivalent compliance to GreenTRIP "Platinum" as outlined by TransForm except for compliance with the 0.5 parking space per unit standard necessary to achieve "platinum" status.
- E. CONSTRUCTION PARKING. The Applicant shall provide off-street parking for construction workers during all phases of construction. All construction deliveries shall be within the project site and not off loaded from delivery vehicles on public streets with limited exceptions for site and construction work done on buildings and infrastructure along the perimeter streets of the project site.
- F. PARK AVENUE DISTRICT OVERLAY. The Applicant shall comply with the Park Avenue District overlay and associated guidelines, including but not limited to the requirements for shared parking, a special emphasis on the use of building materials and aesthetics that comply with the overlay's attention to the historic and industrial roots of the community and a fine grain street layout that is pedestrian and bicycle-friendly.
- G. PUBLIC PROCESS FOR PARK DESIGN. The Applicant shall work with the City to engage the community in a public process that shall include facilitated

community workshops related to design of the parks, bike and pedestrian paths, streetscape and other public programming.

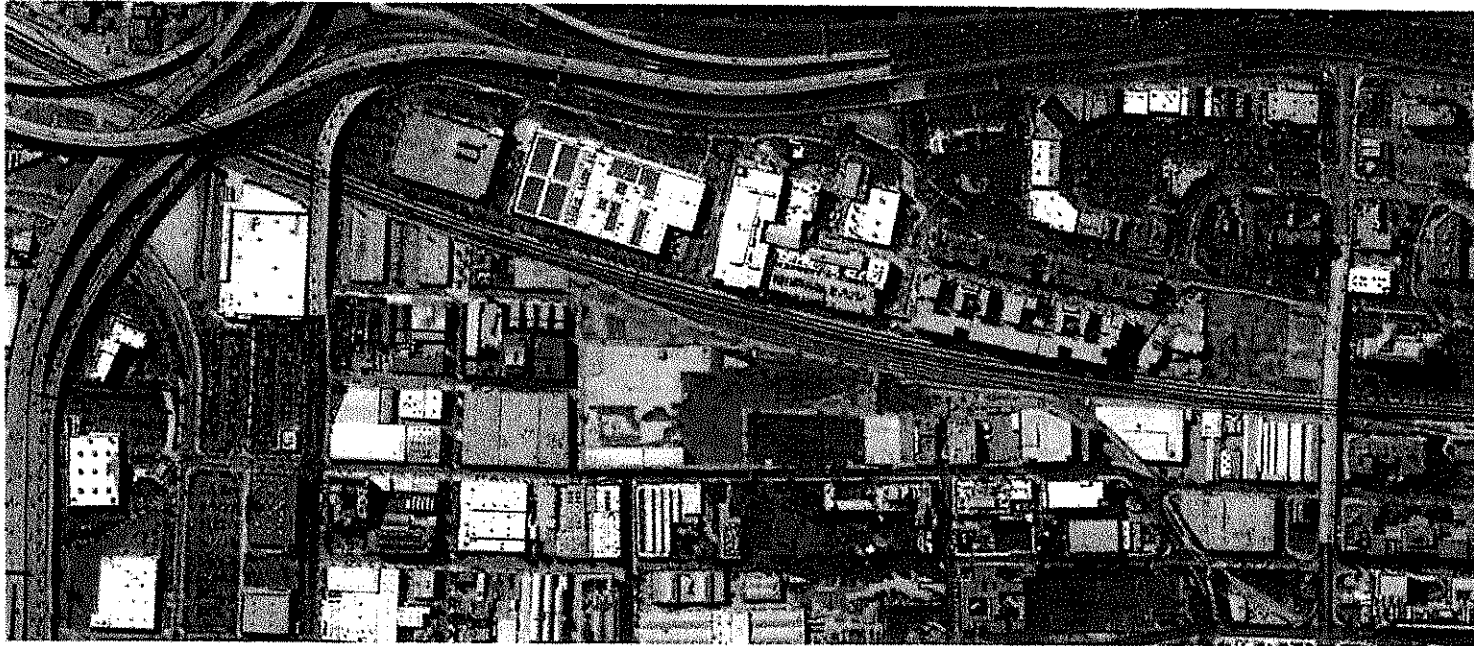
- H. DEED RESTRICTION AND/OR COVENANT. The Applicant shall record a deed restriction and/or covenant against the project for the ongoing obligations to notify future property owners of the special conditions and continuing obligations to the City in a form acceptable to the City Attorney.

Attachments:

1. Figure IV. C-18 of the Final Environmental Impact Report
2. Mitigation Measures

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN

PROJECT GRAPHICS



SUBMITTED BY

OWNER: SHERWIN WILLIAMS ACCEPTANCE CORPORATION (SWACE)
PROJECT SPONSOR: LMC EMERYVILLE I INVESTOR LLC

PREPARED BY: LPAS AND CBG

SEPTEMBER 13, 2016

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN

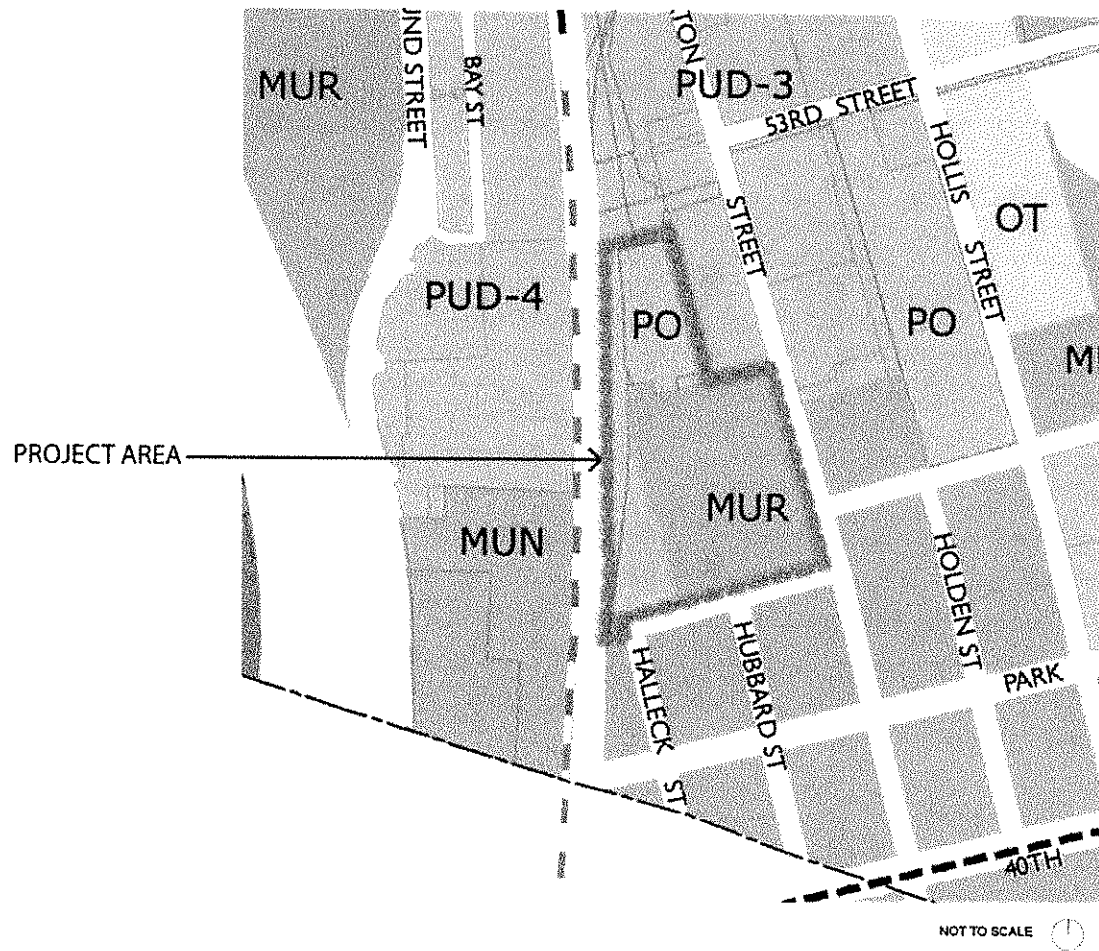
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LEGEND

- RH High Density Residential
- RMH Medium-High Density Residential
- RM Medium Density Residential
- MUR Mixed Use with Residential
- MURS Mixed Use with Residential South
- MUN Mixed Use with Non-Residential
- OT Office/Technology
- OT/DH Office/Technology Doyle Hollis North Area
- INH Heavy Industrial
- INL Light Industrial
- P Public
- M Marina
- PO Park/Open Space
- SM Shoreline Management
- PUD Planned Unit Development
- UT Utilities/Transportation
- - Railroad

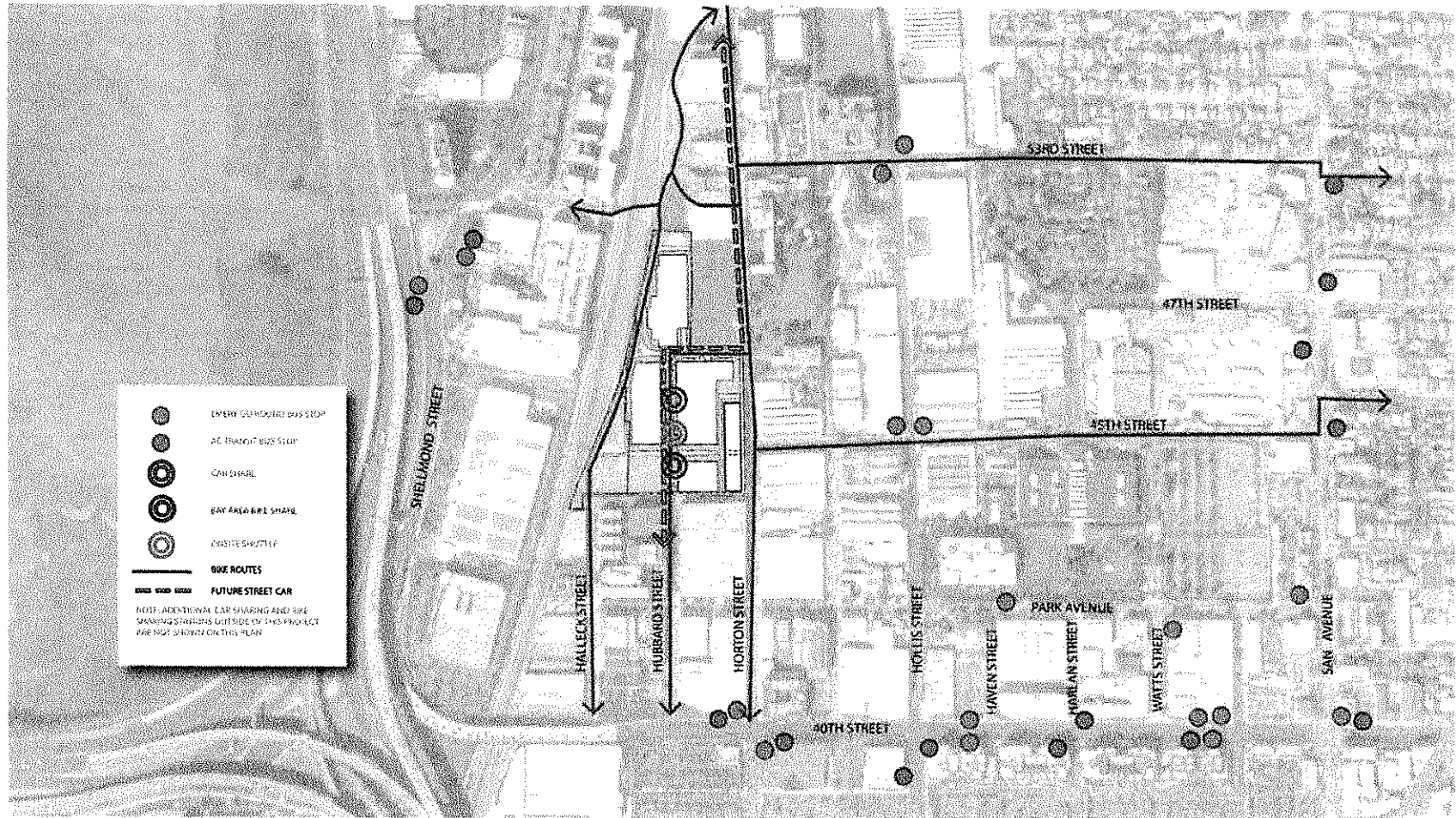
SURROUNDING LAND USE

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
 SEPTEMBER 13, 2016 PREPARED FOR LMC, EMERYVILLE TRIVES FOR LLC, BY LPRS AND EBC



VICINITY MAP

NOT TO SCALE

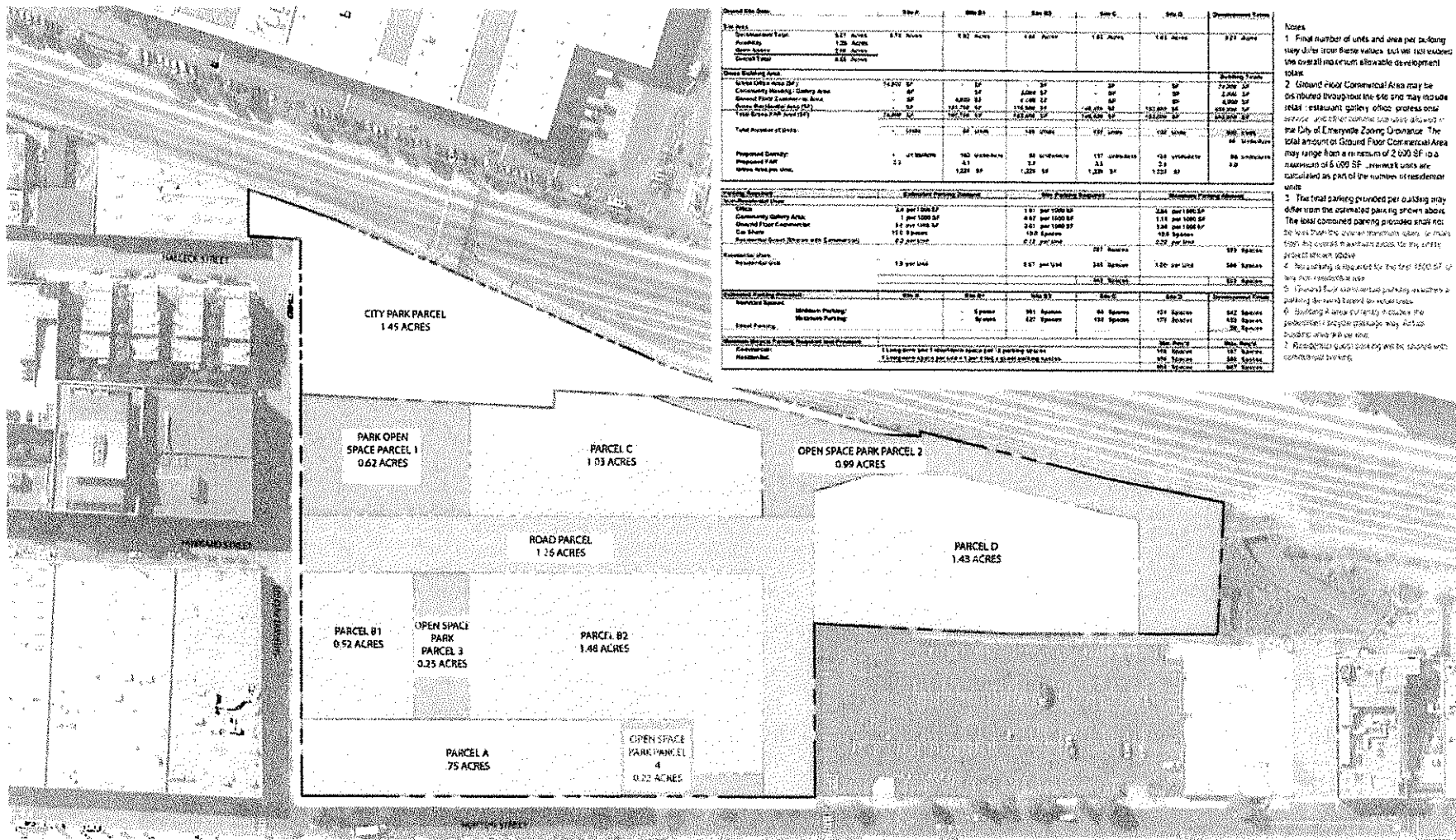


NEIGHBORHOOD TRANSPORTATION MAP

NOT TO SCALE

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN

SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



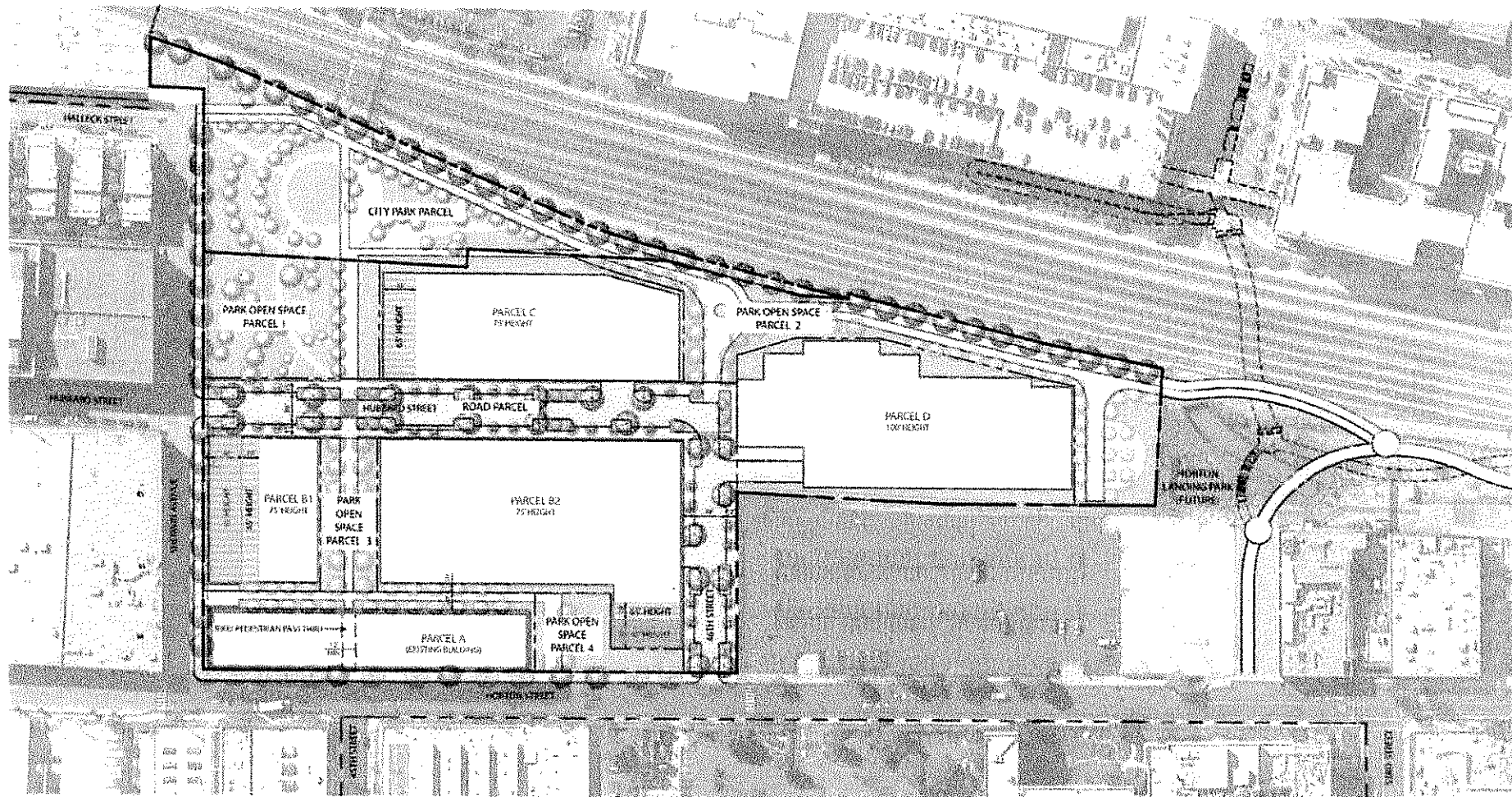
Overall Site Data	Site A	Site B1	Site B2	Site C	Site D	Development Totals
Site Area						
Development Total	0.57 Acres	0.52 Acres	0.82 Acres	0.88 Acres	1.21 Acres	3.99 Acres
Available	1.25 Acres					
Open Space	2.00 Acres					
Current Total	0.55 Acres					
Overall Building Area						
Ground Floor Area (SF)	12,800 SF	12,800 SF	12,800 SF	12,800 SF	12,800 SF	64,000 SF
Community Meeting/Community Area	12,800 SF	12,800 SF	12,800 SF	12,800 SF	12,800 SF	64,000 SF
Ground Floor Commercial Area	12,800 SF	12,800 SF	12,800 SF	12,800 SF	12,800 SF	64,000 SF
Ground Floor Residential Area (SF)	12,800 SF	12,800 SF	12,800 SF	12,800 SF	12,800 SF	64,000 SF
Total Building Area (SF)	12,800 SF	12,800 SF	12,800 SF	12,800 SF	12,800 SF	64,000 SF
Total Number of Units						
Proposed Density	1 Unit/1000 SF	1 Unit/1000 SF	1 Unit/1000 SF	1 Unit/1000 SF	1 Unit/1000 SF	1 Unit/1000 SF
Proposed Units	12.8	12.8	12.8	12.8	12.8	64.0
Maximum Units	12.8	12.8	12.8	12.8	12.8	64.0
Overall Parking						
Minimum Parking	12.8	12.8	12.8	12.8	12.8	64.0
Maximum Parking	12.8	12.8	12.8	12.8	12.8	64.0
Overall Open Space						
Minimum Open Space	2.00	2.00	2.00	2.00	2.00	10.00
Maximum Open Space	2.00	2.00	2.00	2.00	2.00	10.00

- Notes:**
- Final number of units and area per building may differ from these values, but will not exceed the overall maximum allowable development totals.
 - Ground floor Commercial Area may be included throughout the site and may include retail, restaurant, gallery, office, professional services, and other commercial uses allowed in the City of Livermore Zoning Ordinance. The total amount of Ground Floor Commercial Area may range from a minimum of 2,000 SF to a maximum of 6,000 SF. Commercial units are calculated as part of the number of residential units.
 - The total parking provided per building may differ from the estimated parking shown above. The total estimated parking provided shall not be less than the minimum parking shown, or more than the maximum parking shown, for any building shown above.
 - The parking is required for the first 1000 SF of any new residential unit.
 - Ground floor commercial parking is located in parking lots shown based on current zoning.
 - Building A area currently includes the pedestrian bicycle pathway along the building area and is not shown.
 - Residential parking is located within the building area.

LAND USE DIAGRAM

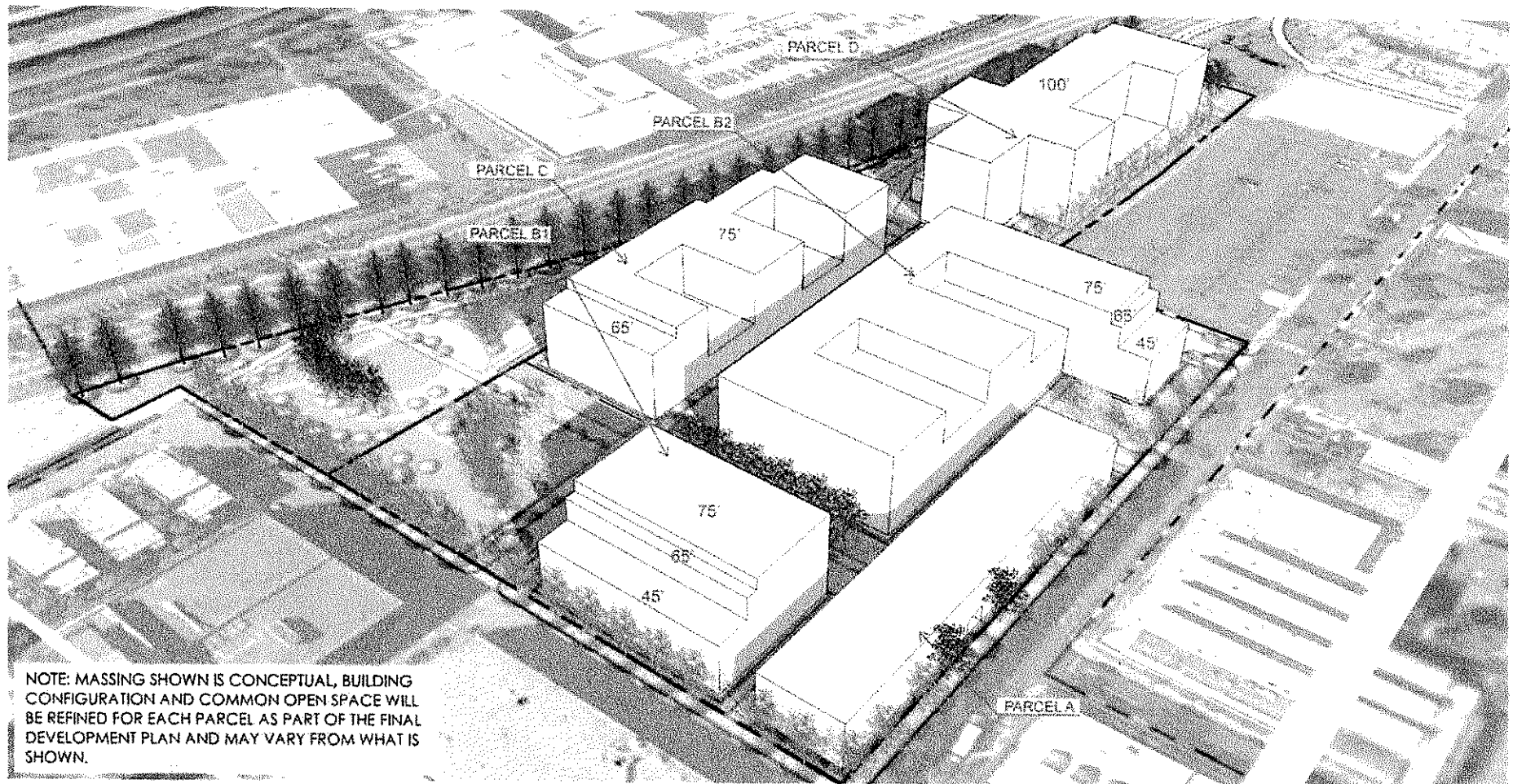
GEOFFREY WILKINS PRELIMINARY DEVELOPMENT PLAN

NOVEMBER 11, 2016, PREPARED FOR THE CITY OF LIVERMORE, CALIFORNIA BY THE ARCHITECT



SITE DEVELOPMENT PLAN

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
 SEPTEMBER 13 2010, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



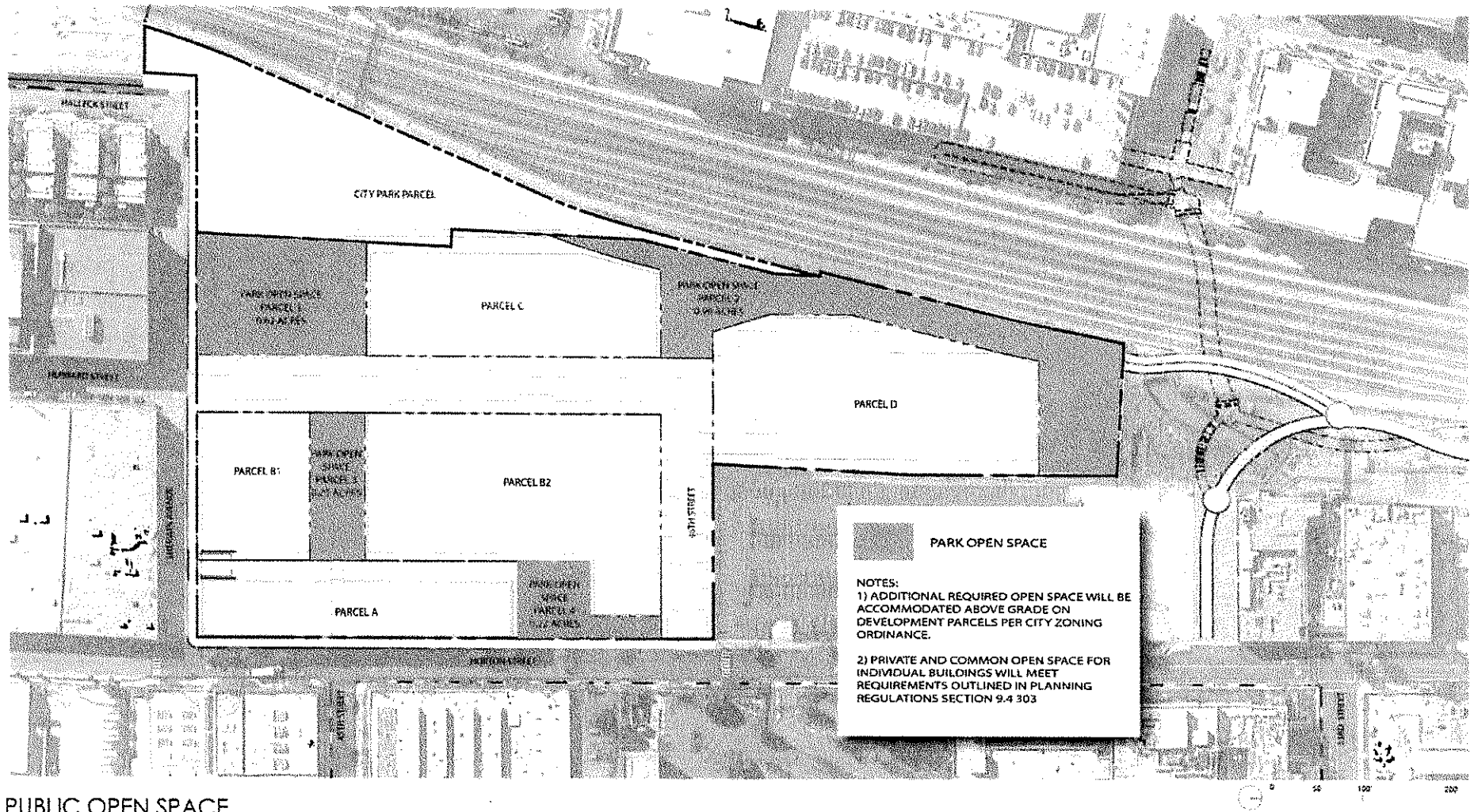
ILLUSTRATIVE DEVELOPMENT CONCEPT

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
 SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



GROUND FLOOR ACTIVATION

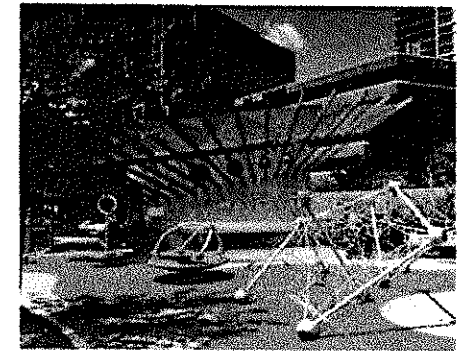
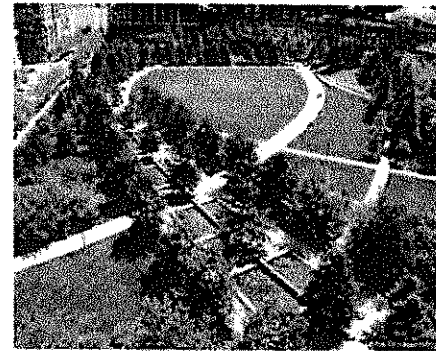
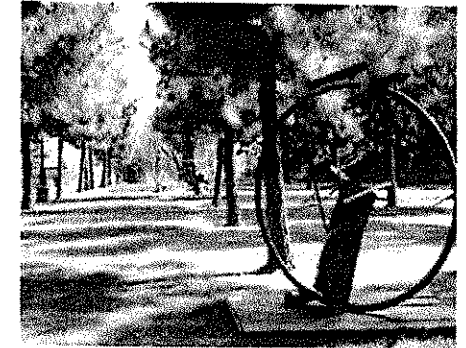
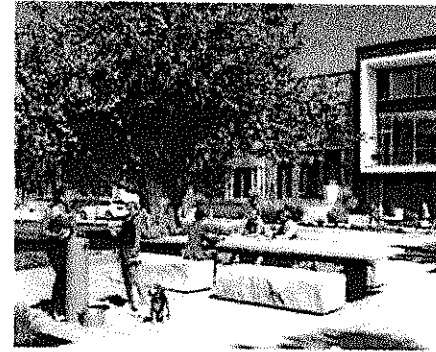
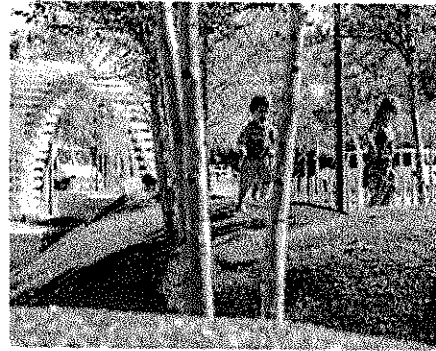
SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



PUBLIC OPEN SPACE

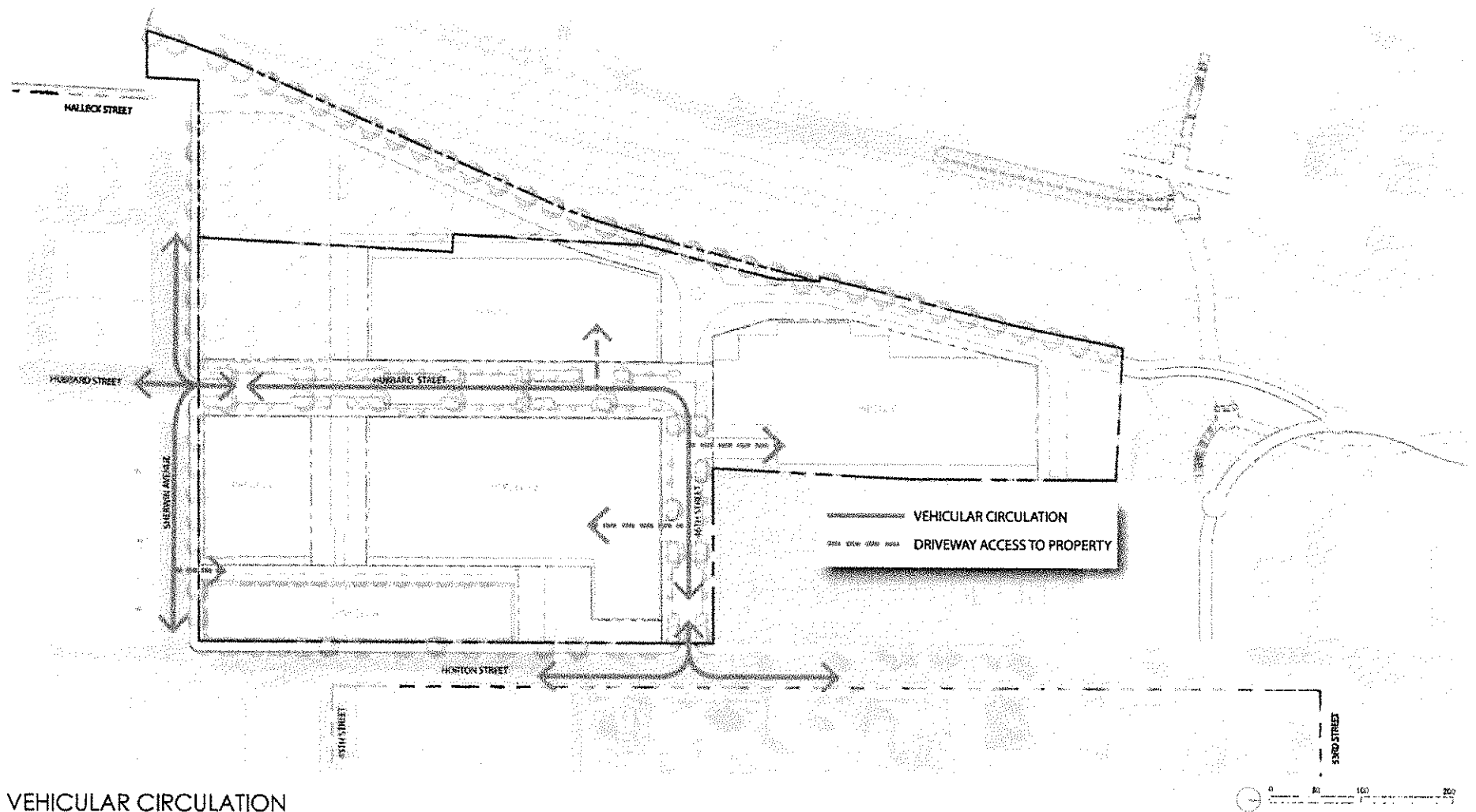
SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN

SEPTEMBER 13, 2016, PREPARED FOR LMC EMERYVILLE UNIVESTOR LLC BY LPAS AND CBG



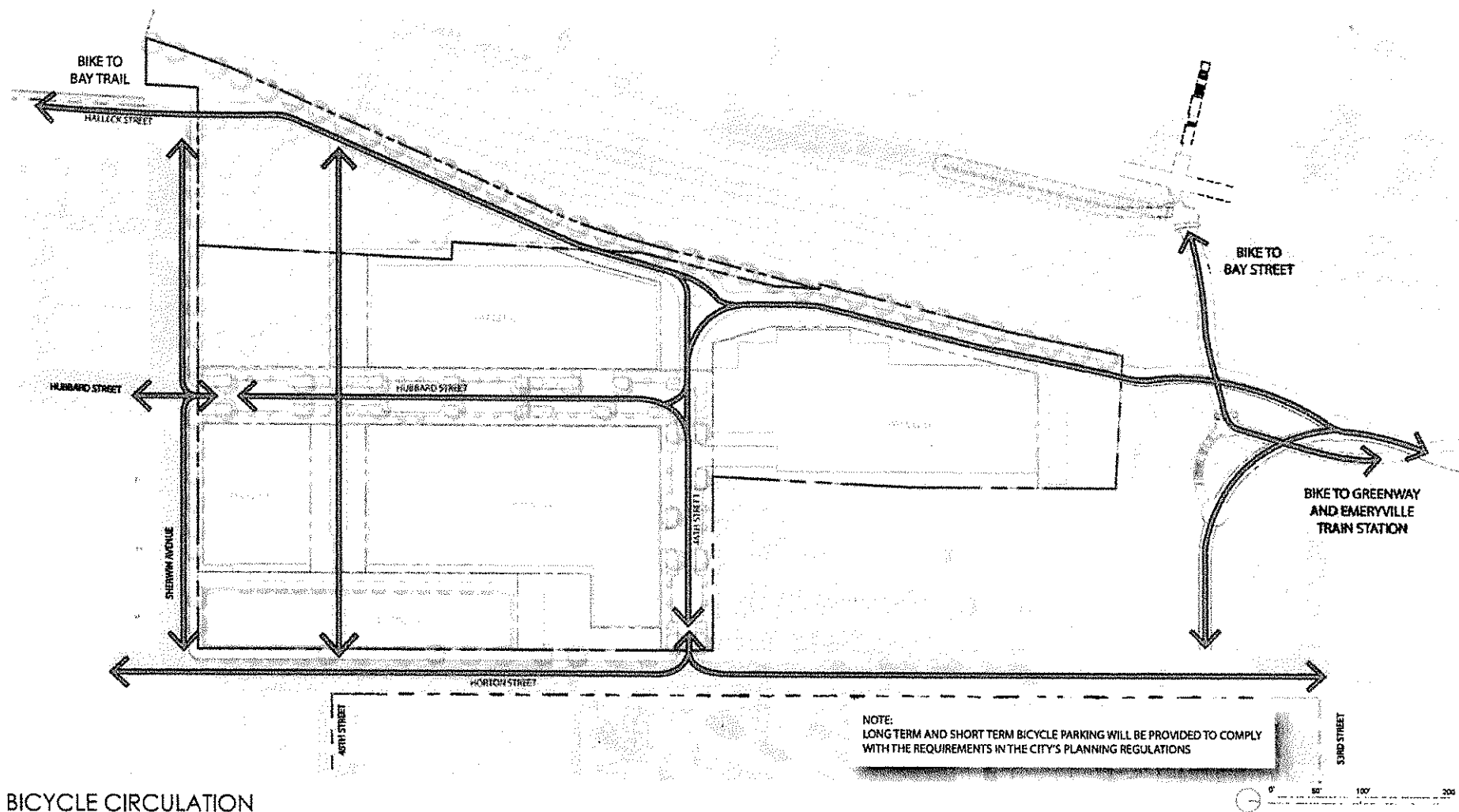
OPEN SPACE PRECEDENTS

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
 SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



