

TOLLING AGREEMENT

This Tolling Agreement (“Agreement”) is entered into effective October ____, 2016, between LABORER’S INTERNATIONAL UNION OF NORTH AMERICA, LOCAL UNION 1184 (“Petitioner”); CITY OF BEAUMONT (“City”); and TIMOTEO LAND DEVELOPMENT, a _____ corporation, and TIMOTEO LAND INVESTORS, LLC, a Delaware Limited Liability Company (collectively “Applicants”), each individually referred to as “Party” and collectively referred to as “the Parties”.

RECITALS

WHEREAS, on September 6, 2016, the City approved Plot Plan 16-PP-02 for the development of a 2.89 million square foot industrial park proposed to be located at the western terminus of Fourth Street, South of Highway 60, East of Jack Rabbit Trail, Beaumont, California.

WHEREAS, on September 13, 2016, the City filed a Notice of Determination for the Project with the County Clerk.

WHEREAS, prior to the City’s approval of the Project, Petitioners submitted comments to the City regarding the Addendum to Environmental Impact Report (“Addendum”), and City’s Staff Report, alleging various legal errors in the City’s environmental analysis (collectively, “Addendum Comments”);

WHEREAS, Petitioner’s allegations in the Addendum Comments are collectively referred to in this Agreement as the “Allegations”;

WHEREAS, the City and Applicant dispute the Allegations;

WHEREAS, the Parties desire to resolve their disputes and any and all other potential issues regarding the City’s approvals of the Project; and

WHEREAS, the Parties desire and agree to toll the applicable statute of limitations applicable to Petitioners for filing a lawsuit challenging the approval of the Project, through December 14, 2016 based upon claimed violations of CEQA.

NOW THEREFORE, in consideration of the mutual terms, covenants, conditions and promises contained herein, the Parties hereto agree as follows.

TERMS

1. All of the foregoing recitals are incorporated herein by reference.
2. The statutes of limitations applicable to Petitioners for filing a lawsuit challenging approval of the Project based upon claimed violations of CEQA shall be tolled as of the date of this Tolling Agreement and shall be tolled until December 14, 2016. This Agreement is not intended to revive and shall not revive any claims that are time barred as of the date this Tolling Agreement is executed. This Agreement is entered into by all of the parties hereto. If no legal action has been filed by the date this Agreement expires, any and all applicable statutes of limitation shall again begin to run at that time.

3. This Agreement shall not be construed as an admission of any fact or actual or potential liability on the part of any Party. This Agreement may not be offered as evidence of an admission of any liability or fact in any court proceedings.
4. This Agreement is entered into and is to be performed in Riverside County , California and shall be governed and construed in accordance with the laws of the State of California and is binding upon the Parties.
5. Each of the Parties represents and warrants that it has the authority to execute this Agreement on behalf of itself and its employees and clients.
6. This Agreement shall inure only to the benefit of the Parties hereto, and not to any other persons, organizations, or other entities who may file a lawsuit to challenge the approval of the Project. The Parties agree that this Agreement shall not benefit any third parties.
7. This Agreement may be executed in any number of counterparts with the same effects as if the Parties had signed the same document. All counterparts shall be construed together and shall constitute one Agreement.
8. The provisions of this Agreement comprise all of the terms, conditions, agreements and representations of the Parties respecting the tolling of statute of limitations for the CEQA claims. This Agreement may not be altered or amended, and no provision hereof may be waived, except by written agreement executed by the Parties, or their representative if notice of counsel is given, to be bound. The Parties hereby agree that terms of this Agreement have not been changed, modified, or expanded by any oral agreements or representations entered into or made prior to or at the execution of this Agreement.
9. This Agreement shall terminate automatically as of midnight on December 14, 2016, unless extended in writing, signed by all the Parties to be bound.
10. Any further notices shall be delivered to:
 - a. PETITIONER: Richard T. Drury, Esq.
Lozeau, Drury LLP
410 12th Street, Suite 250
Oakland, CA 94607
 - b. CITY: City Manager and City Clerk
City of Beaumont
550 East 6th Street
Beaumont, CA 92223
 - c. APPLICANT: William Devine
Allen Matkins LLP
1900 Main Street, 5th floor
Irvine, CA 92614-7321

CITY OF BEAUMONT

By: Mike Lara
Its: Mayor
Dated:

ATTEST:

By: Julio Martinez
Its: City Clerk
Dated:

TIMOTEO LAND DEVELOPMENT, a Delaware LLC corporation
AKA Timoteo Land Investors, LLC

By: NEIL BRANDON
Its: MANAGER
Dated: 10/6/16

TIMOTEO LAND INVESTORS, LLC, a Delaware Limited Liability Company

By: NEIL BRANDON
Its: MANAGER
Dated: 10/6/16

LABORER'S INTERNATIONAL UNION OF NORTH AMERICA,
LOCAL UNION 783 1184 RD

By: Richard Drury, LOZEAU DRURY LLP
Its: Attorneys
Dated: Oct. 7, 2016