

**CITY OF LOMPOC
PLANNING COMMISSION STAFF REPORT**



DATE: October 12, 2016
TO: Members of the Planning Commission
FROM: Lucille T. Breese, AICP, Planning Manager
RE: Time Extension Request –
River Terrace Development - LOM 533

AGENDA ITEM NO. 1

A request, from Marco Vujicic, president of Coastal River Terrace, LLC., for Planning Commission review and consideration of:

- 1) **LOM 533** – time extension for the Vesting Tentative Subdivision Tract Map to subdivide the existing twenty-six acre site into 146 parcels with a mix of residential and commercial uses; and,
- 2) **Development Agreement** – to establish a Community Facilities District (CFD) to cover the cost of operation and maintenance of the Laurel Avenue frontage and bike lane along the project site. The Planning Commission will make recommendations to the City Council regarding the above noted requests.

The property is approximately 26.22 acres in area and located at the intersection of East Laurel Avenue and Twelfth Street (Assessor Parcel Number: 099-141-021).

An Environmental Impact Report was prepared by Impact Sciences, Inc. pursuant to the provisions of the California Environmental Quality Act (CEQA); distributed to the State Clearinghouse (SCH No. 2004061107); and was certified by the City Council on August 16, 2005. An addendum has been prepared for the Development Agreement pursuant to CEQA.

Scope of Review:

The Planning Commission is being asked to consider:

- If the Conditions of Approval are appropriate for the time extension; and
- If the required Findings of Fact can be made.

Planning Commission Action:

- 1) Adopt Resolution No. 839 (16) granting a time extension for Vesting Tentative Subdivision Map (LOM 533), for the River Terrace Project based upon the Findings of Fact in the Resolution and subject to the attached draft Conditions of Approval and adopting the EIR Addendum prepared pursuant to CEQA guidelines Sections 15162 and 15164;
- 2) Adopt Resolution No. 842(16) recommending City Council approval of the Development Agreement requiring a Community Facility District be formed prior to recordation of the final Subdivision Map to provide funding for operation and maintenance of project-necessitated public improvements; or
- 3) Provide alternative direction.

Background:

On August 16, 2005, the City Council adopted Resolution 5282 (05) approving LOM 533, a request by Coastal Vision Inc., to subdivide a 26.22 acre parcel of land into 146 parcels. Additionally, the Preliminary/Precise Development Plan (DR 04-03) was approved for the project for 308 residential units.

The project consists of 308 residential units, 17,666 square feet of commercial floor area, a community recreation center, a private park, and several recreational facilities. There are two commercial buildings proposed at the southern portion of the site. The project, which is styled with a Mediterranean Tuscan Village theme, consists of three distinct housing types. The project consists of sixty two (62) single family homes with two car garages and zero lot line, sixty five (65) town homes with a mix of covered and uncovered parking, and one hundred and eighty one (181) condominium units with a mix of covered and uncovered parking.

Discussion:

During the June 21, 2016 joint City Council and Planning Commission meeting, the following points were discussed.

- Vesting Tentative Subdivision Map

When an applicant proposes a Vesting Tentative Map (VTM), the City may apply only the local ordinances, policies, and standards in effect at the time the VTM is deemed complete for processing. The City of Lompoc currently has no standards or additional requirements for a developer to process a VTM, although this will be a matter for discussion during the current Zoning Ordinance Update. It was also pointed out that the City currently has ten older maps that are ready to expire in 2016/17. These maps received seven years of automatic time extensions during the economic downturn between 2008 and 2013.

- Development Agreement

The discussion of how the City may wish to proceed to add additional requirements for a VTM could be held during the Zoning Ordinance Update process. A Development Agreement (DA) is a negotiated agreement between the Council and a developer. A DA is one option for the City to negotiate with a developer and gain additional negotiated benefit to the City later in the development process, especially when a number of years have passed between the project approval and the request for time extension. Since the approval of an older map:

- There may have been new development surrounding the site which could affect traffic congestion and noise analysis;
- There may have been changes to the environmental setting, including additional regulatory requirements that were not considered in the original approval;
- There may have been other changes which may affect off-site lighting and infrastructure;
- There may have been additional development which would have increased the public service demands on schools, parks, emergency services in a cumulative manner;
- There may have been significant increase in the cost of City services and/or an increase in Impact Fees following the original approval.

At the June 21, 2016 meeting direction was provided to staff to negotiate with developers and include additional conditions and/or fees with future time extension requests. On July 15, 2016, correspondence was received from Coastal River Terrace, LLC. requesting a time extension for LOM 533 (Attachment No. 3).

Time Extension Request

The Subdivision Map Act allows the approval of a tentative map to be extended by the City for up to 6 years after its initial term, in addition to several one-time extensions by the State legislature over the past decade as shown below. Section 66452.6 of the *Subdivision Map Act* states:

- (a) *An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.*
- (e) *Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Prior to the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to*

extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider’s application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

	Effective	Duration	Expiration Date
Vesting Date	May 6, 2004		
City Approval Date	Aug 16, 2005	24 months /	Aug 16, 2007
PC time extension	Aug 13, 2007	12 months /	Aug 16, 2008
PC time extension (included SB 1185 – Auto 1 yr extension)	Oct 8, 2008	24 months	Aug 16, 2010
AB 333 auto ext	Jan 28, 2010	24 months	Aug 16, 2012
AB 208 auto ext	Sept 26, 2011	24 months	Aug 16, 2014
AB 116 auto ext	Oct 21, 2013	24 months	Aug 16, 2016
Current Request	July 15, 2016	120 months	Aug 16, 2026
Total		21 years	

The basis for the legislative extensions was that the state was in an economic crisis and allowing automatic map extensions would be beneficial for the economic recovery because developers would be able to build and not have to re-start the entitlement process at the beginning, thus saving time and money which could be passed on to the consumer.

LOM 533 has had seven years of automatic legislative extensions, two years of City-approved extensions, and its two-year initial term, for a total of eleven years. Allowing ten more years with this request will provide a twenty-one year life for this map. There are numerous changes to State and City requirements that would be considered if the LOM were presented as a new project. The Conditions of Approval for the original project in 2005 need to be reviewed and re-evaluated and further extension would result in the Conditions of Approval for the project being more obsolete.

Development Agreement

The City is proposing a Development Agreement be signed whereby the applicant agrees to establish a Community Facilities District (CFD) prior to recordation of the final subdivision map. The CFD will cause each of the new property owners to be responsible for the cost of operation and maintenance of required public improvements for the property instead of the City general fund bearing the cost. This financing method will provide a resource stream for maintenance of the Laurel Avenue frontage and bike lane along this project site. Council approval is required. The applicant will receive a ten year

time extension and will not have to request additional time. This will allow a total of 21 years with final expiration of the map and all land use entitlements on August 16, 2026, if the final map is not recorded by that date.

Environmental Determination.

On August 16, 2005 the City Council adopted Resolution No. 5278(05) certifying FEIR 04-01 for the River Terrace Residential Development. The Council made the required California Environmental Quality Act (CEQA) Findings of Fact. The document was prepared pursuant to the provisions of CEQA.