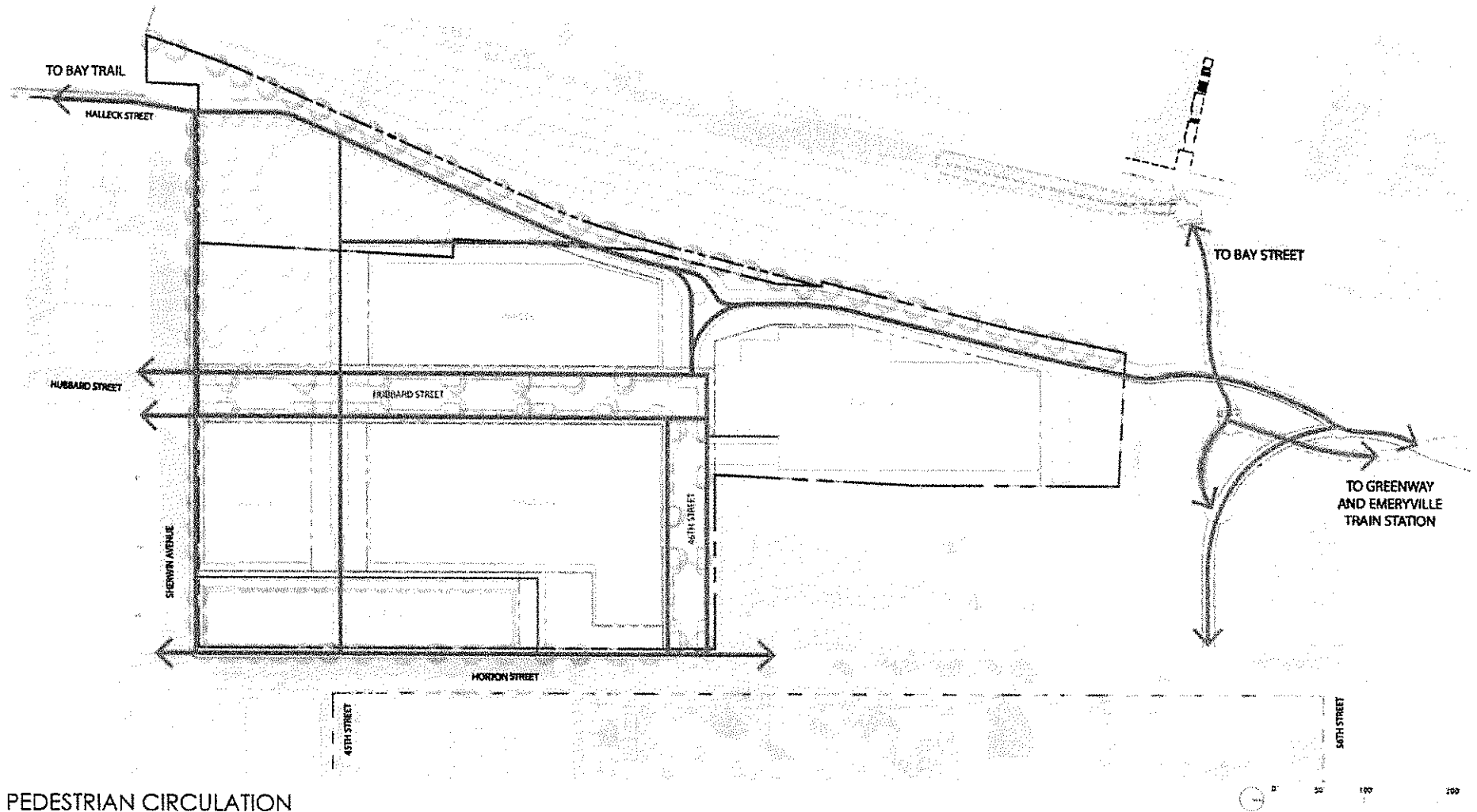
VEHICULAR CIRCULATION

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
 SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



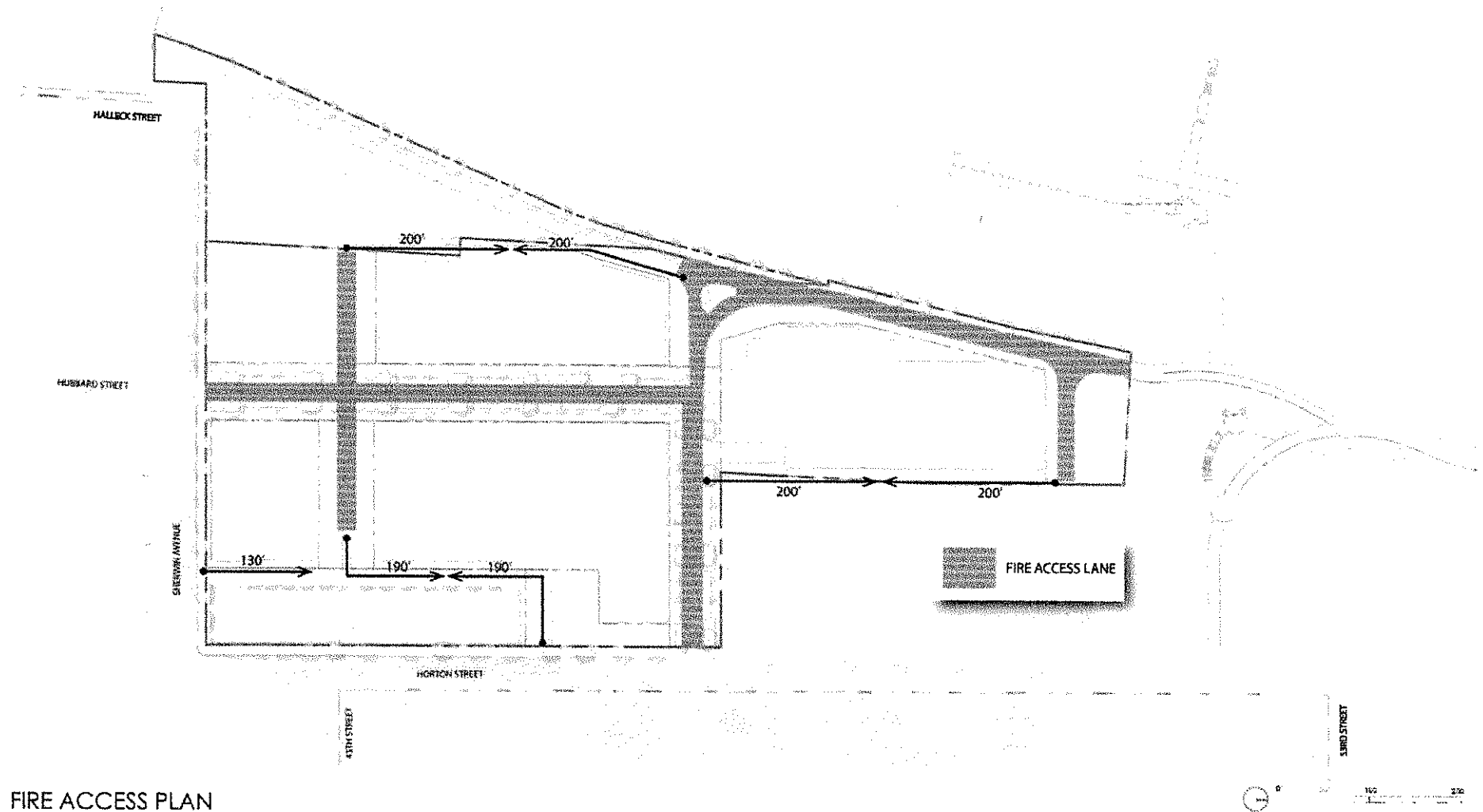
BICYCLE CIRCULATION

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
 SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



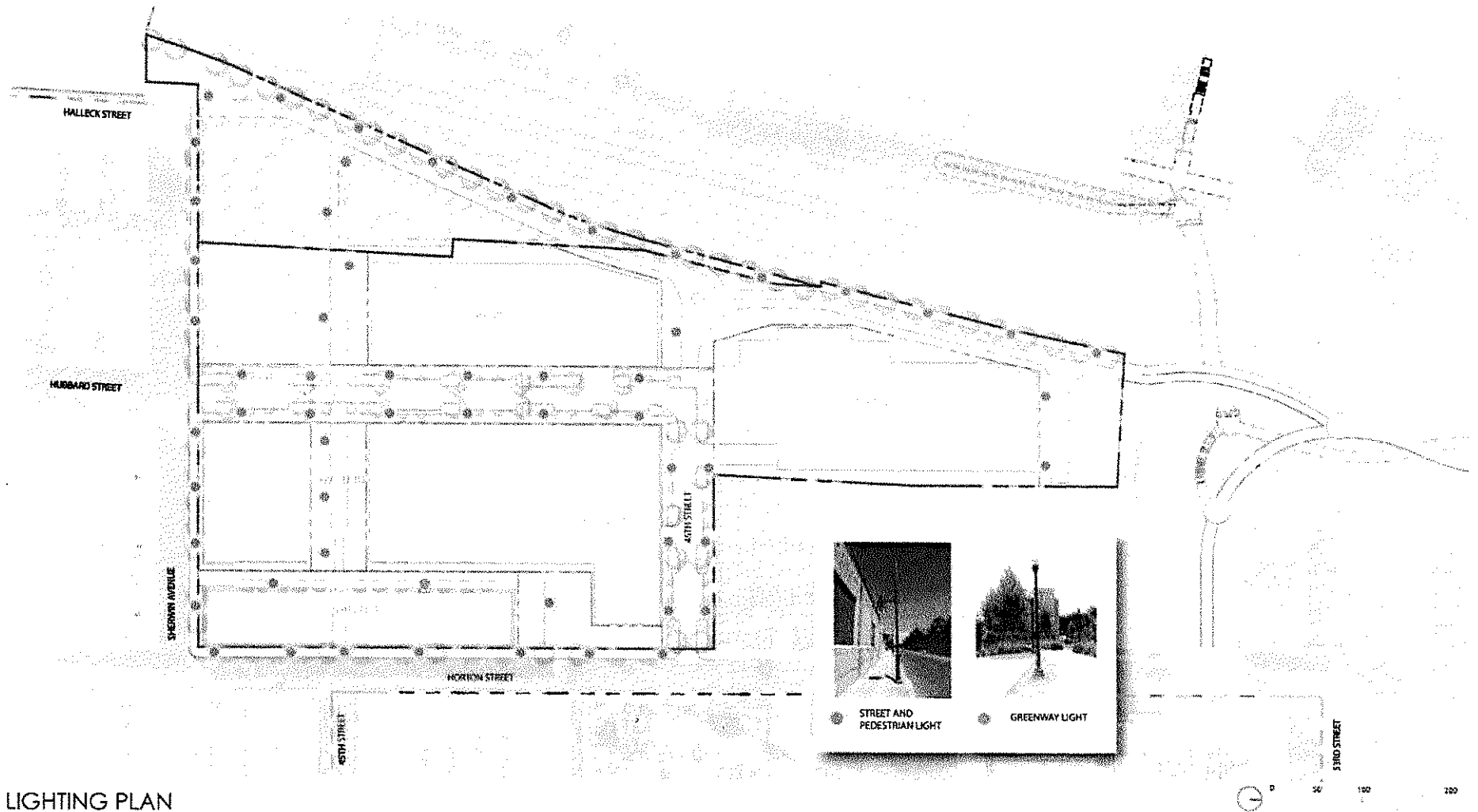
PEDESTRIAN CIRCULATION

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
 SEPTEMBER 13, 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY TPAS AND CPG



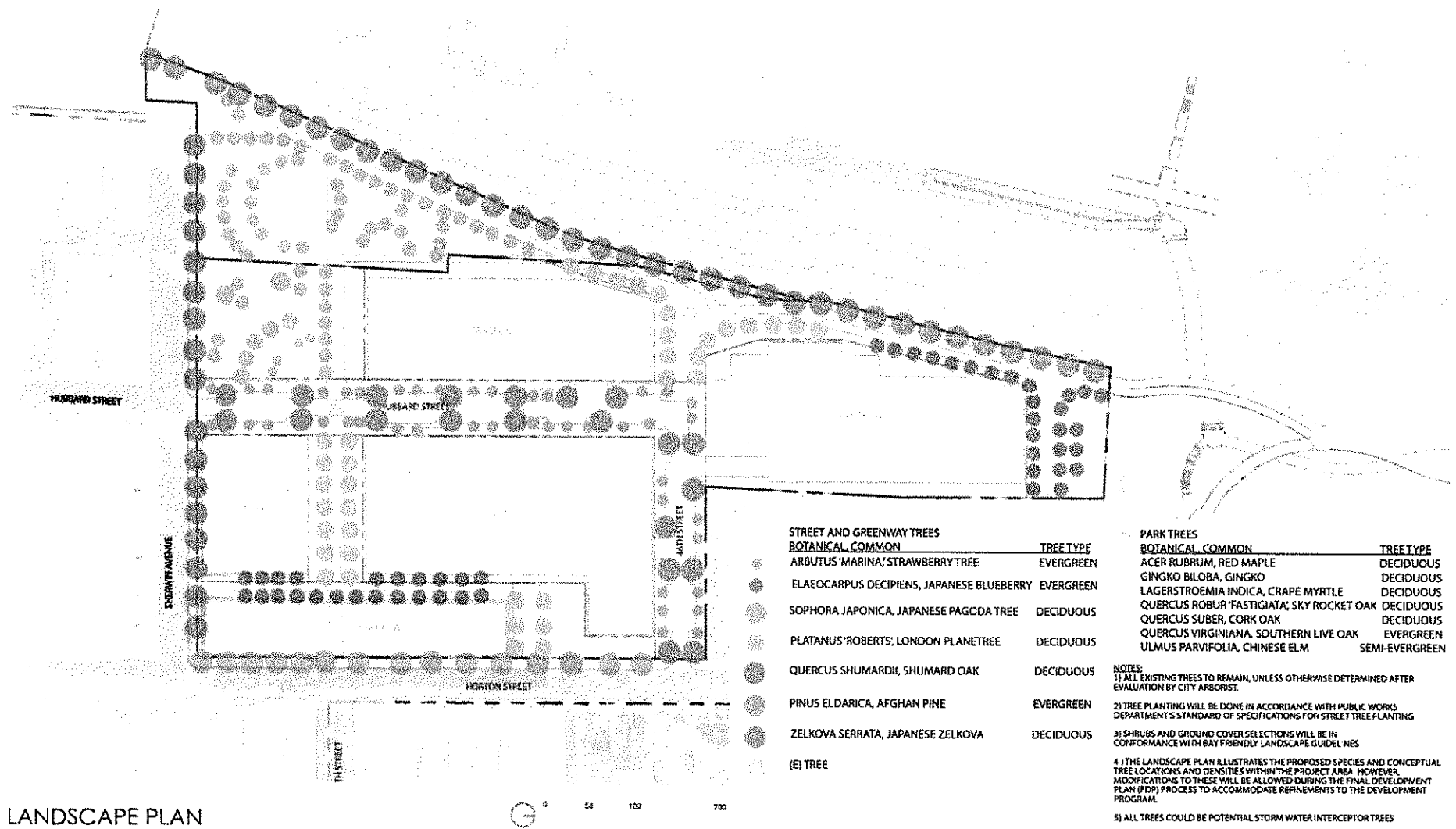
FIRE ACCESS PLAN

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
 SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



LIGHTING PLAN

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
 SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE DIVES FOR LLC BY LFAS AND CNG



LANDSCAPE PLAN

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN

SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



Arbutus 'Marina'
(Strawberry Tree)



Elaeocarpus decipiens
(Japanese Blueberry Tree)



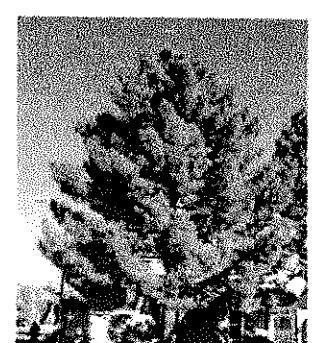
Sophora japonica
(Japanese Pagoda Tree)



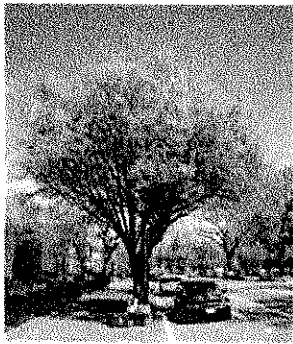
Platanus x acerifolia
London Plane Tree



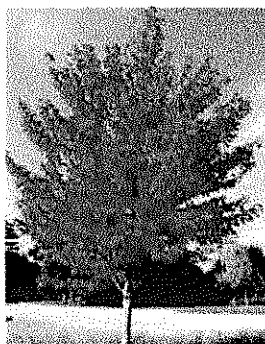
Quercus shumardii
(Shumard Oak)



Pinus eldarica
(Afghan Pine)



Zelkova serrata
(Japanese Zelkova)



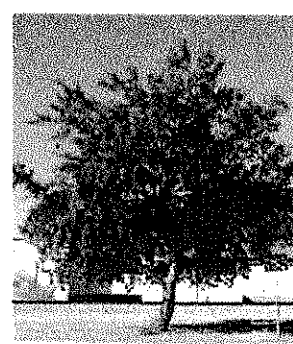
Park Tree
Acer rubrum
(Red Maple)



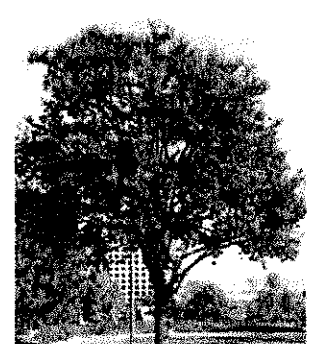
Park Tree
Ginkgo biloba
(Ginkgo)



Park Tree
Lagerstroemia indica
(Crape Myrtle)



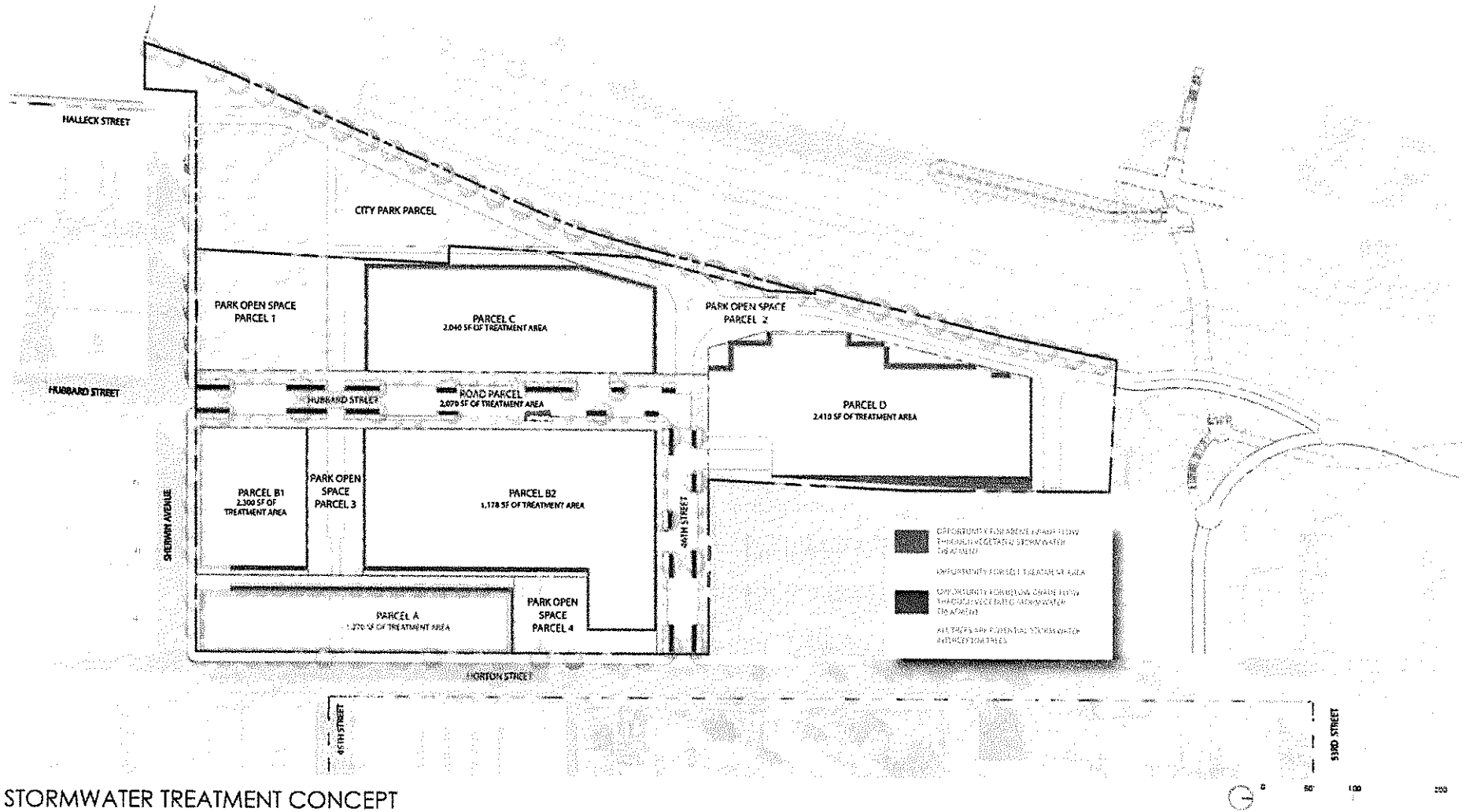
Park Tree
Quercus suber
(Cork Oak)



Park Tree
Quercus virginiana
(Southern Live Oak)

LANDSCAPE PRECEDENTS

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
SEPTEMBER 13, 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



STORMWATER TREATMENT CONCEPT

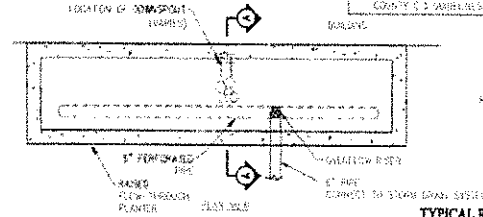
SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN

SEPTEMBER 13, 2016, PREPARED FOR LMC, EMERYVILLE INVESTORS LLC BY LPA&A AND ERG

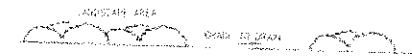
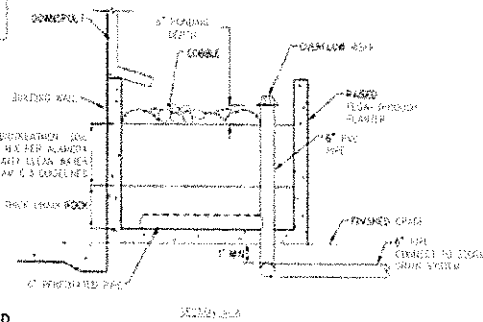
ALL SIGNATURES (HEALTH MEASURES AND COMMUNITY PLACEMENT FOR THE PROJECT WILL BE GIVEN ONLY TO ADEQUATE COMMUNITY HEALTH CARE PROGRAMS.

ALL SIGNATURES (HEALTH MEASURES AND COMMUNITY PLACEMENT FOR THE PROJECT WILL BE GIVEN ONLY TO ADEQUATE COMMUNITY HEALTH CARE PROGRAMS.

NOTE: FLOW-DIRECTION
PLANNERS SHALL BE MAINTAINED
CONSISTENT WITH MAJOR DR
CONVEYANCE & DRAINAGE

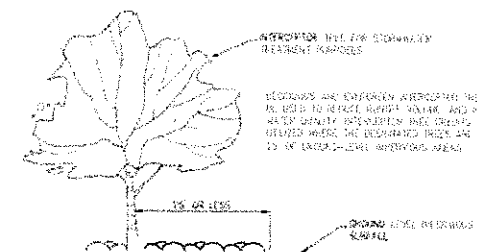


**TYPICAL RAISED
FLOW-THROUGH PLANTER**
NOT TO SCALE

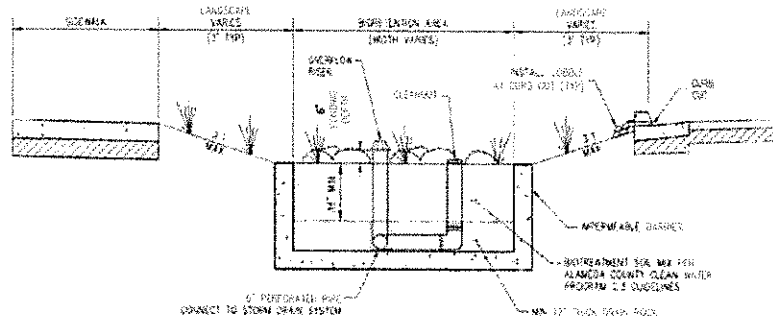


1. 本行在 2014 年 12 月 31 日及 2015 年 12 月 31 日，均无因提供担保而形成的或有负债。

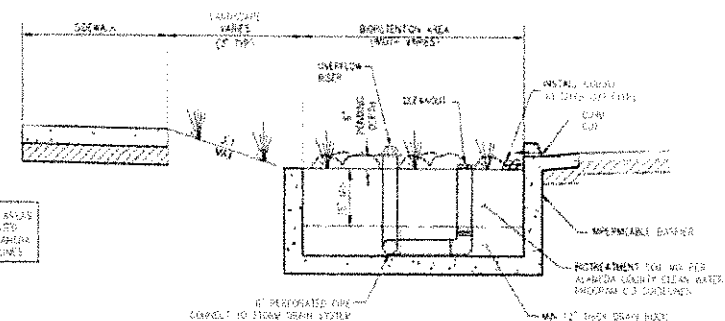
SELF-TREATING LANDSCAPE AREA
is that the area is self-treating and does not require any other treatment. It is a self-treating area and does not require any other treatment.
NOT TO SCALE



TYPICAL STORMWATER INTERCEPTOR TREE
NOT TO SCALE



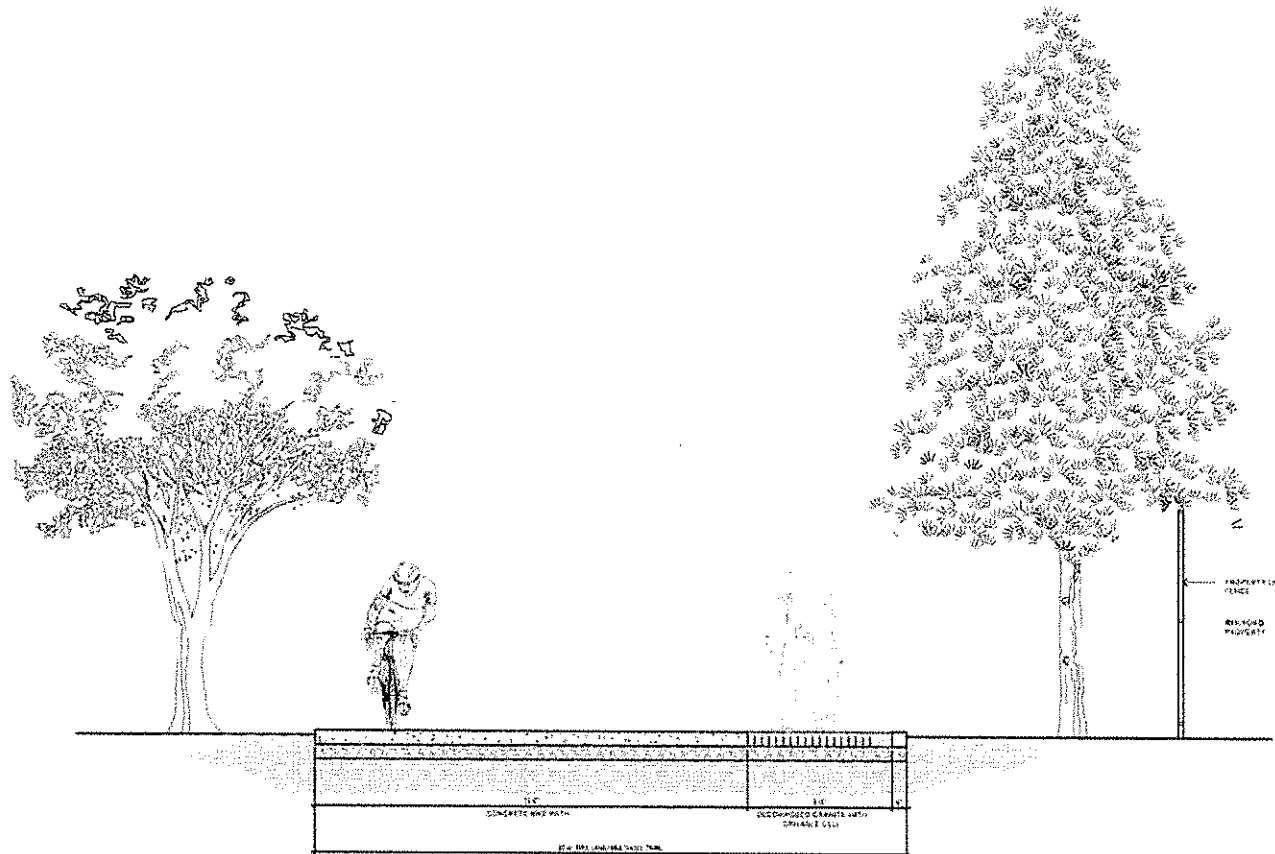
TYPICAL AT-GRADE BIORETENTION AREA
(WITHIN LANDSCAPE AREA)
NOT TO SCALE



TYPICAL AT-GRADE BIORETENTION AREA
(ADJACENT TO ROADWAY)
NOT TO SCALE

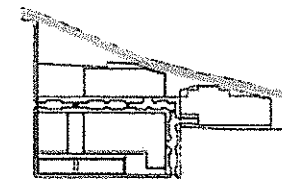
SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN

PAGE 21

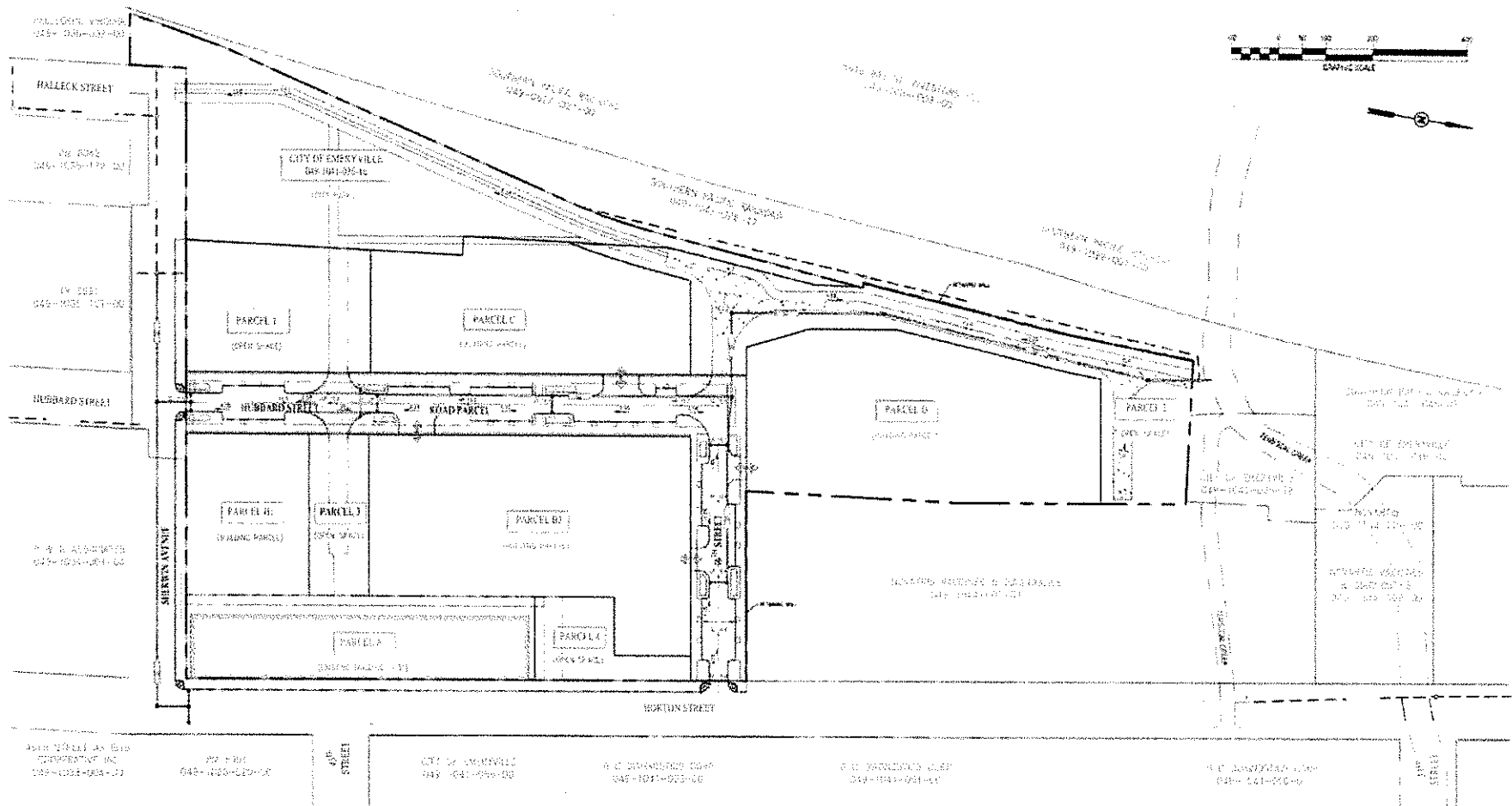


FIRE LANE AND MULTI-USE TRAIL SECTION

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
 SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



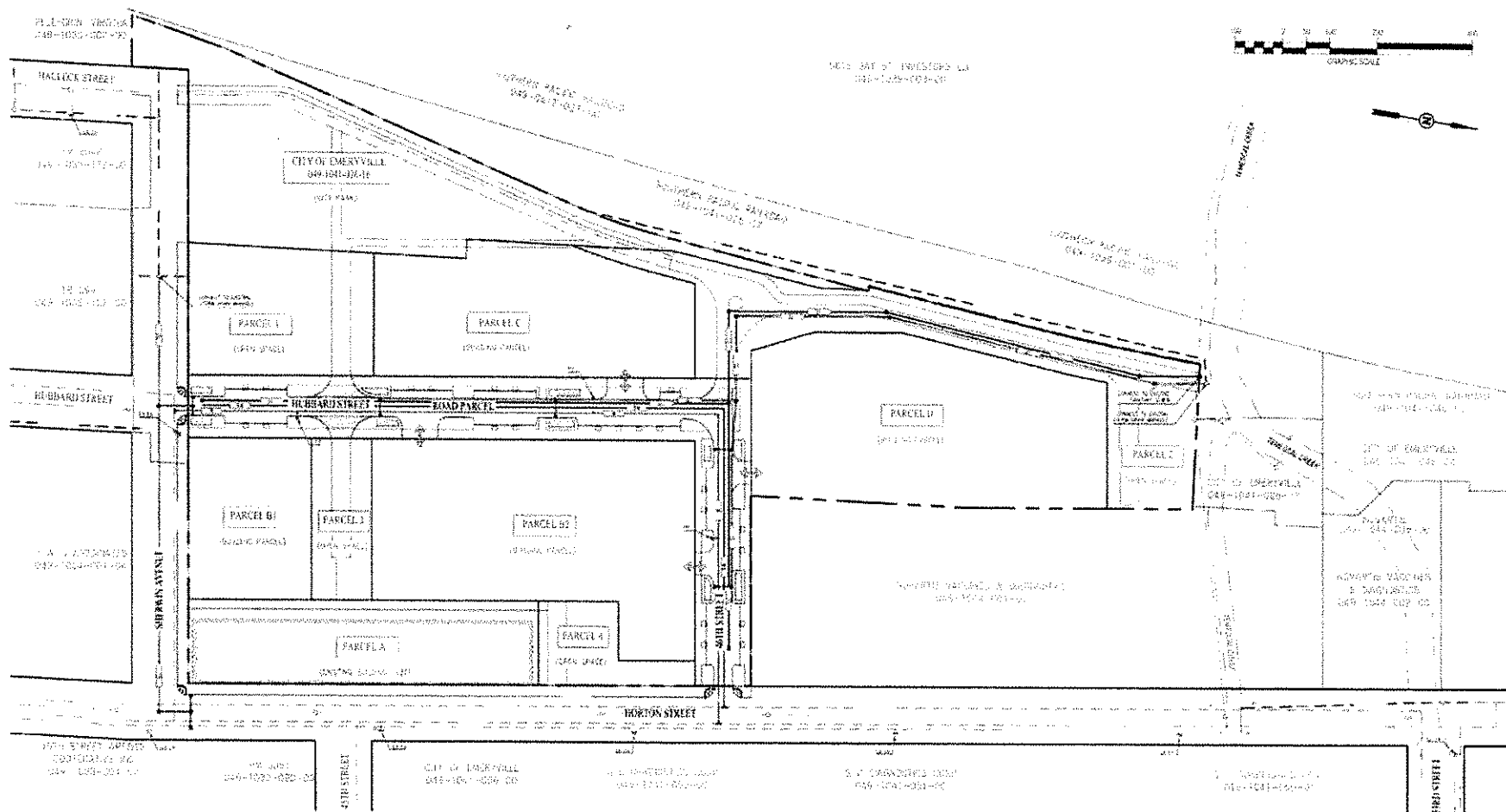
VICINITY MAP
 NOT TO SCALE



CONCEPTUAL GRADING PLAN

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN

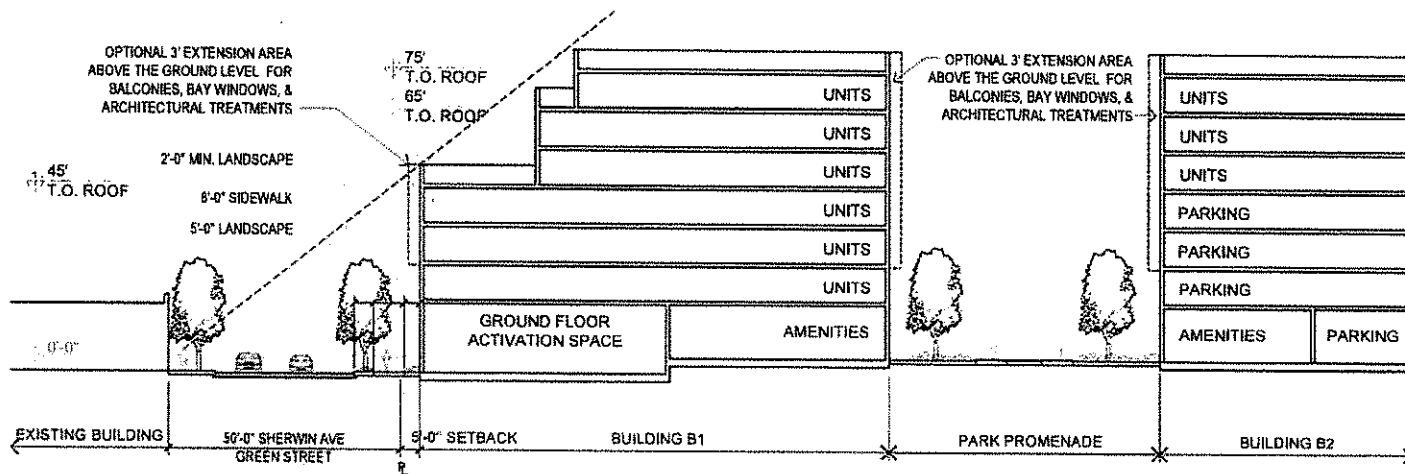
SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



UTILITIES

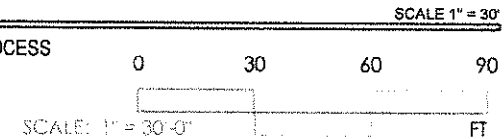
SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN

SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBO



SECTION A

NOTE: ADDITIONAL BUILDING STEP BACKS AND SETBACKS MAY BE DEVELOPED DURING THE FDP PROCESS

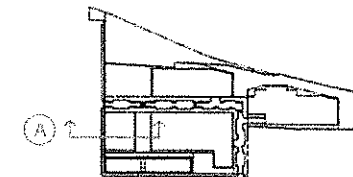


NOTES:

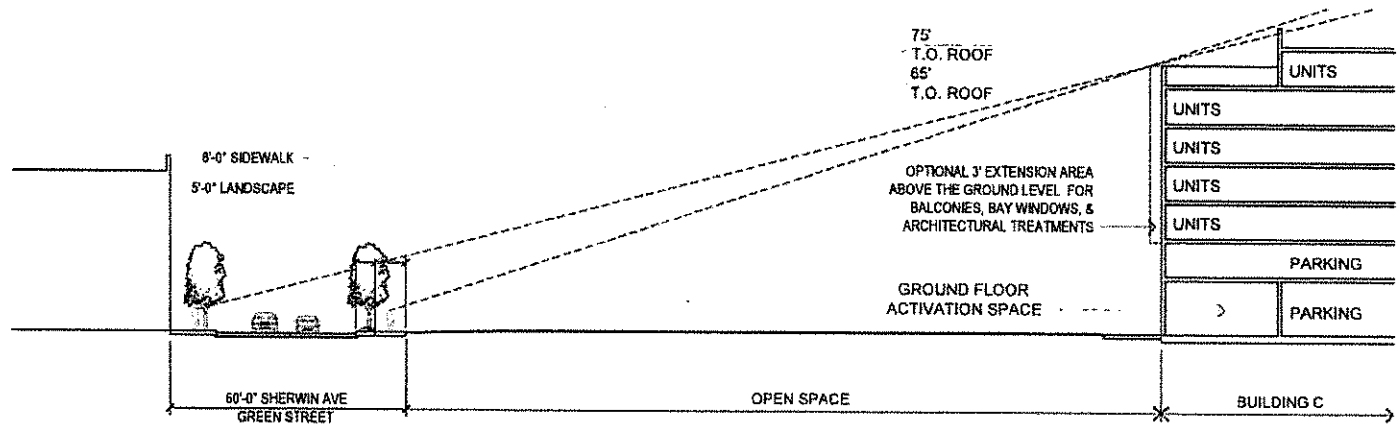
1. Ground floor activation spaces may have 1 or 2 floors
2. The existing retaining wall may be eliminated and the floor level may be lowered to ± 4.0 to activate sidewalk

SITE SECTION A

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
SEPTEMBER 13, 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CS&G



VICINITY MAP
NOT TO SCALE



SECTION B

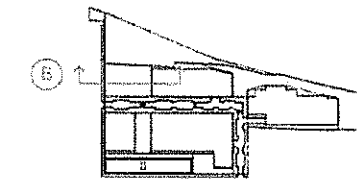
NOTE: ADDITIONAL BUILDING STEP BACKS AND SETBACKS MAY BE DEVELOPED DURING THE FDP PROCESS

SCALE 1" = 30'



NOTES:

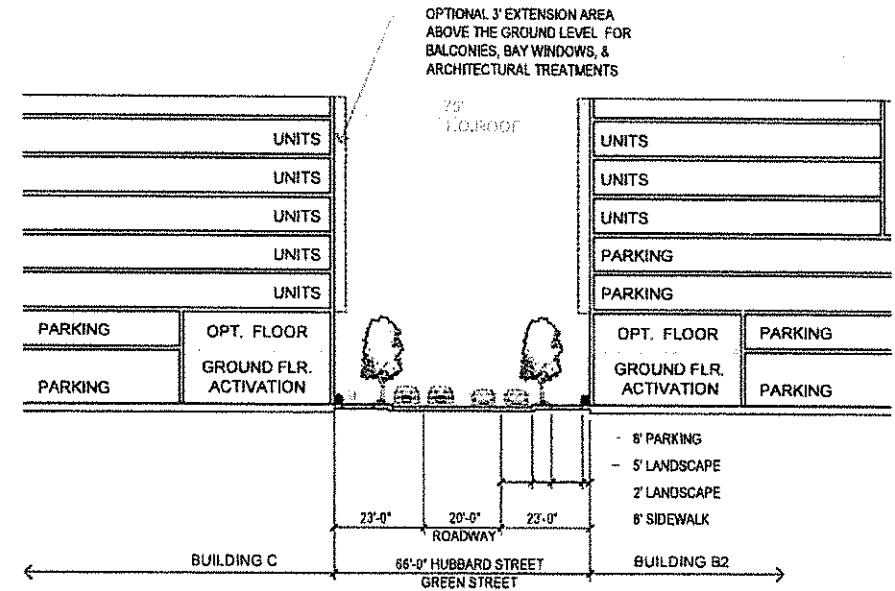
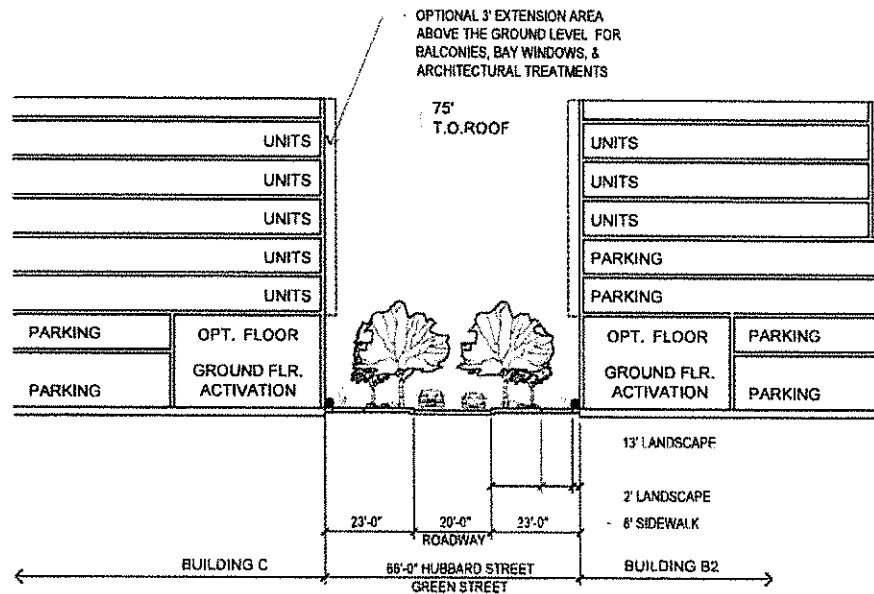
1. Ground floor activation spaces may have 1 or 2 floors



VICINITY MAP
DATE: 05.17.16

SITE SECTION B

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



SECTION C WITHOUT PARKING

SECTION C WITH PARKING

SCALE 1" = 30'

NOTE: ADDITIONAL BUILDING STEP BACKS AND SETBACKS MAY BE DEVELOPED DURING THE FDP PROCESS

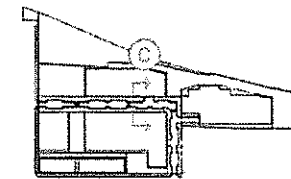


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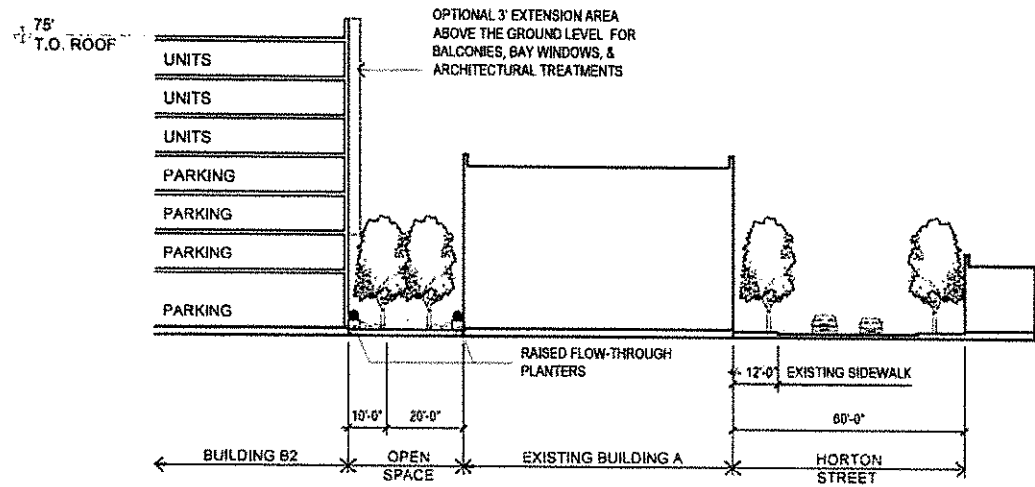
1. Ground floor activation spaces may have 1 or 2 floors

SITE SECTION C

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
SEPTEMBER 13, 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPA AND CS&G



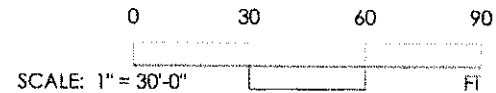
VICINITY MAP
W011010101



SECTION D

SCALE 1" = 30'

NOTE: ADDITIONAL BUILDING STEP BACKS AND SETBACKS MAY BE DEVELOPED DURING THE FDP PROCESS

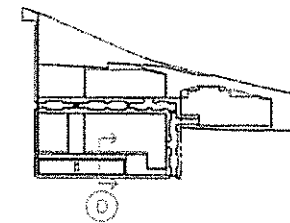


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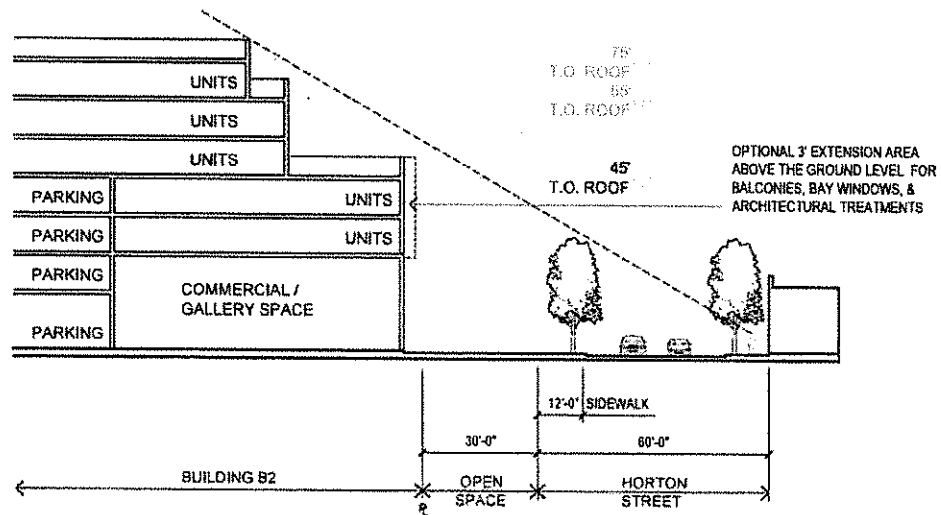
1. Ground floor activation spaces may have 1 or 2 floors

SITE SECTION D

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBC



VICINITY MAP
DATE: 09/13/16



SECTION E

SCALE 1" = 30'

NOTE: ADDITIONAL BUILDING STEP BACKS AND SETBACKS MAY BE DEVELOPED DURING THE FDP PROCESS

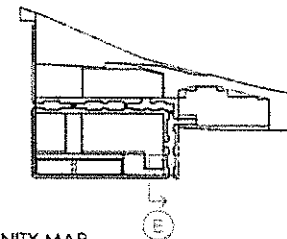


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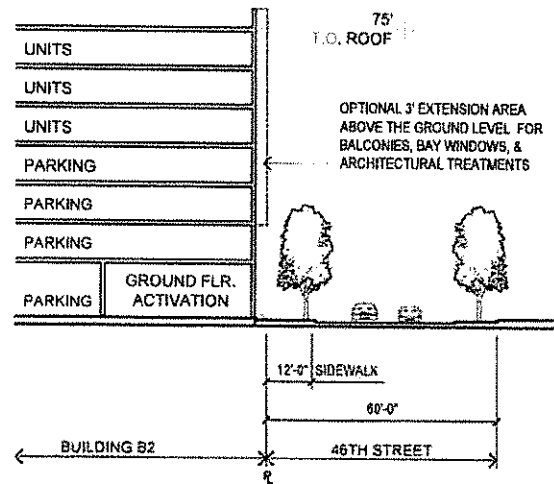
1. Ground floor activation spaces may have 1 or 2 floors

SITE SECTION E

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
SEPTEMBER 13 2016, PREPARED FOR LMC EMERYVILLE INVESTOR LLC BY LPAS AND CBG



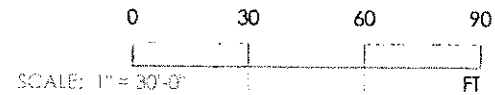
VICINITY MAP
-NOT TO SCALE-



SECTION F

SCALE 1" = 30'

NOTE: ADDITIONAL BUILDING STEP BACKS AND SETBACKS MAY BE DEVELOPED DURING THE FDP PROCESS

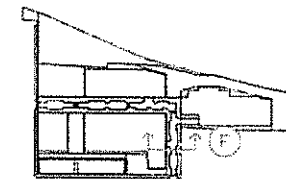


NOTES:

1. Ground floor activation spaces may have 1 or 2 floors

SITE SECTION F

SHERWIN WILLIAMS PRELIMINARY DEVELOPMENT PLAN
SEPTEMBER 13 2016, PREPARED FOR UAC EMERYVILLE INVESTOR LLC BY LPAS AND C.B.S.



VICINITY MAP
NAT TO SCALE

APPROVED	
CITY OF EMERYVILLE PLANNING DEPARTMENT	
<i>Charles S. Bryan</i> (Signature)	<i>11/1/16</i> (Date)
<i>Community Development Director</i> (Title)	
PUD13-001	
File # (if any)	

CONDITIONS OF APPROVAL

Sherwin Williams Mixed Use Project
Planned Unit Development/Preliminary Development Plan
1450 Sherwin Avenue (APNs: 49-1041-26-15 and -16)
File Number: PUD 13-001
Exhibit B. Conditions of Approval
November 1, 2016

As approved by the City Council pursuant to Ordinance No. 16-006 on November 1, 2016. ("Ordinance Of The City Council Of The City Of Emeryville Adopting A Planned Unit Development Zoning Designation And Approving A Preliminary Development Plan For The 10.05-Acre Sherwin Williams Project Site Bounded By Sherwin Avenue To The South, The Union Pacific Railroad Tracks To The West; Horton Street To The East, And Temescal Creek To The North (APNs 49-1041-26-15 And 16), And Adopting An Amendment To The Planning Regulations To Add The Sherwin Williams Mixed Use Project To The List Of Planned Unit Developments In Section 9-3.310.")

"Applicant" in these Conditions of Approval shall mean an applicant for any Preliminary Development Plan (PDP) or Final Development Plan (FDP) approval for this project unless otherwise expressly limited to an applicant for a particular FDP approval.

I. COMPLIANCE WITH APPROVALS

- A. **PROJECT APPROVALS.** All phases of the project shall be constructed and operated in accordance with the following actions by the City Council:
1. General Plan Amendment (Resolution No. 16-148) to modify the Land Use Diagram (Figure 2-2) to reflect the proposed relocation of Park/Open Space and Mixed Use with Residential on the site, and to modify the Maximum Residential Densities map (Figure 2-6) to be consistent with the Land Use Diagram.

2. Approval of a rezoning of the Sherwin Williams project site identified by Assessor's Parcel Numbers 49-1041-26-15 and 49-1041-16 from Mixed Use (M-U) and Park/Open (PO) to Planned Unit Development (PUD) (Ordinance No.16-006).
3. Approval of Preliminary Development Plan (PDP) (Ordinance No. 16-006) with the following major components, as may be modified in accordance with these Conditions of Approvals so long as the floor area ratio (FAR) does not exceed 3.0 in the aggregate, and the height and general massing are within the limits shown on the approved PDP (defined below):

Construction of:

- (a) Up to 500 residential units (includes live-work units)¹;
- (b) Up to 74,000 square feet of office space on Parcel A;
- (c) A minimum of 2,000 square feet and a maximum of 8,000 square feet of ground floor commercial space (exclusive of the public art gallery and community room described in Section II.D.2 (b)(2). At a minimum, one commercial tenant space shall include infrastructure for a café/restaurant space (such as Type 1 grease exhaust, hood and duct systems)
- (d) A total of 3.53 acres of public park and open space that includes 2.08 acres on the Sherwin Williams property (APN 49-1041-26-15) and 1.45 acres on the Successor Agency-owned parcel (APN 49-1041-26-16) (the "City parcel"), including a public park of approximately 2.07 acres fronting on Sherwin Avenue, a Greenway running along the western edge of the project area adjacent to the railroad tracks, and other open areas as identified on Page 6 of the approved plans; and
- (f) Construction and dedication of new public streets: Hubbard Street extension between Sherwin Avenue and new 46th Street, and new 46th Street between Horton Street and Hubbard Street extension.

The maximum heights permitted on each parcel are:

Parcel A: Existing Building Height of 42 feet

¹ For purposes of calculation of required affordable units, live-work units will be considered as residential units.

- Parcel B-1: 45 feet; 65 feet and 75 feet as shown on Pages 7 and 8 of the approved PDP plans
- Parcel B-2: 45 feet; 65 feet and 75 feet as shown on Pages 7 and 8 of the approved PDP plans
- Parcel C: 65 feet and 75 feet as shown on Pages 7 and 8 of the approved PDP plans
- Parcel D: 100 feet

Projections above these height limits shall be allowed pursuant to Section 9-4.202(c) of the Planning Regulations.

4. Uses Allowed on Ground Floor in All Buildings. Uses are allowed on ground floor areas of all buildings as follows:
 - (a) All uses permitted in the MUR zone pursuant to Table 9-3.202 of the Planning Regulations as effective on October 18, 2016 are permitted;
 - (b) All uses conditionally permitted in the MUR zone pursuant to Table 9-3.202 of the Planning Regulations as effective October 18, 2016 shall require a Minor Conditional Use Permit; and
 - (c) Residential units including live-work units are permitted.
5. Uses Permitted in Building 1-31. In addition to office use (general, government, and walk-in clientele), all non-residential uses that are permitted in the MUR zone that have an estimated parking demand that is the same as or less than that of office uses are permitted. All non-residential uses that are conditionally permitted in the MUR zone and that have an estimated parking demand that is the same as or less than that of office uses, shall require a Minor Conditional Use Permit. Any other uses that are permitted or conditionally permitted in the MUR zone shall require Planning Commission approval of a Major Conditional Use Permit.
6. Modification to the Requirements of the Planning Regulations.
 - (a) Parking. The maximum parking allowed for residential uses shall be 1 space per unit (including live-work units). For all other uses, including residential guest parking, the parking requirements shall be as set forth in Article 4 of Chapter 4 of the Planning Regulations. The affordable units shall be assigned one parking space per unit.

- (b) Other Requirements. All other requirements of the Planning Regulations as effective on October 18, 2016, including but not limited to bicycle parking, loading, courts, open space, landscaping and screening, water use, recycling and trash areas, and lighting and illumination, shall apply.
- B. APPROVED PLANS. The future Final Development Plans of the project shall substantially comply with the PDP plans dated September 13, 2016, entitled "Sherwin Williams Preliminary Development Plan" prepared by LPAS and CBG, pages 1 to 29 except as modified by these Conditions of Approval.
- C. APPROVAL EFFECTIVENESS AND DURATION. This permit shall automatically expire if an application for a Final Development Plan has not been filed and fees have not been paid within three years from the date of this approval. Pursuant to Section 9-7.1009(a) of the Emeryville Municipal Code, this time limit may be extended by the City Council.
- D. INSTALLATION AND MAINTENANCE OF IMPROVEMENTS. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved. Minor changes may be approved by the Community Development Director. In constructing all public improvements, Applicant shall agree to all security, guarantee, warranty, and indemnification provisions as set forth in City's encroachment agreement in a form approved by the City Attorney.
- 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. This approval is contingent upon Resolution No. 16-148, amending the General Plan being effective. Operations on this site 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 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 be cause for non-issuance of a certificate of occupancy, revocation or modification of these approvals or any other remedies available to the City.
- G. APPLICATION TO SUCCESSORS IN INTEREST. These Conditions of Approval shall apply and shall be binding upon any successor in interest in the property and Applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this zoning/PUD/PDP approval.

- H. FINAL DEVELOPMENT PLAN (FDP) APPLICATION. The Applicant may submit one or more FDP applications for the project, as follows:
- (a) New and Existing Buildings. The Applicant shall submit an FDP application for approval prior to submission of any building permit or grading permit for any building, including the existing Building 1-31 on Parcel A.
 - (b) Parks. The Applicant shall hold at least two community meetings to solicit community input, and shall also obtain recommendations from relevant City Committees (including but not limited to the Parks and Recreation Committee and the Bicycle/Pedestrian Advisory Committee) for the design of the public park, open spaces, plazas, Greenway, and bicycle and pedestrian paths as part of a Final Development Plan (FDP). All park and open space related work in the approved FDP shall be completed and shall be open to the public no later than prior to the issuance of a temporary certificate of occupancy for the last new residential building; as will be further detailed in the Tentative Map for the project.
- I. SUBDIVISION APPROVAL. Prior to the approval of the first Final Development Plan, the Public Works Director shall confirm that the Applicant has received Planning Commission approval of the Tentative Map for the project and has applied for the reapportionment of the Bay-Shellmound Assessment as applicable.

II. GENERAL CONDITIONS

- A. INDEMNIFICATION. Applicant, its assignees, and successors-in-interest shall defend, hold harmless, and indemnify the City of Emeryville, the Successor Agency to the Emeryville Redevelopment Agency, 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 project, general plan amendment, and/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.

- B. MITIGATION MEASURES. The mitigation measures identified in the Final Environmental Impact Report (FEIR) prepared for the project are attached and incorporated by reference into this document. All mitigation measures that apply to the project's impacts shall be considered conditions of approval of the project, as may be further refined or clarified by these Conditions of Approval. Overall monitoring compliance with the mitigation measures will be the responsibility of the Community Development Director.

- C. AFFORDABLE HOUSING PROGRAM. No fewer than 17 per cent of total units in the project shall be affordable units, i.e. no fewer than 85 affordable units out of a total of 500 units. Prior to the issuance of the first building permit for a residential structure, the Community Development Director shall confirm that the Applicant has entered into an agreement (Affordable Housing Agreement) with the City and approved by the City Council to be recorded against the property which satisfies the requirements of the City of Emeryville's Affordable Housing Program, as set forth in Article 4 of Chapter 5 of Title 9 of the Emeryville Municipal Code.

1. Affordability Income Levels. Pursuant to Section 9-4.204(d)(1) of the Planning Regulations, affordable units shall, at a minimum, be affordable to households of the following income levels, as defined in Article 4 of Chapter 5 of the Planning Regulations, or at a deeper level of affordability:

Very Low Income	3.9%	20 units
Low Income	5.9%	30 units
Moderate Income	7.2%	35 units
TOTAL	17.0%	85 units

If the Applicant chooses to develop fewer than the maximum of 500 units, the number of affordable units shall be reduced proportionally, subject to the requirements of Section 9-4.204(d)(1) and the Rules for Rounding of Numbers in Section 9-2.103.

2. Stand-Alone Affordable Building. The required affordable units may be constructed in a stand-alone building on Parcel B-1 by a separate legal entity than the Applicant ("Affordable Housing Developer"), in which case the level of affordability shall be deeper than specified in Condition II.C.1 above. Specifically, 10% of the affordable units, i.e. 9 units, shall be affordable to households whose maximum annual income does not exceed

50% of Area Median Income (AMI), and 90% of the affordable units, i.e. 76 units, shall be affordable to households whose maximum annual income is 51% to 60% of AMI.

In order to ensure parity with market rate residential units the following conditions shall apply to the affordable units:

- (a) Deed Restriction. A deed restriction/affordable housing covenant shall be recorded against the parcel with the stand-alone affordable residential building in a form acceptable to the City Attorney. This deed restriction/covenant shall not be subordinate to any promissory note, deed of trust or mortgage on said parcel.
- (b) Materials and Finishes. The affordable residential building and units within the building shall be comparable with the design of market rate buildings and units within them in terms of appearance, materials, and quality of finishes.
- (c) Amenities. Residents of the stand-alone affordable residential building shall have access to and the right to use all project-wide shared amenities offered to market rate residents, under the same terms and conditions as offered to market rate residents, including but not limited to swimming pools, recreation facilities, bike facilities, car share stalls, and podium courtyards in buildings on Parcel B-2, C and D. A deed restriction on the parcels with market rate housing units shall be recorded in a form acceptable to the City Attorney to provide access and the right to use amenities to the residents of the affordable housing units to fulfill this condition.
- (d) Washer and Dryer. A clothes washer and dryer shall be provided in each affordable unit.
- (e) Maintenance. The operation and maintenance of the common areas, exterior, landscape, and units of the stand-alone affordable residential building shall be at the same level as the market rate units, and at all times, shall comply with applicable property maintenance and habitability codes. The deed restriction/affordable housing covenant shall address operation and maintenance performance standards and schedules to ensure parity of operation and maintenance between the stand-alone affordable residential building and the market rate units at all times.
- (f) Resident Manager. A full time, dedicated resident services manager shall be provided for the building. The building shall have

a dedicated office for the resident services manager, and a separate residential unit for the manager, which shall not be counted towards the required number of affordable units. The resident manager shall have at least five years' experience in the operation and management of similar size rental housing projects, and at least three years' experience in the operation and management of rental housing projects containing below-market-rate units, without any record of material violations of discrimination restrictions. No less than 10 City business days prior to hiring the manager the Affordable Housing Developer shall provide documentation to the City as is reasonably necessary to evaluate the proposed manager's experience and qualifications. No manager shall be hired, or management agreement signed or amended, without City's prior approval, which shall not be unreasonably withheld or delayed. Any change in the manager or amendment to the management agreement that impacts the level of service to the affordable housing residents shall require the prior written approval of City, which shall not be unreasonably withheld or delayed.

- (g) Unit Size and Mix. Prior to issuance of a Final Development Permit for any residential structure, the Community Development Director shall confirm that the average size and mix of affordable units, as measured by square footage and number of bedrooms, is equal to or greater than the average size of the market rate units.
- (h) Parking. Parking for affordable units shall be included in maximum rents and shall be provided in the building on Parcel B-2. Prior to issuance of a building permit for the stand-alone affordable housing building, an agreement in a form approved by the City Attorney shall be entered into between the Applicant and the Affordable Housing Developer guaranteeing that required parking to serve the stand-alone affordable housing building will be in place in the building on Parcel B-2 at all times that the affordable housing building is in operation.
- (i) Section 8 Vouchers. Section 8 vouchers shall be accepted for the affordable units.
- (j) Programs and Services. Affordable Housing Developer shall provide programs and services to residents of the stand-alone affordable housing building, such as employment/job training, after school programs, exercise classes, social activities, children's playground, and computer training. Such programs and services shall be provided by a full-time staff separate from the resident manager, and shall have an office separate from the resident

manager's office and adequate dedicated facilities within the stand-alone affordable housing building. Details of the programs and services to be provided shall be specified in the Affordable Housing Agreement.

- (k) Affordable Housing Building to be Occupied First. The stand-alone affordable housing building shall be occupied concurrently with, or prior to, the occupancy of any other new residential building, but shall not be occupied until its parking in the building on Parcel B-2 is available for use.
- (l) Funding. Applicant shall not apply for competitive funding sources for the stand-alone affordable housing project for which the City of Emeryville may apply, now or in the future.

D. BONUS POINTS. The project requires 100 bonus points for bonus floor area ratio (FAR), height, and residential density pursuant to Section 9-4.204 of the Planning Regulations. The Applicant shall obtain these 100 bonus points in the following manner:

- 1. Affordable Housing (50 points). Pursuant to Section 9-4.204(d) of the Planning Regulations, half of the required bonus points shall be earned through the provision of 17% of the total number of residential units as affordable units. Affordable units may be provided in a stand-alone building. See Condition II.C above for further details on the affordable housing requirements.
- 2. Community Benefits (50 points). Pursuant to Section 9-4.204(e) of the Planning Regulations, half of the required bonus points shall be earned through the provision of community benefits. Specifically, these points shall be earned through the provisions of public improvements, utility undergrounding, and flexible community benefits as stipulated in items (3), (4), and (7), respectively, of Table 9-4.204(e) of the Planning Regulations.
 - (a) Value of Community Benefits. Pursuant to Table 9-4.204(e) of the Planning Regulations, 10 bonus points shall be earned for each 1% of the total construction valuation of the project, i.e. 50 points requires community benefits valued at 5% of the total construction valuation of the project. This funding available for community benefits is estimated at approximately \$7 million.
 - (b) Flexible Community Benefits. Bonus points for flexible community benefits shall be earned from the following:

- (1) Retrofit Building 1-31 (Parcel A) for Permanent Public “Pass Through” Alley. The “pass through” alley shall begin with an opening at the western terminus of 45th Street at Horton Street and shall extend west through the building, unimpeded by other structures, to the park and open space. The width of the alley shall be approximately 24 feet). It shall be designed such that cyclists are not required to dismount and are able to move through the space continuously between the proposed public park and 45th Street. Construction of the “pass through” alley including any landscaping shall be completed prior to the issuance of a final certificate of occupancy of Building 1-13. (Estimated value: \$1 million)
- (2) Public Art Gallery and Community Room. Design and construction of a 2,000 square foot public art gallery and community room with walls at a height of no less than 15 feet and finishes appropriate for an art gallery (including 1000k amp service). The space shall include an office and a restroom and shall be made available as a meeting room for residents and the local community upon request in advance and subject to reasonable rules and policies. No fees shall be charged for use of this space. The Emeryville Celebration of the Arts or any successor organization shall be granted 24-hour access to the space. (Estimated value: \$600,000)
- (3) Community Shuttle to West Oakland BART. Provision of a community shuttle from the project site to the West Oakland BART station for the first five years of operation free of charge. The shuttle service shall commence within 60 days after occupancy of fifty percent of the total residential units for the project. The shuttle will operate at intervals sufficient to maximize trip reduction, as determined by the TDM. The hours of operation and location of the stop for the shuttle shall be approved by the City as part of the first residential Final Development Plan. Developer is only required to provide a secure stop at West Oakland BART and another location within 500 feet of the project site. This condition may be met by an existing shuttle provider providing the service, in which case Applicant shall not receive bonus points for this community benefit. (Estimated value: \$900,000)

- (c) Public Improvements and Utility Undergrounding. To the extent that funding for community benefits is available, bonus points for public improvements and utility undergrounding shall be earned for the following, listed in priority order:
- (1) Hubbard Street, east side between Sherwin and Park Avenues: sidewalk improvements and utility undergrounding. (Estimated value: \$700,000)
 - (2) Horton Street, between Park Avenue and new 46th Street: utility undergrounding. (Estimated value: \$1.8 million)
 - (3) Sherwin Avenue, south side, between Horton and Hubbard Streets: sidewalk improvements. (Estimated value: \$150,000)
 - (4) Hubbard Street, between Park Avenue and 40th Street: sidewalk improvements (both sides of street) and utility undergrounding. (Estimated value: \$680,000)
 - (5) Halleck Street, west side along frontage of Assessor Parcel Number 49-1036-2, extending approximately 185 feet south from Sherwin Avenue: sidewalk improvements. (Estimated value: 90,000)
 - (6) Horton Street, west side between Sherwin and Park Avenues: sidewalk improvements. (Estimated value: \$200,000)
 - (7) 45th Street, between Horton and Hollis Streets: utility undergrounding, including removal of adjacent poles on Holden Street. (Estimate value: \$1.44 million)
 - (8) Horton Street, between new 46th Street and 53rd Street: utility undergrounding. (Estimated value: \$1.05 million)
 - (9) Halleck Street, between Park Avenue and Beach Street: utility undergrounding (Estimated value: \$750,000)
- (d) Excess Funds. If there are funds remaining following completion of all of the projects listed above, or if there are not sufficient funds available to complete all of the projects, any excess funds shall be contributed by the Applicant to the South Bayfront Bridge and Horton Landing Park capital improvement project (Project Number 16475006). (See also Condition II.D.2(f) below.)

(e) Standards for Public Improvements and Utility Undergrounding.

- (1) Sidewalk Improvements. Sidewalks are to be consistent with the Park Avenue District Plan and existing side streets in the district, as follows: 12-foot total width from face of curb to edge of right-of-way, consisting of 6-inch wide curb, 4-foot wide landscape/street furniture zone containing tree wells, stormwater treatment areas, and/or concrete between curb and pedestrian pathway (trees, luminaires, street signs, and any other street furniture go in this zone), and a clear 7.5-foot wide concrete pedestrian pathway. Street trees shall be *Ginkgo biloba* at an average distance of 22 feet on center planted in 4-foot by 6-foot tree wells. Street lights shall be standard City street lights (Lumec Candela single pedestrian luminaires) spaced at 80 feet average on center per side, staggered at 40 feet average on center on opposite sides of the street, except that lights along Halleck Street shall be standard City Greenway lights (Holophane GranVille Series). Standard gutters and any roadway reconstruction necessary to match the grade of the new sidewalk shall be included.
- (2) Utility Undergrounding. Utility undergrounding shall include payment of the costs necessary to connect all properties currently served by the existing overhead utilities to the new underground utilities, and installation of new Lumec Candela single pedestrian luminaires if not done in conjunction with sidewalk improvements that include new luminaires.
- (3) Design and Construction. The design of all public improvements and utility undergrounding shall be reviewed and approved by the City Engineer prior to construction and shall be subject to Condition I.D above, including the requirement for encroachment permits.

- (f) Final True-Up of Community Benefit Costs. Prior to the issuance of a certificate of occupancy for the last building of the PUD, the total funding available for community benefits and the total value of community benefits provided shall be determined by the Community Development Director, and any remaining excess funding shall be contributed by the Applicant to the South Bayfront Bridge and Horton Landing Park capital improvement project (Project Number 16475006). The total funding available for community benefits shall equal five percent of the final total

project construction valuation as determined by the Chief Building Official. The value of community benefits provided shall be determined as follows:

- (1) “Pass-Through” Alley in Building 1-31 and Public Art Gallery/Community Meeting Room: Actual itemized costs shall be provided by Applicant and confirmed by the Chief Building Official.
- (2) West Oakland BART Shuttle: Contract for service shall be provided by Applicant. If this service is provided by an existing shuttle provider, the value of this community benefit shall not be included in the true-up.
- (3) Public Improvements and Utility Undergrounding: Actual itemized costs shall be provided by Applicant and confirmed by the Public Works Director.

E. TRANSPORTATION RELATED. The following conditions will apply to the project as identified and recommended in the Final Environmental Impact Report (FEIR) approved for the project:

1. The Applicant shall provide design details of the internal garage circulation and interface for each building with the street system. These plans shall be reviewed by the City’s transportation consultant prior to approval of any Final Development Plan for Parcels A, B-1, B-2, C and D.
2. The Applicant shall coordinate with the City Engineer concerning traffic controls at the site intersections shown on Figure IV. C-18 of the FEIR, attached here as Attachment 1.
3. The Applicant shall install crosswalks on all legs of the Sherwin Avenue/Halleck Street and Sherwin Avenue/Hubbard Street intersections consistent with the Emeryville Pedestrian and Bicycle Plan.
4. The Applicant shall provide Class III bicycle facility roadway markings and signage on Sherwin Avenue.
5. The Applicant shall provide lighting at equal spacing along Sherwin Avenue and Horton Street, and provide pedestrian scale lighting along the pedestrian pathway, north of Parcel C-2 and north of Parcel D. All lighting along streets shall be standard City street lights (Lumec Candela single pedestrian luminaires), and all lighting elsewhere on the site, including along the Greenway and within park/open areas, shall be standard City Greenway lights (Holophane GranVille Series).

6. All final site design plans should show entry door swing into the public right-of-way to ensure that the 6-foot pedestrian clear zone is maintained along the corridor when doors are open. The building design should orient pedestrians away from the door zone.
 7. The Applicant shall install curb extensions and a high visibility crosswalk on the north leg of Horton Street at Sherwin Avenue such that pedestrians and transit riders accessing the site from 40th Street do not have to cross two streets to access the site. The Applicant shall also install a high visibility crosswalk and curb ramps on the north leg of Horton Street at 45th Street to improve pedestrian access to transit.
 8. The Applicant shall designate an on-street loading zone on Hubbard Street extension to facilitate small deliveries within the site and ensure that each of the four designated loading zones have the capacity to accommodate garbage trucks and moving vans.
- F. PUBLIC ART PROGRAM. The project will be subject to Art in Public Places Ordinance (Article 4 of Chapter 2 of Title 3 of the Emeryville Municipal Code) and other applicable policies and programs. At the time of Final Development Plan approval, the project will be subject to standard conditions regarding submission of evidence of compliance with the Ordinance.
- G. COMPLIANCE WITH STORMWATER MEASURES. The project shall be designed, constructed, operated, and maintained in conformance with the "Alameda County Clean Water Program C.3 Stormwater Technical Guidance and including the Alameda County Clean Water Program Stormwater Treatment Requirements for New Development and Redevelopment" ("Stormwater Measures") and the City's "Stormwater Guidelines for Green Dense Redevelopment" ("Stormwater Guidelines").
- H. LANDSCAPING AND STREET TREES. Applicant shall submit detailed landscaping and irrigation plans for the approval of the Public Works Director. The plans shall conform to Title 9 Section 4.602 "Water Efficient and Bay Friendly Landscaping" of the Emeryville Municipal Code, including guidelines from StopWaste.org, the Alameda Countywide Clean Water Program C3 Stormwater Technical Guidance, and EBMUD requirements for reclaimed water.

The plans shall include species, number of plantings, size of plantings and specifications for the irrigation system. Minimum plant sizes are flats or 1-gallon containers for ground cover, 5-gallon containers for shrubs and 24-inch box containers for trees. Street trees shall be of a species approved by the Public Works Director and shall be spaced as depicted on the approved Tentative Map and as approved by the Public Works Director. All planting areas and tree wells

shall include a 3 inch layer of bark mulch per the requirements of Bay Friendly Landscaping. Street trees may require tree grates as directed by the Public Works Director

The applicant shall install structural soil under sidewalk / hardscape areas, to provide adequate rootable soil volume areas for healthy street trees. The amount of rootable soil volume to be provided per tree shall depend on the ultimate size of the tree at maturity as follows:

600 cubic feet per small tree,
900 cubic feet per medium-sized tree
1200 cubic feet per large-sized tree.

Rootable soil volume for each tree shall be calculated by including both the structural soil beneath the hardscape areas and Bay Friendly approved horticultural soil within the planting areas. The landscape plans shall clearly show all locations of Rootable Soil including dimensions for structural soil and Bay Friendly Horticultural Soil to account for the above referenced requirements for Rootable soil volume.

The applicant shall perform horticultural soil and drainage tests on-site and in the public right of way areas that will receive tree plantings for review and approval by the City Arborist. Tree planting areas shall include drainage as necessary for all trees and could entail extensive excavation for sumps and subdrain systems. All existing native soil to be considered as rootable soil in planter areas shall be tested for chemical contaminants and horticultural suitability. Prior to importing any soil material to be used as rootable soil, the Applicant shall provide chemical and horticultural test results to the City for approval. Soil shall be amended as necessary with Bay Friendly compost per City standards in place of other soil amendments.

- I. PUBLIC SAFETY. All Final Development Plan (FDP) applications shall comply with applicable fire and emergency safety measures as required by the Fire Department, including access requirements, premises identification, key boxes, hydrants, fire protection systems and equipment and exiting and emergency illumination. All FDP applications shall also comply with the Police Department's standard specifications including requirement of Knox-boxes where applicable.
- J. DESIGN REVIEW. All Final Development Plan (FDP) applications shall comply with the City's Design Guidelines as well as Park Avenue District Plan guidelines including but not limited to the requirements for shared parking, a special emphasis on the use of building materials and aesthetics that comply with the District's attention to the historic and industrial roots of the community and

screening of all mechanical and electrical equipment from the public right-of-way.

