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August 1, 2024

VIA EMAIL

Ms. Laura Black, AICP
Director of Development Services
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910

Re: Village 4 Tentative Map (CVT# 15-03)

Dear Ms. Black:

This firm represents Otay Valley Quarry, LLC. (“Owner”), the developer of a residential development project located within a portion of Otay Ranch Village 4 on approximately 166 acres (“Project”) within the City of Chula Vista (“City”). The Owner is submitting by way of this letter an application to extend the expiration date for Tentative Map (CVT# 15-03) (“Tentative Map”), which is due to expire on November 15, 2024.

The Tentative Map was approved by the Chula Vista City Council on May 15, 2018, and was originally due to expire on May 15, 2021. However, the expiration date was thereafter automatically extended under Assembly Bill 1561 (as codified in part in Government Code Section 65914.5), for an additional 18 months commencing from the original expiration date of May 15, 2021, to November 15, 2022. This automatic extension, granted under AB 1561, is not counted against any extensions that may be granted under the City’s statutory authority. (See Government Code Section 65914.5(f).)

The Owner was subsequently granted an additional two-year extension, pursuant to Section 18.12.190 of the City’s Municipal Code, commencing from November 15, 2022, to November 15, 2024.

The Owner is now requesting a second extension of the Tentative Map under Chula Vista Municipal Code Section 18.12.190 which provides:

“The subdivider may request an extension of the approved or conditionally approved tentative map by written application to the Director of Development Services.... After conducting a public hearing or reviewing the requested extension, the Commission may approve or deny the requested extension. ***An extension shall not exceed 24 months as provided in Section 66452.6(e) of the Map Act.***”

Government Code §66452.6(e) as cited in Municipal Code Section 18.12.190, provides that a local agency may, on the subdivider's application, extend the life of a map for an additional *period or periods* not to exceed 6 years. This provision allows for additional map extensions of up to six (6) years and preempts any local ordinance to the contrary. *Griffis v County of Mono* (1985) 163 CA3d 414, [the court held that an ordinance restricting extensions to a one year period was invalid.] The court in *Griffis v County of Mono* concluded that the Legislature did not authorize local agencies to modify, by ordinance, the time frame tentative maps could be extended from what was set forth in former subdivision (c) of section 66452.6. [This subdivision was relettered subd.(e).]

The *Griffis v County of Mono* case is instructive and on point, in that the County of Mono's ordinance was held invalid because it had limited tentative map extensions to one year, whereas state law allowed for two years. Similarly, the City cannot limit tentative map extensions to two years (under Section 18.12.190) when Government Code §66452.6(e), allows for six years.

Therefore, reading Municipal Code Section 18.12.190 in harmony with Government Code §66452.6(e) and in a manner that would not invalidate it, the City may grant tentative map extensions for periods of up to 24 months for a total of six years. To determine otherwise is not allowed under state law and would violate the Subdivision Map Act.

The Project remains consistent with the City's General Plan, Zoning Ordinance, and the policies and standards that were in place at the time of the Tentative Map's initial approval. Further, the Tentative Map has not been revised in any manner and the conditions of approval placed on the Tentative Map at the time of approval remain valid and consistent with current City requirements and policies. As the City knows, there have been a number of issues outside the Owner's control regarding the establishment of a mitigation bank that has made it impossible to complete the Tentative Map before its current expiration date.

In furtherance of the Owner's plans to develop the Project, Owner invested nearly \$3 million to complete the initial entitlements and environmental approvals. Since the Project's approval in 2018, Owner has continued to seek approval of plans, permits and agreements necessary to move forward with Project development and has invested an additional \$2.5 million to date. Plans, permits and agreements prepared and processed since the 2018 entitlement approvals include the following:

1. Landscape Master Plan
2. Subarea Master Plan (Otay Water District)
3. Final Resource Salvage and Revegetation Plan
4. Village 4 Rough Grading Plan
5. Main Street Improvement Plans
6. Option Agreement to Purchase Mitigation Credits from Otay River Mitigation Bank
7. Slope Landscape and Irrigation Plans
8. Habitat Mitigation and Monitoring Plan
9. Entry Permit (HomeFed Village 8, LLC)

August 1, 2024

Page 3

10. Temporary Easement Agreement (HomeFed Village III Master, LLC)
11. Temporary Easement Agreement (Brisa Acquisitions, LLC/Florida Rock Industries, Inc.)
12. USA Easement Indemnification Agreement (City of Chula Vista)
13. Army Corps of Engineers Nationwide Permit
14. San Diego Regional Water Quality Control Board 401 Permit
15. California Department of Fish & Wildlife Services Streambed Alteration Agreement

In addition to the plans, permits and agreements listed above, Owner has provided the City with security/bonds to secure performance/construction of the Slope Landscape and Irrigation Plans (3.4 million), Rough Grading Plans (\$6.4 million), Resource Salvage and Restoration (\$641,140) and placed a \$30,000 cash deposit with the City to secure implementation of the Resource Salvage and Restoration Plan.

It's important to further clarify that, pursuant to Government Code §66452.6(e) as cited in Municipal Code Section 18.12.190, the City may extend the life of the map for a total of six years. As of this date, the City has approved one 24-month extension which began after the automatic Covid extension which originally extended the term of the map to November 25, 2022. Moreover, as explained above, the extension of time provided by AB 1561, is not counted against any extensions that may be granted under the City's statutory authority. This means that after the City approved the first extension on October 22, 2022, there are two additional extensions which the City may approve.

For the reasons described above, the Owner is requesting the City approve the second map extension which would extend the expiration of the Tentative Map for an additional two years commencing from November 15, 2024, to November 15, 2026. Because the Owner is requesting a map extension, which is a time sensitive matter with great financial implications, we would respectfully request that the City notify us if there are any questions or concerns regarding this matter.

Very truly yours,
NORTON MOORE & ADAMS



Ann Y. Moore

cc: Tiffany Allen, Assistant City Manager