An Addendum to the EIR has been prepared for the time extension and Development Agreement and is included as attachment no. 4. The Addendum finds neither the time extension nor the Development Agreement are substantial changes that would result in new significant environmental effects or substantial increase in severity of significant environmental effects. The proposed Planning Commission resolution for approval of the time extension contains a section adopting the EIR Addendum.

Noticing:

- Sept 30, 2016 - Notices were mailed to property owners within 300 feet by US mail; posted on the City website; the project site was posted by City staff; and
- Oct 2, 2016 - Notice of the Public Hearing was published in the Lompoc Record;

Attachments:

- 1) [Resolution No. 839\(16\) and Conditions of Approval for time extension and adoption of EIR Addendum](#)
- 2) [Resolution No. 842\(16\) recommending Development Agreement](#)
- 3) [Request for Time Extension dated July 15, 2016](#)
- 4) [EIR Addendum](#)

Staff Report has been reviewed and approved for submission to the Planning Commission			
Teresa Gallavan Economic Development Director/Assistant City Manager		Date	Lucille T. Breese, AICP Planning Manager
			Date

RESOLUTION NO. 839 (16)

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOMPOC
APPROVING A TIME EXTENSION FOR LOM 533 – RIVER TERRACE**

WHEREAS, a request submitted by Marco Vujcic of Coastal River Terrace, LLC., the applicant, for consideration of a time extension for Vesting Tentative Subdivision Map (LOM 533) to subdivide an existing 26.22 acre parcel of land into 146 parcels. The project is known as River Terrace and is located in the *Medium Density Residential, Planned Development (R-2, PD)* and *Planned Commercial Development (PCD)* Zoning Districts at the intersection of East Laurel Avenue and Twelfth Street (Assessor Parcel Number 99-141-21); and

WHEREAS, the request was considered by the Planning Commission at a duly-noticed public meeting on October 12, 2016; and

WHEREAS, at the meeting of October 12, 2016, _____ was present to answer Planning Commissioners' questions and address their concerns; and

WHEREAS, at the meeting of October 12, 2016, _____ spoke in favor of, and _____ spoke in opposition to, the requested time extension; and

WHEREAS, on August 16, 2005, the City Council adopted resolution 5278(05) certifying the Final Environmental Impact Report (EIR 04-01, SCH NO. 2004061107) for the River Terrace project and Findings of Fact as required by the California Environmental Quality Act (CEQA).

NOW, THEREFORE, THE LOMPOC PLANNING COMMISSION RESOLVES AS FOLLOWS:

SECTION 1: The Planning Commission has reviewed and hereby accepts the findings and determinations in the EIR Addendum, attached as Attachment 4 to the staff report for this agenda item, and hereby adopts that EIR Addendum.

SECTION 2: The time extension request for LOM 533 was made in a timely manner and the approved project still meets applicable City standards, based upon the Development Agreement required to compensate the City for operation and maintenance of public improvements required for the project, therefore, the Planning Commission finds that granting the extension of time meets the provisions of the City Subdivision Ordinance and the legislative intent of the State and is consistent with the City's General Plan.

SECTION 3: Subject to the attached conditions of approval, LOM 533 is extended ten years and will expire on August 16, 2026.

The foregoing resolution, on motion by Commissioner _____, seconded by Commissioner _____, was adopted at the regular Planning Commission meeting of October 12, 2016 by the following vote:

AYES:

NOES:

Lucille T. Breese, AICP, Secretary

Ron Fink, Chair

**CONDITIONS OF APPROVAL
LOM 533 – VESTING TENTATIVE SUBDIVISION MAP TIME EXTENSION
RIVER TERRACE – APN: 91-141-21**

The following Conditions of Approval apply to the time extension requested by Marco Vujicic president of Coastal River Terrace, LLC., for LOM 533 (“Project”), reviewed by the Planning Commission on October 12, 2016.

I. PLANNING

Planning - General Conditions

- P1. All applicable provisions of the Lompoc City Code are made a part of these conditions of approval in their entirety, as if fully contained herein.
- P2. In conformity with Sections 17.140.010, 17.152.010, and 17.152.020 of the Lompoc City Zoning Ordinance, the violation of any condition listed herein shall constitute a nuisance and a violation of the Lompoc City Zoning Ordinance and the Lompoc City Code. In conformity with Section 1.24.010 of the Lompoc City Code, a violation of the Lompoc City Code and the Lompoc City Zoning Ordinance is a misdemeanor and shall be punishable as provided by law. In addition to criminal penalties, the City may seek injunctive relief. The applicant agrees to pay for all attorney’s fees and costs, including, but not limited to, staff time incurred by the City in obtaining injunctive relief against the applicant as a result of a failure of the applicant to fully perform and adhere to all of the Conditions of Approval.
- P3. Owner agrees to and shall indemnify, defend, protect, and hold harmless City, its officers, employees, agents and representatives, from and against any and all claims, losses, proceedings, damages, causes of action, liabilities, costs and expenses, including reasonable attorney’s fees, arising from or in connection with, or caused by (i) any act, omission or negligence of Owner, or their respective contractors, licensees, invitees, agents, sublessees, servants or employees, wherever on or adjacent to the Property the same may occur; (ii) any use of the Property, or any accident, injury, death or damage to any person or property occurring in, or on or about the Property, or any part thereof, or from the conduct of Owner’s business or from any activity, work or thing done, permitted or suffered by Owner or its sublessees, contractors, employees, or invitees, in or about the Property, other than to the extent arising as a result of City’s sole active negligence or to the extent of any willful misconduct of the City; and (iii) any default in the performance of any obligations of Owner’s part to be performed under the terms of this Agreement, or arising from any negligence of Owner, or any such claim or any action or proceeding brought thereon; and in case any action or proceedings be brought against the City, its officers, employees, agents and representatives, by reason of any such claim, Owner, upon notice from City, shall defend the same at its expense by counsel reasonably satisfactory to City.

Owner further agrees to and shall indemnify, defend, protect, and hold harmless the City, its officers, employees, agents and representatives, from and against any and all actions brought by any third party to challenge the Project or its approval by the City, including environmental determinations. Such indemnification shall include any costs and expenses incurred by Agency and City in such action(s), including reasonable attorney’s fees.

- P4. The conditions hereby imposed are in addition to the conditions imposed by CC Resolution No. 5282(05) and PC Resolution No. 626(08). In the case of any conflicts, the conditions listed herein shall prevail.
- P5. The Vesting Tentative Subdivision Map expires on August 14, 2026, as a result of the approval of this time extension. The time extension is contingent upon City Council adoption of the Development Agreement required by condition P7.
- P6. The applicant shall notify the City of Lompoc Planning Division of a change of ownership for the property or a change of project representative within 30 days of such a change at any time during the City process prior to final Certificate of Occupancy.
- P7. The applicant shall enter into a Development Agreement in a form acceptable to the City to compensate the City for the Project's share of the cost of operation and maintenance of the Laurel Avenue Project frontage and the Class 1 bike path and fencing. The Project's share of such operation and maintenance costs will be calculated as a percentage of project generated PM peak hour traffic trips generated vs. total PM peak hour traffic trips for the street frontage. The Class 1 bike path through the Project will be assessed entirely to the Project.
- P8. A Community Facilities District (CFD) shall be established prior to recordation of the final Subdivision Map to fulfill the requirements of the approved Development Agreement.