- K. DEDICATION OF LAND FOR PUBLIC PARK, OPEN SPACE USE AND ACCESS. Prior to the approval of the FDP, the City shall determine ownership, whether in fee or a permanent easement for public park, recreation, open space use, and pedestrian and bicycle access (identified as Open Space Park Parcel 1, 2, 3 and 4 in the PDP plans), with respect to that portion of the land subject to this permit which is not currently owned by the City. The City and Applicant shall enter into an agreement to convey such interest to the City and shall address, maintenance, and construction of improvements. The agreement shall be in a form acceptable to the City Attorney. If the property is to be dedicated to the City it shall not contain hazardous substances, waste or materials, as defined by State or Federal law, including petroleum, crude oil or any fraction thereof, or shall otherwise be remediated in accordance with a cleanup plan approved by the City and applicable State or Federal regulatory agencies to a level suitable for the intended use. Further, the Applicant shall agree to thereafter defend, indemnify, and hold the City harmless from all demands, claims, orders, costs, expenses, fees, penalties, and causes of action related to hazardous substances, waste or materials, as defined by State or Federal law, including petroleum, crude oil or any fraction thereof, located on or emanating from the property.
- L. BICYCLE AND PEDESTRIAN EASEMENT FOR "PASS THROUGH" ALLEY IN BUILDING 1-31 (PARCEL A). Prior to issuance of a temporary certificate of occupancy for Building 1-31 (Parcel A), the Applicant shall enter into and grant the City an irrevocable offer to dedicate an easement, at least 24 feet wide for a public pedestrian and bicycle path through the building as shown on the approved PDP plans. The Applicant shall construct this bicycle and pedestrian path prior to the issuance of a temporary certificate for occupancy for Building 1-31. Following construction, the Applicant shall be responsible for ongoing maintenance of the path. The path shall at all times remain open and accessible to the public for bicycle and pedestrian access, provided that if circumstances arise that warrant limitations on "24/7" public access, the developer may petition the City Council to establish hours for public access. No gates or other means of restricting access shall be installed or constructed at either point of entry without the prior approval of the City Council.
- M. UNIT MIX AND DESIGN. The overall project and each individual residential building within the project shall comply with the Multi-Unit Residential Development requirements of Article 20 of Chapter 5 of the Planning Regulations, including but not limited to the requirements for unit mix, design, and ownership housing. The ownership housing requirement shall not apply to a stand-alone affordable housing building.

- N. PUBLIC IMPROVEMENTS. Applicant shall be responsible for the design and construction of public improvements, including but not limited to street improvements, park and open spaces, site grading and storm drainage, sanitary sewers, traffic signals, landscaping, and underground utility lines, as will be further detailed in the Tentative Map for the project and/or the Final Development Plan(s).
- O. FENCE ALONG THE RAILROAD. The fence along the western perimeter of the project area shall match the fence along the western side of the railroad in adjacent to the Bay Street development.

III. PRIOR TO THE APPROVAL OF THE FIRST FINAL DEVELOPMENT PLAN

- A. COST RECOVERY PLANNING FEES. Prior to the issuance of any building permit, the Community Development Director shall confirm that all cost recovery planning fees have been paid to date.
- B. PARKING. All of the parking requirements for Parcels A and B-1 are being met on Parcel B-2. To ensure that this requirement continues indefinitely the Applicant shall record a deed restriction or covenant on Parcel B-2 in a form acceptable to the City Attorney.

IV. SPECIAL CONDITIONS

The following conditions have been voluntarily accepted by the Applicant and the Applicant has agreed that they will apply to the project:

- A. TRANSPORTATION DEMAND MANAGEMENT (TDM) PLAN. The Applicant shall submit a revised TDM plan prior to the approval of the first Final Development Plan that estimates a 30 per cent reduction in traffic based on the addition of transit-oriented incentives and mitigations. The TDM plan shall also include a shared parking plan that will optimized parking capacity by allowing varying uses within the project to share spaces. The shared parking plan should also allow for public parking. The TDM plan shall also include a plan to provide parking management services for time-restricted parking (including public street parking) to assist in facilitating the use of street and other parking for small businesses in the neighborhood including a description of the Applicant's financial contribution to the enforcement of those parking restrictions. The TDM shall annually quantify and report demand and usage of the car-shares, bike-shares, and bike lockers.
- B. CAR SHARE. The project shall provide ten dedicated car-share parking spaces, seven within the project site and three on streets adjacent to the project, if approved by the City. The Applicant shall obtain necessary permits from the City to designate public parking spaces for car share purposes. At the onset of

occupancy, only two of the on-site dedicated spaces need to be used for car-share purposes and the remaining five on-site spaces can be used for alternative parking purposes until the TDM provides for their use. The three off-site dedicated car-share parking spaces shall be provided in advance of occupancy of any residential structure, subject to approval by the City.

- C. BIKE SHARE AND LOCKERS. Prior to the issuance of the last temporary certificate of occupancy, the Applicant shall install a bike sharing station with an expandable capacity in a location determined by the City. The vendor for bike-shares shall be the same vendor that provides bike-share opportunities at the West Oakland BART station, which is currently Bay Area Bike Share. The cost of the bike-shares shall be subsidized by 50% of the current cost of the bike-share program and subsidized membership for the bike share program shall be provided on a per unit basis. The subsidy program details shall be outlined in the revised TDM plan.

The Applicant shall also maintain a minimum of 30 lockable, enclosed bike lockers for all residents and employees. The lockers shall be provided by the Applicant and no fee shall be charged for their use. No less than 50 percent of the bike lockers shall be sized to accommodate "cargo bikes". The project shall provide outlets to charge electric bikes in all the proposed lockers. These 30 lockers shall count towards the bicycle parking requirements in Section 9-4.408.

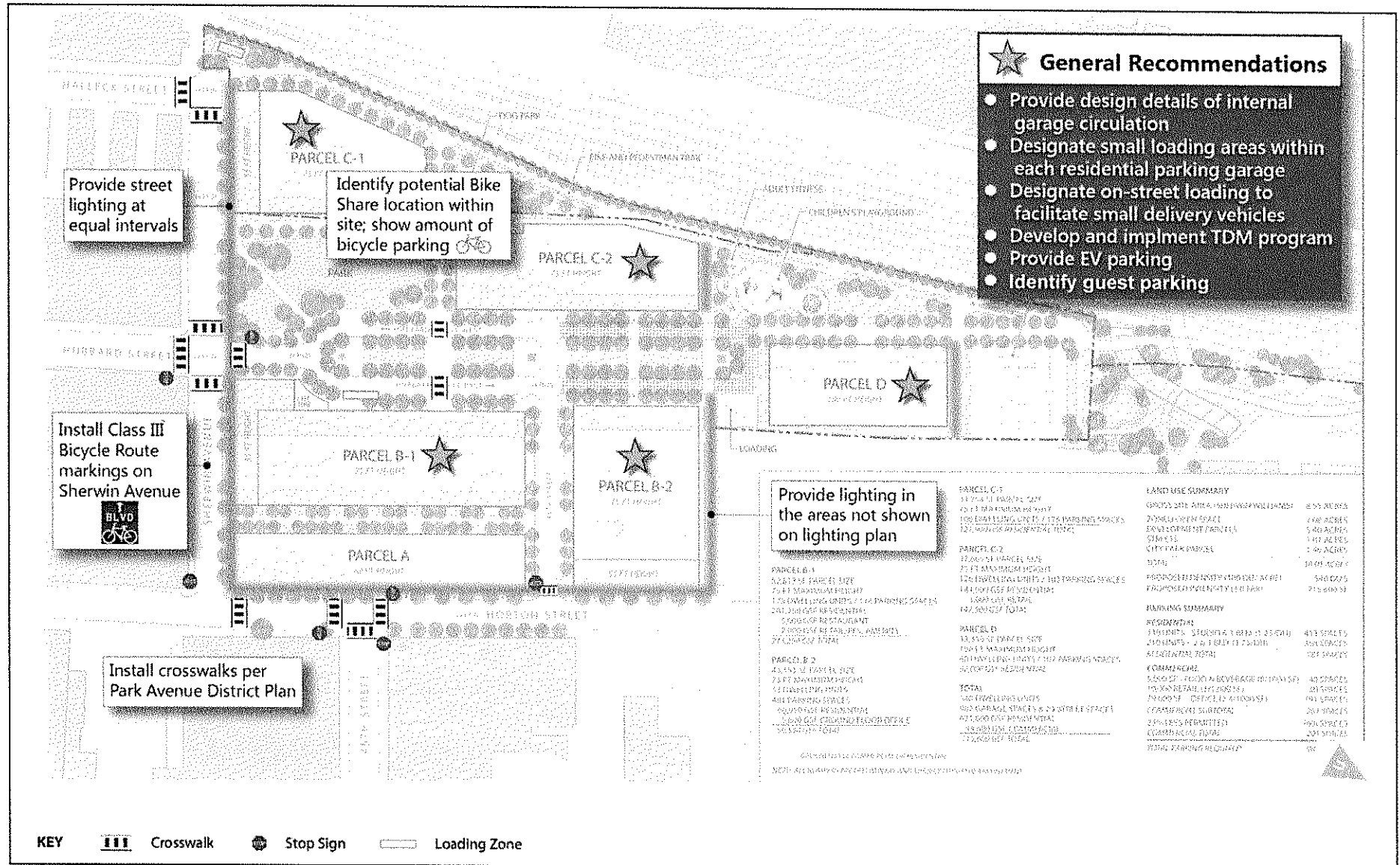
- D. GreenTRIP "PLATINUM" STATUS. Prior to the issuance of the last temporary certificate of occupancy, the Applicant shall demonstrate to the Community Development Director, that the project has achieved equivalent compliance to GreenTRIP "Platinum" as outlined by TransForm except for compliance with the 0.5 parking space per unit standard necessary to achieve "platinum" status.
- E. CONSTRUCTION PARKING. The Applicant shall provide off-street parking for construction workers during all phases of construction. All construction deliveries shall be within the project site and not off loaded from delivery vehicles on public streets with limited exceptions for site and construction work done on buildings and infrastructure along the perimeter streets of the project site.
- F. PARK AVENUE DISTRICT OVERLAY. The Applicant shall comply with the Park Avenue District overlay and associated guidelines, including but not limited to the requirements for shared parking, a special emphasis on the use of building materials and aesthetics that comply with the overlay's attention to the historic and industrial roots of the community and a fine grain street layout that is pedestrian and bicycle-friendly.
- G. PUBLIC PROCESS FOR PARK DESIGN. The Applicant shall work with the City to engage the community in a public process that shall include facilitated

community workshops related to design of the parks, bike and pedestrian paths, streetscape and other public programming.

- H. DEED RESTRICTION AND/OR COVENANT. The Applicant shall record a deed restriction and/or covenant against the project for the ongoing obligations to notify future property owners of the special conditions and continuing obligations to the City in a form acceptable to the City Attorney.

Attachments:

1. Figure IV. C-18 of the Final Environmental Impact Report
2. Mitigation Measures



LSA

FIGURE IV.C-18

NOT TO SCALE

Sherwin-Williams Project EIR
Site Plan Recommendations

ATTACHMENT 2:

SHERWIN WILLIAMS MIXED USE PROJECT CONDITIONS OF APPROVAL (PUD13-001)

MITIGATION MEASURES IDENTIFIED IN FEIR PREPARED FOR THE PROJECT

TRANS-1a: The project applicant shall undertake the following measures to reduce the level of traffic on Horton Street north of 53rd Street (analysis segment A):

- Pay the Transportation Impact Fee;
- Work with the City so that the final project design does not preclude the installation of desired traffic calming measures along the Horton Street corridor, as identified by the City; and

Pay for the installation of permanent Level 4 traffic calming measures and traffic restriction (diversion) measures on Horton Street (Level 5) per the Sherwin Williams - Horton Street Turn Restriction Assessment Memorandum (see Appendix B) that would result in the reduction of existing with project daily volumes to a level below 3,000 vehicles per day.

TRANS-1b: Implement TRANS-1a to reduce the level of traffic on Horton Street between 45th and 53rd streets (analysis segment B).

TRANS-1c: Implement TRANS-1a to reduce the level of traffic on Horton Street south of Sherwin Avenue (analysis segment C).

TRANS-1d: The applicant shall pay for the installation of a traffic signal at the Hollis Street/45th Street (#16) intersection, with necessary improvements for transit, bicycle and pedestrian infrastructure at the intersection, including directional curb ramps, bicycle detection, and transit priority; and a hard wired signal interconnect to the traffic signal at Park Avenue and Hollis Street.

TRANS-2: The project applicant shall undertake the following measures:

- Pay the Transportation Impact Fee;
- Work with City Staff to identify additional bicycle boulevard treatments that could be installed along the 45th Street corridor, including horizontal and vertical speed control; and
- Pay for the installation of a traffic signal at the Hollis Street/45th Street (#16) intersection, with necessary improvements for transit, bicycle and pedestrian infrastructure at the intersection, including directional curb ramps, bicycle detection, and transit priority; and a hard-wired signal interconnect to the traffic signal at Park Avenue and Hollis Street (same as TRANS-1d).

TRANS-3: The project applicant shall undertake the following measures:

- Pay the Transportation Impact Fee; and
- Work with City Staff to identify additional Level 4 bicycle boulevard treatments that could be installed along the 53rd Street corridor beyond those being installed as part of the ECCL project.

TRANS-4a (Near-Term Condition): Implement Mitigation Measure TRANS-1a to reduce the level of traffic on Horton Street north of 53rd Street (analysis segment A). Implementation of this measure would reduce the impact to Horton Street north of 53rd Street to a less-than-significant level in the Near-Term Condition. In the Cumulative Condition, the impact to Horton Street north of 53rd Street would remain significant and unavoidable.

TRANS-4b: Implement Mitigation Measure TRANS-1a to reduce the level of traffic on Horton Street between 45th and 53rd streets (analysis segment B). Implementation of this measure would reduce the traffic volume on Horton Street between 45th Street and 53rd Street to a level considered acceptable for a bicycle boulevard for the Near-Term Condition and the Cumulative Condition.

TRANS-4c: Implement Mitigation Measure TRANS-1a to reduce the level of traffic on Horton Street south of Sherwin Avenue (analysis segment C). Implementation of this measure would reduce the traffic volume on Horton Street south of Sherwin Avenue to a level considered acceptable for a bicycle boulevard for the Near-Term Condition and for the Cumulative Condition.

TRANS-4d: Implement Mitigation Measure TRANS-1d.

TRANS-4e: Along with implementation of TRANS-1a, the applicant shall coordinate with the City to extend the eastbound left-turn pocket on 40th Street at Hollis Street to provide at least 200 feet of vehicle storage and adjust the traffic signal timings to accommodate changed travel patterns in the Cumulative Condition.

TRANS-5: Implement Mitigation Measure TRANS-2 to reduce this impact to 45th Street, west of San Pablo Avenue, in the Near-Term and Cumulative Conditions to a less-than-significant level.

TRANS-6: Implement Mitigation Measure TRANS-3 to reduce this impact to 53rd Street, west of San Pablo Avenue, under Near-Term and Cumulative with Project Conditions to a less-than-significant level.

TRANS-7: The project applicant shall install a traffic signal at the Hollis Street/45th Street intersection (#16), including hard-wired signal interconnect to the traffic signal at Park Avenue and Hollis Street, and necessary improvements for transit, bicycle and pedestrian infrastructure at the intersection, including directional curb ramps, bicycle detection, and transit priority (included as part of Mitigation Measures TRANS-1d and TRANS-2). Installation of a traffic signal would reduce this impact to a less-than-significant level and with incorporation of pedestrian, bicycle and transit improvements, would not result in secondary impacts to other travel modes.

TRANS-9: Although construction impacts are expected to be temporary, development of a construction management plan would reduce the potential for construction vehicle conflicts with other roadway users.

The plan should include:

- Project staging plan to maximize on-site storage of materials and equipment;
- A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak hours; lane closure schedule and process; signs, cones, and other warning devices for drivers; and designation of construction access routes;
- Permitted construction hours;
- Location of construction staging;
- Identification of parking areas for construction employees, site visitors, and inspectors, including on-site locations and along the project frontage on Sherwin Avenue and Horton Street;
- Provisions for street sweeping to remove construction related debris on public streets; and
- Provisions for pavement maintenance where increased heavy vehicle traffic has the potential to degrade the pavement.
- Truck deliveries to the project shall occur not earlier than 7:00 a.m and not later than 4:00 p.m.
- If lane closures are required on Sherwin Avenue and/or Horton Street, the applicant shall notify property owners within 300 feet of the project site ten days in advance of the lane closures.

AIR-1: Consistent with guidance from the BAAQMD, the following actions shall be required in relevant construction contracts and specifications for the project:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Construction equipment idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 2 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- The project applicant shall post a publicly visible sign with the telephone number and person to contact at the City of Emeryville regarding dust complaints. This person shall respond to complaints and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.
- All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or a moisture probe.
- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- Vegetative ground cover (e.g., fast-germinating native grass seed) or other plants that offer dust mitigation measures shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. To the extent feasible, activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
- Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.
- The project contractor shall use low volatile organic compound (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
- All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of NOx and PM.
- All contractors shall use equipment that meets California ARB's most recent certification standard (as of 2016, the certification date is July 26, 2007) for off-road heavy duty diesel engines.

AIR-2a: To reduce health risk levels for future residents of the project site, the project applicant shall provide an air ventilation system with filtration that can remove particulate matter from indoor air to a level sufficient to achieve compliance with the BAAQMD threshold. To reduce health risk levels for future residents of the project site, the control efficiency must result in a reduction of 60 percent of particulates of 2.5 microns or less, such as Minimum Efficiency Reporting Value (MERV)-11 filters or other indoor air filtration systems. This reduction could be accomplished via a duct routed from the return side of the ceiling mounted fan coil to the exterior of the building. A MERV-11 filter box could be installed in line with this duct along with a supply fan to overcome the pressure drop of this filter. The filter box would be installed in a concealed location such as a closet. This measure would reduce the maximum single source carcinogenic health risk level for future residents to 8.4 (which would be below the BAAQMD's significance criteria of 10). The ventilation system shall be certified to the satisfaction of the City to achieve the stated performance effectiveness from indoor areas.

AIR-2b: The project applicant shall disclose to potential occupants of the project that the proximity of the project site to the freeway, railroad tracks, and industrial sources of air pollution could result in increased long-term health risks. The disclosure shall indicate the specifications for the installed air filtration system.

The property manager shall be required to maintain particulate filters to ensure proper operation of HVAC equipment.

NOI-1: All residential units shall be designed and equipped with an alternate form of ventilation, such as mechanical ventilation or air conditioning to allow windows and doors to remain closed. Interior noise would be reduced to meet the standard of 45 dBA CNEL when all windows and doors are closed.

NOI-2: The final project design shall incorporate standard industrial noise control measures for any project stationary noise sources to meet the City of Emeryville Municipal Code standards of 55 dBA during the night and 65 dBA during the day. Such measures may include enclosing equipment in sound-attenuating structures, using buildings to shield these noise sources from sensitive receptors, or mounting equipment on resilient pads to reduce both groundborne and airborne vibration noises. The project sponsor shall ensure that operational noise from stationary sources do not exceed the thresholds set forth in the City of Emeryville Municipal Code for the surrounding residential land uses. The project sponsor shall use standard design features/approaches, including installation of relatively quiet models of mechanical equipment, installation of exhaust silencers, orientation of shielding to protect sensitive land uses, and installation within enclosures when necessary to reduce stationary, or fixed source, noise levels to below the established threshold when measures at the property line of the nearest affected sensitive receptor. Loading and unloading activities shall be restricted to the hours of 7:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends.

NOI-3: The project contractor shall implement the following measures:

- General construction noise on private and public projects shall be limited to weekdays from 7:00 a.m. to 6:00 p.m. The loudest activities shall be limited to weekdays from 8:00 a.m. to 5:00 p.m., as stated in the City's Municipal Code.
- The applicant shall designate a construction liaison that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler) and institute reasonable measures to correct the problem. The applicant shall conspicuously post a telephone number for the liaison at the construction site.
- The project contractor shall, to the extent feasible, place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.
- The construction contractor shall locate on-site equipment staging areas so as to maximize the distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
- Construction activities shall be prohibited on holidays.
- If the project applicant requests construction hours outside the Municipal Code's designated hours, the project applicant shall provide a Construction Noise Reduction Plan to meet a maximum permissible noise level of 55 dBA at the project boundary.
- Whenever feasible, the project contractor shall encourage implementation of the following strategies throughout all phases of construction:
 - Use smaller or quieter equipment;
 - Use electric equipment in lieu of gasoline or diesel powered equipment;
 - Turn off all idling equipment when anticipated to not be in use for more than 5 minutes;
 - Minimize drop height when loading excavated materials onto trucks;
 - Minimize drop height when unloading or moving materials on-site; and
 - Sequence noisy activities to coincide with noisiest ambient hours (i.e., 8:00 a.m. to 9:00 a.m. or 4:00 p.m. to 6:00 p.m.).

GEO-1: The project site is located within a mapped seismic hazard zone (under the Seismic Hazard Zone Mapping Act), and the following specific criteria for project approval shall apply:

- (a) The potential for the nature and severity of the seismic hazards, including liquefaction potential, at the site have been fully evaluated in a site-specific geotechnical report and appropriate mitigation measures have been proposed.
- (b) The geotechnical report(s) for the project shall be prepared by a registered civil engineer or certified engineering geologist who has competence in the field of seismic hazard evaluation and

mitigation. The geotechnical report shall contain site-specific evaluations of the seismic hazards affecting the project site, and shall identify portions of the project site containing seismic hazards. The report shall also identify any known off-site seismic hazards that could adversely affect the site in the event of an earthquake. The contents of the geotechnical report shall include, but shall not be limited to, the following:

- o Project description and a description of the geologic and geotechnical conditions at the site;
 - o Evaluation of site-specific seismic hazards based on geological and geotechnical conditions, in accordance with current standards of practice. Recommendations for appropriate mitigation measures.
 - o Recommendations of appropriate mitigation measures.
 - o Name of report preparer(s), and signature(s) of a certified engineering geologist and/or registered civil engineer, having competence in the field of seismic hazard evaluation and mitigation.
- (c) Prior to approving the project, the City shall independently conduct a review of the geotechnical reports to determine the adequacy of the hazard evaluation and proposed mitigation measures. Such reviews shall be conducted by a certified engineering geologist or registered civil engineer, having competence in the field of seismic hazard evaluation and mitigation. Analysis presented in the geotechnical report shall conform with the California Geological Survey (formerly known as the California Division of Mines and Geology) recommendations presented in the Guidelines for Evaluating Seismic Hazards in California. All mitigation measures, design criteria, and specifications set forth in the geotechnical and soils report shall be implemented as a condition of project approval.
- (d) Prior to approval of an occupancy permit for the redeveloped Building 1- 31, a design-level seismic upgrade report shall be prepared, submitted to the City for review and approval, and the upgrade recommendations shall be implemented. Prior to approving the design-level report, the City shall independently review the seismic upgrade report to determine the adequacy of the hazards evaluation and proposed mitigation measures. Such reviews shall be conducted by a structural engineer or registered civil engineer who has competence in the field of seismic hazard evaluation and mitigation.
- (e) All foundation designs and geotechnical remedies shall consider existing hazardous materials remediation systems and ensure that these remediation systems are not adversely affected. Any geotechnical remedies that could result in alteration of the direction or flow velocity of groundwater shall be approved by the DTSC prior to implementation.

GEO-2a: Prior to issuance of a grading permit, a final site-specific geotechnical report that evaluates the project site and the proposed grading plan for potential impacts associated with differential settlement shall be prepared and submitted to the City Department of Public Works for approval. The report shall include specific recommendations for mitigation of potential settlements associated with native soil/fill boundaries and areas of differential fill thickness. Recommendations for specific foundation designs which minimize the potential for damage related to settlement shall be presented in the report.

GEO-2b: For areas with expansive soils with moderate to high shrink-swell potential, recommendations for proposed building foundations and improvements shall take into account the following conditions: foundation design may include drilled pier and grade beams, deepened footings (extending below expansive soil), or post-tensioned slabs. Alternatively, expansive soil shall be removed and replaced with compacted non-expansive soil prior to foundation construction. The final geotechnical report for the project shall require that subgrade soils for pavements consist of moisture-conditioned, lime-treated, or non-expansive soil, and that surface (including roof drainage) and subsurface water be directed away from foundation elements to minimize variations in soil moisture.

GEO-2c: All excavation and shoring activities shall be conducted under the supervision of a certified engineering geologist and/or registered civil engineer who has competence in the field of soils and shoring systems.

HYD-1a: Consistent with the requirements of the statewide Construction General Permit, the project applicant shall prepare and implement a SWPPP designed to reduce potential adverse impacts to surface water quality during the project construction period. The SWPPP shall be designed to address the following objectives:

1. All pollutants and their sources, including sources of sediment associated with construction, construction site erosion and all other activities associated with construction activity are controlled;
2. Where not otherwise required to be under a Regional Water Board permit, all non-stormwater discharges are identified and either eliminated, controlled, or treated; and
3. BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity to the BAT/BCT standard.

The SWPPP shall be prepared by a Qualified SWPPP Developer. The SWPPP shall include the minimum BMPs required for this type of project (based on final determination of the project's Risk Level status, to be determined as part of the Notice of Intent for coverage under the Construction General Permit); these include: BMPs for erosion and sediment control, site management and housekeeping, waste management, management of non-stormwater discharges, runoff and runoff controls, and BMP inspection/maintenance/repair activities. BMP implementation shall be consistent with the BMP requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction. The SWPPP shall include a construction site monitoring program that identifies requirements for dry weather visual observations of pollutants at all discharge locations, and as appropriate (depending on the project Risk Level), sampling of the site effluent and receiving waters. A Qualified SWPPP Practitioner (QSP) shall be responsible for implementing the BMPs at the site. The QSP shall also be responsible for performing all required monitoring and BMP inspection, maintenance, and repair activities.

HYD-1b: The project applicant shall comply with the applicable requirements of Provision C.3 of the MRP. Responsibilities include, but are not limited to, designing BMPs into project features and operations to reduce potential impacts to surface water quality associated with operation of the project. These features shall be included in a design-level stormwater control plan (SCP). The SCP will serve as the overall stormwater quality management document that will describe measures to mitigate potential water quality impacts associated with the operation of the proposed project. At a minimum, the SCP for the project shall include:

1. An inventory and accounting of existing and proposed impervious areas.
2. LID design details incorporated into the project. LID features, include minimizing disturbed areas and impervious cover and then infiltrating, storing, detaining, evapotranspiring, and/or biotreating stormwater runoff and are required by the MRP. Practices used to adhere to these LID principles include measures such as rain barrels and cisterns, green roofs, permeable pavement, preserving undeveloped open space, and biotreatment through rain gardens, bioretention units, bioswales, and planter/tree boxes.
3. Measures to address potential stormwater contaminants. These may include measures to cover or control potential sources of stormwater pollutants at the project site.
4. All stormwater runoff from impervious surfaces shall be treated with Bay-Friendly Landscaping.
5. All stormwater treatment landscaping shall be maintained using a Bay-Friendly Landscaping company or staff.
6. All stormwater treatment measures shall consider existing hazardous materials remediation systems and ensure that these remediation systems are not adversely affected.

Any stormwater treatment measures that could result in alteration of the direction or flow velocity of groundwater shall be approved by the DTSC prior to implementation.

HYD-2: As a condition of approval of the final grading and drainage plans for the project, it must be demonstrated through detailed hydraulic analysis that implementation of the proposed drainage plans will:

1. Not increase peak runoff rates from any subareas, and/or that there is no increase in combined peak runoff volumes from subareas draining to the same downstream conveyance component (i.e., reductions in one subarea can offset increases in another subarea, if they drain to the same downstream conveyance), or that the downstream conveyance has adequate capacity to handle the proposed increase. The final drainage plan for the project shall document runoff rates for the final design and shall be prepared by a licensed professional engineer.
2. Include drainage components that are designed in compliance with City of Emeryville standards. The grading and drainage plans shall be reviewed for compliance with these requirements by the City of Emeryville Department of Public Works. Any improvements deemed necessary by the City, will be part of the conditions of approval.

HAZ-1: A Spill Response Plan, including emergency preparedness and response procedures, shall be developed by the contractor(s) to establish the procedures to be followed in the event of an accidental spill or other hazardous materials emergency during project site preparation and development activities. These procedures shall include evacuation procedures, notification procedures, spill containment procedures, and required personal protective equipment, as appropriate, in responding to the emergency. In addition, an accurate up-to-date inventory of hazardous materials, including Material Safety Data Sheets, shall be maintained on-site to assist emergency response personnel in the event of a hazardous materials incident. The contractor(s) shall submit the Spill Response Plan to the City for approval prior to demolition or development activities.

Compliance with these mitigation measures may occur in coordination with compliance with the Stormwater Pollution Prevention Plan and Best Management Practices required for the proposed project (See Mitigation Measures HYD-1 and HYD-2 for additional detail). Implementation of this mitigation measure would reduce this potential impact to a less-than-significant level.

HAZ-2a: As a condition of approval for construction permits for the Sherwin-Williams parcel, an evaluation of soil gas conditions and indoor air quality shall be performed on the Sherwin-Williams parcel and Department of Toxic Substances Control (DTSC) review and approval for construction shall be obtained. If the evaluation of soil gas conditions indicates that vapor intrusion to indoor air could pose a significant health risk for future occupants (e.g., if vapor intrusion could result in an excess cancer risk of greater than one in a million or an appropriate health risk threshold determined by DTSC), DTSC may require further investigation and/or implementation of engineering controls (e.g., installation of sub-slab vapor barriers and ventilation systems) to address the potential for vapor intrusion to indoor air. If engineering controls are required by DTSC to mitigate vapor intrusion risks, operations, maintenance, and monitoring of the engineering controls would be required by DTSC to ensure their effectiveness and demonstrate that performance standards are being achieved (e.g., monitoring of sub-slab concentrations of VOCs to demonstrate that the sub-slab ventilation system is functioning properly and that concentrations of VOCs are not accumulating beneath buildings that could exceed the level of protection offered by sub-slab vapor barriers). If the performance standards for the engineering controls are not achieved, additional engineering controls would be required by DTSC (e.g., converting a passive sub-slab ventilation system to an active sub-slab ventilation system, or maintaining positive pressure within buildings using the heating, ventilation, and air conditioning [HVAC] systems). The City shall ensure that the requirements specified by DTSC are implemented prior to occupancy of the proposed structures.

HAZ-2b: As a condition of approval for construction permits for residential housing on the Successor Agency parcel (under development Option A), an evaluation of soil gas conditions and indoor air quality shall be performed on the Successor Agency parcel and DTSC review and approval for construction shall be obtained. If the evaluation of soil gas conditions indicates that vapor intrusion to indoor air could pose a significant health risk for future occupants (e.g., if vapor intrusion could result in an excess cancer risk of greater than one in a million or an appropriate health risk threshold determined by DTSC), DTSC may require further investigation and/or implementation of engineering controls (e.g., installation of sub-slab vapor barriers and ventilation systems) to address the potential for vapor intrusion to indoor air. If

engineering controls are required by DTSC to mitigate vapor intrusion risks, operations and maintenance and monitoring of the engineering controls would be required by DTSC to ensure their effectiveness and demonstrate that performance standards are being achieved (e.g., monitoring of sub-slab concentrations of VOCs to demonstrate that the sub-slab ventilation system is functioning properly and that concentrations of VOCs are not accumulating beneath buildings at concentrations that could exceed the level of protection offered by sub-slab vapor barriers). If the performance standards for the engineering controls are not achieved, additional engineering controls would be required by DTSC (e.g., converting a passive sub-slab ventilation system to an active sub-slab ventilation system, or maintaining positive pressure within buildings using the HVAC systems). The City shall ensure that the requirements specified by DTSC are implemented prior to occupancy of the proposed structures.

HAZ-2c: As a condition of approval for construction permits for the Successor Agency parcel, a LUC for the Successor Agency parcel shall be prepared and approved by DTSC. The land use covenant shall define restrictions and requirements intended to prevent potential exposure of construction workers, the public, and the environment to hazardous materials which are present in the subsurface of the Successor Agency parcel. At the discretion of the DTSC, these restriction and requirements may include, but not be limited to:

- Prohibiting any use of groundwater for any purpose other than groundwater monitoring.
- Requiring preparation of a Soil Management Plan (SMP) and DTSC approval prior to performing any activities that will disturb soil on the property or import soil to the property.
- Prohibiting activities including any drilling, extraction of groundwater, installation of preferential pathways (e.g., utility trenches), or other construction or development activities without written approval from DTSC.
- Prior to construction or other development of the property, the owner shall submit an evaluation of soil gas conditions and indoor air quality and obtain DTSC approval, and DTSC may require further investigation and/or implementation of engineering controls to address the potential for vapor intrusion to indoor air.
- Allowing access to the property for DTSC personnel for the purpose of performing inspections, monitoring, and other activities.

Preparing annual inspection reports and submitting them to DTSC to document that the restriction and requirements of the LUC are being followed, and describes the actions to be taken if violations of the LUC are identified.

HAZ-2d: As a condition of approval for construction permits for the Successor Agency parcel and the Sherwin-Williams parcel, a SMP shall be prepared which provides guidelines for soil and groundwater disturbing activities to be performed on the Successor Agency parcel and the Sherwin-Williams parcel. The SMP shall include, but not be limited to, the following elements:

- Dust and vapor controls;
- Storm water controls;
- Excavated soil stockpile management;
- Soil stockpile sampling procedures;
- Soil and/or groundwater transportation and disposal procedures;
- Groundwater dewatering, treatment, and/or discharge;
- Notification and response procedures if previously unidentified subsurface features of environmental concern (e.g., buried tanks, drums, hazardous materials pipelines, or hazardous building materials) are discovered;
- Notification and response procedures if previously unidentified areas of potential soil or groundwater contamination (e.g., soil or groundwater exhibiting discoloration and/or odors, or soil containing rubble or other debris) are discovered;
- Notification and response procedures if previously installed remedial features are inadvertently damaged;
- Importing of clean fill materials; and
- Health and safety requirements.

The SMP shall be reviewed and approved by DTSC prior to conducting soil or groundwater disturbing activities at the project site. The SMP shall be revised if previously unidentified environmental hazards are discovered which require additional measures to be incorporated into the SMP to ensure protection of

construction workers, the surrounding public, and the environment, such as changes in health and safety requirements (e.g., worker training or personal protective equipment [PPE] requirements), material handling/sampling protocol, or air monitoring requirements. Any revisions to the SMP shall be reviewed and approved by DSTC prior to conducting soil or groundwater disturbing activities that would be affected by the revisions to the SMP.

CULT-1: Any renovation or alteration of Building 1-31 shall be conducted in accordance with the Secretary of the Interior's Standards for Rehabilitation (Standards) and undertaken with the assistance of a historic preservation architect meeting the Secretary of the Interior's Professional Qualifications Standards. The City shall confirm that the architectural firm responsible for overseeing the renovation of Building 1-31 has retained a qualified historic preservation architect. Renovation plans of Building 1-31 shall be reviewed by the preservation architect to ensure compliance with the Standards and to make changes to the plans to ensure compliance, as appropriate. The historic preservation architect shall regularly evaluate the ongoing renovation to ensure it continues to satisfy the Standards. The historic preservation architect shall submit status reports to the City Planning Department describing the renovation's compliance with the Standards and recommended measures to ensure compliance if corrective measures are necessary. These reports shall be submitted to the City according to a schedule agreed upon prior to commencement of the renovation. The City shall be responsible for ensuring that the recommendations of the preservation architect are implemented as a condition for project approval.

CULT-2: 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.

CULT-3: 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.”

CULT-4: 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.

RESOLUTION NO. SUBDIV16-002

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EMERYVILLE APPROVING A MAJOR SUBDIVISION PERMIT FOR A VESTING TENTATIVE MAP 8357 RECONFIGURING AN EXISTING 8.55-ACRE PARCEL TO CREATE FIVE BUILDING PARCELS (IDENTIFIED ON THE MAP AS LOTS 1 TO 5); FOUR OPEN SPACE PARCELS (IDENTIFIED ON THE MAP AS PARCELS B TO E); AND TWO ROADS, HUBBARD STREET EXTENSION AND NEW 46TH STREET (IDENTIFIED ON THE MAP AS PARCEL A); CONSISTENT WITH THE SHERWIN WILLIAMS PROJECT PLANNED UNIT DEVELOPMENT (PUD13-001) APPROVED BY THE CITY COUNCIL BY ORDINANCE NO. 16-006. (APN 49-1041-26-15)

WHEREAS, on September 6, 2016, via Resolution No. 16-122, 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 -16) ("Site"); and

WHEREAS, on November 1, 2016, the City Council adopted Ordinance No. 16-006, the Sherwin Williams Project Planned Unit Development (PUD13-001), effective December 1, 2016, which adopts a Planned Unit Development zoning designation (PUD) and mitigation measures; approves a Preliminary Development Plan (PDP) for the Site; and authorizes redevelopment of the Site, which includes the reuse of an existing 74,000 square foot significant structure for office use, construction of five new buildings that will accommodate up to 500 dwelling units and a minimum of 2,000 square feet and a maximum of 8,000 square feet of ground floor commercial/retail space, development of approximately three acres of public open space, and construction of two new roads, Hubbard Street extension and new 46th Street; and

WHEREAS, on August 15, 2016 LMC Emeryville I Investor LLC filed a Major Subdivision Permit application for Vesting Tentative Map 8357 reconfiguring the existing 8.55 acre parcel to create five building parcels (identified on the map as Lots 1 to 5); four open space parcels (identified on the map as Parcels B to E); and two roads, Hubbard Street extension and new 46th Street (identified on the map as Parcel A); consistent with the Sherwin Williams Project Planned Unit Development (PUD13-001); and

WHEREAS, on January 5, 2017, LMC Emeryville I Investor LLC filed applications for Final Development Plans for the new building lots and park and open space parcels included in the PUD, and intends to require the purchaser of Lot 1, which includes the existing building, to file a Final Development Plan for that Lot; and

WHEREAS, the Planning Commission held a duly and properly noticed public hearing on May 25, 2017 to solicit public comments and consider the proposed Major Subdivision Permit; and

WHEREAS, the Planning Commission has reviewed and considered the EIR, adopted mitigation measures, Ordinance No. 16-006, the staff report and attachments thereto, all public comments, and

the Vesting Tentative Map 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 applies to this Project, and since certification of the EIR, there have been no substantial changes in the proposed 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, 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 Vesting Tentative Map 8357, the Planning Commission makes the following findings required by Emeryville Municipal Code Section 9-6.208(c), based on its review and consideration of the Record:

(1) **Consistency.** The proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan, any applicable specific plan or area plan, these Subdivision Regulations, this Title, and other applicable provisions of the Emeryville Municipal Code.

The proposed subdivision is consistent with the following General Plan Goals and Policies:

- LU-G-6** *Vibrant new mixed use-centers – intensification of existing underutilized commercial centers with surface parking as vibrant, multi-story, walkable mixed-use destinations.*
- T-G-4** *A walkable city – a universally accessible, safe, pleasant, convenient, and integrated pedestrian system.*
- T-G-5** *A safe, comprehensive, and integrated bicycle system*
- T-G-7** *A multi-functional street system that will ensure the safe and efficient movement of people, goods, and services and support a high quality of life and economic vitality.*
- UD-P-46** *Street trees shall be provided on City streets where feasible. Street trees shall be planted in a row along the curb, between the vehicle roadway and sidewalk, unless this is physically impossible due to constraints such as underground water or sewer lines.*
- UD-P-47** *Streetscape landscaping shall follow Bay-Friendly Landscaping guidelines and serve the dual purpose of treating stormwater runoff and providing shade and beauty to the urban realm.*

The project complies with the above goals and policies in the following ways. It takes an approximately 7-acre parcel formerly occupied by a paint factory to create a development of parcels

around two new streets, Hubbard Street Extension and 46th Street, that connect with the existing street system (Goal T-G-7). Conditions of approvals Number III.A.3 and III.A.4 and III.C1) ensure that the street trees are provided on the new streets and that the associated landscaping follows Bay-Friendly Landscaping guidelines (Policies UD-P-46 and 47). The development parcels created by the new streets will include housing, office space and ground floor retail space and an art gallery thereby creating an active mixed use center (Goal LU-G-6). In addition, the project will extend the Greenway along its western property line (Parcel C) and will include a pass-way through Lot 1 for pedestrians and bicycles that will connect Horton Street on the east to the Greenway on the west (Goals T-G-4 and T-G-5).

The Park Avenue District Plan guidelines that apply and are particularly germane, and with which the Project is consistent via design and/or Conditions of Approval, include:

- **Development of large sites (1 acre or greater) should include residential or live/work units.** *The project includes 500 residential units including live-work units.*
- **Encourage new development north of Sherwin Avenue and west of Horton Street (i.e. on the Sherwin Williams site) to include a public park or parks with ample green space.** *The project includes four park open spaces (Parcels B, C, D and E)*
- **Provide active uses on the street frontage of buildings.** *The approved PUD/PDP plan includes ground floor retail spaces on Lots, 2, 3 and 4.*
- **Create a cultural arts center or a permanent home for Emeryville Art Exhibition.** *A ground floor art gallery will be provided on Lot 4 as described in the approved PUD/PDP plans.*

(2) **Lot Width, Area, and Design.** The proposed lots are of such width, area, and design as the Commission finds to be necessary to preserve the purpose and intent of this Chapter and these Planning Regulations.

