

# DRAFT

May ##, 2022

Joe Gorton, City Manager  
City of San Ramon  
7000 Bollinger Canyon Rd.  
San Ramon, CA 94583

Jeffrey Woods, President  
Black Mountain Construction Development  
3925 Old Santa Rita Road, Suite 200  
Pleasanton, CA 94588

**SUBJECT: Letter of Agreement for Postponement of Payment of Regional Sewer Capacity Fees to Aspen Wood Senior Housing Project**

Dear Mr. Gorton and Mr. Woods:

This letter is in response to the letter dated April 20, 2022 sent by City of San Ramon (the "City") to Dublin San Ramon Services District (the "District") regarding the Aspen Wood Senior Housing (the "Development") proposed by Black Mountain Construction Development ("Black Mountain"). Black Mountain has secured certain funding through the State of California which requires that a building permit be issued by the City on or before June 1, 2022. The City, on behalf of itself and Black Mountain, has requested that the District postpone collection of certain Local and Regional Wastewater Capacity Reserve Fees (the "Fees") until Black Mountain requests occupancy permits from the City. The District has reviewed the District Code of Regulations and has found the following sections which limit staff's ability to administratively fulfill the request without Board action and authority.

District Code Section 3.70.080 Time of Payment: This section requires that Local and Regional Wastewater Capacity Reserve Fees be paid to the District prior to issuance of any building permit by the City.

District Code Section 3.70.040 Installment Payment of Regional Wastewater Capacity Reserve Fees: This section includes a payment program for affordable housing units within the City which allows payment over time for certain projects. However, this section also places a limit of \$100,000 on fees eligible for postponement. Historically, the installment payment plan has been applied to commercial businesses and has not been requested or applied to affordable

housing units, in addition to being dollar limited as noted above, the provision addresses only Regional fees..

The District's Board of Directors, at its May 17, 2022 meeting, authorized the General Manager to enter into this Letter of Agreement ("LOA") with the City and Black Mountain to allow postponement of collection of the Fees until Black Mountain requests occupancy permits for the Development from the City.

The Board authorization requires that the LOA be signed prior to the City issuing any building permit. Upon the City's and Black Mountain's approval and acceptance, evidenced by your signatures below, this letter will serve as the required LOA.

The requirements to allow Black Mountain to postpone payment of Local and Regional Wastewater Capacity Reserve Fees shall be as follows:

- Black Mountain hereby acknowledges and agrees, on behalf of itself, affiliates, subsidiaries, members, agents, successors, assigns and all future owners of the Development, not to occupy, reside in, or use for residential purposes, nor lease, transfer the Development, or any portion thereof, to any person or entity, nor close escrow or transfer title until such time as the District, in its sole discretion, has provided to City written confirmation that all Local and Regional Wastewater Capacity Reserve Fees have been paid.
- City hereby acknowledges and agrees that it shall not issue any occupancy permits for the Development until the City has received written confirmation from the District that all Local and Regional Wastewater Capacity Reserve Fees have been paid.
- City hereby further acknowledges and agrees that should any occupancy permit be issued prior to receipt of the aforementioned written confirmation, that City will immediately remit payment to the District for all Local and Regional Wastewater Capacity Reserve Fees then due.
- City and Black Mountain each hereby further acknowledge and agree that when Black Mountain requests occupancy permits from the City, the then current Local and Regional Wastewater Capacity Reserve Fees will become immediately due and payable. City and Black Mountain also hereby acknowledge that these fees typically increase at the beginning of each fiscal year and are adjusted every five years with comprehensive fee studies and that payment shall be of the then current Fee amount. The next fee study is scheduled to be completed in late 2023 with updated fees anticipated to be

effective in July 2024. The current Local and Regional Wastewater Capacity Reserve Fees for the Development are attached hereto.

- Black Mountain hereby further acknowledges and agrees that it shall be responsible for complying with all provisions of the District Code with respect to commencing wastewater service to the Development, including but not limited to the payment of all required Local and Regional Wastewater Capacity Reserve Fees (subject to the postponement provided for herein), applying for and receiving a District Facilities Construction Permit and compliance with all conditions thereto, and for payment of all other District fees and charges applicable to the project. The District Facilities Construction Permit, which shall include the payment of all plan review and inspection fees, and submission of related bonds and insurance to the District, shall be obtained prior to any building permit being issued by the City.
- City and Black Mountain each hereby further acknowledge and agree that this deferral of payment will apply only to the Aspen Wood Senior Housing Project; and, the City acknowledges and agrees that it will not issue building permits for additional projects within the District boundaries without strict compliance with the District Code, including the timing of payment for all applicable fees and charges, or prior to final written approval from the District when applicable.
- In the event of assignment, Black Mountain will provide, to the District's reasonable satisfaction, evidence that the assignee has assumed Black Mountain's obligations hereunder.

If this Letter of Agreement is satisfactory to City and Black Mountain, please sign and return to the District three signed copies from each the City and Black Mountain. In the absence of the execution of this LOA, the District Code shall be applied with full force and effect.

Sincerely,

Daniel McIntyre  
General Manager

ACCEPTED for City of San Ramon

---

Joe Gorton  
City Manager

Date

ACCEPTED for Black Mountain Construction Development,  
on behalf of itself, affiliates, subsidiaries, members, agents, successors, assigns and all future  
owners of the Development

\_\_\_\_\_  
Jeffrey Woods  
President

\_\_\_\_\_  
Date

Attachments: Invoice 03948

JY:SD

cc: Jan Lee  
Steve Delight  
File DP 18-399