I, Marco Vujcic of Coastal River Terrace, LLC., the applicant, do hereby declare under penalty of perjury that I accept all conditions imposed by the Planning Commission in their approval of the time extension for Vesting Tentative Subdivision Map LOM 533. As applicant, I agree to comply with these conditions and all other applicable laws and regulations at all times.

Name

Date

RESOLUTION NO. 842 (16)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOMPOC RECOMMENDING THAT THE CITY COUNCIL APPROVE AND EXECUTE A DEVELOPMENT AGREEMENT BY AND BETWEEN COASTAL RIVER TERRACE, LLC. AND THE CITY OF LOMPOC

WHEREAS, a request was received from Marco Vujicic of Coastal River Terrace, LLC., the applicant, for Planning Commission consideration of a Development Agreement for River Terrace, a 146 parcel subdivision. The site is approximately 26.22 acres adjacent to the Santa Ynez River, immediately north of the intersection of East Laurel Avenue and Twelfth Street (Assessor Parcel Number: 099-141-021); and

WHEREAS, the Development Agreement was considered by the Planning Commission at a duly-noticed public meeting on October 12, 2016; and

WHEREAS, at the meeting of October 12, 2016, _____ was present and answered Planning Commissioners' questions and addressed their concerns; and

WHEREAS, at the meeting of October 12, 2016, _____ spoke in favor and _____ spoke in opposition of the project; and

WHEREAS, on August 16, 2005 the City Council adopted Resolution 5278(05) certifying the Final Environmental Impact Report (EIR 04-01, SCH No. 2004061107) for the River Terrace project and Findings of Fact as required by the California Environmental Quality Act (CEQA); and

WHEREAS, on October 12, 2016, the Planning Commission adopted the EIR Addendum attached as Attachment 4 to the staff report for this agenda item.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LOMPOC RESOLVES AS FOLLOWS:

SECTION 1: After hearing testimony, considering the evidence presented, and due deliberation of the matters presented, the Planning Commission finds that the Development Agreement:

- A. Is consistent with the objectives, policies, land uses, and programs specified in the City's General Plan;
- B. Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area, nor detrimental or injurious to property or persons in the general neighborhood, nor to the general welfare of the residents of the City as a whole;

- C. Will not adversely affect the orderly development of property or the preservation of property values;
- D. Will provide to City an annual City Operation and Maintenance Fee payment;
- E. Will provide additional benefits to the City; to wit:
 - i. Development of the property with high quality residential units that will assist in supporting a stable employment and retail customer base for the City;
 - ii. Supplementary funds for the maintenance and operation of needed public facilities for the Property;
 - iii. Construction of transportation improvements that are located within State of California jurisdiction and thus outside the City's permit jurisdiction;
 - iv. Creation of employment opportunities in the construction trades over the period of project development.
 - v. Consistency with Government Code Sections 65864 through 65869.5.

SECTION 2: Based upon the foregoing, it is recommended that the City Council approve the draft Ordinance attached hereto as Exhibit A and execute the Development Agreement.

The foregoing resolution, on motion by Commissioner _____, seconded by Commissioner _____ was adopted at the regular Planning Commission meeting of October 12, 2016, by the following vote:

AYES:

NOES:

Lucille T. Breese, AICP, Secretary

Ron Fink, Chair

Attachment: [Exhibit A – Draft Ordinance](#)

ORDINANCE NO. XXXX(16)

**An Uncodified Ordinance Of The City Of Lompoc
County of Santa Barbara, State of California,
Approving a Development Agreement
By and Between Coastal River Terrace, LLC.
And The City of Lompoc**

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

SECTION 1. FINDINGS. The City Council of the City of Lompoc (City) hereby finds the Development Agreement by and between Coastal River Terrace, LLC., and the City of Lompoc, attached hereto as Exhibit "A" (Development Agreement), pertaining to River Terrace (Project), approximately 26.22-acre site is located at the intersection of East Laurel Avenue and Twelfth Street (Assessor Parcel Number: 099-141-021) (Property):

A. Is consistent with the objectives, policies, land uses, and programs specified in the City's General Plan;

B. Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area of the Project, nor detrimental or injurious to property or persons in the general neighborhood thereof, nor to the general welfare of the residents of the City as a whole;

C. Will not adversely affect the orderly development of property or the preservation of property values;

D. Will provide to the City an annual City Operation and Maintenance Fee payment;

E. Will provide additional benefits to the City, to wit:

i. Development of the Property with high quality residential units that will assist in supporting a stable employment and retail customer base for the City;

ii. Supplementary funds for the maintenance and operation of needed public facilities for the Property and for the City as a whole;

iii. Creation of employment opportunities in the construction trades over the extended period of project development; and

iv. Consistency with Government Code sections 65864 through 65869.5.

SECTION 2. Pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, on August 16, 2005, the City Council adopted Resolution No. 5278(05) certifying the Final Environmental Impact Report for the Project (FEIR 04-01, SCH No.

2004061107) and adopted Findings of Fact for the Project. The City Council now adopts the findings and determinations in the EIR Addendum for the River Terrace Project, attached as Attachment 4 to the staff report for this agenda item, and hereby adopts that EIR Addendum.

SECTION 3. The City Council hereby approves the Development Agreement and directs the City Manager to execute the Development Agreement on behalf of the City within ten days after the effective date of this Ordinance.

SECTION 4. The City Clerk shall cause the Development Agreement to be recorded with the Santa Barbara County Recorder.

SECTION 5. This ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this ordinance and shall cause this ordinance to be posted in the manner required by law.

This Ordinance was introduced on _____, 2016, and duly adopted by the City Council of the City of Lompoc at its duly noticed regular meeting on _____, 2016, by the following electronic vote:

PASSED AND ADOPTED this ___th day of ___ 2016, by the following electronic vote:

AYES: Council Member(s):
NOES: Council Member(s):
ABSENT: Council Member(s):

Bob Lingl, Mayor
City of Lompoc

Attest:

Stacey Haddon, City Clerk
City of Lompoc

Exhibit A – [Development Agreement](#)

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Lompoc
Attn: City Clerk
100 Civic Center Plaza
Lompoc, California 93436

(SPACE ABOVE FOR RECORDER'S USE ONLY)
Exempt from filing/recording fees per Govt. Code §27383

DEVELOPMENT AGREEMENT
COASTAL RIVER TERRACE, LLC.