The proposed lot widths, areas and configuration are consistent with the approved PUD/PDP, and are consistent with the purposes of the Subdivision Regulations as expressed in Section 9-6.102, including promoting the public health, safety, peace and general welfare; promoting orderly growth and development; consistency with the General Plan; providing for adequate traffic circulation; and ensuring the availability of adequate public facilities.

(3) **Passive or Natural Heating and Cooling.** The design of the subdivision will provide, to the extent feasible, for future passive or natural heating and cooling features in accordance with Section 66473.1 of the Subdivision Map Act.

The design of the subdivision is consistent with the approved Sherwin Williams PUD/PDP for which an EIR was prepared and certified that analyzed passive heating and cooling features of the project. As noted in the EIR: "Regulatory requirements for efficient use of electricity and gas are contained in Title 24, Part 6, of the California Code of Regulations, entitled "Energy Efficiency Standards for Residential and Non-residential Buildings." These regulations specify the State's minimum energy efficiency standards and apply to new construction of both residential and nonresidential buildings. The standards regulate energy consumed for heating, cooling, ventilation, water heating, and lighting. Compliance with these standards is verified and enforced through the local building permit process."

(4) **Availability of Water.** Water will be available and sufficient to serve a proposed subdivision with more than 500 dwelling units in accordance with Section 66473.7 of the Subdivision Map Act.

Section 66473.7 of the Subdivision Map Act only applies to subdivisions with more than 500 dwelling units. The approved PUD/PDP allows for up to 500 dwelling units, but not more than 500 units. Therefore, this finding is not applicable.

(5) **Site Suitability.** The site is physically suitable for the type and density of development proposed.

The General Plan allows for mixed use and open space development on this site of up to 100 units per acre, a floor area ratio of up to 3.0, and a building height of up to 100 feet. The proposed development is consistent with these designations. The site is open and flat, and there are no physical constraints that would preclude the proposed development. Therefore, the site is physically suitable for the type and density of development proposed.

(6) **Fish and Wildlife.** The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or to substantially and avoidably injure fish or wildlife or their habitat.

The EIR prepared and certified for the approved Sherwin Williams PUD/PDP did not identify any impacts of the project on fish or wildlife or their habitat.

(7) **Public Health.** The design of the subdivision and the type of improvements are not likely to cause serious public health problems.

The EIR prepared and certified for the approved Sherwin Williams PUD/PDP did not identify any impacts of the project on public health.

(8) **Easements.** The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The Planning Commission or City Council, acting on an appeal, may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to easements previously acquired by the public. This shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and

no authority is granted to the Planning Commission or City Council to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

There are no existing easements for access or use easements on the project site. The proposed vesting tentative map therefore is not in conflict.

(9) **Sewers.** The waste discharge into the City sewer system from the proposed subdivision would not add to, or result in, violations of requirements of the Regional Water Quality Control Board, the City's National Pollutant Discharge Elimination System (NPDES) permit, or other restrictions of the sanitary sewer collection system imposed on the City.

As conditioned, the proposed vesting tentative map provides for new storm drains and sanitary sewer lines that will be adequate to serve the project and will not add to, or result in, violations of requirements of the Regional Water Quality Control Board, the City's National Pollutant Discharge Elimination System (NPDES) permit, or other restrictions of the sanitary sewer collection system imposed on the City.

and be it further

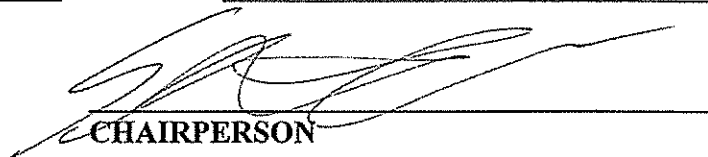
RESOLVED that the Planning Commission hereby approves Major Subdivision Permit SUBDIV16-002 as outlined in the Vesting Tentative Map entitled "Sherwin Williams Site" dated February 22, 2017 and subject to the Conditions of Approval as set forth in Exhibit A to this resolution.

APPROVED by the Planning Commission of the City of Emeryville at a regular meeting held on Thursday, May 25, 2017 by the following votes:

AYES: 6 Banta, Barrera, Kang, Thomson, Cardoza, Keller

NOES: _____ **ABSTAINED:** _____

RECUSED: 1 Donaldson **ABSENT:** _____

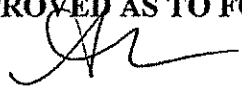


CHAIRPERSON

APPROVED AS TO FORM:



RECORDING SECRETARY



Asst. CITY ATTORNEY

APPROVED	
CITY OF EMERYVILLE PLANNING DEPARTMENT	
<i>Charles S. Bryan</i> (Signature)	<i>5/25/17</i> (Date)
<i>Community Development Director</i> (Title)	
SUBDIV16-002	
File # (if any)	

CONDITIONS OF APPROVAL

Sherwin Williams Mixed Use Project
Vesting Tentative Map 8357
1450 Sherwin Avenue (APN: 49-1041-26-15)

SUBDIV16-002
Exhibit A. Conditions of Approval
May 25, 2017

The following Conditions of Approval apply to SUBDIV16-002 in addition to conditions outlined in Preliminary Development Plan (PDP) Conditions of Approval dated November 1, 2016 attached as an exhibit to Ordinance No. 16-006.

In the event of any inconsistencies between these Conditions of Approval of SUBDIV16-002 and the conditions of approval adopted for Ordinance No. 16-006, then the Conditions of Approval for Ordinance No. 16-006 shall control.

I. COMPLIANCE WITH APPROVALS

- A. PROJECT APPROVALS. A Tentative Map creating ten parcels – Lots 1, 2, 3, 4 and 5; and Parcels A, B, C, D, and E.
- B. APPROVED PLANS. All Final Maps shall conform to the drawings prepared by Carlson, Barbee and Gibson, Inc., Engineers entitled “Vesting Tentative Map for Condominium Purposes, Sherwin Williams Site, dated May 15, 2017, Sheets TM-1 to TM-8 (“Vesting Tentative Map”), except as modified by these conditions of approval.
- C. APPROVAL EFFECTIVENESS AND DURATION. This Tentative Map will expire 24 months after its approval or conditional approval, unless Final Maps have been recorded or the Tentative Map has been extended pursuant to Government Code Section 66452(e) and Municipal Code Section 9-6.209.

- D. INSTALLATION AND MAINTENANCE OF IMPROVEMENTS. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved.
- 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 this site 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 be cause for revocation or modification of these approvals with respect to any land for which a final map has not been recorded or any other remedies available to the City.
- G. APPLICATION TO SUCCESSORS IN INTEREST. These Conditions of Approval shall apply to any successor in interest in the property and Applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this approval.
- H. SUBSTANTIAL COMPLIANCE. Substantial compliance with the conditions of the Tentative Map shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Maps, unless a different time for compliance is stated. In the event that a clarification to these conditions is needed, the Planning Director may administratively clarify the intent of these conditions. The City Engineer has the authority to make minor modifications to these conditions to fulfill needed improvements.
- I. BAY SHELLMOUND ASSESSMENT. Prior to the approval of any and all Final Maps the applicant shall apply for the reapportionment of Bay Shellmound Assessment and pay all fees, costs and contingent assessments applicable thereto prior to the recording of the Final Map.

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. Owner 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 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]

III. PUBLIC IMPROVEMENTS AND DEDICATIONS

A. PRIOR TO ISSUANCE OF FINAL MAPS.

1. Multiple Final Maps. Pursuant to Government Code Section 66456.1 of the Subdivision Map Act, and Emeryville Municipal Code Section 9-6.215, the Applicant may file multiple final maps. Each final map filed with the Community Development Director shall be prepared in accordance with Emeryville Municipal Code Section 9-6.213 and shall be accompanied by data and reports as set forth in Emeryville Municipal Code Section 9-6.214 and Government Section 66443 of the Subdivision Map Act and may include the installation of new City survey monuments as directed by the City Engineer. If Applicant elects to file multiple final maps, the following conditions shall be met:

- a. The first phase shall create Lot 1 and Parcel B as depicted on the Vesting Tentative Map ("Phase 1"), and a remainder parcel, Parcel R¹.
- b. The subsequent phases shall include Lots 2, 3, 4, and 5 and Parcels A, C, D, and E as depicted on the Vesting Tentative Map ("Subsequent Phase"). Any final map after Phase 1 must create Parcel A. Any final map that creates Lot 4, must create Lot 2, Parcels D and E, unless previously created. Any final map that creates Lot 5, must create Lot 3 and Parcel C, unless previously created. The order of the final maps set forth on the preliminary phasing Plan and options chart, attached as Exhibit A, is illustrative.

¹ Parcel R is all property within the subdivision that is remaining after the creation on Lot 1 and Parcel B.

- c. If the Applicant elects to file one final map that creates all the lots and parcels shown on the Tentative Map, the Applicant shall comply with all of the conditions of approval. **[Public Works]**
2. Final Map Processing. Multiple Final maps may be processed as set forth in Condition III.A.1, provided that the Tentative Map conditions of approval are satisfied for each Final Map. Further, (i) Final Maps shall be accompanied by detailed public improvement plans and specifications for the improvements described in these conditions and as approved on the Tentative Map, (ii) Final Maps shall be accompanied by an improvement agreement that provides security for the completion of required public improvements and payment of City's costs of plan review and inspection thereof (or it shall be demonstrated that improvements are included in a prior executed improvement agreement) and (iii) Final Maps shall include all necessary dedications of public easements, right-of-way and fee title, as appropriate. **[City Attorney/Public Works]**
3. Phase 1 Final Map
 - a. Permit Processing. The Final Map that creates Lot 1 shall be approved and recorded prior to issuance of building permits for construction of improvements on Lot 1.
 - b. Public Improvements (to be included with Final Map). A phased Final Map that creates Lot 1 shall also create Parcel B, as shown on the Tentative Map and a remainder parcel, Parcel R and shall be accompanied by improvement plans for the following public improvements as shown on the approved Tentative Map and as described below.
 - i. Applicant shall be responsible for the design, construction, installation, and dedication of the following Public Improvements described herein, to conform to all applicable federal, state or local laws, rules, orders, regulations, policies, standards, specifications or guidelines, including but not limited to, the City of Emeryville standards, the City of Emeryville Urban Forestry Ordinance, the Wastewater Collection System Ordinance, the Americans with Disabilities Act and implementing regulations, California accessibility regulations, and the requirements of the most current Municipal Regional Permit issued by the Regional Water Quality Control Board for Stormwater Runoff:
 - a. A new public stormdrain on Sherwin Avenue from Horton Street to the existing public stormdrain on Sherwin Avenue west of Hubbard Street and on Horton Street from Sherwin

Avenue to the existing stormdrain bubbler at 45th Street. The existing stormdrain bubbler crossing Horton Street at 45th Street shall be abandoned. All stormdrain inlets shall be equipped with trash capture devices. The size of the new storm drains shall be confirmed by hydraulic analysis but shall be no smaller than 12 inch inner diameter.

- b. A reclaimed water main on Sherwin Avenue from Horton Street to the western line of Hubbard Street.
- c. New public fire hydrants on Horton Street and Sherwin Avenue along Lot 1 frontage. The number and location of fire hydrants to be determined by the City's Fire Department.
- d. New curb, gutter, and sidewalk on the Horton Street frontage of Lot 1 including a bulb-out sidewalk/landscape area onto Horton Street at the intersection of Sherwin Avenue. The sidewalk area shall include a continuous landscaped planting strip adjacent to the curb. The sidewalk area shall include an 8 foot wide pedestrian pathway and a 3 1/2 foot wide landscape planter strip adjacent to the curb.
- e. New curb, gutter and sidewalk on the Sherwin Avenue frontage of Lot 1.
- f. A crosswalk crossing Sherwin Avenue at the intersection of Horton Street.
- g. A crosswalk crossing Horton Street on the north side of the intersection of Sherwin Avenue.
- h. A crosswalk crossing Horton Street aligning with the north sidewalk of 45th Street.
- i. A bulbed-out sidewalk/landscaped area on the east side of Horton Street at the intersection of Sherwin Avenue with ADA accessible curb ramps for the existing and proposed crosswalk on Horton for the full width of the Sherwin Avenue right-of-way. This will be designed as part of Condition of Approval Number III.A.3.b.i(p) below.
- j. The reconstruction of the pavement for the full street width on Sherwin Avenue from Horton Street to west of Hubbard Street and on the west side of Horton Street to the

centerline of the street from Sherwin Avenue to the northern limits of the future 46th Street.

The design of the pavement on Sherwin Avenue shall match the structural section that exists on Sherwin Avenue west of Hubbard Street (12" deep lift AC). Less AC pavement may be allowed provided that there is sufficient aggregate base material beneath the existing pavement to provide for a Traffic Index similar to the design of Sherwin Avenue west of Hubbard Street.

The design of the pavement on Horton Street shall include the dig-out repair of all sections of the street that have base failure with a 12-inch deep lift of AC, and a 3" grind and pavement overlay for the limits of the work.

- k. The preservation of the existing street trees on Horton Street along the frontage of Lot 1. The soil conditions for the existing street trees shall be improved by providing structural soil beneath all hardscaped areas and Bay Friendly horticultural soil in planting strips.
- l. The undergrounding of the existing overhead utilities on the west side of Horton Street.
- m. New street trees on the Sherwin Avenue frontage of Lot 1.
- n. Streetlights along the Horton Street and Sherwin Avenue frontages of Lot 1.
- o. A traffic signal at the intersection of 45th Street and Hollis Street with necessary improvements for transit, bicycle and pedestrian infrastructure at the intersection, including directional curb ramps, bicycle detection, and transit priority; and a hard wired signal interconnect to the traffic signal at Park Avenue and Hollis Street to be installed prior to the temporary certificate of occupancy of the first building to be occupied.
- p. Bicycle Boulevard Level 4 treatment measures along the 45th Street corridor and the 53rd Street corridor from San Pablo Avenue to Horton Street and along the Horton Street corridor from 40th Street to 53rd Street. The conceptual design for said Level 4 treatment measures shall be developed by the applicant with input from City Staff, a community meeting, the Bicycle Pedestrian Advisory

Committee and Transportation Committee. This plan shall include bulbouts identified in Condition of Approval Number III.A.3.b.i.(d) above shall be approved by the City Council. A security agreement for completion of said improvements shall be provided by the Applicant to the City prior to the issuance of the temporary certificate of occupancy of the first building to be occupied.

- q. Crosswalks crossing Halleck Street at the intersection of Halleck Street and Sherwin Avenue.
- c. Improvement Agreement. Prior to the approval of a Final Map that creates Lot 1, Parcel B, and remainder Parcel R, Applicant shall enter into a Public Improvement Agreement with the City of Emeryville to ensure the faithful performance of the design, construction, installation and inspection of all public improvements provided in **SUBDIV16-002** Condition III.A.3 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 Agreement shall provide for security to be released in portions as work is completed and accepted. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given. The 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 Municipal Code Section 9-6.603. Among other requirements, the 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 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 performing said services until payment has been received. **[City Attorney/Public Works]**
- d. Dedications. A Final Map that creates Lot 1, Parcel B and a remainder Parcel R shall include all dedications of public easements as depicted on the approved Tentative Map on Parcel B and Lot 1, and the

following irrevocable offers of dedication for public access easements on Parcel R: a 20 foot wide floating public access easement connecting Lot 1 to Parcel B (with the fixed easement created with the Final Map for Lot 4), 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, a 20 foot wide floating public access easement connecting the City open space parcel west of the subdivision to the Horton Landing Park site north of the subdivision (with the fixed easement created with the Final Map for Lot 5).

An easement on Parcel B shall be dedicated to the City for public park and open space purposes in accordance with Condition III.A.3.h in a form approved by the City Attorney. The easement shall allow for temporary construction staging by the Applicant for no more than five years from the date the final map for Phase I is approved. **[City Attorney/Public Works]**

- e. Compliance with Stormwater Measures. To the extent applicable, at the time of submittal of Public Improvement project plans and specifications for review by the Public Works Department, 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 an encroachment permit to construct the improvements. 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 attached Stormwater Measures. **[Public Works]**
- f. Building Sewer Lateral Prior to the approval of a Phase 1 Final Map the Applicant shall provide a valid Certificate of Compliance from East Bay Municipal Utility District (EBMUD) indicating that the existing building sewer laterals comply with the requirements of the EBMUD Regional PSL Ordinance and the City's Wastewater Collection System Ordinance. Any existing private sanitary sewer lateral serving the subdivision that is not planned to be reused shall be abandoned and disconnected from the City sanitary sewer main. Any existing sewer lateral to be reused shall pass a verification test.
- g. Construction Completion Timing. All public improvements required to be designed, constructed, installed, and dedicated by Applicant to City in connection with the Phase 1 Final Map as set forth in

Condition III.A.3 above, shall be completed by Applicant and ready for acceptance by City prior to the issuance of a temporary certificate of occupancy for Lot 1 building improvements. The improvement plans for the public park and Greenway shall be approved by the City as part of Phase 1 and the public park and Greenway shall be completed by Applicant and ready for acceptance by City prior to the issuance of the last temporary certificate of occupancy for any building on Lots 2, 3, 4 or 5. All easements for Phase 1 shall be dedicated prior to approval of the Final Map for Phase 1 or be effectuated concurrently with recordation of the Final Map for Phase 1 by its terms. **[Public Works/City Attorney]**

- h. *Park and Open Space.* Prior to the approval of the Phase 1 Final Map, the Applicant shall enter into a Park Improvement Agreement with the City of Emeryville to obtain all applicable approvals for design and ensure the faithful performance of the design, construction, installation and inspection of the public park and the Greenway, 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 Improvement Agreement shall provide for security to be released in portions as work is completed and accepted. The Park 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 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 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 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 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 follow the procedure outlined in Condition of Approval Number I.H.b of Sherwin Williams Mixed Use Project Planned Unit Development/

Preliminary Development Plan (PUD13-001). 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 approval of the Phase 1 Final Map, the applicant shall obtain approval of plans and specifications of the public park, and all other open space improvement plans by the Public Works Director. The applicant shall construct the public park and other open spaces in accordance with the approved plans.

- i. Parking. Prior to issuance of a building permit for Lot 1, the Applicant shall provide parking for Lot 1 occupants in a permanent manner and legally binding form that is acceptable to the Community Development Director and City Attorney. If permanent parking on Lot 4 is not available for Lot 1 occupants as of the temporary certificate of occupancy for Lot 1, the Applicant may choose to provide temporary parking for Lot 1 occupants in a legally binding form that is acceptable to the Community Development Director and City Attorney in the following manner, provided that 1) the building permit for Lot 4 has issued, and 2) the Applicant has secured a use permit from the Planning Commission for an alternative parking plan and for any associated surface parking lot:

(1) through a lease for parking spaces within a reasonable walking distance from Lot 1 (in which case the Applicant would also provide easements to ensure the availability of options (2) or (3) below, as needed); or

(2) on a surface parking lot located on Parcel B and on the adjacent City park land subject to the approval of the City Council; or

(3) on a surface parking lot located on Parcel B and/or on Lot 3.

4. Subsequent Final Map(s)

- a. Permit Processing. Any Final Map that creates Lots 2, 3, 4, or 5, and/or Parcels A, C, D, or E shall be approved and recorded prior to issuance of building permits for construction of improvements on any of said Lots.
- b. Public Improvements (to be included with Final Map). Any Final Map that creates Lots 2, 3, 4, or 5 and/or Parcels A, C, D, or E and the Public Easements depicted on said Parcels, shall be accompanied by improvement plans for the following public improvements as shown

on the approved Tentative Map and as described below and with the Lots and/or Parcels as designated below.

- i. Applicant shall be responsible for the design, construction, installation, and dedication of the following Public Improvements described herein, to conform to all applicable federal, state or local laws, rules, orders, regulations, policies, standards, specifications or guidelines, including but not limited to the City of Emeryville standards, the City of Emeryville Urban Forestry Ordinance, the Wastewater Collection System Ordinance, the Americans with Disabilities Act and implementing regulations, California accessibility regulations, and the requirements of the most current Municipal Regional Permit issued by the Regional Water Quality Control Board for Stormwater Runoff :

Parcel A

With the final map that creates Parcel A:

- a. Hubbard Street and 46th Street on Parcel A including all underground public utilities (e.g. water, reclaimed water, gas, electrical, telecommunications (telephone, cable, fibre etc.)), street lighting system, street trees, structural soil, curb, gutter, sidewalk, street furniture, landscaping , irrigation system using reclaimed water, and C3 Stormwater treatment measures.
- b. The entirety of Parcel A shall be created and improved in connection with development of the first Final Map for any of Lots 2, 3, 4, or 5; However, a temporary asphalt concrete sidewalk along the west side of Parcel A may be required at, the discretion of the Public Works Director, if building permits for the construction of improvements on Lots 3, 4, or 5 have not been issued at the time of the temporary certificate of occupancy for Lot 2. In the event building permits for improvements on Lots 3, 4, or 5 have not been issued within 24 months from the first to occur of issuance of the temporary certificate of occupancy for Lot 2 or completion of the park improvements on Parcel B, the Public Works Director shall issue a Notice to Applicant to install all remaining permanent sidewalk, landscaping (non-C3) and street tree improvements and said improvements shall be completed within 12 months from receipt of the Notice and prior to the release of the performance security on the project.

- c. The design of the new asphalt concrete streets shall conform to the Caltrans method of flexible pavement design with a Traffic Index (TI) as defined below:

Hubbard Street	TI=8
46 th Street	TI=8

- d. C3 stormwater treatment measures along both sides of Hubbard Street and 46th Street and on Sherwin Avenue along the frontage to Parcel B and the City's parcel west of Parcel B. The maintenance of the C3 measures on Hubbard Street and 46th Street, including all piping connecting to the storm drain, shall be the responsibility of the Applicant. Prior to the acceptance of the Public Street Improvements by the City, Applicant shall enter into and record in the Official Records of Alameda County, a Stormwater Treatment Measures Operations and Maintenance Agreement encumbering the Master Association, for the C3 stormwater treatment measures on said streets.
- e. A new public domestic water pipeline on Hubbard Street and on 46th Street. The size of the public domestic water pipeline shall be determined by EBMUD.
- f. New public fire hydrants on Hubbard Street and 46th Street. The number and location of fire hydrants to be determined by the City's Fire Department.
- g. A new private storm drain system on Hubbard Street and on 46th Street, as depicted on Sheet TM-5 of the Tentative Map. Said Storm Drains shall be sized to meet the Alameda County Flood Control District's design storm criteria. All existing private storm drains on-site shall be removed as depicted on TM-03 of the Tentative Map
- h. A new private sanitary sewer main on Hubbard Street and on 46th Street as depicted on Sheet TM-5 of the Tentative Map. Applicant shall be responsible to conform to the requirements of the City's Wastewater Collection System Ordinance and to the East Bay Municipal Utility Districts (EBMUD) Private Sewer Lateral Ordinance. The private sanitary sewer main, manholes and any private sanitary sewer lateral to be installed shall pass a verification test witnessed by the City of Emeryville and EBMUD

inspectors prior to the first temporary certificate of occupancy for the Parcels within the Subsequent Phase Final Map. All work performed on sanitary sewer laterals shall require a Sanitary Sewer Lateral Permit and said work is not covered under the Building Permit. All manholes for the new private sanitary sewer on Hubbard Street, 46th Street and on Parcel C shall include manhole lids with the wording "Private Sanitary Sewer". **[Public Works]**

- i. A crosswalk crossing 46th Street at the intersection of Horton Street and the relocation of the existing lighted crosswalk on Horton Street to the south side of 46th Street.
- j. A crosswalk crossing Horton Street aligning with the south sidewalk on 46th Street.
- k. Crosswalks crossing all four legs on Sherwin Avenue and Hubbard Street.
- l. Crosswalks on both legs of 46th Street and Hubbard Street.
- m. A bulbed-out sidewalk/planting area on the east side of Horton Street at the intersection of 46th Street with ADA accessible curb ramps for the proposed new crosswalk on Horton Street for the full width of 46th Street. This will be designed as part of Condition of Approval Number III.A.3.b.i.(q) above.

Parcel E

With the final map that creates Parcel E:

- n. New curb, gutter and sidewalk on the west side of Horton Street from the south line of Parcel E to the north line of 46th Street including a bulb-out sidewalk/landscape area onto Horton Street at the south corner of 46th Street and ADA accessible curb ramps at proposed crosswalks. The sidewalk area shall include a continuous landscaped planting strip adjacent to the curb. The sidewalk area shall include an 8 foot wide pedestrian pathway and a 3 1/2 foot wide landscape planter strip adjacent to the curb.
- o. Public streetlights on Horton Street from the south line of Parcel E to and including the new intersection of Horton Street and 46th Street, and on Sherwin Avenue from the east line of Lot 2 to the west line of Halleck Street.

Lot 2

With the final map that creates Lot 2:

- p. New curb, gutter and sidewalk on the north side of Sherwin Avenue from Lot 1 to Halleck Street and on the west side of Halleck Street along the frontage of APN 049-1041-026-16 ("City Parcel").

Lot 4

With the final map that creates Lot 4:

- q. The 20 foot wide floating public access easement connecting Lot 1 to Parcel B as depicted on the Tentative Map shall be vacated and replaced with a fixed easement created with the Final Map for Lot 4.

Lot 5

With the final map that creates Lot 5:

- r. The 20 foot wide floating public access easement connecting the City open space parcel west of the subdivision to the Horton Landing Park site north of the subdivision as depicted on the Tentative Map shall be vacated and replaced with a fixed easement created with the Final Map for Lot 5.
- s. To the extent not otherwise completed, a traffic signal at the intersection of 45th Street and Hollis Street with necessary improvements for transit, bicycle and pedestrian infrastructure at the intersection, including directional curb ramps, bicycle detection, and transit priority; and a hard wired signal interconnect to the traffic signal at Park Avenue and Hollis Street to be installed prior to the temporary certificate of occupancy of the first building to be occupied.
- t. Bicycle Boulevard Level 4 treatment measures along the 45th Street corridor and the 53rd Street corridor from San Pablo Avenue to Horton Street and along the Horton Street corridor from 40th Street to 53rd Street, including bulbouts identified in Condition of Approval Number III.A.3.b.i.(d) above. To the extent this condition has not already been completed, a security agreement for completion of said improvements shall be provided by the Applicant to the

City prior to the issuance of the temporary certificate of occupancy of the first building to be occupied.

- c. *Affordable Housing.* Prior to the approval of a Final Map that creates Lots 2, 3, 4, or 5 and/or Parcels A, C, D, or E, the Applicant shall determine the location of the affordable housing units required as part of PUD 13-001 and enter into an Affordable Housing Agreement in form acceptable to the City Attorney and approved by the City Council.
- d. *Left Pocket on 40th Street.* If Level 5 treatments are required, prior to issuance of the building permit for the last building to be constructed, extend the eastbound left turn pocket on 40th Street at Hollis Street to provide at least 200 feet of vehicle storage. This requirement shall include the modification of the existing landscaped median island on 40th as necessary to accommodate the vehicle storage.
- e. *Level 5 Treatments.* After application for the last building permit, but prior to the issuance of the building permit for the last building to be constructed, the Applicant shall seek direction from the City Council on whether Bicycle Boulevard Level 5 treatment measures along the Horton Street corridor from 40th Street to 53rd Street to include diversion of northbound vehicular traffic at the Horton Street/40th Street intersection and the diversion of southbound vehicular traffic at the Horton Street /53rd Street intersection shall be installed. The conceptual design for said Level 5 treatment measures shall be developed by the applicant with input from City Staff, and the Bicycle Pedestrian Advisory Committee and Transportation Committee. If the City Council approves the conceptual design for the Level 5 treatments, then a final design and security agreement for completion of said improvements shall be provided by the Applicant to the City prior to the issuance of a temporary certificate of occupancy of the last building to be occupied. These improvements shall be built within a year of issuance of the temporary certificate of occupancy on the last building to be occupied.
- f. *Improvement Agreement.* Prior to the approval of a Final Map that creates Lots 2, 3, 4, or 5 and/or Parcels A, C, D, or E. and the Public Easements depicted on said Parcels, Applicant shall enter into an improvement agreement to ensure the faithful performance of the design, construction, installation and inspection of all public improvements provided in **SUBDIV16-002** Condition III.A.4 (other than the public park addressed above) 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 Agreement shall provide for security to be released in portions as work is completed and accepted. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given. The 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 Municipal Code Section 9-6.603. Among other requirements, the 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 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 performing said services until payment has been received. **[City Attorney/Public Works]**

- g. *Dedications.* Any Final Map that creates Lots 2, 3, 4, or 5 and/or Parcels A, C, D, or E shall include all dedications of public easements depicted on said Parcels as shown on the approved Tentative Map, including the Public Access easements depicted on Parcels A, C, D, and E. **[City Attorney/Public Works]**
- h. *Master Association.* Prior to approval of Subsequent Phase Final Map, Applicant shall designate a master association ("Master Association"), amongst the owners and/or home owner's associations for Lots 2-5 that shall represent Lots 2-5 to work with the City regarding the ongoing obligations, including the maintenance of Parcels A, B, C, D, E, and the Greenway, which shall be the responsibility of the Applicant/Master Association, and the operations of Parcels A, B, C, D, E, and the Greenway.
- i. *Compliance with Stormwater Measures.* At time of submittal of Public Improvement project plans and specifications for review by the Public Works Department, 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 an encroachment permit to construct the improvements. 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 attached Stormwater Measures. The Master Association shall enter into the City's Stormwater Treatment Measures Operations and Maintenance Agreement as approved by the City Attorney. **[Public Works]**

- j. Construction Completion Timing. All public improvements required to be designed, constructed, installed and dedicated by Applicant to City in connection with the Subsequent Final Map(s) as set forth in Condition III.A.4 above, shall be completed by Applicant and ready for acceptance by City prior to the issuance of the first temporary certificate of occupancy for building improvements on the respective Lot 2, Lot 3, Lot 4, or Lot 5 except as follows:

The Level 5 traffic diverters on Horton Street shall be installed after completion of:

- (i) construction activities on Lots 1, 2, 3, 4, and 5 as approved by the City Engineer and prior to issuance of the last temporary certificate of occupancy for building improvements on Lots 1, 2, 3, 4, or 5;
 - (ii) Installation of traffic signal at 45th and Horton Streets; and
 - (iii) Installation of left turn pocket identified in Condition of Approval Number III.A.4.d above **[Public Works]**
- k. Subdivision and Condominium Map. The final map for Lots 2, 3, 4, and 5 shall include residential condominium units on each Lot and indicate the number of units therein.
- l. Parking. Prior to issuance of a building permit for Lot 2, the Applicant shall provide parking for Lot 2 occupants in a permanent manner and legally binding form that is acceptable to the Community Development Director and City Attorney. If permanent parking on Lot 4 is not available for Lot 2 occupants as of the temporary certificate of occupancy for Lot 2, the Applicant may choose to provide temporary parking for Lot 2 occupants in a legally binding form that is acceptable to the Community Development Director and City Attorney in the following manner, provided that 1) the building permit for Lot 4 has issued, and 2) the Applicant has secured a use

permit from the Planning Commission for an alternative parking plan and for any associated surface parking lot:

(1) through a lease for parking spaces within a reasonable walking distance from Lot 2 (in which case the Applicant would also provide easements to ensure the availability of options (2) or (3) below, as needed); or

(2) on a surface parking lot located on Parcel B and on the adjacent City park land subject to the approval of the City Council; or

(3) on a surface parking lot located on Parcel B and/or on Lot 3.

All of the parking requirements for Lots 1 and 2 and some of the parking requirements for Lots 3 and 5 as determined by the City are being met on Lot 4. To ensure that this requirement continues indefinitely, the Applicant shall record a deed restriction or covenant on Lot 4 in a form acceptable to the Community Development Director and City Attorney.

- m. Public Park and Greenway. The public park and Greenway shall be completed by Applicant and ready for acceptance by City prior to the issuance of the last temporary certificate of occupancy for a Subsequent Phase.

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

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 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. Construction Management Plan. Prior to beginning of any construction in the public right of way, the applicant shall submit a construction management plan to reduce the potential for construction vehicle conflicts with other roadway users. This plan shall be approved by the Public Works Director and shall include the following:
 - Project staging plan to maximize on-site storage of materials and equipment;

- A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak hours; lane closure schedule and process; signs, cones, and other warning devices for drivers; and designation of construction access routes;
- Permitted construction hours;
- Location of construction staging;
- Identification of on-site parking areas for construction employees, site visitors, and inspectors;
- Provisions for street sweeping to remove construction related debris on public streets; and
- Provisions for pavement maintenance where increased heavy vehicle traffic has the potential to degrade the pavement.
- Truck deliveries to the project shall occur not earlier than 7:00 a.m and not later than 4:00 p.m.
- If lane closures are required on Sherwin Avenue and/or Horton Street, the applicant shall notify property owners within 300 feet of the project site ten days in advance of the lane closures.

C. LANDSCAPING AND STREET TREE STANDARDS

1. Landscaping Plans. The Improvement Plans required by these conditions of approval shall include detailed public improvement and private improvement landscaping and irrigation plans for the approval of the Public Works Director. The plans shall conform to Title 9 Section 4.602 "Water Efficient and Bay Friendly Landscaping" of the Emeryville Municipal Code, including guidelines from StopWaste.org, the Alameda Countywide Clean Water Program C3 Stormwater Technical Guidance, and EBMUD requirements for reclaimed water.

The plans shall include species, number of plantings, size of plantings and specifications for the irrigation system. Minimum plant sizes are flats or 1-gallon containers for ground cover, 5-gallon containers for shrubs and 24-inch box containers for trees. Street trees shall be of a species approved by the Public Works Director and shall be spaced as depicted on the approved Tentative Map and as approved by the Public Works Director. All planting areas and tree wells shall include a 3-inch layer of bark mulch per the requirements of Bay Friendly Landscaping. Street trees may require tree grates as directed by the Public Works Director

The applicant shall install structural soil under sidewalk / hardscape areas, to provide adequate rootable soil volume areas for healthy street trees. The

amount of rootable soil volume to be provided per tree shall depend on the ultimate height of the tree at maturity as follows:

- 600 cubic feet per small tree, (up to 25 feet tall)
- 900 cubic feet per medium-sized tree (25 feet to 50 feet tall)
- 1200 cubic feet per large-sized tree (greater than 50 feet tall)

Rootable soil volume for each tree shall be calculated by including both the structural soil beneath the hardscape areas and Bay Friendly approved horticultural soil within the planting areas. The landscape plans shall clearly show all locations of Rootable Soil including dimensions for structural soil and Bay Friendly Horticultural Soil to account for the above referenced requirements for Rootable soil volume.

The applicant shall perform horticultural soil and drainage tests in the public right of way areas that will receive tree plantings for review and approval by the City Arborist. Tree planting areas shall include drainage as necessary for all street trees and could entail extensive excavation for sumps and subdrain systems. All existing native soil to be considered as rootable soil in planter areas shall be tested for chemical contaminants and horticultural suitability. Prior to importing any soil material to be used as rootable soil, the Applicant shall provide chemical and horticultural test results to the City for approval. Soil shall be amended as necessary with Bay Friendly compost per City standards in place of other soil amendments. **[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 that is caused by 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. **[Public Works]**
2. Maintenance of Street Trees, Stormwater C3 plantings, and other vegetation in the Public Right of Way. Applicant, its successors and assigns, shall maintain all landscaping improvements in the public areas fronting the property, in a healthy, growing condition at all times according to Bay Friendly Landscaping Practices as described by StopWaste.org's Bay Friendly Landscaping program. The landscaped areas shall be irrigated by an automatic system designed to reduce water usage. Applicant shall replace all landscaping that dies with the exact living species, or substitutes approved by the Public Works Director after obtaining an encroachment permit from the City. Landscaping work shall

comply with the provisions of Chapter 10 of Title 7 of the Emeryville Municipal Code. **[Public Works]**

3. Street Sweeping. The applicant shall be responsible for routine street sweeping service on Hubbard Street and on 46th Street. Said service shall be performed at least one time per month. Parking shall be prohibited on Hubbard Street and 46th Street during the hours for street sweeping as approved by the City Council.
4. Maintenance Agreement. The applicant and/or Master Home Owner Association shall enter into an Operations and Maintenance Agreement with the City, in a form approved by the City Attorney, to ensure the proper operations and maintenance of lights, sanitary sewer, street furniture, landscaping, graffiti abatement, storm drains, street pavement, and other public and private improvements as determined by the City. The City Attorney shall review the CC&Rs that may exist for Lots 1-5 to ensure the costs associated with the Maintenance Agreement and Stormwater Treatment Measures Operations and Maintenance Agreement have been included as part of the annual fee, and to ensure compliance with PUD 13-001, and these conditions of approval.