&

CITY OF LOMPOC

October, 2016

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EXHIBITS

Exhibit “A” – Legal Description of CRT Property

Exhibit “B” – CRT Project Description

Exhibit “C” – Tentative Map No. LOM 533 & Conditions of Approval

Exhibit “D” – Assignment and Assumption Agreement

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“**Agreement**”) is made and entered into this ___ day of October, 2016 by and between the CITY OF LOMPOC, a municipal corporation organized and existing under the laws of the State of California (the “**City**”), and Coastal River Terrace, LLC, a California limited liability company (“**CRT**”), pursuant to the authority of Sections 65864 through 65869.5 of the California Government Code. The City and CRT may be referred to herein individually as a “**Party**” and collectively as the “**Parties.**”

RECITALS

- A. CRT is the owner of certain real property located in the City and more particularly described in Exhibit “A” attached hereto (the “**CRT Property**”).
- B. CRT has received approval from the City to develop the CRT Property as a medium density residential project to be known as the Coastal River Terrace Project (the “**CRT Project**”). The CRT Project consists of sixty two (62) single family units, sixty five (65) town home units, one hundred and eighty one (181) condominium units, a community park, community recreational facilities, and two (2) commercial buildings. A description of the CRT Project is attached hereto as Exhibit “B”.
- C. The City and CRT mutually recognize this represents a unique opportunity to work cooperatively in formulating and carrying out a development plan that will have a beneficial impact on the area in which the CRT Property is located, as well as on the City as a whole. To that end, the Parties have cooperated in designing a development plan which advances their mutual goals.
- D. The City Council certified the Environmental Impact Report for the CRT Project in Resolution No. 5278(05) on August 16, 2005. The City Council adopted with Resolution No. 5279(05) the CEQA Findings of Fact and a Statement of Overriding Considerations for the significant and unavoidable impacts identified in the Final Environmental Impact Report. In addition, on October 12, 2016, the Lompoc Planning Commission adopted Resolution 839(16), approving an addendum to the EIR pursuant to CEQA Guidelines section 15164 (together with the Environmental Impact Report, the “**EIR**”). The City Council and Planning Commission found the EIR was legally adequate, and it satisfied the requirements of the California Environmental Quality Act (“**CEQA**,” California Public Resources Code Section 21000 *et seq.*), the CEQA Guidelines (California Code of Regulations Section 15000 *et seq.*) and applicable ordinances and regulations of the City.
- E. On August 16, 2005, the City Council approved land use entitlements for the CRT Project (collectively, the “**2005 Approvals**”), consisting of the following: (i) Resolution No. 5280(05), approving General Plan Amendment GP 04-01 (the “**GPA**”), (ii) Ordinance No. 1513(05), approving Zone Change No. 04-01 to zone

- F. On October 12, 2016, the Planning Commission adopted Resolution No. 829(16), approving an extension of the Map expiration date to August 16, 2026, subject to conditions of approval (“Extension Resolution”). The foregoing resolutions, ordinances and approvals, and all plans and other documents approved therein, including the 2005 Approvals, the Extension Resolution, and the EIR, collectively are referred to herein as the “**Project Approvals**.” The Project Approvals shall include any other future discretionary and ministerial land use and development approvals by the City relating to the Project, including, but not limited to, Development Review Board Approval and Subdivision/Development Review Committee Approval.
- G. This Agreement will enable the City to realize significant benefits in the form of additional residential opportunities for the local community and receive annual payments for maintenance obligations of the City which were not required by the 2005 Approvals, and thereby will contribute toward generation of benefits and enhancement of the quality of life for both current and future residents of the City. Consequently, entering into this Agreement is acknowledged to be to the mutual benefit of the Parties.
- H. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Sections 65864 *et seq.* of the California Government Code, which authorize the City to enter into a development agreement with any person or entity having a legal or equitable interest in real property, providing for the development of such property and establishing certain reciprocal rights and obligations related to such development.
- I. CRT has legal and equitable interests in the real property situated in the City which is the subject of this Agreement, and, therefore, satisfies the statutory requirements to enter into this Agreement. The legal owner of the CRT Property, by his signature below, consents to this Agreement.
- J. On October X, 2016, the City Council made all required findings and determinations relating to this Agreement and approved this Agreement by its adoption of Ordinance No. XXXX(16). In doing so, the City Council determined this Agreement complies with and is consistent with all applicable plans, ordinances and regulations of the City.
- K. The City Council finds execution of this Agreement and the performance of and compliance with the terms and conditions set forth herein by the Parties: (i) is in the best interests of the City, (ii) will promote the public convenience, general welfare and good land use practices in the City, (iii) will promote preservation and

enhancement of land values in the City, (iv) will encourage the development of the Project by providing a reasonable level of certainty to CRT and (v) will provide for orderly growth and development in a manner consistent with the General Plan and other plans and regulations of the City.

NOW, THEREFORE, in consideration of the above Recitals, all of which are expressly incorporated into this Agreement, and the mutual promises and obligations of the Parties set forth herein, the Parties agree as follows:

1. Annual Payment to City; Use of CRT Property; CRT Project Development Requirements.

- a. Annual Payment to City. CRT, including its successors in interest and assigns shall make an annual City Operation and Maintenance Fee payment as referenced in Section 1.c.(A) below (“O&M Payment”). The amount of the O&M Payment on the first Payment Due Date (as defined in Subsection 1.b.), assuming the first Payment Due Date is in 2016, shall be twenty thousand seven hundred and eighty one dollars (\$20,781). The O&M Payment shall increase annually after 2016 based on Engineering News Record’s Construction Cost Index (ENRCCI) for the twelve months ending in April, as published in April of the preceding year, up to a maximum of 2%; provided, that any percentage increase of ENRCCI that exceeds the annual 2% limit will be carried over and applied the following year, or any year thereafter, if the ENRCCI index increase for that year is less than 2%. If ENRCCI is at any time no longer available, then a comparable economic indicator, as reasonably determined by City, shall be used to determine the annual adjustment. The O&M Payment is also referred to herein as the “Payment”.
- b. Payment Due Date. The first O&M Payment shall be due upon the issuance of the tax bill issued subsequent to the establishment of the CFD, and shall be due on that same date annually thereafter during the term of this Agreement and any renewal or extension hereof (“Payment Due Date”).
- c. Community Facilities District. In order to maintain the public infrastructure associated with CRT Property, City shall establish, and CRT shall provide all necessary assistance in forming, a Community Facilities District (“CFD”) including the CRT Property to pay for services eligible for funding pursuant to Government Code Section 53313, from Special Taxes, for the City Operation and Maintenance Fee as described in Section 1.a. above.

CRT shall agree to pay the costs to the City for forming the CFD by entering into a deposit and reimbursement agreement to pay those costs. The CFD shall be established prior to the recordation of the final subdivision map of the CRT Project to fund, for the term of this Agreement, the following:

- A) The annual O&M Payment, which shall be the CRT Project’s share of the cost of operation and maintenance of the Laurel Avenue Project frontage and the Class 1 bike path and fencing. The CRT

Project's share of such operation and maintenance costs is calculated as a percentage of CRT Project generated PM peak hour traffic trips generated vs. total PM peak hour traffic trips for the street frontage. The Class 1 bike path through the CRT Project is assessed entirely to the CRT Project.