IV. STORMWATER

A. GENERAL.

1. Design, Construction, Operation, and Maintenance. The public improvements shall be designed, constructed, operated, and maintained in conformance with the attached "Stormwater Pollution Prevention and Source Control Measures" ("Stormwater Measures") and the City's "Stormwater Guidelines for Green Dense Redevelopment" ("Stormwater Guidelines"). **[Public Works]**
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 issuance of the temporary certificate of occupancy 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]**

SHERWIN WILLIAMS SUBDIVISION PERMIT CONDITIONS OF APPROVAL (SUB16-002)

EXHIBIT A: Illustrative Construction Phasing and Chart

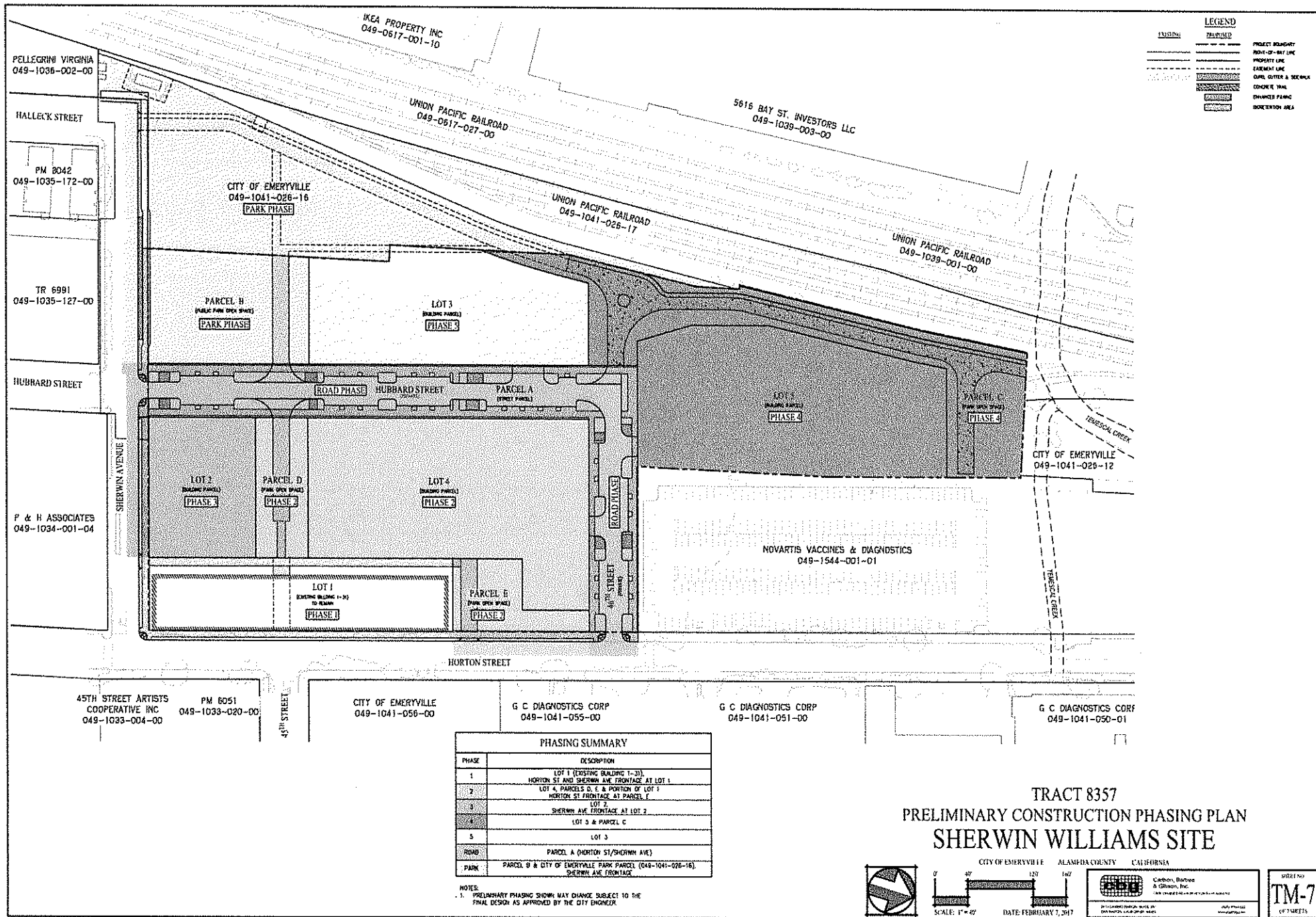
Construction Phasing Chart

	Aug 2018	September 2018	May 2019	June/July 2019	Oct 2019	May 2020	Oct 2020	March 2021	Aug 2021
A	CT			OC					
B-1		CT					OC		
B-2		CT				OC*	OC		
C					CT				OC
D			CT					OC	
Park									OC

CT: Start Construction

OC: Temporary Occupancy

OC*: Occupancy for Parking only



This Chart assumes Phase I is Lot 1 and Parcel B

PHASE II OPTIONS	
PHASE II CREATES	REMNANT
Lot 2 Parcel A	Parcel D Lot 4 Parcel E Lot 3 Lot 5 Parcel C
Lot 4 Parcel D Lot 2 Parcel A Parcel E	Lot 3 Lot 5 Parcel C
Lot 3 Parcel A	Lot 5 Parcel C Lot 2 Parcel D Lot 4 Parcel E
Lot 5 Parcel C Lot 3 Parcel A	Lot 2 Parcel D Lot 4 Parcel E

PHASE III OPTIONS		
	PHASE III CREATES	REMNANT
If Phase II is: Lot 2 Parcel A	Lot 3	Lot 5 Parcel C Lot 4 Parcel D Parcel E
	Lot 4 Parcel D Parcel E	Lot 3 Lot 5 Parcel C
	Lot 5 Parcel C Lot 3	Lot 4 Parcel D Parcel E

This Chart assumes Phase I is Lot 1 and Parcel B

PHASE III OPTIONS		
	PHASE III CREATES	REMNANT
If Phase II is: Lot 3 Parcel A	Lot 2	Lot 4 Parcel D Parcel E Lot 5 Parcel C
	Lot 4 Parcel D Parcel E Lot 2	Lot 5 Parcel C
	Lot 5 Parcel C	Lot 2 Parcel D Lot 4 Parcel E
If Phase II is: Lot 4 Parcel D Lot 2 Parcel A Parcel E	Lot 3	Lot 5 Parcel C
	Lot 5 Parcel C Lot 3	(None)
If Phase II is: Lot 5 Parcel C Lot 3 Parcel A	Lot 2	Lot 4 Parcel D Parcel E
	Lot 4 Parcel D Lot 2 Parcel E	(None)

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: 6 Banta, Guerrero, Kang, Keller, Thomson and Barrera

NOES: _____ **ABSTAINED:** _____


EXCUSED: 1 Donaldson **ABSENT:** _____



CHAIRPERSON



RECORDING SECRETARY

APPROVED AS TO FORM:


CITY ATTORNEY

APPROVED	
CITY OF EMERYVILLE PLANNING DEPARTMENT	
<i>Charles S. Byrnes</i> (Signature)	<i>12/14/17</i> (Date)
<i>Community Development Director</i> (Title)	
FDP17-002	
(File # if any)	

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]**

15. Basketball Court Orientation: Prior to the issuance of a grading/building permit the applicant shall revise the plans such that the proposed basketball half court shown on plans dated December 7, 2017 is rotated 90 degrees clockwise.

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/trash_implementation/al_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}
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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	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

3 feet

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

4 feet



Requirements for a Trash at New or Remodeled

CITY OF EMERYVILLE

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-scraps 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.

☐B. 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.

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

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

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

☐g. 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

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

☐i. 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).

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

☐d. 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.

SHERWIN WILLIAMS DEVELOPMENT

FINAL DEVELOPMENT PLAN PACKAGE

DESIGN NARRATIVE

In the late 1910's, the Sherwin Williams Paint Company developed a series of industrial plants between Park Ave and the Southern Pacific Railroad that would remain a predominant fixture in the Emeryville community for nearly 100 years. As the times have changed, so too have the desires and will of the people of Emeryville.

Demand for work-force housing and public open space have led the community to value the thoughtful redevelopment of underutilized land. Meeting with several community groups and invested stakeholders, the proposed development reflects these new desires and visions for a safe, resilient and vibrant Emeryville community.

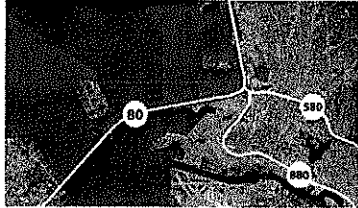
The setting of the re-imagined Sherwin Williams development is comprised of a rich vocabulary of interpreted expressions of the City's industrial roots and eclectic arts community. Active urban plazas and lush streetscapes tie together the unique character of the architecture, while setting the stage for a diverse array of community activities.

From strolling down the Art Allé with your date at the monthly Art Walk to bringing your kids and their friends to the Children's Adventure Play Area, the Emeryville community has something new to be proud of. Workshops at the new Community Garden, Group Fitness classes at the Great Lawn and throwing the ball with your four-legged companion at the new Bark Park will inspire the community to take charge of their health and engage in the outdoors.

A vital link of the Emeryville Greenway, the linear path, buffered from the railroad, serves as athrounghfare for pedestrians and cyclists as they transverse the site while encouraging alternate transportation modes for residents in and around the development.

The generous landscape and amenitized public open space of the new Sherwin Williams development sets the tone for the future Emeryville community; one that honors tradition, respects character and promotes civic engagement.

LOCATION MAP



VICINITY MAP



PROJECT DIRECTORY

CLIENT:
Kevin Ma
Lennar Multifamily Communities
492 9th Street, Suite 300
Oakland, CA 94607
415 975 4989

ARCHITECT:
D. Brady Smith
LPAS Architecture + Design
2484 Natomas Park Dr #100,
Sacramento, CA 95833
Sacramento 916 443 0335

CIVIL ENGINEER:
Jason Neri, P.E.
Carlson, Daibee & Gibson, Inc.
CIVIL ENGINEERS - SURVEYORS - PLANNERS
2633 Camino Ramon, Suite 350
San Ramon, CA 94583
P: (925) 866-0322 x251

LANDSCAPE ARCHITECT:
Jim Bensman
ima
101 Broadway, Suite 310
Oakland, CA 94607
510.353.3954 | 415.235.3837

PARKING DATA

PARKING SUMMARY

On-Street	32 spaces
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BICYCLE STORAGE SUMMARY

Bicycle Racks	120 racks
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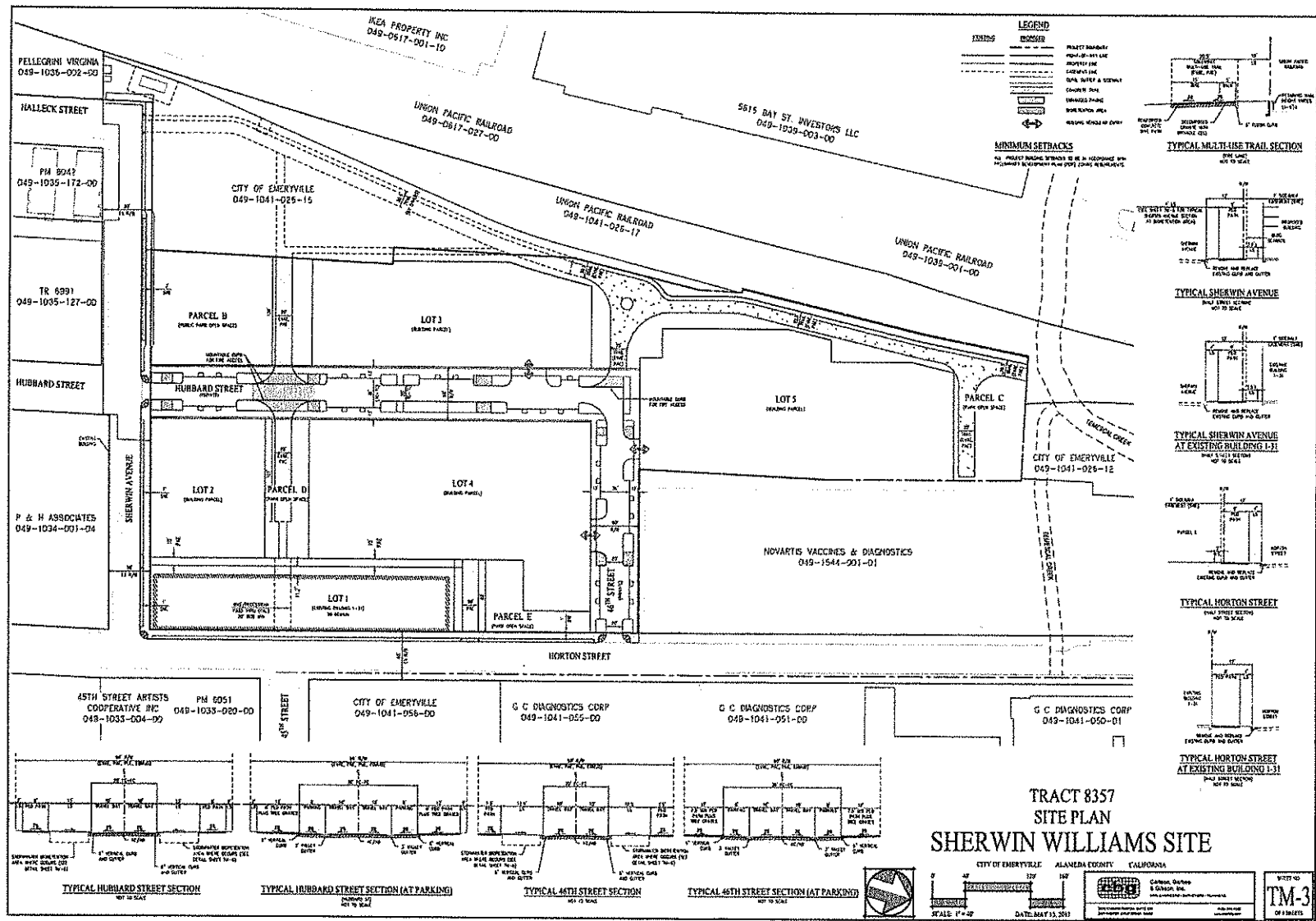
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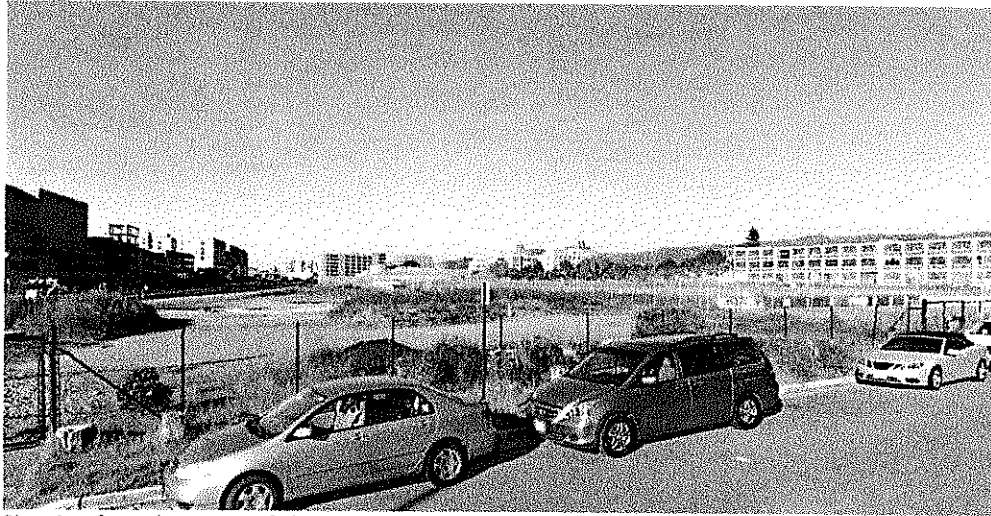
1. COVER SHEET AND INDEX
2. SITE PLAN: EXSITING CONDITIONS
3. APPROVED VESTING TENTATIVE MAP
4. EXISTING SITE PHOTO
5. SHADOW STUDY
6. OPEN SPACE SITE PLAN
7. AREA ENLARGEMENT KEY PLAN
8. ENLARGEMENT: DISTRICT 1 - WARE HOUSE
9. ENLARGEMENT: DISTRICT 2 - PARK (A)
10. ENLARGEMENT: DISTRICT 2 - PARK (B)
11. ENLARGEMENT: DISTRICT 2 - PARK (C)
12. ENLARGEMENT: DISTRICT 3 - RAIL DISTRICT
13. ENLARGEMENT: DISTRICT 4 - BOULEVARD DISTRICT
14. HARDSCAPE
15. HARDSCAPE
16. LANDSCAPE (TREES)
17. LANDSCAPE (TREES)
18. LANDSCAPE (SHRUB AND GROUND COVER)
19. LANDSCAPE (SHRUB AND GROUND COVER)
20. LANDSCAPE (SHRUB AND GROUND COVER)
21. LANDSCAPE (SHRUB AND GROUND COVER)
22. LANDSCAPE (SHRUB AND GROUND COVER)
23. SITE AMENITIES
24. STREETSCAPE WITH STORMWATER AND STREET AMENITIES
25. SITE AMENITIES
26. SITE AMENITIES
27. SITE AMENITIES
28. PRELIMINARY LIGHTING CONCEPT
29. PRELIMINARY LIGHTING PHOTOMETRICS
30. PUBLIC TRASH COLLECTION
31. BAY FRIENDLY SCORECARD
32. BAY FRIENDLY SCORECARD



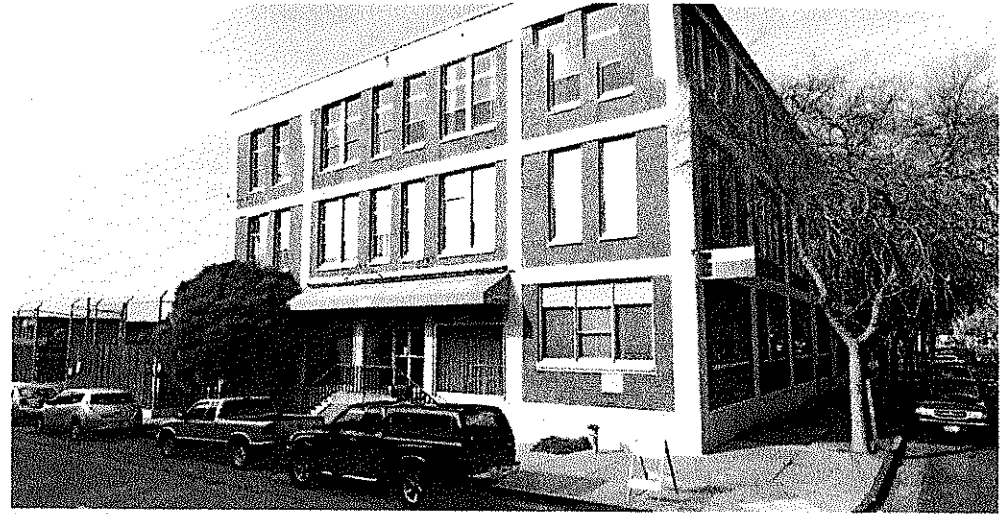
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- LP-002A
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- LP-026A
- LP-027
- LP-028
- LP-029







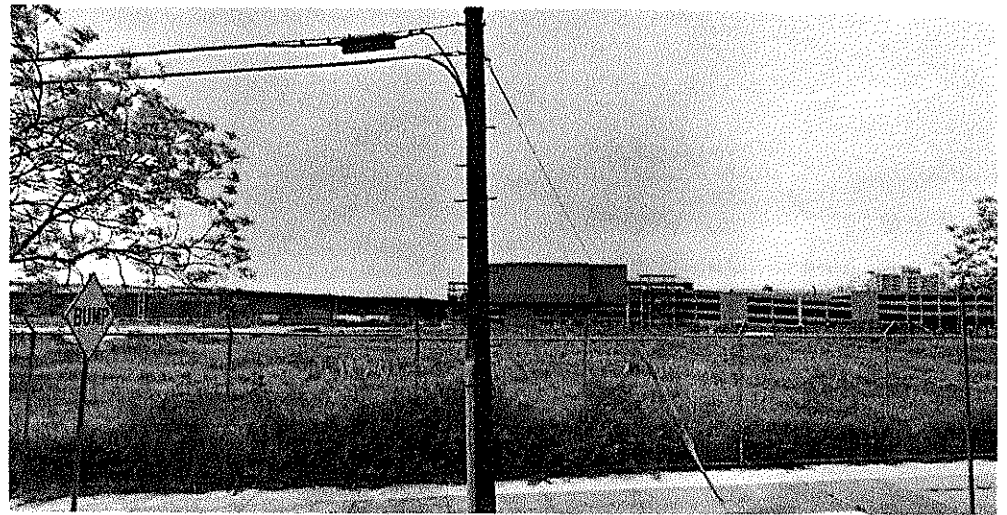
Site view from the corner of Sherwin Avenue and Halleck Street



Site view from the corner of Sherwin Avenue and Horton Street (Existing building)



Site view from the edge of the existing parking (on Horton Street)



Site view of the empty site from Horton Street



LPAS
Architecture • Design



EXISTING SITE PHOTO
SHERWIN WILLIAMS DEVELOPMENT

SHERWIN WILLIAMS | EMERYVILLE

LP-003

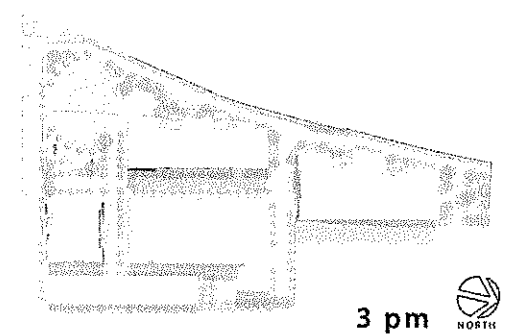
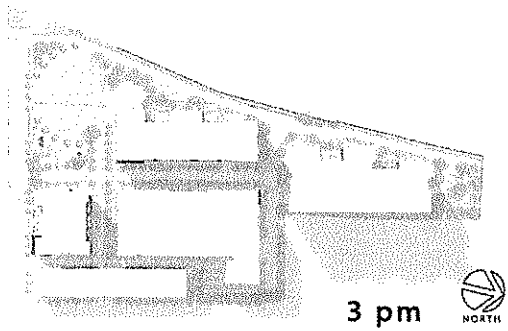
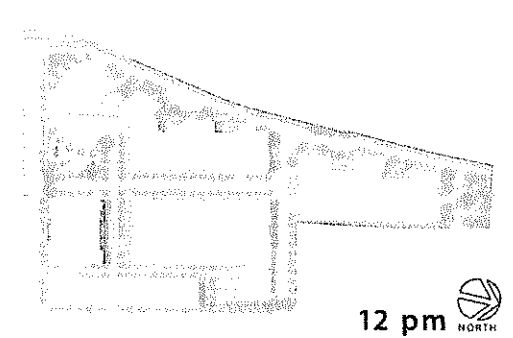
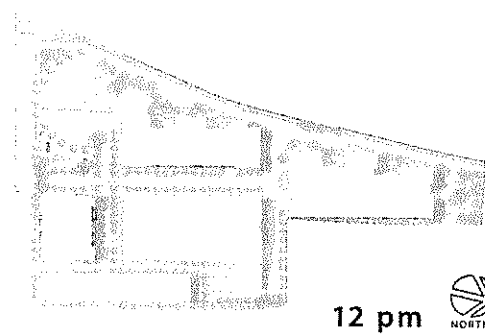
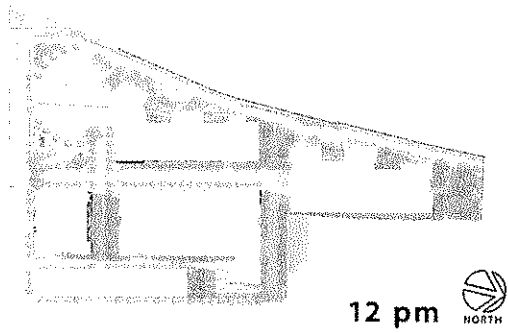
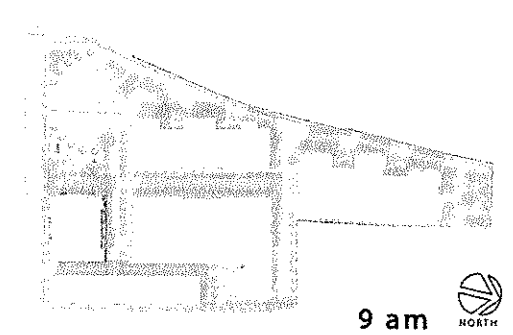
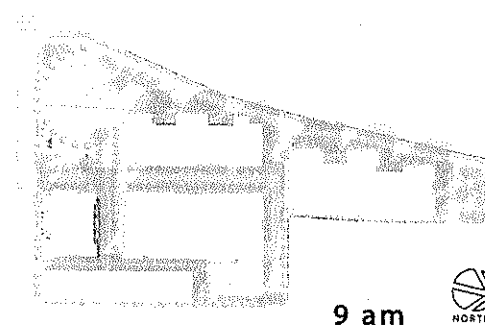
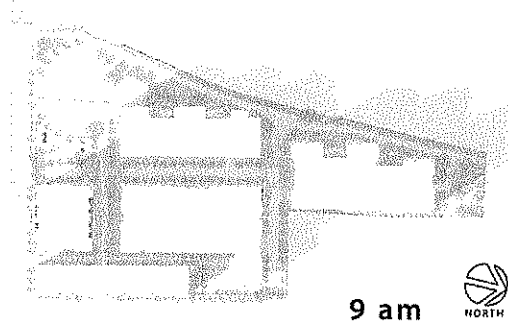
Project No. 1132-0007

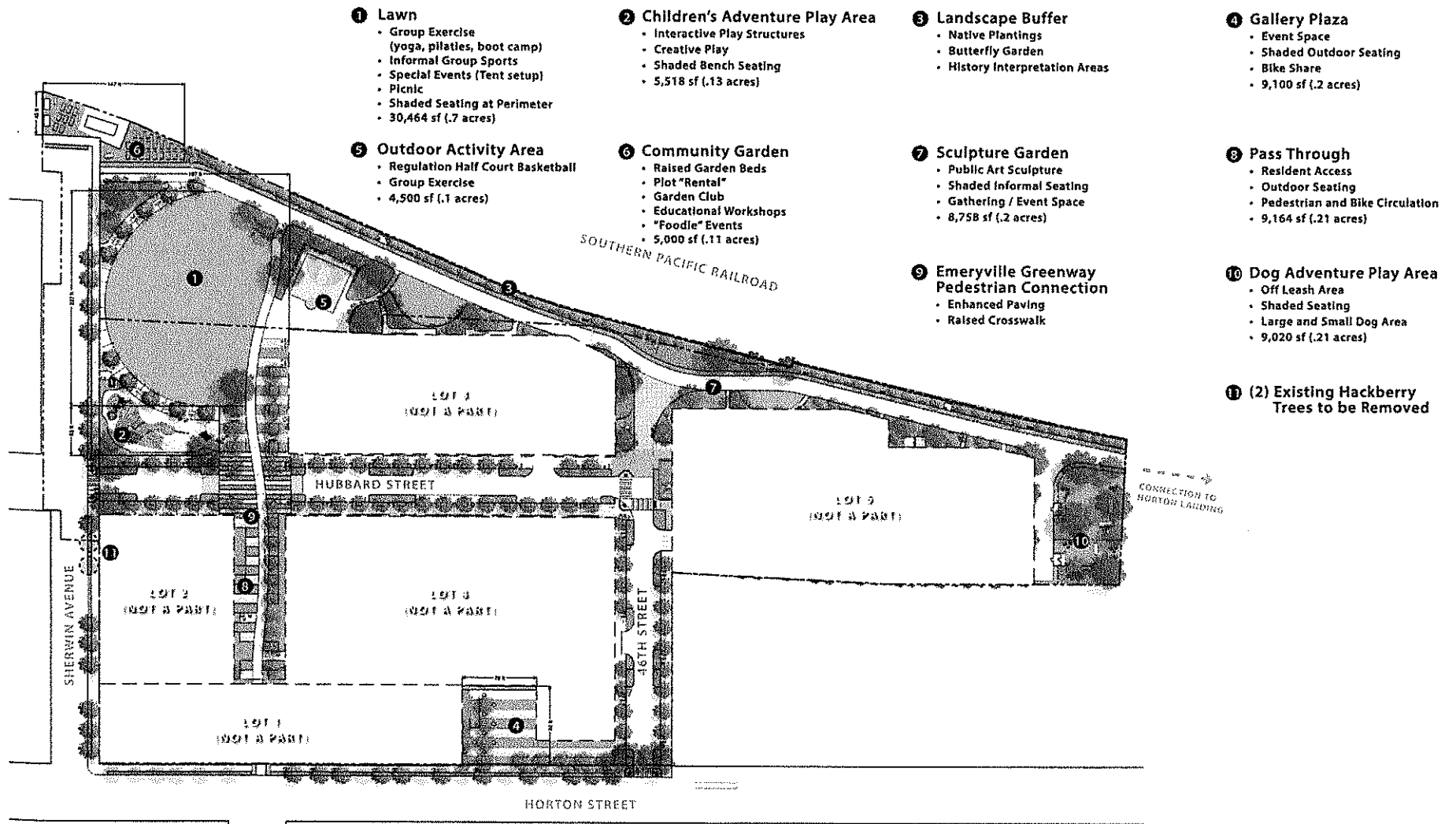
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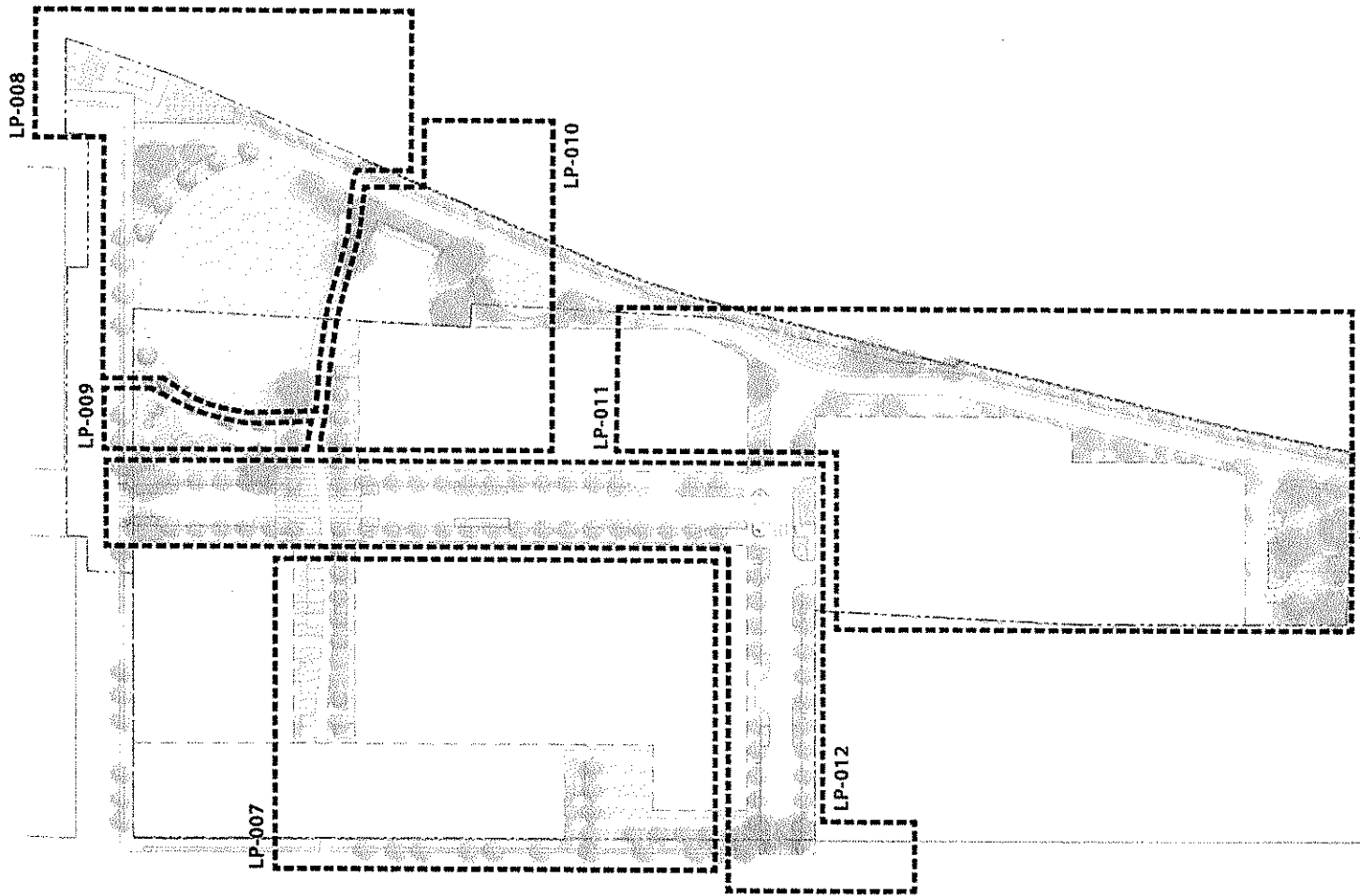
WINTER SOLSTICE - DEC 21

SPRING/FALL SOLSTICE - MAR/SEPT 21

SUMMER SOLSTICE - JUN 21

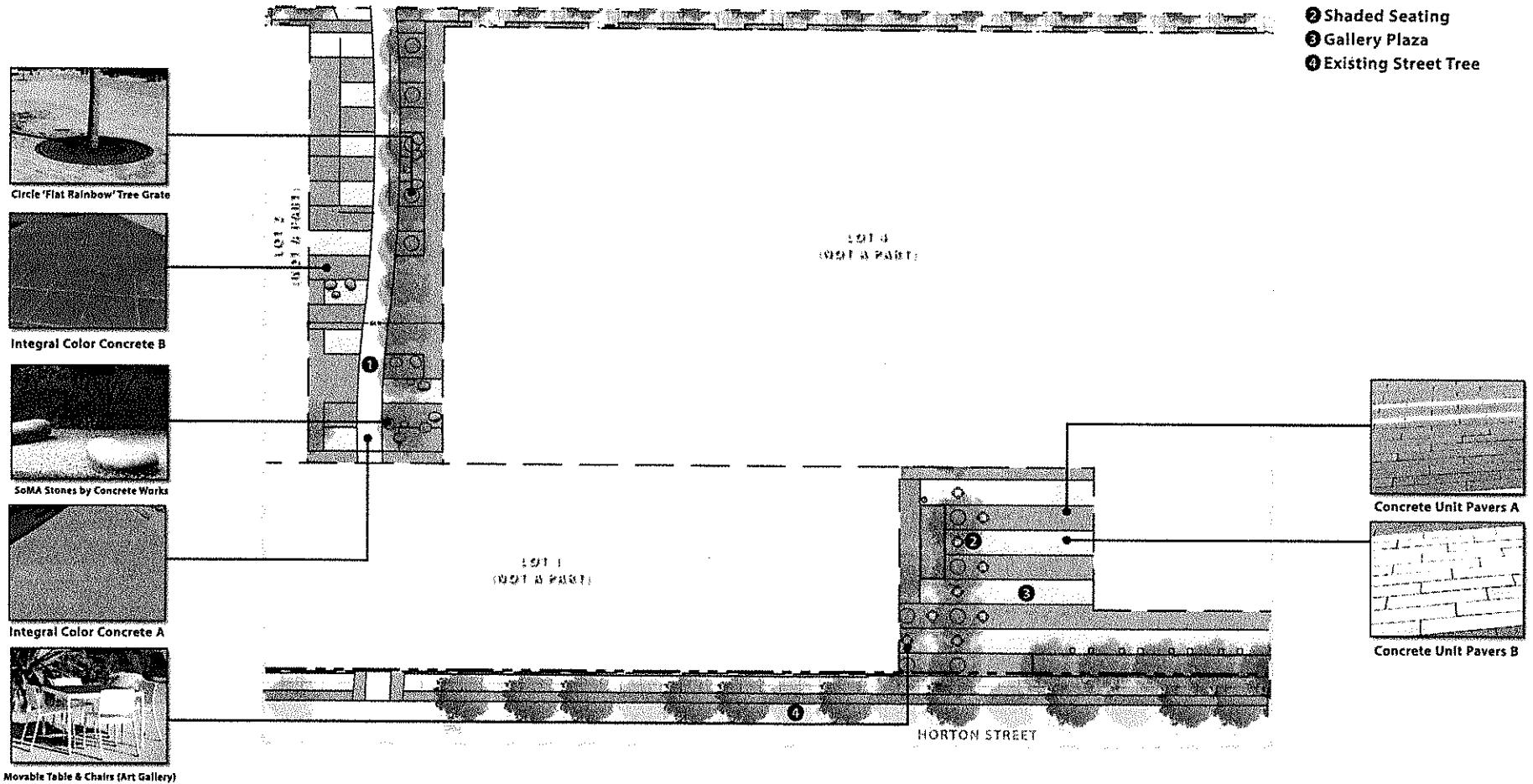






LEGEND

- ① Emeryville Greenway Pedestrian / Bike Connection
- ② Shaded Seating
- ③ Gallery Plaza
- ④ Existing Street Tree





Raised Garden Bed



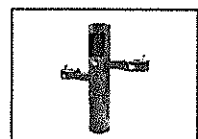
6' Bench



Trash Receptacles



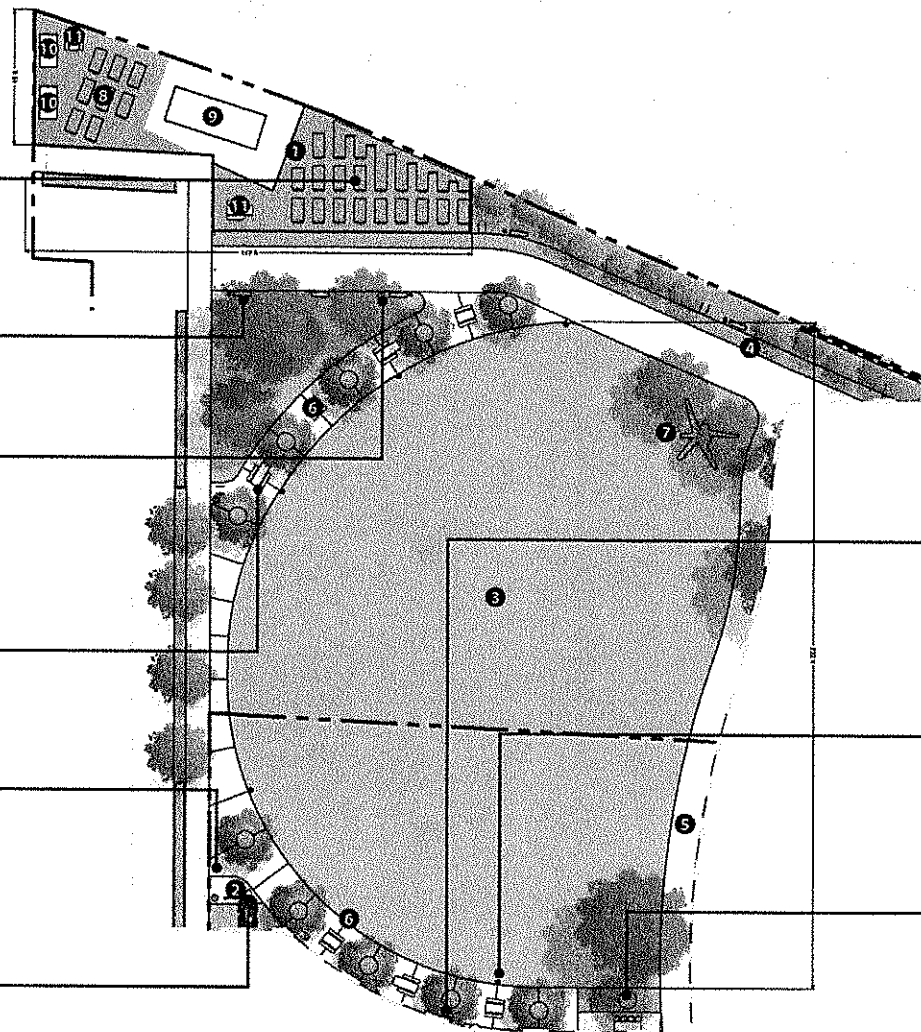
Four-top Table with Chairs



Drinking Fountain with Bottle Filler



Portland Loo



LEGEND

- 1 Community Garden
- 2 Restroom
- 3 Multi-purpose Lawn
- 4 Emeryville Greenway
- 5 Emeryville Greenway Pedestrian/
Bike Connection
- 6 Shaded Seating
- 7 Sculpture / Focal Element
- 8 4'x 8' Raised Garden Bed
- 9 Enclosed Railroad Utility
- 10 Storage Shed
- 11 Seating



SoMA Stones by Concrete Works



Emeryville Greenway Lighting



Circle 'Flat Rainbow' Tree Grate





Four-top Table with Chairs



Playground Climbing Net



Playground Structure



Play Surface



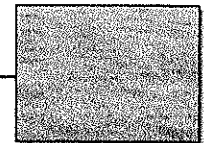
Playground Slide



'Paint Can' Structure

LEGEND

- ① Children's Adventure Play Area
- ② Shaded Seating



Artificial Turf



Playground Swingset



SoMA Stones by Concrete Works



Movable Table & Chairs (Retail)

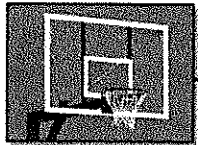


Circle 'Flat Rainbow' Tree Grate

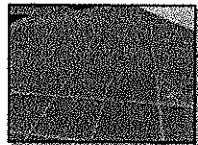




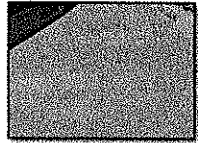
Inverted "U" Bike Rack



Basketball Hoop



Integral Color Concrete B



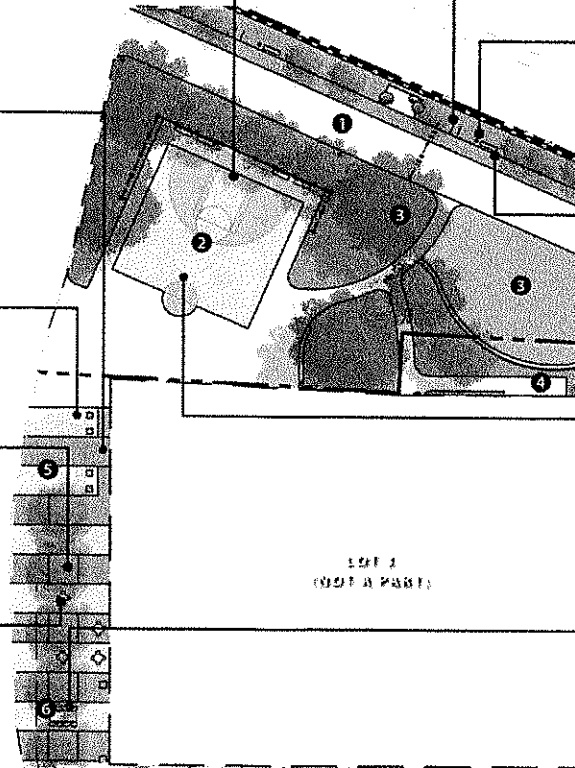
Integral Color Concrete A



Circle "Flat Rainbow" Tree Grate



Movable Table & Chairs (Retail)



LEGEND

- 1 Emeryville Greenway
- 2 Regulation Half Court Basketball
- 3 Lawn Area
- 4 Resident Unit Entry
- 5 Emeryville Greenway Pedestrian/
Bike Connection
- 6 Shaded Seating