The O&M Payment shall not fund the following categories of costs, which shall be funded and provided solely by the Home Owners Association (HOA): trees, landscaping, irrigation and water meter; provided, that the recorded CC&Rs for the CRT Project shall include a reference to this Agreement and require the HOA to fund those costs and if not paid, after written notice from the City of that failure, allow, but not require, the City to perform that maintenance work and recover those costs from the HOA, plus interest.

d. Covenants, Conditions, & Restrictions. CRT shall record Covenants, Conditions, & Restrictions (the "CC&Rs") for the CRT Project in a form satisfactory to the City. In addition to meeting any requirements specified for the Project in the Project's conditions of approval, the CC&R's shall incorporate the applicable provisions of this Agreement, and shall also provide the City is a third party beneficiary to the CC&Rs.

e. Development Standards. Except as otherwise specifically provided in this Agreement, the CRT Project shall be developed in accordance with the Project Approvals and the Applicable Regulations (as defined below); provided, however, that the City reserves certain authority under its police power to take actions necessary to protect the public health and safety, which actions are generally applicable on a citywide basis and are actually effective upon general categories or areas of properties, do not disproportionately burden the CRT Property or the CRT Project relative to other similarly situated properties or projects, and cannot be legally relinquished or restricted by this Agreement; and this Agreement shall be subject thereto. For reference purposes, Tentative Tract Map No. LOM 533 is attached hereto as Exhibit "C."

f. Rules and Regulations. Pursuant to Government Code Section 65866, and except as otherwise provided in this Agreement, the regulations, rules and official policies of the City governing (i) permitted uses within the CRT Project, (ii) density and intensity of use within the CRT Project, (iii) design, improvement and construction standards and specifications for the CRT Project (including, but not limited to, the maximum heights, locations and sizes of buildings) within the CRT Project, (iv) the provisions for vehicular access and parking within the CRT Project, (v) other zoning standards pertaining to the CRT Project, (vi) the requirements for any reservation or dedication of land for public purposes in connection with the CRT Project, (vii) environmental impact mitigation measures required in connection with the CRT Project, and (viii) all other terms and conditions of development of the CRT Project shall be those regulations, rules and official policies which are in effect on the Effective Date, as modified and/or supplemented by other CRT Project Approvals (collectively, the "Applicable Regulations"). The Applicable Regulations include the State of California Building,

Fire, Electrical, Plumbing and Mechanical Codes, the California Energy Efficiency Standards and all other similar ordinances, codes, rules and regulations mandated by State of California law which establish construction standards that are intended to be applied ministerially to the construction of building improvements on all private property in the City. Other ordinances, regulations and official policies of the City which are adopted thereafter may be applicable to the CRT Project, to the extent that they are not in conflict with the Applicable Regulations.

g. Federal and State Laws. To the extent required by Government Code Section 65869.5, this Agreement shall not preclude the application to the CRT Property of changes in City rules, regulations or official policies, the terms of which are specifically mandated and required (as opposed to permitted) by federal or State of California laws. In the event such federal or State of California laws prevent or preclude compliance with one or more provisions of this Agreement that substantially and negatively effects the Project's ability to remain in existence, CRT may elect (i) to have the remaining provisions of this Agreement remain in full force and effect, and continue to be binding, or (ii) to terminate this Agreement. Where any State of California or federal law allows the City to exercise any discretion or to take any action with respect to that law, the City shall, in an expeditious and timely manner, at the earliest possible time, (i) exercise its discretion in such a way as to be consistent with, and carry out the terms of, this Agreement, and (ii) take such other actions as may be necessary to carry out in good faith the terms of this Agreement.

2. Term of Agreement and Timing of Development.

a. Effective Date; Term. The term of this Agreement shall commence on the effective date of the ordinance approving this Agreement (the "**Effective Date**"), and shall terminate twenty (20) years after the Effective Date. Prior to expiration of any term of this Agreement, the City, in its sole discretion, may by ordinance unilaterally renew this Agreement for an additional term of twenty (20) years. Each renewal ordinance shall require Planning Commission review and City Council approval, after public hearings before each body. If the City does not unilaterally renew this Agreement then the terms of this Agreement shall lapse and this Agreement shall be null and void and City shall remove recordation of this Agreement from the title of the Property(ies).

b. Timing of Development. The Parties acknowledge CRT cannot at this time predict when or at what rate the CRT Property will be developed. Such decisions depend upon numerous factors which are not within the control of CRT, such as market orientation and demand, interest rates and competition. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465, that the failure of the parties therein to provide for the timing of development permitted a later adopted initiative restricting the timing of development and controlling the Parties' agreement, it is the intent of CRT and the City to hereby acknowledge and provide for the right of CRT to develop the CRT Project in such order and at such rate and times as CRT deems appropriate, as well as whether to develop the CRT Project at all, within the exercise of its sole and

subjective business judgment. The City acknowledges such a right is consistent with the intent, purpose and understanding of the Parties to this Agreement.

c. Term of Approvals. The Project Approvals shall remain valid and in effect for ten additional years to August 16, 2026, and the City shall take no action to rescind, revise or otherwise modify the Project Approvals before that date, except at the request of or with the written consent of CRT, or as otherwise permitted by this Agreement.

3. **Cooperation between Parties in Implementation of this Agreement.** Subject to Subsection 2.b, CRT and the City shall proceed in a reasonable and timely manner, in compliance with the deadlines mandated by applicable agreements, statutes or ordinances, to complete all steps necessary for implementation of this Agreement and construction and development of the CRT Project in accordance with the terms of this Agreement. CRT, in a timely manner, shall provide the City with all documents, applications, plans and other information necessary for the City to carry out its obligations hereunder and to cause its planners, engineers and all other consultants to submit in a timely manner all necessary materials and documents.

4. **Obligations of City.**

a. Additional Entitlements. The City shall review and use all reasonable efforts to expeditiously process any subdivision map, parcel map, use permit, variance, design review or other discretionary or ministerial approval which may be submitted in connection with development and construction of the CRT Project.

b. Permits. The City shall review and use all reasonable efforts to expeditiously process construction drawings and plans for the CRT Project, and to issue building permits and certificates of occupancy for the CRT Project.

5. **Interests of Other Property Owners.** CRT has no knowledge of any reason why it, and any other persons holding legal or equitable interests in the CRT Property as of the date on which title to the CRT Property vested of record in the current owner, will not be bound by this Agreement.

6. **No Property Interest; Binding Effect.**

a. Covenant. This Agreement shall bind, and inure to the benefit of, the respective Parties and their successors in interest, including their heirs, representatives, assigns, partners and investors, and all other persons and entities acquiring any rights or interests in the CRT Property, or any portion thereof, whether by operation of law or in any other manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land.

b. No Property Interest. Nothing herein shall be construed as a dedication or transfer of any right or interest in, or as creating a lien with respect to, title to the CRT Property.

7. Transfers and Assignments.

a. Not Severable from Ownership Interest in the CRT Property. This Agreement shall not be severable from CRT's Interest in the CRT Property and, subject to Section 7.c., any transfer of the CRT Property shall automatically operate to transfer the benefits and burdens of this Agreement with respect to the transferred CRT Property or transferred portions, as applicable.

b. Transfer Rights. CRT may freely sell, transfer, exchange, hypothecate, encumber or otherwise dispose of its interest in the CRT Property, without the consent of the City. CRT shall, however, give written notice to the City, in accordance with Section 9, of any transfer of the CRT Property, disclosing in such notice (1) the identity of the transferee of the CRT Property (the "**Property Transferee**") and (2) the address of the Property Transferee as applicable.

c. Release upon Transfer. Upon the sale, transfer, exchange or hypothecation of the rights and interests of CRT to the CRT Property, CRT shall be released from its obligations under this Agreement to the extent of such sale, transfer or exchange with respect to the CRT Property if (1) CRT has provided written notice of such transfer to City; and (2) the Property Transferee executes and delivers to City a written agreement in which the Property Transferee expressly and unconditionally assumes all of the obligations of CRT under this agreement with respect to the CRT Property in the form of Exhibit D attached hereto (the "Assumption Agreement") Upon such transfer of the CRT Property and the express assumption of CRT's obligations under this Agreement by the transferee, the City agrees to look solely to the transferee for compliance with the provisions of this agreement. Any such transferee shall be entitled to the benefits of this Agreement as CRT hereunder and shall be subject to the obligations of this Agreement. Failure to deliver a written Assumption Agreement hereunder shall not affect the transfer of the benefits and burdens as provided in Subsection 7.a, provided that the transferor shall not be released from its obligations hereunder unless and until the executed Assumption Agreement is delivered to the City.

d. CRT's Right to Retain Specified Rights or Obligations. CRT may withhold from a sale, transfer or assignment of this Agreement certain rights, interests and/or obligations which CRT shall retain; provided, that CRT gives written notice of such retained rights, interests and/or obligations to the City Manager, prior to or concurrently with the sale, transfer or assignment of the CRT Property, or portion thereof. CRT's purchaser, transferee or assignee shall then have no interest in or obligations for such retained rights, interests and/or obligations, and this Agreement shall continue to apply to CRT with respect to such retained rights, interests and/or obligations.

8. **Mortgagee's Protections.** The Parties agree this Agreement shall not prevent or limit CRT, in any manner, at its sole discretion, from encumbering the CRT Property, or any portion thereof or any improvements thereon, by any mortgage, deed of trust or other security device. The City acknowledges the lender(s) providing such financing may require certain Agreement interpretations and modifications and agrees, upon request, from time to time, to meet with CRT and representatives of such lender(s) to negotiate in good faith any such request for interpretation or modification. The City will not unreasonably withhold its consent to any such requested interpretation or modification; provided that such interpretation or modification is consistent with the intent and purposes of this Agreement. Any mortgagee of a mortgage or beneficiary of a deed of trust, or any successor or assign thereof, including without limitation the purchaser at a judicial or non-judicial foreclosure sale or a person or entity who obtains title by deed-in-lieu of foreclosure ("**Mortgagee**") on the CRT Property shall be entitled to the following rights and privileges:

a. **Mortgage Not Rendered Invalid.** Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust on the CRT Property made in good faith and for value. No Mortgagee shall have an obligation or duty under this Agreement to perform CRT's obligations, or to guarantee such performance, prior to taking title to all or a portion of the CRT Property.

b. **Request for Notice to Mortgagee.** The Mortgagee of any mortgage or deed of trust encumbering the CRT Property, or any part thereof, who has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive a copy of any Notice of Default delivered to CRT.

c. **Mortgagee's Time to Cure.** The City shall provide a copy of any Notice of Default to the Mortgagee within ten (10) days after sending the Notice of Default to CRT. The Mortgagee shall have the right, but not the obligation, to cure the default for a period of thirty (30) days after receipt of such Notice of Default. Notwithstanding the foregoing, if such default shall be a default which can only be remedied by such Mortgagee obtaining possession of the CRT Property, or any portion thereof, and such Mortgagee seeks to obtain possession, then such Mortgagee shall have until thirty (30) days after the date of obtaining such possession to cure or, if such default cannot reasonably be cured within such period, to commence to cure such default; provided, further, that a Mortgagee shall not be required to cure any non-curable default of CRT, which default shall be deemed cured upon any Mortgagee obtaining possession.

d. **Cure Rights.** Any Mortgagee who takes title to all of the CRT Property, or any part thereof, pursuant to foreclosure of a mortgage or deed of trust, or a deed in lieu of foreclosure, shall succeed to the rights and obligations of CRT under this Agreement as to the CRT Property, or portion thereof so acquired; provided, however, in no event shall such Mortgagee be liable for any

defaults or monetary obligations of CRT arising prior to acquisition of title to the CRT Property by such Mortgagee, except that any such Mortgagee shall not be entitled to a building permit or occupancy certificate until all monetary obligations due under this Agreement for the CRT Property, or portion thereof acquired by such Mortgagee, have been paid to the City.

e. Bankruptcy. If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceedings involving CRT, then the times specified in Subsection 8.c., above, shall be extended for the period of the prohibition, except that any such extension shall not extend the term of this Agreement.

9. Notices.

a. Form of Notice. All notices required or provided for under this Agreement shall be in writing and delivered in person (to include delivery by courier) or sent by certified mail, postage prepaid, return receipt requested, or by overnight delivery service. Notice to the Parties shall be addressed as follows (or, in the case of an assignee, at the address specified by such assignee in a written notice to the City and CRT):

To City:

City of Lompoc
Attn: Planning Manager
100 Civic Center Plaza
Lompoc, CA 93436

With a copy to:

Joseph Pannone, City Attorney
Aleshire & Wynder, LLP
2361 Rosecrans Avenue, Suite 475
El Segundo, CA 90245

To CRT:

Coastal River Terrace, LLC
Attn: Marco Vujicic
31826 Village Center Road, Suite C
Westlake Village, CA 91361

With a copy to:

Poole Shaffery, Attorneys at law
Attn: Hunt C. Braly
25350 Magic Mountain Pkwy 2nd floor
Santa Clarita, CA 91355

b. Change of Address. Any Party (and any assignee) may change the address to which notices are to be sent (and/or the person to whose attention notices are to be directed) at any time by giving written notice of such change in the manner provided above.