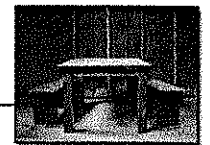
Emeryville Greenway Lighting



6' Bench

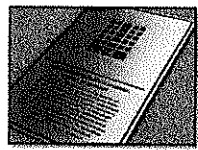


Sports Court



Wood Farm Table





Historical Plaque



Fencing



Decomposed Granite



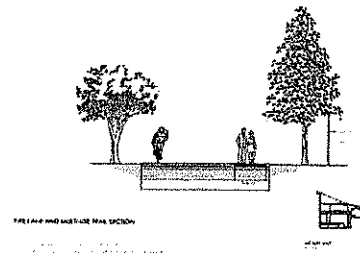
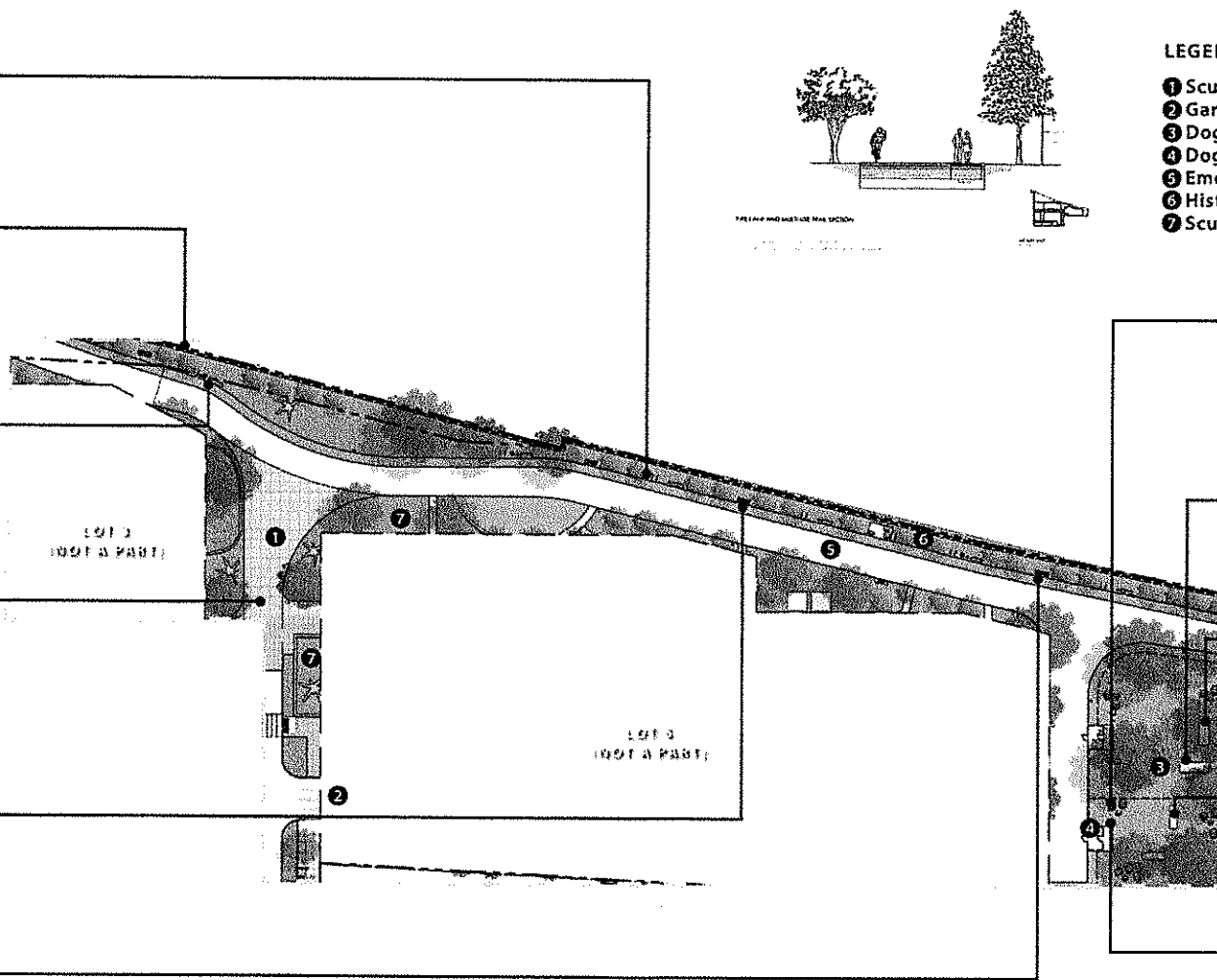
Concrete Unit Pavers C



Recumbent Bike

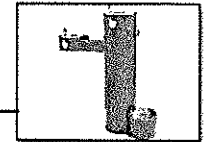


Combo Butterfly & Reverse Fly

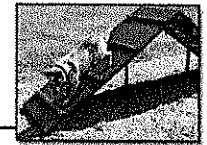


LEGEND

- 1 Sculpture Garden
- 2 Garage Entry
- 3 Dog Adventure Play Area for Large Dogs
- 4 Dog Adventure Play Area for Small Dogs
- 5 Emeryville Greenway
- 6 Historical Interpretation Area
- 7 Sculpture



Dog Park Water Fountain



Dog Agility Bridge



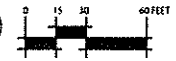
Dog Agility Bridge



Dog Park Hoop



Pet Waste Receptacles





Bollard



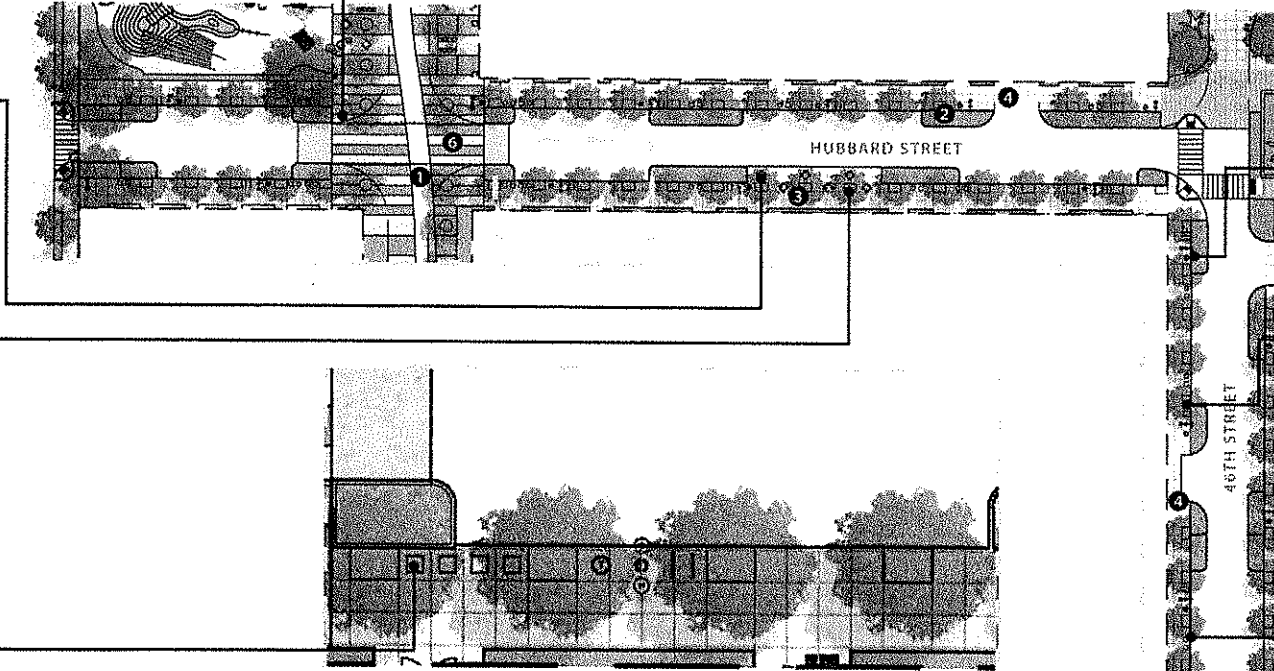
Movable Table & Chairs (Retail)



Square 'Flat Rainbow' Tree Grate



Integral Color Concrete Bench



TYPICAL STREETScape ENLARGEMENT

LEGEND

- 1 Emeryville Greenway Pedestrian/ Bike Connection
- 2 Stormwater Treatment
- 3 Outdoor Seating
- 4 Garage Entry
- 5 Bike Share
- 6 Raised Crosswalk



Trash Receptacles



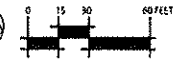
Inverted "U" Bike Rack



Emeryville Standard Street Light

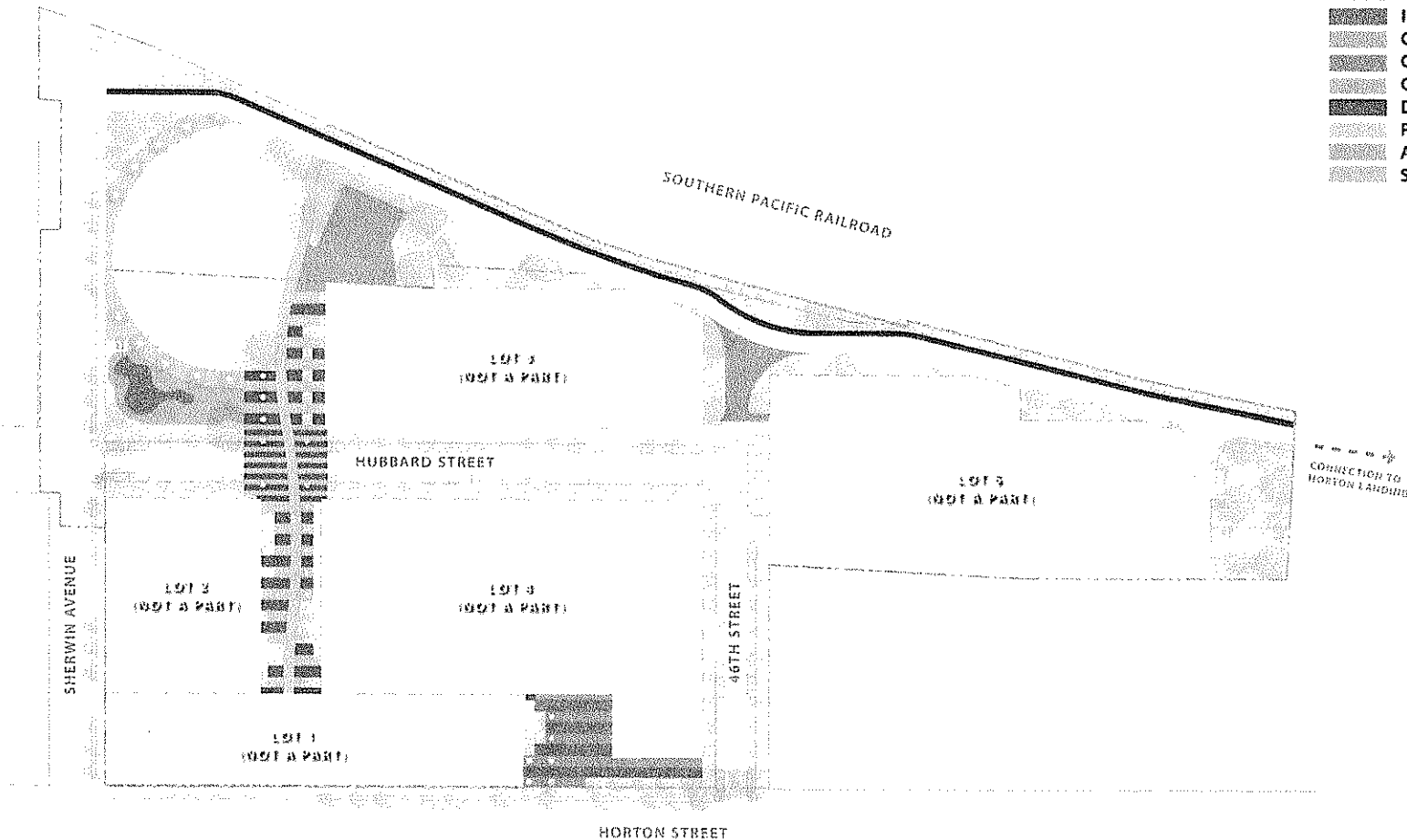


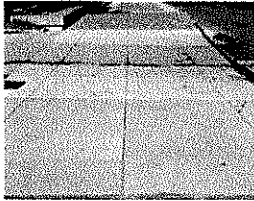
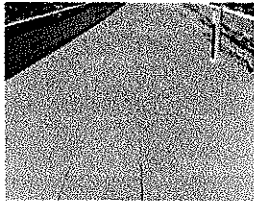
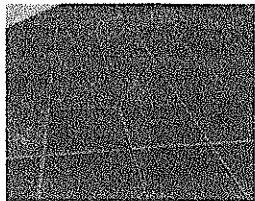
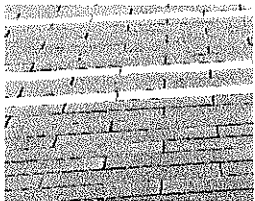
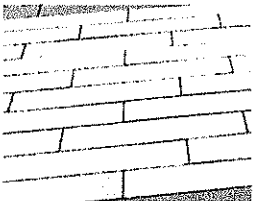
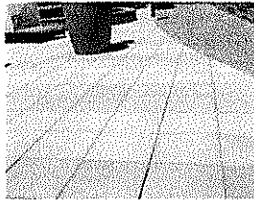
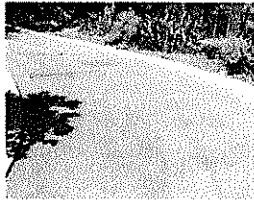
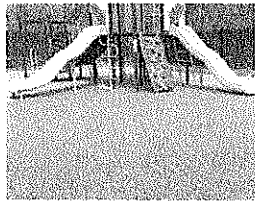
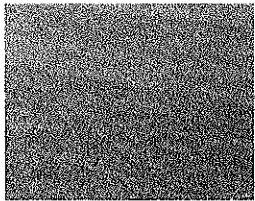
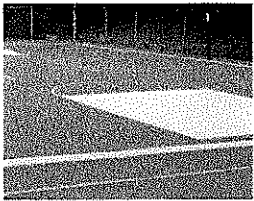
Bike Share



LEGEND

- Standard Concrete
- Integral Color Concrete A
- Integral Color Concrete B
- Concrete Unit Pavers A
- Concrete Unit Pavers B
- Concrete Unit Pavers C
- Decomposed Granite
- Play Surface
- Artificial Turf
- Sports Court



<p>Standard Concrete</p>  <p>DESCRIPTION: Standard Concrete - Pedestrian</p> <p>FINISH: Medium Broom</p> <p>COLOR: Natural Gray</p> <p>JOINT: TBD</p> <p>NOTES: Used along Hubbard & 46th Street</p>	<p>Integral Color Concrete A</p>  <p>DESCRIPTION: Integral Color Concrete (A)</p> <p>FINISH: Top Cast 03</p> <p>COLOR: Davis Colors - Outback 677</p> <p>JOINT: TBD</p> <p>NOTES: Used at Art Allee & Emeryville Greenway Connection</p>	<p>Integral Color Concrete B</p>  <p>DESCRIPTION: Integral Color Concrete - Vehicular (B)</p> <p>FINISH: Top Cast 03</p> <p>COLOR: Davis Colors - Light Gray (Carbon) 8084</p> <p>JOINT: TBD</p> <p>NOTES: Used at Art Allee & Emeryville Greenway Connection</p>	<p>Concrete Unit Pavers A</p>  <p>DESCRIPTION: CONCRETE UNIT PAVERS B Ackerstone - 4" X 12" Concrete Unit Pavers (A)</p> <p>FINISH: Face Mix with Light Shot Blast Finish</p> <p>COLOR: Charcoal</p> <p>NOTES: No Chamfer.</p>	<p>Concrete Unit Pavers B</p>  <p>DESCRIPTION: CONCRETE UNIT PAVERS B Ackerstone - 4" X 12" Concrete Unit Pavers (B)</p> <p>FINISH: Face Mix with Light Shot Blast Finish</p> <p>COLOR: Israel Pewter</p> <p>NOTES: No Chamfer.</p>
<p>Concrete Unit Pavers C</p>  <p>DESCRIPTION: CONCRETE UNIT PAVERS A 12" X 12" Palazzo Concrete Pavers - Vehicular</p> <p>FINISH: TBD, Micro Chamfer</p> <p>COLOR: With Sparkle Flakes</p> <p>JOINT: Sand Sweep</p> <p>NOTES: Used at Sculpture Garden.</p>	<p>Decomposed Granite</p>  <p>DESCRIPTION: Stabilized Decomposed Granite</p> <p>FINISH: NA</p> <p>COLOR: California Gold</p> <p>JOINT: NA</p> <p>NOTES: Used at Greenway Trail. Stabilizer mixed by installer.</p>	<p>Play Surface</p>  <p>DESCRIPTION: Poured-In-Place-Play Surface</p> <p>FINISH: NA</p> <p>COLOR: TBD</p> <p>JOINT: NA</p> <p>NOTES: Used at Children's Adventure Play Area</p>	<p>Artificial Turf</p>  <p>DESCRIPTION: Artificial Turf with Duraflo Backing Material</p> <p>FINISH: NA</p> <p>COLOR: NA</p> <p>JOINT: NA</p> <p>NOTES: Used at Children's Adventure Play Area.</p>	<p>Sports Court</p>  <p>DESCRIPTION: Modular Polypropylene</p> <p>FINISH: NA</p> <p>COLOR: NA</p> <p>JOINT: NA</p> <p>NOTES: Used at Sports Court Area.</p>



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Architecture • Design



HARDSCAPE
SHERWIN WILLIAMS DEVELOPMENT

SHERWIN WILLIAMS | EMERYVILLE

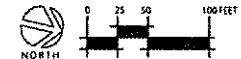
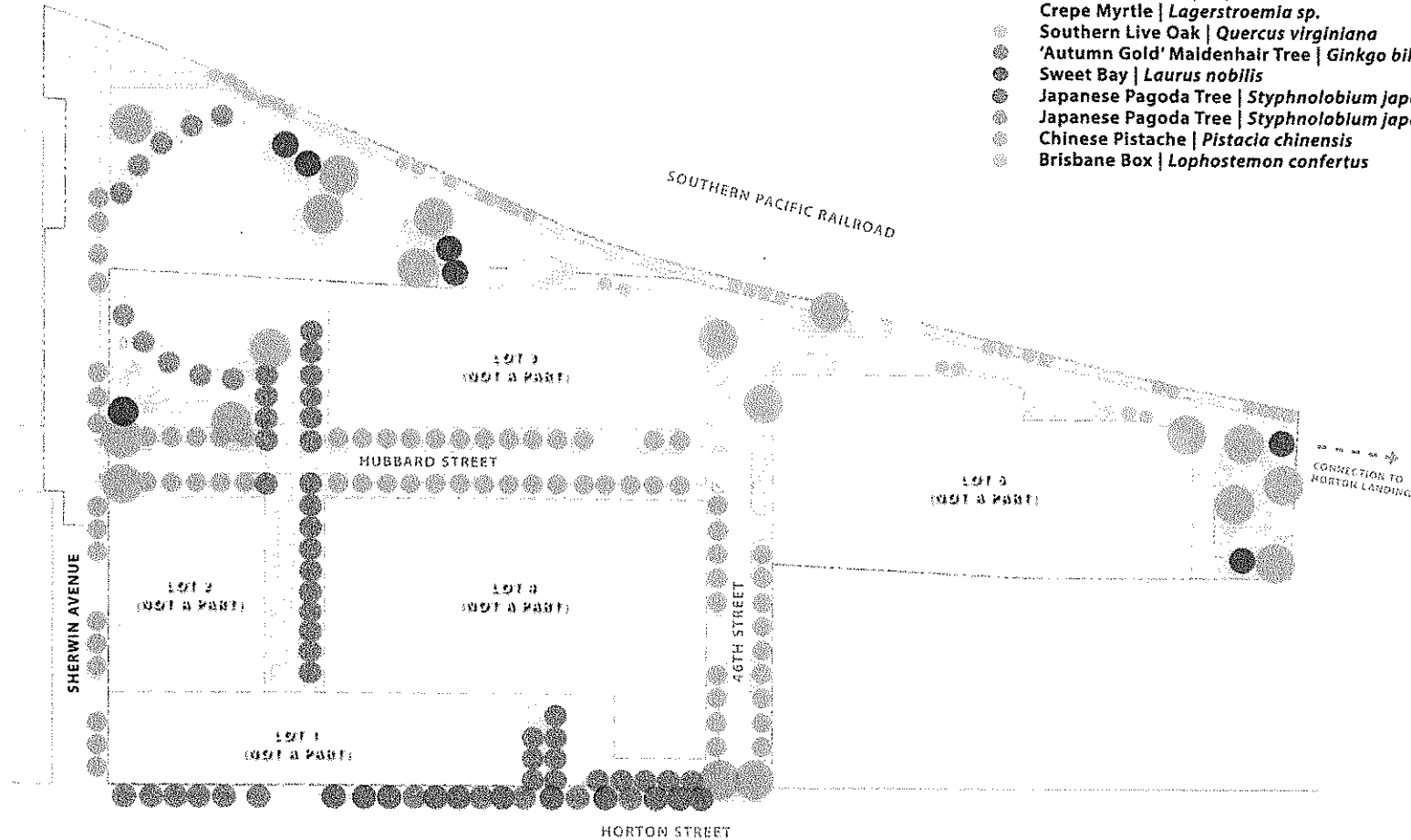
LP-014

Project No. 1132-0007

DECEMBER 7, 2017

LEGEND

- 'Marina' Strawberry Tree | *Arbutus x 'Marina'*
- Pineapple Guava | *Feijoa sellowiana*
- Crepe Myrtle | *Lagerstroemia sp.*
- Southern Live Oak | *Quercus virginiana*
- 'Autumn Gold' Maidenhair Tree | *Ginkgo biloba 'Autumn Gold'*
- Sweet Bay | *Laurus nobilis*
- Japanese Pagoda Tree | *Styphnolobium japonicum* (To Match Existing)
- Japanese Pagoda Tree | *Styphnolobium japonicum* (Existing Trees to Remain)
- Chinese Pistache | *Pistacia chinensis*
- Brisbane Box | *Lophostemon confertus*



LMC

LPAS
Architecture • Design

LMC
Landscape Management Company




LANDSCAPE (TREES)
SHERWIN WILLIAMS DEVELOPMENT

SHERWIN WILLIAMS | EMERYVILLE

LP-015

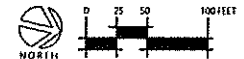
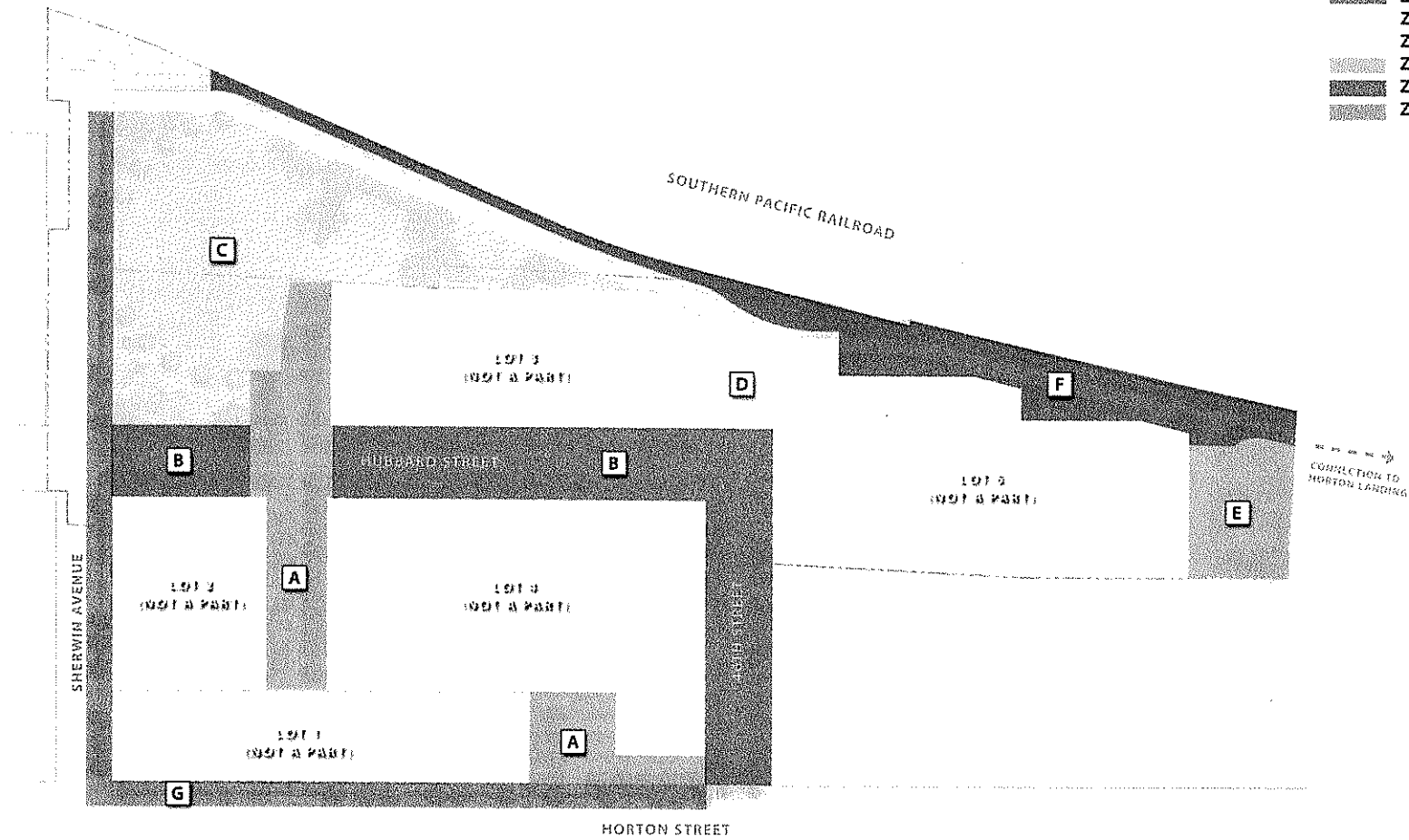
Project No. 1132-0007

DECEMBER 7, 2017

<p>MARINA STRAWBERRY TREE</p>  <p>DESCRIPTION: Park Tree</p> <p><i>Arbutus x 'Marina'</i> Marina Strawberry Tree</p> <p>WATER USAGE: Low</p>	<p>CREPE MYRTLE</p>  <p>DESCRIPTION: Park Tree</p> <p><i>Lagerstroemia</i> sp. Crepe Myrtle</p> <p>WATER USAGE: Low</p>	<p>PINEAPPLE GUAVA</p>  <p>DESCRIPTION: Park Tree</p> <p><i>Feijoa sellowiana</i> Pineapple Guava</p> <p>WATER USAGE: Moderate</p>	<p>SOUTHERN LIVE OAK</p>  <p>DESCRIPTION: Park Tree</p> <p><i>Quercus virginiana</i> Southern Live Oak</p> <p>WATER USAGE: Moderate</p>	
<p>'AUTUMN GOLD' MAIDENHAIR TREE</p>  <p>DESCRIPTION: Street Tree</p> <p><i>Ginkgo biloba</i> 'Autumn Gold' Autumn Gold Maidenhair Tree</p> <p>WATER USAGE: Moderate</p>	<p>SWEET BAY</p>  <p>DESCRIPTION: Park Tree</p> <p><i>Laurus nobilis</i> Sweet Bay</p> <p>WATER USAGE: Low</p>	<p>BRISBANE BOX</p>  <p>DESCRIPTION: Street Tree</p> <p><i>Lophostemon confertus</i> Brisbane Box</p> <p>WATER USAGE: Moderate</p>	<p>CHINESE PISTACHE</p>  <p>DESCRIPTION: Park Tree</p> <p><i>Pistacia chinensis</i> Chinese Pistache</p> <p>WATER USAGE: Low</p>	<p>(JAPANESE PAGODA TREE) MATCH EXISTING STREET TREE</p>  <p>DESCRIPTION: Street Tree</p> <p><i>Styphnolobium japonicum</i> Japanese Pagoda Tree</p> <p>WATER USAGE: Low</p>

SHRUB ZONE LEGEND

- Zone A
- Zone B
- Zone C
- Zone D
- Zone E
- Zone F
- Zone G



Zone A

Zone B

SHRUB



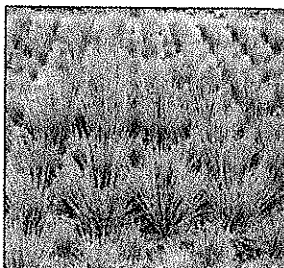
Ligustum japonicum 'Texanum'
Texas Privet ●
Spacing: 3'-0" O.C.

SHRUB



Rhamphiolepis indica 'Clara'
Clara Indian Hawthorn ●●
Spacing: 30" O.C.

SHRUB



Juncus patens
Spreading Rush
Spacing: 24" O.C.

SHRUB



Rhamphiolepis indica 'Clara'
Clara Indian Hawthorn ●●
Spacing: 30" O.C.

SHRUB



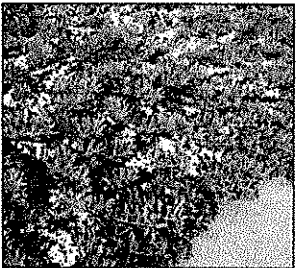
Myrtus communis
True Myrtle
Spacing: 30" O.C.

GROUNDCOVER



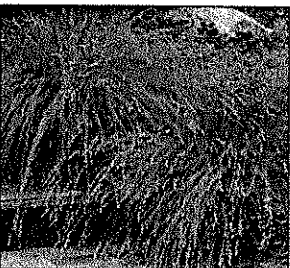
Myoporum parvifolium
Creeping Myoporum ●○○
Spacing: 3'-0" O.C.

GROUNDCOVER



Myoporum parvifolium
Creeping Myoporum ●○○
Spacing: 3'-0" O.C.

SHRUB



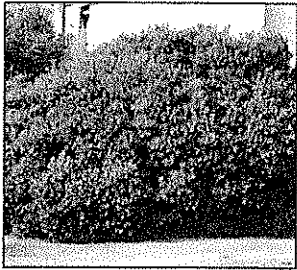
Carex divulsa
Berkeley Sedge
Spacing: 30" O.C.

Attracts:

- Birds
- Butterflies / Bees
- Humming Birds

Zone C

SHRUB



Arbutus unedo
Strawberry Tree ●●
Spacing: 5'-0" O.C.

SHRUB



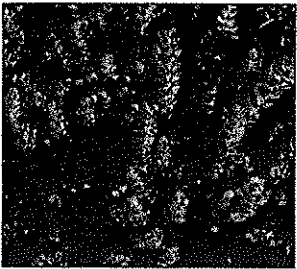
Heteromeles arbutifolia
Toyon ●○○●
Spacing: 5'-0" O.C.

GROUNDCOVER



Arctostaphylos 'Emerald Carpet'
Carpet Manzanita
Spacing: 5'-0" O.C.

SHRUB



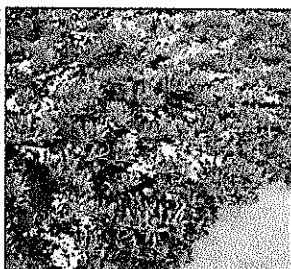
Arctostaphylos uva-ursi 'Point Reyes'
Point Reyes Bearberry ●○○●
Spacing: 4'-0" O.C.

SHRUB



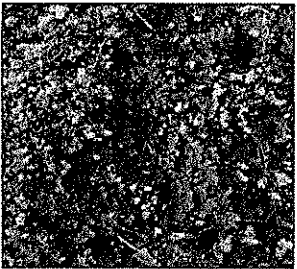
Myrtus communis
True Myrtle
Spacing: 30" O.C.

GROUNDCOVER



Myoporum parvifolium
Creeping Myoporum ●○○●
Spacing: 3'-0" O.C.

SHRUB



Ceanothus griseus horizontalis 'Yankee Point'
Yankee Point Ceanothus ●○○●
Spacing: 5'-0" O.C.

SHRUB



Carex divulsa
Berkeley Sedge
Spacing: 24" O.C.

Zone D

SHRUB



Ligustum japonicum 'Texanum'
Texas Privet ●
Spacing: 4'-0" O.C.

GROUNDCOVER



Myoporum parvifolium
Creeping Myoporum ●○○●
Spacing: 3'-0" O.C.

Attracts:

- Birds
- Butterflies / Bees
- Humming Birds



LPAS
Architecture + Design



LANDSCAPE (SHRUB AND GROUNDCOVER)
SHERWIN WILLIAMS DEVELOPMENT

SHERWIN WILLIAMS | EMERYVILLE

LP-019

Project No. 1132-0007

DECEMBER 7, 2017

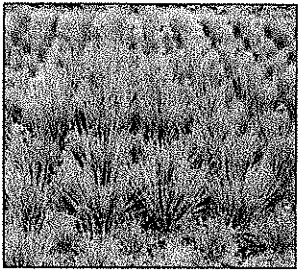
Zone E

SHRUB



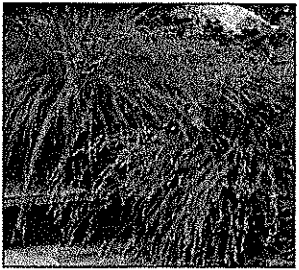
Rhaphiolepis indica 'Clara'
Clara Indian Hawthorn ●●
Spacing: 30" O.C.

SHRUB



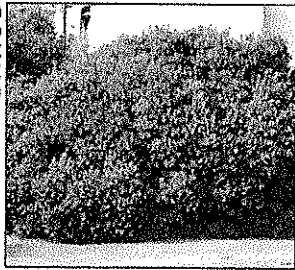
Juncus patens
Spreading Rush
Spacing: 24" O.C.

SHRUB



Carex divulsa
Berkeley Sedge
Spacing: 24" O.C.

SHRUB



Arbutus unedo
Strawberry Tree ●●
Spacing: 5'-0" O.C.

SHRUB



Heteromeles arbutifolia
Toyon ●●●
Spacing: 5'-0" O.C.

Zone F

SHRUB



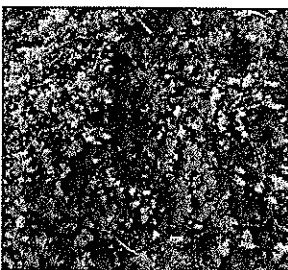
Arctostaphylos densiflora 'Howard McMinn'
Arctostaphylos 'Howard McMinn'
Spacing: 5'-0" O.C.

SHRUB



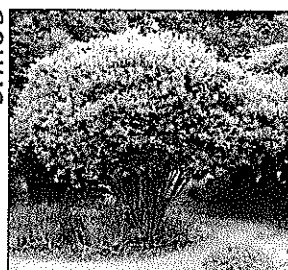
Buddleja var.
Butterfly Bush ○●
Spacing: 3'-0" O.C.

SHRUB



Ceanothus griseus horizontalis 'Yankee Point'
Yankee Point Ceanothus ●●●
Spacing: 5'-0" O.C.

SHRUB



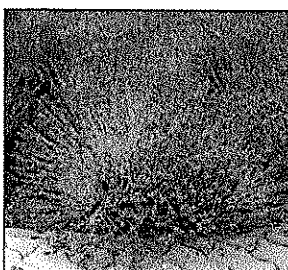
Acca sellowiana
Feijoa ●●
Spacing: 5'-0" O.C.

SHRUB



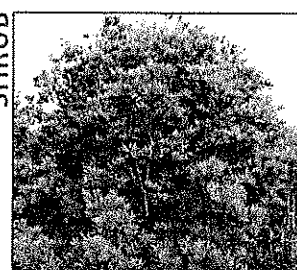
Heteromeles arbutifolia
Toyon ●●●
Spacing: 5'-0" O.C.

SHRUB



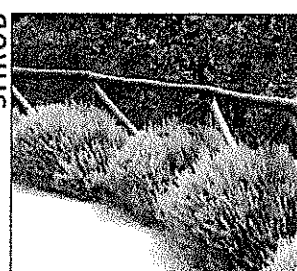
Lavandula var.
Lavender ○●
Spacing: 24" O.C.

SHRUB



Myrica var.
Bayberry ●
Spacing: 5'-0" O.C.

SHRUB



Rosmarinus var.
Rosemary ●●●
Spacing: 30" O.C.

SHRUB



Vitex agnus-castus
Vitex ●●●
Spacing: 5'-0" O.C.

Attracts:

- Birds
- Butterflies / Bees
- Humming Birds

ima

LP/S
Architecture + Design

LMC
A Sherwin Williams Company

LANDSCAPE (SHRUB AND GROUND COVER)
SHERWIN WILLIAMS DEVELOPMENT

SHERWIN WILLIAMS | EMERYVILLE

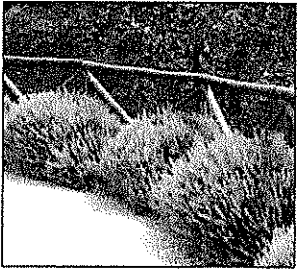
LP-020

Project No. 1132-0007

DECEMBER 7, 2017

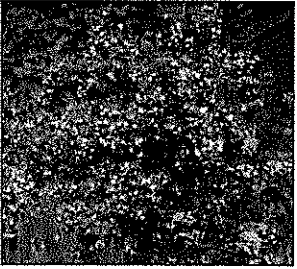
Zone G

SHRUB



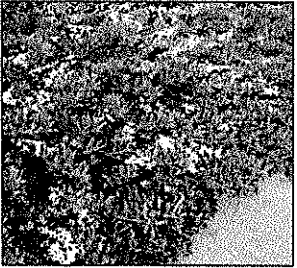
Rosmarinus var.
Rosemary ●○○●
Spacing: 30" O.C.

SHRUB



Myrtus communis
True Myrtle
Spacing: 30" O.C.

GROUNDCOVER



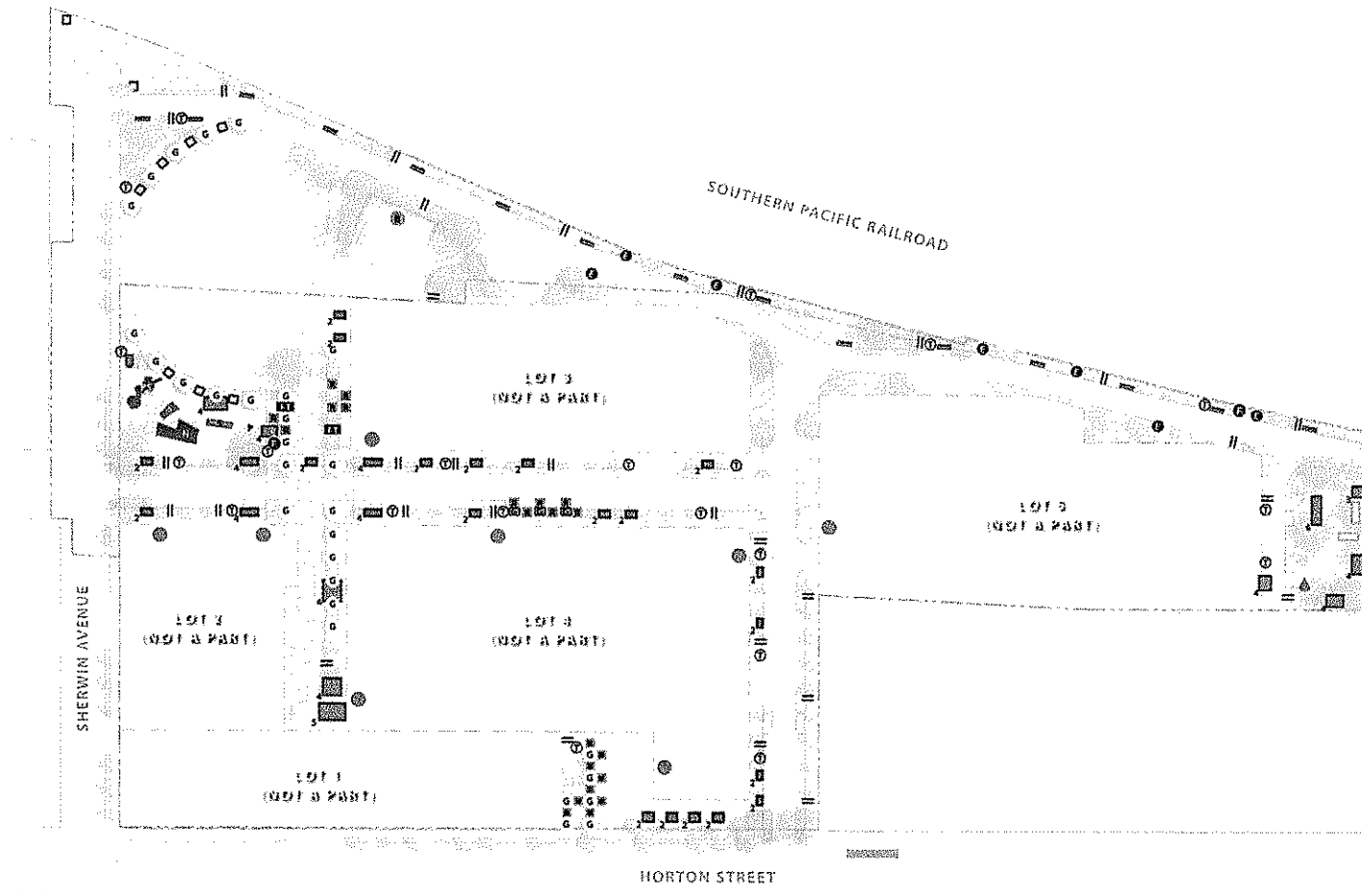
Myoporum parvifolium
Creeping Myoporum ●○○●
Spacing: 3'-0" O.C.