10. **Covenants Run with the Land.** The terms of this Agreement are legislative in nature, and apply to the CRT Property, as a regulatory ordinance. During the term of this Agreement, all of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall run with the land and shall be binding upon the Parties and shall inure to the benefit of their respective heirs, successors (by merger, consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or entities acquiring the CRT Property, or any portion thereof, and any interest therein, whether by sale, operation of law or other manner.
11. **Conflict with State or Federal Law.** In the event State of California or federal laws or regulations, enacted after the Effective Date, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified, as reasonably agreed to by the Parties and as may be necessary to comply with such State of California or federal laws or regulations. Notwithstanding the foregoing, CRT shall have the right to challenge, at their sole cost, in a court of competent jurisdiction, any law or regulation preventing compliance with the terms of this Agreement and, if the challenge in a court of competent jurisdiction is successful, then this Agreement shall remain unmodified and in full force and effect; provided, that if the City incurs any costs, including reasonable attorney's fees and court costs, as a result of that challenge, then CRT shall pay those costs reasonably incurred by the City.
12. **Procedure for Modification because of Conflict with State or Federal Laws.** In the event State of California or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City relating to the Project, then, subject to Subsection 1.g., above, and this Section 12., the Parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or State of California law or regulation. Any such modification of this Agreement must be approved by the City Council in accordance with Section 13, below, subject to its reasonable governmental discretion.
13. **Amendment of Agreement.** This Agreement may be amended from time to time by mutual consent of the Parties, in accordance with the provisions of Government Code Section 65868. If the request for amendment is initiated by CRT, then all City costs, including attorney's fees, associated with processing such amendment shall be borne by CRT.

14. Interpretation and Enforcement of Agreement.

a. Complete Agreement. This Agreement represents the complete understanding between the Parties, and supersedes all prior agreements, discussions and negotiations relating to the subject matter hereof. No amendment, modification or cancellation of this Agreement shall be valid unless in writing and executed by the Parties, other than pursuant to Subsection 17.a., below.

b. Severability. If any provision of this Agreement is determined to be invalid or unenforceable, then the remainder of the Agreement shall not be affected thereby and shall remain in full force and effect, unless such invalidation renders any remaining provisions impossible or impractical to enforce.

c. Applicable Law. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of California and any applicable laws of the United States of America.

d. Prevailing Party. In the event of any action or proceeding brought by either Party against the other to enforce the provisions of this Agreement, the prevailing Party shall be entitled to recover reasonable costs and expenses, including attorneys' fees, incurred in connection therewith.

e. Authority of Signatories. The Parties represent and warrant that the persons signing this Agreement on their behalves have full authority to bind the respective Parties, and that each and every term of this Agreement is fully enforceable in all respects at the time this Agreement is executed and shall remain fully enforceable at all times during which the Agreement is in effect and, where indicated, beyond the term of this Agreement. Such enforceability shall pertain to both the substantive provisions of this Agreement and any remedies available for violation of the Agreement by either Party.

f. Indemnification. CRT and its successors and assigns agree to and shall defend, indemnify and hold harmless the City and its agents, officers and employees in any action brought by a person or entity not a party to this Agreement (i) challenging the City's approval of this Agreement or creation of the CFD, (ii) challenging the validity of this Agreement or the CFD, or (iii) seeking damages which may arise directly or indirectly from the negotiation, formation, execution or enforcement of this Agreement or the creation of the CFD. This obligation applies to any and all claims, damages, awards and expenses, including, but not limited to, reasonable attorney's fees and costs of litigation. The City may make all reasonable decisions with respect to its representation in any legal proceeding, including selection of its and its officers', employees' and agents' own legal defense counsel.

g. Waiver and Delays. Failure by any Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or failure by any Party to exercise its rights upon a default by another Party, shall not constitute a waiver of any right to demand strict performance by such other Party in the future.

h. Third Party Actions. Nonperformance by any Party shall not be excused because of a failure of a third person, except as specifically provided herein.

i. Force Majeure. Neither Party shall be deemed to be in default for failure or delay in performance of any of its obligations under this Agreement if caused by floods, earthquakes, other acts of God, fires, wars, riots or similar hostilities, strikes or other labor difficulties, government agencies and their regulations, or other causes beyond the reasonable control of the Party claiming the force majeure. If any such event shall occur, the term of this Agreement and the time for performance of any obligations hereunder shall be extended by the period of time that such events prevent either Party from proceeding with such performance.

15. Effect on Property.

a. Estoppel Certificate. Any Party may, at any time and from time to time, deliver written notice to the other Party requesting certification in writing that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties; (ii) this Agreement has not been amended, or, if amended, identifying the amendments; and (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or, if in default, describing the nature and extent of any such default. A Party receiving a request hereunder shall execute and return such certificate to the requesting Party within thirty (30) days following the receipt thereof. The City Manager of the City shall have the authority to execute any such certificate requested by CRT. The City acknowledges that a certificate hereunder may be relied upon by transferees and mortgagees.

b. Release of Lots from Agreement. Promptly upon the written request of CRT, the City shall execute a document, in a recordable form, releasing any lot, parcel or condominium unit for which a final subdivision map or condominium plan has been recorded, and which has been sold or leased, from the effects of this Agreement, and deliver such document to CRT.

16. Periodic Review of Compliance with Agreement.

a. Annual Review. This Agreement shall be subject to annual review, pursuant to California Government Code Section 65865.1. At each annual anniversary of this Agreement, CRT or the HOA, once created and operating, shall submit to the Planning Manager of City written documentation demonstrating good-

faith compliance with the terms of this Agreement (the "**Annual Report**"), to the extent CRT has taken or is required to take any action pursuant to this Agreement. Failure by CRT or the HOA to submit the Annual Report in a timely manner shall not itself constitute a breach of this Agreement, unless the City has first given CRT or the HOA, as applicable, additional notice thereof, and CRT and the HOA have failed to submit the Annual Report within fifteen (15) days after receipt of such notice. CRT and the HOA shall be responsible for all City costs, including any reasonable attorney's fees, associated with conducting such annual review. CRT's responsibilities pursuant to this Subsection shall cease when the obligations to make the Payments ceases.

b. Contents of Report. The Annual Report and any supporting documents shall describe (i) any permits or other approvals which have been issued or for which application has been made, (ii) any development or construction activity which has commenced or has been completed, and (iii) any other activity carried out by CRT in satisfaction of the requirements of the Project Approvals and this Agreement, since the date hereof or since the preceding annual review. The City shall review all the information contained in such report in determining the CRT's good faith compliance with this Agreement.

c. Waiver. The City does not waive any claim of defect in performance by CRT if, at the time of an annual review, the City does not propose immediately to exercise its remedies hereunder. However, in the event the City, within ninety (90) days following receipt of the Annual Report for any year, fails to review the information contained therein and/or to determine CRT's good faith compliance with this Agreement, then CRT can provide written notice to the City of the need for the City to complete the annual review. If the City fails to complete the annual review within thirty (30) City business days after receipt of that notice, then CRT shall be deemed to be in good faith compliance with regard to the period covered by that Annual Report.