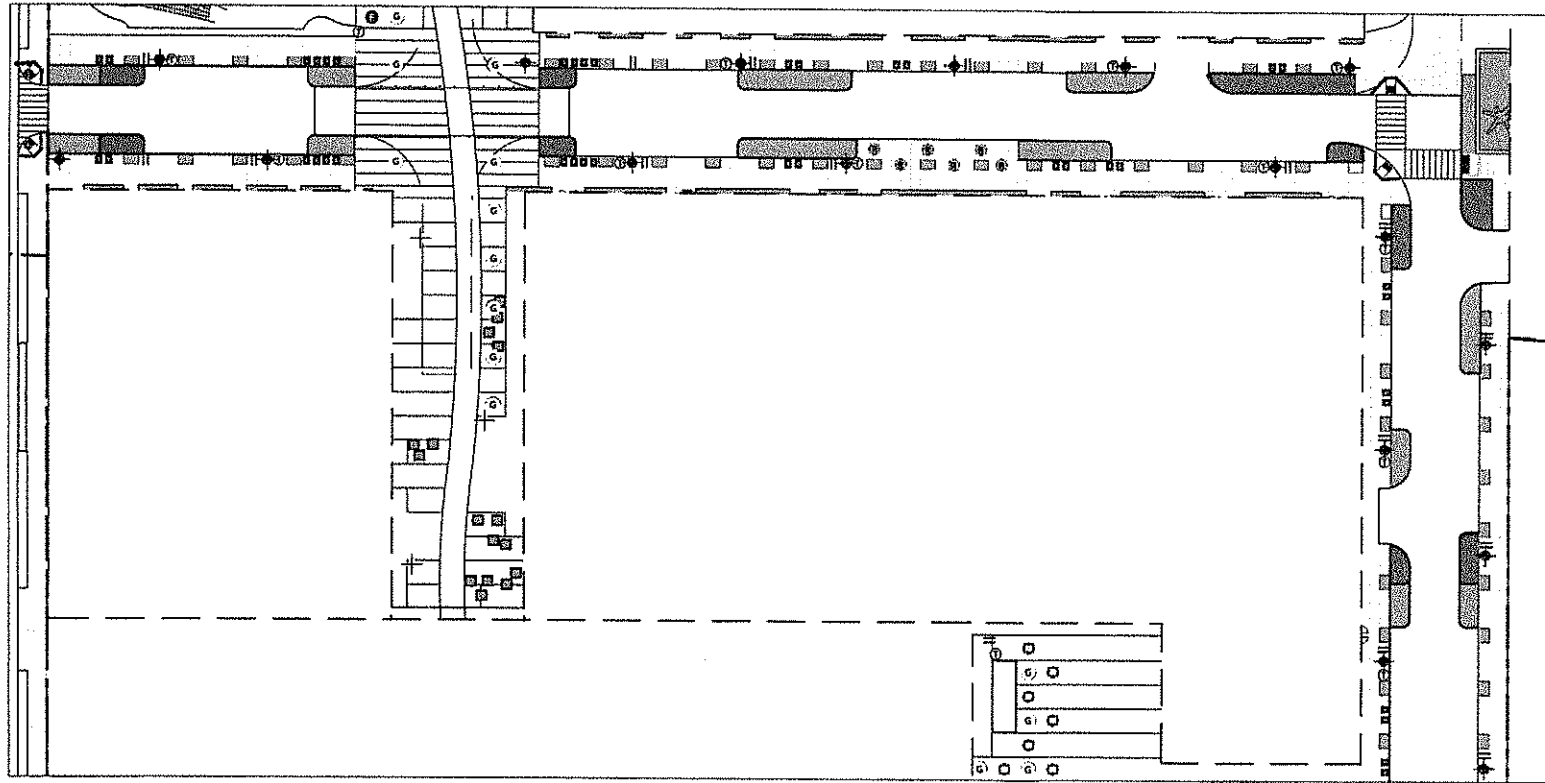
Attracts:

- Birds
- Butterflies / Bees
- Humming Birds

LEGEND

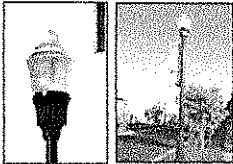


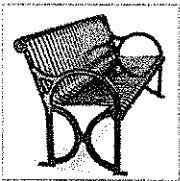


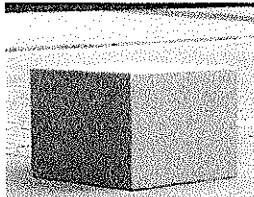

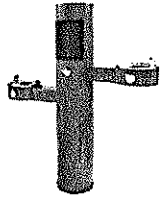
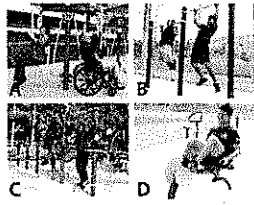
- ◻ Circle 'Flat Rainbow' Tree Grate
- ◻ Square 'Flat Rainbow' Tree Grate
- ◻ SoMA Stones by Concrete Works
- Stone Quantity
- Movable Table & Chairs
- Integral Color Concrete Bench
- Bench Quantity
- 6' Bench
- ◻ Four-top Table with Chairs
- ◻ Portland Loo
- ◻ Playground Climbing Net
- ◻ Playground Structure
- ◻ Playground Slide
- ◻ 'Paint Can' Structure
- ◻ Playground Swingset
- ◻ Movable Table & Chairs (Retail)
- ◻ Wood Farm Table
- ① Trash Receptacles
- ① Drinking Fountain with Bottle Filler
- ① Basketball Hoop
- ① Inverted "U" Bike Rack
- ① Adult Exercise Equipment
- ◻ Dog Park Play Equipment
- ◻ Dog Park Water Fountain
- ◻ Bay Area Bike Share
- ◻ Historical /Interpretive Information/
Edible Plants Plaque
(Pedestal Mounted)
- ① Bike Fixit Station
- Building Entrances



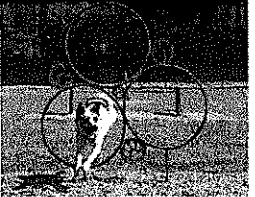
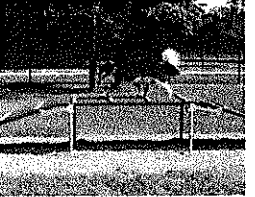
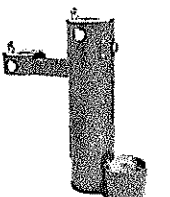
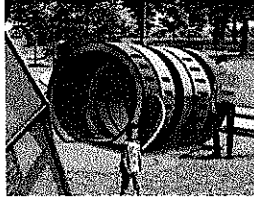
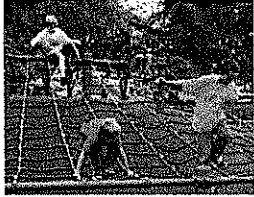
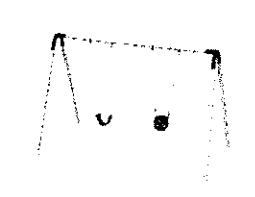
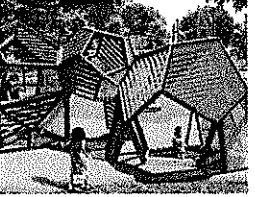
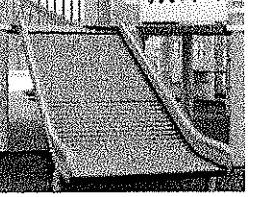


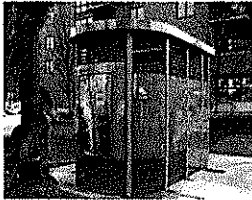
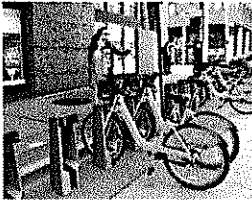
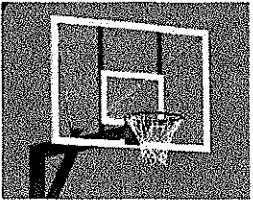


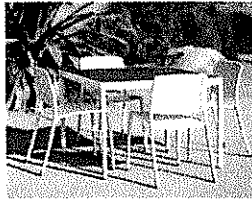

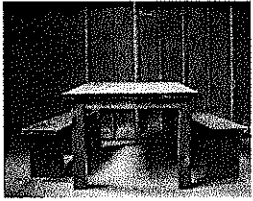
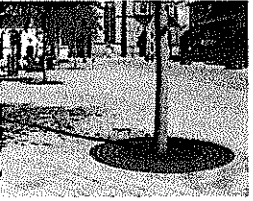
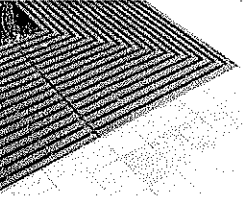


LEGEND

- Stormwater Treatment
- Planting
- Circle 'Flat Rainbow' Tree Grate
- SoMA Stones by Concrete Works
- Movable Table & Chairs
- Integral Color Concrete Bench
- Movable Table & Chairs (Retail)
- Trash Receptacles
- || Inverted "U" Bike Rack
- Bike Fixit Station
- ◆ Emeryville Standard Street Light
- ✚ Emeryville Greenway Lighting

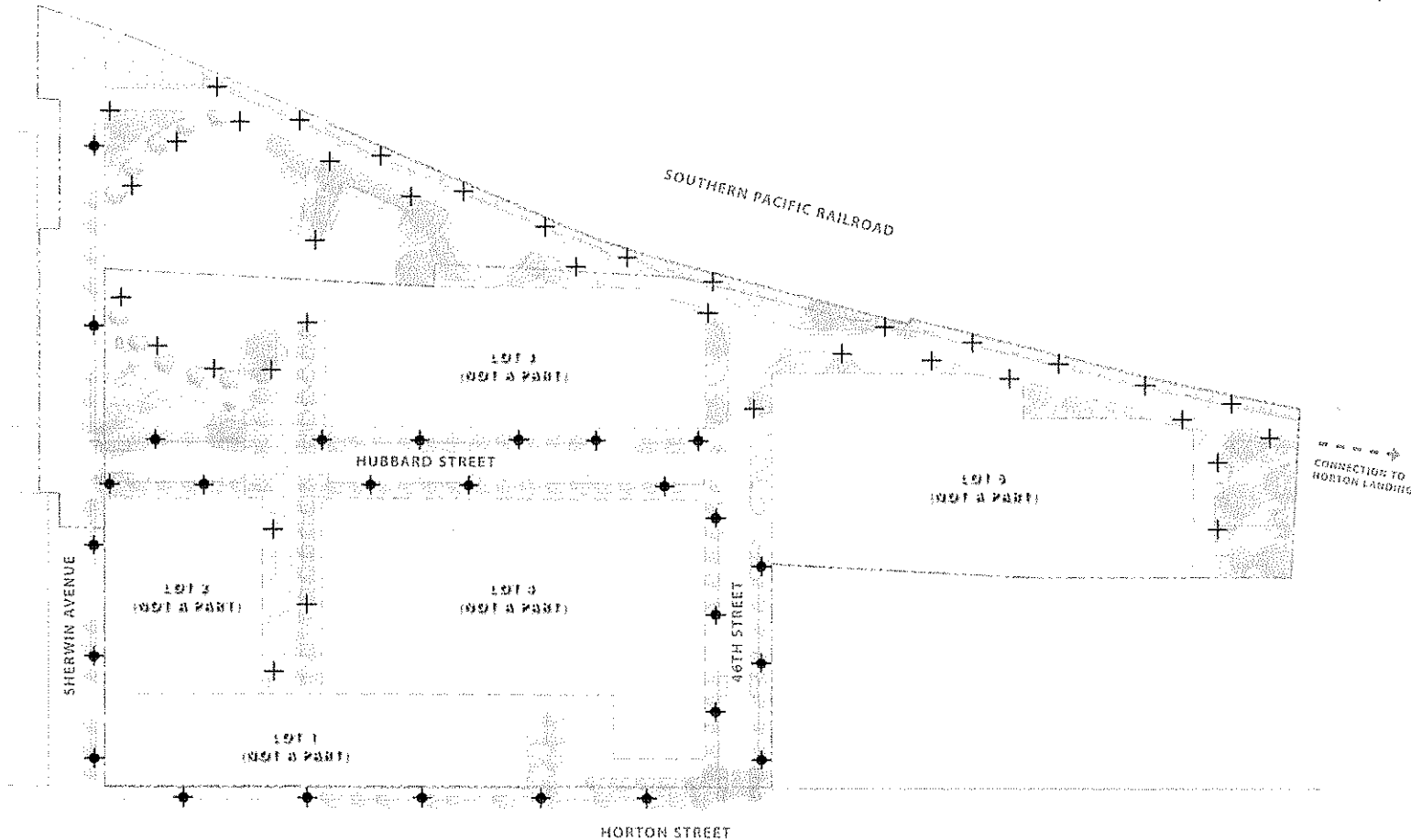
<p>Emeryville Greenway Lighting</p> <p>+</p>  <p>DESCRIPTION: Holophane GranVille Series Street Light</p> <p>MANUFACTURER: Holophane</p> <p>COLOR: RAL 6008; Specify with 'night sky shield'</p> <p>CONTACT: Phil Heinz: 925. 984-1540 OR John L. Ferguson: 415. 883-2668</p> <p>NOTES: Variable, 8'- 16'h</p>	<p>Emeryville Standard Street Light</p> <p>+</p>  <p>DESCRIPTION: Candela Series Street Light</p> <p>MANUFACTURER: Lumec</p> <p>COLOR: RAL 6004, variable heights, styles and number of sconces</p> <p>CONTACT: John Benson: 510. 638-3800 x183</p> <p>NOTES: For use on all primary thoroughfares in the City.</p>	<p>Four-top Table with Chairs</p> <p>□</p>  <p>DESCRIPTION: Similar to Doyle Hollis Park Tables</p> <p>MANUFACTURER: -</p> <p>COLOR: -</p> <p>CONTACT: -</p> <p>NOTES: Surface mount</p>	<p>6' Bench</p> <p>mm</p>  <p>DESCRIPTION: City Sites Series CR-18, specify 4' of 6' length, Steel scrolls in black</p> <p>MANUFACTURER: Victor Stanley</p> <p>COLOR: Black</p> <p>CONTACT: MJB Associates 530. 272-8005</p> <p>NOTES: Surface mount, cast iron frame with steel scrolls slats and optional intermediate arm rest. For use in the Park Avenue District only</p>	<p>Inverted "U" Bike Rack</p> <p>II</p>  <p>DESCRIPTION: Inverted "U" Bike Rack</p> <p>MANUFACTURER: -</p> <p>COLOR: Stainless Steel</p> <p>CONTACT: -</p> <p>NOTES: -</p>
<p>Trash Receptacles</p> <p>⊙</p>  <p>DESCRIPTION: Urban Renaissance Receptacles SLURB-36-RBU; 36 gallon, side opening receptacle with integrated recycle bin;</p> <p>MANUFACTURER: Forms + Surfaces</p> <p>COLOR: Updrop grillwork in black / textured finish</p> <p>CONTACT: 805.684.8626</p> <p>NOTES: There should be at least one container installed in the public right-of-way for each City project. City logo will be included on receptacle.</p>	<p>Integral Color Concrete Bench</p> <p>Quantity</p>  <p>DESCRIPTION: Custom 30" x 30" x 18" Integral Color Concrete Cast in Place (or Precast) Concrete Bench</p> <p>MANUFACTURER: Quick Crete Products Corp.</p> <p>COLOR: Davis Colors to match paving</p> <p>CONTACT: (866) 703-3434</p> <p>NOTES: Contractor to provide mockup.</p>	<p>SoMA Stones by Concrete Works</p> <p>Quantity</p>  <p>DESCRIPTION: SoMA Stone Concrete Seating</p> <p>MANUFACTURER: Concrete Works</p> <p>COLOR: Ash</p> <p>CONTACT: 510.534.7141 Concreteworks.com</p> <p>NOTES: Size Mix; 15% Large, 50% Medium, 35% Small</p>	<p>Drinking Fountain with Bottle Filler</p>  <p>DESCRIPTION: 10145 SMFA Outdoor Drinking Fountain</p> <p>MANUFACTURER: MDF</p> <p>COLOR: Green</p> <p>CONTACT: 800.552.6331</p> <p>NOTES: Install per manufacturers recommendations</p>	<p>Adult Exercise Equipment</p> <p>ⓐ</p>  <p>DESCRIPTION: A. Combo Butterfly & Reverse Fly GR2005-1-48E-W config B B. 2-Person Horizontal Bars GR2005-1-45 C. 8-Person Linear Combo GR2005-1-77 D. Recumbent Bike GR2005-1-49</p> <p>MANUFACTURER: Greenfields Outdoor Fitness, Inc.</p> <p>COLOR: Green</p> <p>CONTACT: Sam Mendelsohn 888.315.9037</p>

<p>Dog Crawl Tunnel</p>  <p>DESCRIPTION: BarkPark™ Doggie Crawl</p> <p>MANUFACTURER: BarkPark™</p> <p>MODEL: PBARK-491-GRN</p> <p>CONTACT: 800.458.5872</p> <p>NOTES: Mount using mount option 2; concrete footings.</p>	<p>Dog Agility Bridge</p>  <p>DESCRIPTION: BarkPark™ King of the Hill</p> <p>MANUFACTURER: BarkPark™</p> <p>MODEL: PBARK-400N</p> <p>CONTACT: 800.458.5872</p> <p>NOTES: Mount using mount option 2; concrete footings.</p>	<p>Dog Park Hoop</p>  <p>DESCRIPTION: BarkPark™ Hoop Jump</p> <p>MANUFACTURER: BarkPark™</p> <p>MODEL: TBARK-430N</p> <p>CONTACT: 800.458.5872</p> <p>NOTES: Mount using mount option 2; concrete footings.</p>	<p>Dog Park Dog Walk</p>  <p>DESCRIPTION: BarkPark™ Dog Walk</p> <p>MANUFACTURER: BarkPark™</p> <p>MODEL: PBARK-410N</p> <p>CONTACT: 800.458.5872</p> <p>NOTES: Mount using mount option 2; concrete footings.</p>	<p>Dog Park Water Fountain</p>  <p>DESCRIPTION: 440 SMFA & SMSSFA W/ PET FOUNTAIN</p> <p>MANUFACTURER: MDF</p> <p>COLOR: Green</p> <p>CONTACT: 800.552.6331</p> <p>NOTES: Install per manufacturers recommendations</p>
<p>'Paint Can' Structure</p>  <p>DESCRIPTION: Paint Can Structure Age: 1 - 12 (Inclusive Play)</p> <p>MANUFACTURER: Earthscape</p> <p>COLOR: NA</p> <p>CONTACT: Preston Stringer 519.669.2972 ext 805</p> <p>NOTES: Install per manufacturers recommendations</p>	<p>Playground Climbing Net</p>  <p>DESCRIPTION: Climbing Net Structure Age: 5 - 12</p> <p>MANUFACTURER: TBD</p> <p>COLOR: TBD</p> <p>CONTACT: TBD</p> <p>NOTES:</p>	<p>Playground Swingset</p>  <p>DESCRIPTION: Swing set Age: 1 - 12</p> <p>MANUFACTURER: TBD</p> <p>COLOR: TBD</p> <p>CONTACT: TBD</p> <p>NOTES: One bucket seat</p>	<p>Playground Structure</p>  <p>DESCRIPTION: Crumpled Paper Structures Age: 1 - 12 (Inclusive Play)</p> <p>MANUFACTURER: Earthscape</p> <p>COLOR: NA</p> <p>CONTACT: Preston Stringer 519.669.2972 ext 805</p> <p>NOTES: Install per manufacturers recommendations</p>	<p>Playground Slide</p>  <p>DESCRIPTION: Embedded Slide Age: 3 - 12</p> <p>MANUFACTURER: TBD</p> <p>COLOR: TBD</p> <p>CONTACT: TBD</p> <p>NOTES: Install per manufacturers recommendations</p>

<p>Portland Loo 102</p>  <p>DESCRIPTION: 'Portland Loo' Public Restroom</p> <p>MANUFACTURER: Madden Fabrication</p> <p>COLOR: 304L-grade stainless steel</p> <p>CONTACT: 503.823.6973</p> <p>NOTES:</p> <ul style="list-style-type: none"> Buyer responsible for installation, permits, and any related fees Buyer responsible for shipping arrangements and costs 	<p>Bay Area Bike Share 103</p>  <p>DESCRIPTION: Bay Area Bike Station</p> <p>MANUFACTURER: Motivate</p> <p>COLOR: NA</p> <p>CONTACT: 1.855.480.BIKE(2453)</p> <p>NOTES: Install per manufacturers recommendations</p>	<p>Basketball Hoop 104</p>  <p>DESCRIPTION: Super-Six RPGR (Item # 69200) 42" x 60" Acrylic Backboard & Pressure Flex Goal Basketball Hoop</p> <p>MANUFACTURER: Douglas</p> <p>COLOR: Black</p> <p>CONTACT: Douglas Sports 800.553.8907</p> <p>NOTES: Standard in-ground installation (direct bury)</p>	<p>Historical /Interpretive Information Plaque (Pedestal Mounted) 105</p>  <p>DESCRIPTION: Quantity: 6 Material: Metal</p> <p>MANUFACTURER: TBD</p> <p>COLOR: Metal</p> <p>CONTACT: TBD</p> <p>NOTES: TBD</p>	<p>Bike Fixit Station 106</p>  <p>DESCRIPTION: Bike Fixit Station - Air Kit 2, or Approved Equal</p> <p>MANUFACTURER: Dero Bike Racks</p> <p>COLOR: Black</p> <p>CONTACT: http://www.dero.com/product/fixit/</p> <p>NOTES: Fixit Station to be surface mounted and installed per manufacturer's specifications</p>
<p>Movable Table & Chairs (Art Gallery) 107</p>  <p>DESCRIPTION: Avivo Table 40x40" table top with Avivo Chairs</p> <p>MANUFACTURER: Forms + Surfaces</p> <p>COLOR: Aluminum Powdercoat Finish</p> <p>CONTACT: 805.684.8626</p> <p>NOTES: Optional armrests, Perforated Pattern</p>	<p>Movable Table & Chairs (Retail / Dining) 108</p>  <p>DESCRIPTION: Catena Table 42" diameter table top with Verona Chairs</p> <p>MANUFACTURER: Landscape Forms</p> <p>COLOR: 'Stormcloud' Powdercoat Finish for Chairs & Table</p> <p>CONTACT: Rebecca Casey 800.430.6206 x 1313</p> <p>NOTES: Chairs: Optional armrests, Metal Grid Pattern, Table: Catena freestanding</p>	<p>Wood Farm Table 109</p>  <p>DESCRIPTION: Reclaimed Wood Farm Table</p> <p>MANUFACTURER: Blacks Farmwood</p> <p>COLOR: -</p> <p>CONTACT: 415.454.8312 blacksfarmwood.com</p> <p>NOTES:</p>	<p>Circle 'Flat Rainbow' Tree Grate 110</p>  <p>DESCRIPTION: Round 5' Diameter Tree Grate - 'Flat Rainbow' style</p> <p>MANUFACTURER: Urban Accessories</p> <p>COLOR: Cast iron</p> <p>CONTACT: Recreation Republic 760.690.4030</p> <p>NOTES: Install per manufacturers recommendations</p>	<p>Square 'Flat Rainbow' Tree Grate 111</p>  <p>DESCRIPTION: Rectangular 4' x 6' Tree Grate - 'Flat Rainbow' style</p> <p>MANUFACTURER: Urban Accessories</p> <p>COLOR: Cast Iron</p> <p>CONTACT: Recreation Republic 760.690.4030</p> <p>NOTES: Install per manufacturers recommendations</p>

LEGEND

- + Emeryville Greenway Lighting
- ◆ Emeryville Standard Street Light



imv

LP/S
Architecture + Design

LMC
Horticulture

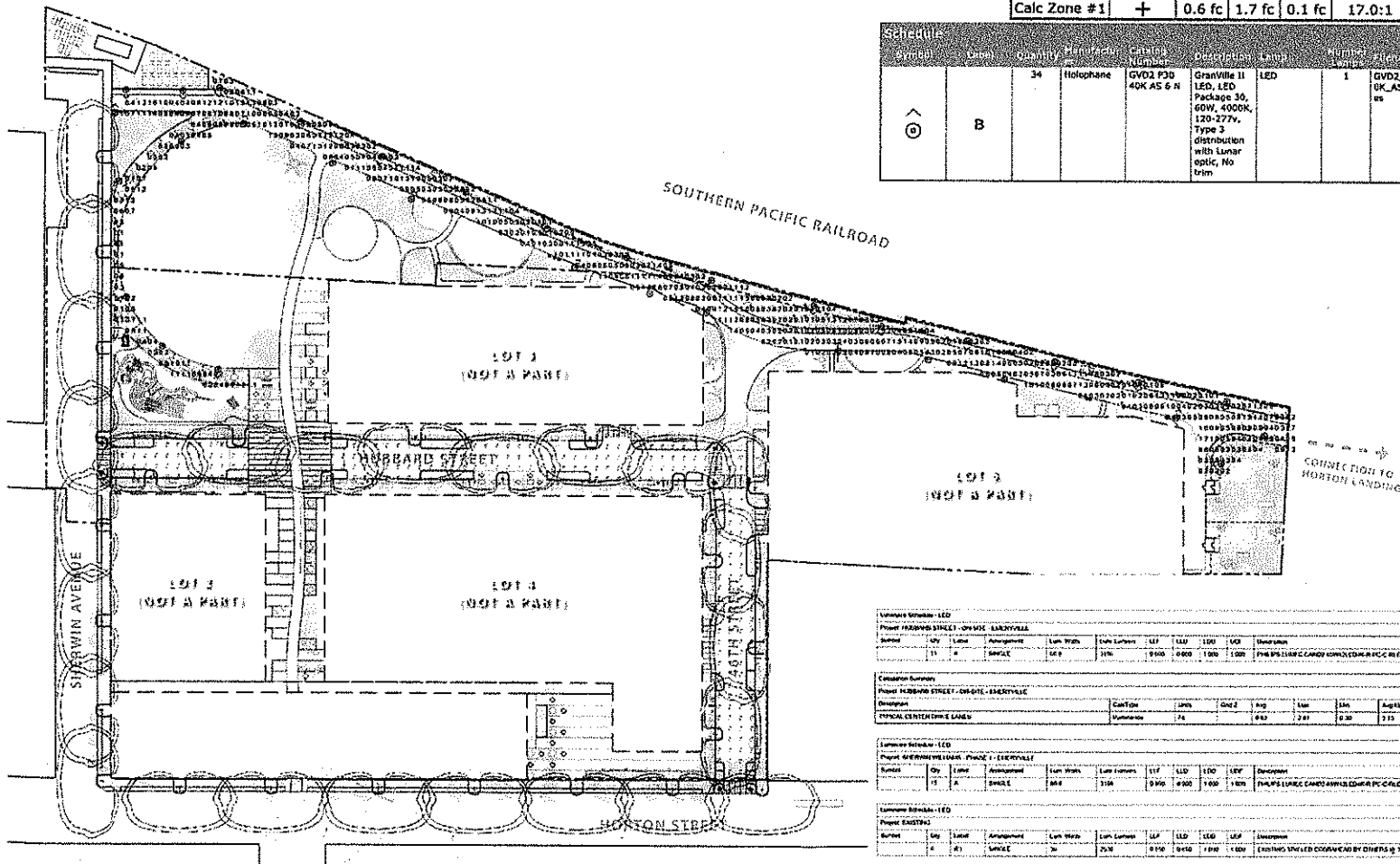
PRELIMINARY LIGHTING CONCEPT
SHERWIN WILLIAMS DEVELOPMENT

SHERWIN WILLIAMS | EMERYVILLE

LP-026

Project No. 1132-0007

DECEMBER 7, 2017



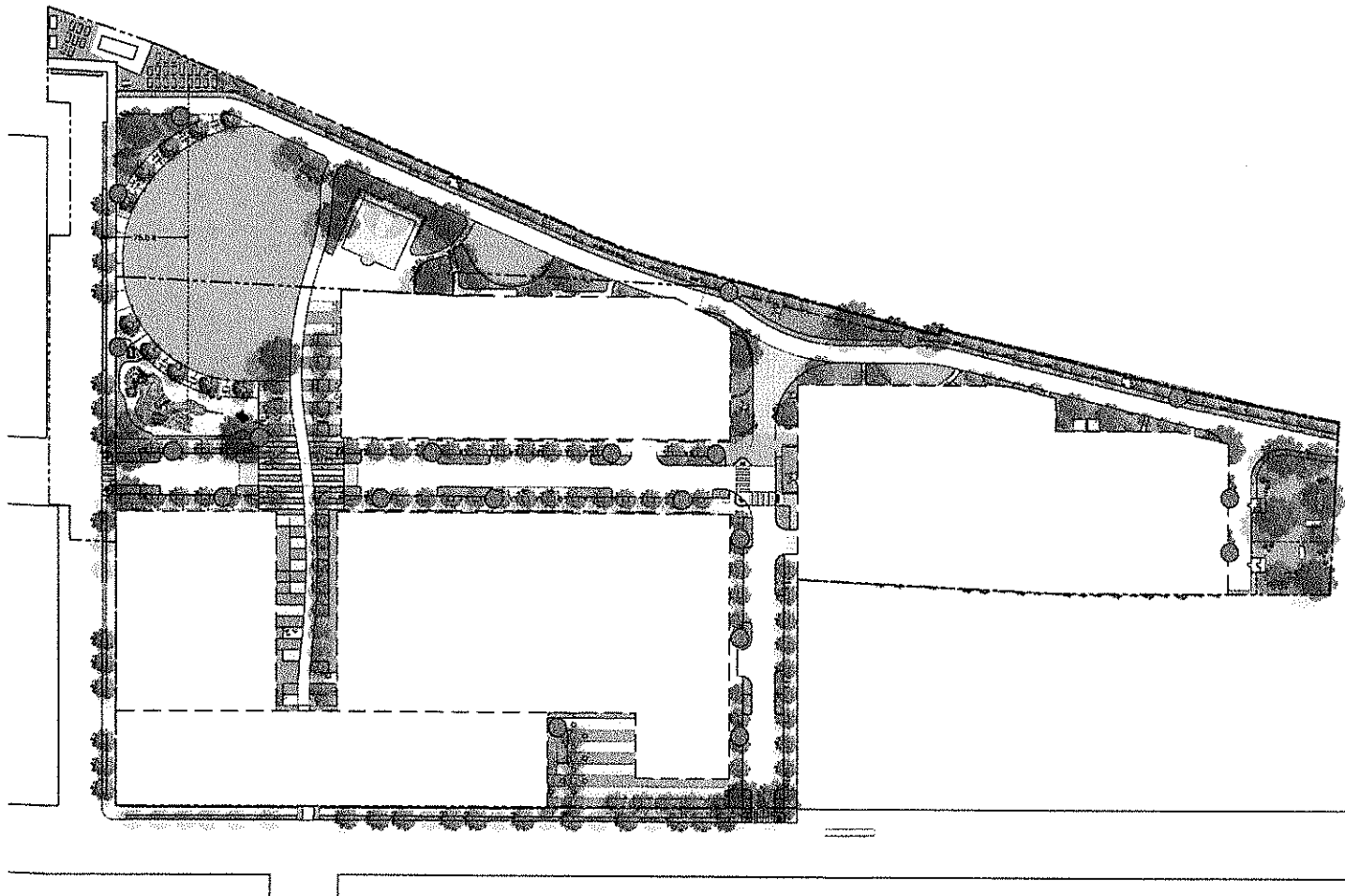
Statistics						
Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Calc Zone #1	+	0.6 fc	1.7 fc	0.1 fc	17.0:1	6.0:1

Symbol	Beam	Quantity	Manufacturer	Category	Description	Light	Height	Mounting	Lighting Per Foot	Lighting Factor	Notes
⊕	B	34	Hilophane	GVD2 P30 40K AS 6 H	Granville II LED, LED Package 30, 60W, 4000K, 120-277V, Type 2 distribution with Lunar optic, No trim	LED	1	GVD2_P30_40K_AS_6_H	3135	0.95	60

Landscape Schedule - LED											
Project: HUBBARD STREET - ON-SITE, EMERYVILLE											
Symbol	Qty	Unit	Manufacturer	Light Width	Light Length	LED	LED	LED	LED	Description	Footcandle
⊕	34	A	HILOPHANE	60"	30"	9000	9000	1000	1000	PHILIPS LUXARC CANOE EMI-LED 60" x 30" 10000K	3135
Landscape Schedule - LED											
Project: HUBBARD STREET - ON-SITE, EMERYVILLE											
Symbol	Qty	Unit	Manufacturer	Light Width	Light Length	LED	LED	LED	LED	Description	Footcandle
⊕	15	A	HILOPHANE	60"	30"	9000	9000	1000	1000	PHILIPS LUXARC CANOE EMI-LED 60" x 30" 10000K	3135
Landscape Schedule - LED											
Project: EASTING											
Symbol	Qty	Unit	Manufacturer	Light Width	Light Length	LED	LED	LED	LED	Description	Footcandle
⊕	15	A	HILOPHANE	60"	30"	9000	9000	1000	1000	PHILIPS LUXARC CANOE EMI-LED 60" x 30" 10000K	3135

LEGEND

● Public Trash Collection Location



LMC

LPAS
Architecture + Design

LMC
Landscape Management Company

PUBLIC TRASH COLLECTION
SHERWIN WILLIAMS DEVELOPMENT

SHERWIN WILLIAMS | EMERYVILLE

LP-027

Project No. 1132-0007

DECEMBER 7, 2017

Bay Friendly Scorecard 2006
 On: Commercial Landscapes Edition Page 1 of 7

Bay-Friendly Scorecard 2008
 Civic/Commercial Landscapes Page 2 of 3

Day Friendly Scorecard	2009 Edition	Page 2 of 3
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EXHIBIT C

**FINAL CONSTRUCTION PLANS TO BE
INSERTED ONCE APPROVED
BY CITY ENGINEER**

EXHIBIT D

BOND FORMS

PARK AND OPEN SPACE IMPROVEMENT AGREEMENT

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Emeryville, California ("City") and _____ ("Principal"), have executed an agreement for work consisting of, but not limited to, the furnishing all design services, labor, materials, tools, equipment, services, and incidentals for certain specified facilities defined as Project Improvements in the Park and Open Space Improvement Agreement ("Project Improvements");

WHEREAS, the Project Improvements to be performed by Principal are more particularly set forth in that certain Park and Open Space Improvement Agreement dated _____, 20__, ("Improvement Agreement");

WHEREAS, the Improvement Agreement is hereby referred to and incorporated herein by reference; and

WHEREAS, Principal is required by the Improvement Agreement to provide a good and sufficient bond for performance of the Improvement Agreement, and to guarantee and warranty the Project Improvements constructed thereunder.

NOW, THEREFORE, Principal and _____ ("Surety"), a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto City in the sum of _____ DOLLARS (\$ _____), said sum being not less than one hundred percent (100%) of the total cost of the Project Improvements as set forth in the Improvement Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such, that if Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, agreements, guarantees, and warranties in the Improvement Agreement and any alteration thereof made as therein provided, to be kept and performed at the time and in the manner therein specified and in all respects according to their intent and meaning, and to indemnify and save harmless City, its officers, employees, and agents, as stipulated in the Improvement Agreement, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Improvement Agreement, or to any plans, profiles, and specifications related thereto, or to the Project Improvements to be constructed

thereunder, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition.

This bond shall continue in effect until the City has accepted the Project Improvements referenced in the Improvement Agreement and the Principal has posted a Warranty Period Security as provided by Paragraph 9(c) and Paragraph 10 of the Improvement Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

(Corporate Seal)

Principal _____

By _____

Title _____

(Corporate Seal)

Surety _____

By _____
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title _____

The rate of premium on this bond is _____ per thousand. The total amount of premium charges is \$_____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Principal.

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

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 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact for Surety. The Power-of Attorney to local representatives of the bonding company must also be attached.

PARK AND OPEN SPACE IMPROVEMENT AGREEMENT

PAYMENT (LABOR AND MATERIALS) BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Emeryville, California ("City") and _____ ("Principal"), have executed an agreement for work consisting of, but not limited to, the furnishing all design services, labor, materials, tools, equipment, services, and incidentals for certain specified facilities defined as Project Improvements in the Park and Open Space Improvement Agreement ("Project Improvements");

WHEREAS, the Project Improvements to be performed by Principal are more particularly set forth in that certain Park and Open Space Improvement Agreement dated _____, 20____, ("Improvement Agreement");

WHEREAS, the Improvement Agreement is hereby referred to and incorporated herein by reference; and

WHEREAS, Principal is required by the Improvement Agreement before entering upon the performance of the work to provide a good and sufficient payment bond to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code.

NOW, THEREFORE, Principal and _____ ("Surety"), a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto City and all contractors, subcontractors, laborers, material suppliers, and other persons employed in the performance of the Improvement Agreement and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code in the sum of _____ DOLLARS (\$_____), said sum being not less than one hundred percent (100%) of the total cost of the Project Improvements as set forth in the Improvement Agreement, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth.

As part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Improvement Agreement, or to any plans, profiles, and specifications related thereto, or to the Project Improvements to be constructed thereunder, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

(Corporate Seal)

Principal

By

Title

(Corporate Seal)

Surety

By

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title

The rate of premium on this bond is _____ per thousand. The total amount of premium charges is \$_____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public _____

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Principal.

Notary Acknowledgment

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COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

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☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact for Surety. The Power-of Attorney to local representatives of the bonding company must also be attached.

PARK AND OPEN SPACE IMPROVEMENT AGREEMENT

WARRANTY BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Emeryville, California ("City") and _____ ("Principal"), have executed an agreement for work consisting of, but not limited to, the furnishing all design services, labor, materials, tools, equipment, services, and incidentals for certain specified facilities defined as Project Improvements in the Park and Open Space Improvement Agreement ("Project Improvements");

WHEREAS, the Project Improvements to be performed by Principal are more particularly set forth in that certain Park and Open Space Improvement Agreement dated _____, 20____, ("Improvement Agreement");

WHEREAS, the Improvement Agreement is hereby referred to and incorporated herein by reference; and

WHEREAS, Principal is required by the Improvement Agreement to provide a good and sufficient bond to warranty the Project Improvements constructed thereunder.

NOW, THEREFORE, Principal and _____ ("Surety"), a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto City in the sum of _____ DOLLARS (\$ _____), said sum being ten percent (10%) of the Performance Bond Amount as set forth in Paragraph 9(c) of the Improvement Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such, that if Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the warranty obligations in the Improvement Agreement and any alteration thereof made as therein provided, to be kept and performed at the time and in the manner therein specified and in all respects according to their intent and meaning, and to indemnify and save harmless City, its officers, employees, and agents, as stipulated in the Improvement Agreement, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Improvement Agreement, or to any plans, profiles, and specifications related thereto, or to the Project Improvements to be constructed

thereunder, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition.

This bond shall continue in effect until all obligations are satisfied under the warranty set forth in the Improvement Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

(Corporate Seal)

Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title _____

The rate of premium on this bond is _____ per thousand. The total amount of premium charges is \$_____.
(The above must be filled in by corporate attorney.)

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(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

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STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

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CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Principal.

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

Title or Type of Document

- ☐ Partner(s) ☐ Limited
 ☐ General

Number of Pages

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Date of Document

Signer is representing:
Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact for Surety. The Power-of Attorney to local representatives of the bonding company must also be attached.