17. Violations.

a. Violation by CRT.

i. CRT shall be deemed in violation of the terms of this Agreement upon failure of CRT to carry out any of its material obligations hereunder. A default on the part of an assignee pursuant to Section 7 shall not constitute a violation of this Agreement by CRT.

ii. If the City believes CRT to be in violation of this Agreement, then the City shall give CRT thirty-days' (30-days') written notice specifying the nature of the alleged violation and, when appropriate, the manner in which the violation may be satisfactorily cured. Any penalties and interest shall accrue beginning on the date of the alleged violation, not the date of the City's notice. Failure or delay in giving notice of a violation shall not constitute a waiver of such violation.

iii. After proper notice and 30-day notice period without cure, the City may take unilateral action to terminate or amend this Agreement as to CRT.

b. Violation by City.

i. The City shall be deemed in violation of the terms of this Agreement upon failure of the City to carry out any of its material obligations hereunder.

ii. If CRT believes the City to be in violation of this Agreement, then CRT promptly shall provide written notice to the City, through its City Manager, to that effect, setting forth the grounds upon which a violation is claimed, facts in support of such grounds and the means through which such violation may be cured. The City shall have thirty (30) days following the date of receipt of the notice within which to take action to deny the claim, cure the violation or undertake substantial action toward the cure.

- 18. Legal Enforcement.** Either Party may institute legal action solely to obtain specific performance of this Agreement. Any such legal action shall be brought in the Superior Court of Santa Barbara County, State of California, or in an appropriate federal court.
- 19. Relationship of Parties.** In performing its obligations hereunder, CRT is acting as an independent contractor and not as an agent or employee of the City. Further, nothing in this Agreement shall be construed as creating between CRT and the City a partnership or joint venture for any purpose.
- 20. Exhibits.** All exhibits referred to in, and attached to, this Agreement are incorporated herein by such reference.
- 21. Recording of Agreement.** Within ten (10) days following the Effective Date, or any subsequent amendment hereof, the City Clerk shall file a fully executed copy hereof with the County Recorder of Santa Barbara County, State of California.

IN WITNESS WHEREOF, the Parties have executed this Agreement, to be effective as of the Effective Date as defined above.

“CRT”

Coastal River Terrace, LLC,
a California limited liability company
By: Coastal Vision Inc., it’s Managing
Member

“CITY”

CITY OF LOMPOC,
a municipal corporation

By: _____
Marco Vujicic, President

By: _____
Patrick Wiemiller, City Manager

APPROVED AS TO FORM.

Joseph Pannone, City Attorney

ATTEST.

Stacy Haddon, City Clerk

EXHIBIT "A"
LEGAL DESCRIPTION OF CRT PROPERTY

DRAFT

EXHIBIT "B"
PROJECT DESCRIPTION

DRAFT

EXHIBIT "C"
TENTATIVE MAP NO. LOM 533 & CONDITIONS OF APPROVAL

DRAFT

EXHIBIT "D"
ASSIGNMENT AND ASSUMPTION AGREEMENT

DRAFT

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)
)ss.
COUNTY OF SANTA BARBARA)

On _____, 2016 before me,
_____, a 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.

Notary Public _____

SEAL:

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)
)ss.
COUNTY OF SANTA BARBARA)

On _____, 2016 before me,
_____, a 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.

Notary Public _____

SEAL:

31826 Village Center Road Suite C
Westlake Village, CA 91361
(818) 991-6629 Fax (818) 991-0450

Coastal River Terrace, LLC

July 15, 2016

Via Email & US Mail

City of Lompoc
Lucille Breeze, Planning Manager
100 Civic Center Plaza
Lompoc, CA 93438

RE: 1701 E Laurel Ave, Lompoc, CA – River Terrace Project, LOM 533, APN 91-141-21
Planning Commission Resolution 567; Request for Extension of Approvals

Dear Lucille,

As per the City of Lompoc letter dated 10-21-13 our Vesting Tract Map expires on August 16, 2016. Per your email and our discussions, please accept this letter as our formal request for a time extension of the approvals granted in regards to our River Terrace project, identified as Vesting Tentative Map LOM 533. The project was placed on hold due to the major economic meltdown that our Country experienced during the 2008-2014 great recession. As a result, the State and City have granted extensions to give our approved project the opportunity to be developed without the tremendous loss of investment and cost which we as property owners had incurred. Our project was not an exception to Nationwide and Statewide hardships which we in Lompoc continue to experience to date. Since there are tremendous economic and political uncertainties nationally and globally as well as our difficulties to date in securing an operator backed with a capital lender committed to invest in the Lompoc market, we are herein requesting a two (2) year time extension.


We trust that economy and the local market will gain stabilization and strength as the time unfolds. We are confident that with the City's help we will find a suitable operator to buildout this project. Please take note that we have recently worked with the Regional Water Board, Army Corp and Fish & Wildlife to extend our project's permits which we have successfully completed and now these permits are extended until 2021. As you consider our request to extend our expiration date for two years, instead of the previously granted one year, we would like the City to take into consideration the permits which have been extended already by Federal and State agencies.

This request is for an extension of all the approvals including but not limited to the Vesting Subdivision Map, architectural design, and specific plan.

The time is of the essence, because the current approval expires on August 16, 2016; please let us know when is the next available date for our request to be placed on the Planning Commission's consent Agenda.

Thank you for your courtesy and cooperation in this matter.

Sincerely,


Marco Vujicic
President

cc: Batta Vujicic, Via Email
Hunt Braly, Chairman of the Board; Via Email

**ADDENDUM TO RIVER TERRACE
FINAL ENVIRONMENTAL IMPACT REPORT
SCH #2004061107**

Background:

The City Council certified the Final Environmental Impact Report (FEIR) for the River Terrace project on August 16, 2005. The applicant has applied for a time extension and a subsequent Development Agreement. From the original approval to the current request there has been a time lapse of eleven years.

In accordance with State CEQA Guidelines Sections 15162 and 15164, this Addendum serves to analyze and disclose any environmental effects due to changes in the environmental baseline or revisions to the project since certification of the FEIR.

Project Description:

No changes to the proposed project description or design have been made. However, in the past eleven years, the following changes to the environmental and regulatory setting have occurred:

- The Applicant agreed to enter into a Development Agreement with the City of Lompoc to pay an annual City Operation and Maintenance Fee.

Pursuant to Government Code Section 66474.2.(a), “in determining whether to approve or disapprove an application for a tentative map, the local agency shall apply only those ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete pursuant to Section 65943 of the Government Code.” Therefore the discrepancy in time between the certification of the EIR in 2005 (when the tentative map application was submitted and deemed complete) to present day, would not change the standards that apply to the map.

Environmental Determination:

The River Terrace Final EIR (SCH No. 2004061107) is hereby incorporated by reference.

Section 15164 of the CEQA Guidelines states *“The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.”*

Section 15162(a) of the State CEQA Guidelines limits the preparation of a subsequent EIR to three situations:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measures or alternatives.

After review of the current environmental conditions and review of the River Terrace Final EIR, staff has determined that:

1. The revisions are not a substantial change to the project and will not create new significant impacts;
2. No substantial changes have occurred with respect to the circumstances in which the project will be undertaken which would involve new significant environmental impacts resulting from the project; and
3. No new information has become available since the preparation of the previous FEIR for the project which would result in new significant impacts, an increase in

severity of significant impacts, or affect the feasibility of mitigation measures, or provide for different methods of mitigating significant impacts.

Therefore, this Addendum is prepared to affirm no changes to the analysis which was conducted in the River Terrace Final EIR (SCH No. 2004061107) are required.

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