COMMISSION MEETING
August 15, 2018
Engineering and Construction Team

Developer Request to Waive Standard Procedure
REG-IFSM-EC-2016-007 for Belnor Senior Residences

Item Number:

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AGENDA CATEGORY: Engineering and Construction Team

ITEM NUMBER:        DATE: August 15, 2018

SUBJECT Developer Request to Waive Standard Procedure REG-IFSM-EC-2016-007 for Belnor Senior Residences

SUMMARY On June 22, 2018, the Commission received a request from Soltesz, LLC (the engineer for Belnor Senior Residences, LLC) to waive the requirements of WSSC Standard Procedure REG-IFSM-EC-2016-007 for the proposed Belnor Senior Residences as allowed under the Standard Procedure. The project consists of 122 Apartment Units located at 3800 St. Barnabas Road (between Branch Avenue and Silver Hill Road) Suitland, MD. within the Broad Creek Basin in Prince George’s County. The request also included a letter from Prince George’s County Executive, Rushern Baker supporting it.

Commission staff has reviewed and considered the request in accordance with Standard Procedure REG-IFSM-EC-2016-007. The review is summarized in the attached letter from the General Manager to the Chair.

As detailed in the attached letter, the General Manager has determined that the developer’s request for a waiver to Standard Procedure REG-IFSM-EC-2016-007 meets the requirements and legal standard established by the Standard Procedure and has recommended approval of the waiver request subject to certain conditions as specified in the General Manager’s letter.

SPECIAL COMMENTS

CONTRACT NO. / REFERENCE NO. N/A
COSTS N/A
AMENDMENT/CHANGE ORDER NO. N/A
MBE PARTICIPATION N/A
PRIOR STAFF/COMMITTEE REVIEW GM/CEO, Deputy GM, Chief Engineer, WSSC General Counsel’s Office; Corporate Secretary, and the Development Services Section Manager.
RECOMMENDATION TO COMMISSION Approve Resolution No. 2019-2198
COMMISSION ACTION
Overview

WSSC staff seeks the Commissioner’s approval of a Developer requested waiver to WSSC’s Standard Procedure REG-IFSM-EC-2016-007. The current Letter of Findings issued by the Development Services Division for the Belnor Senior Residences project states that it is dependent on the Broad Creek Wastewater Pump Station augmentation project being completed, which is not expected until sometime mid-to-late 2019.

The Developer is requesting a transfer of authorized flow capacity from a previously approved project, Potomac Ridge II owned by Route 210 Associates, LLC. He is asking WSSC’s permission to swap the flow previously allotted for the Potomac Ridge II project and use that remaining allocated flow for the Belnor Senior Residences project enabling it to proceed now.

WSSC staff has concluded the Developer’s waiver request to swap flow is acceptable and has met the requirements of the Standard Procedure REG-IFSM-EC-2016-007.

Details:

- **Jun 22, 2018** Received letter from Developer requesting a waiver to WSSC Standard Procedure.
- **July 6, 2018** Letter dated July 6, 2018 from the Prince George’s County Executive - Mr. Rushern L. Bake III supporting the Developer’s request for a waiver.
- **Jul 23, 2018** WSSC’s General Manager/CEO letter of recommendation for waiver approval.
- **Aug 15, 2018** Proposed effective date of Resolution No. 2019-2198
Interoffice Memorandum

TO: CARLA REID, GENERAL MANAGER
THRU: JOE MANTUA, DEPUTY GENERAL MANAGER
FROM: BETH O'CONNELL, DEVELOPMENT SECTION MANAGER (x8813)
DATE: JULY 23, 2018
SUBJECT: BELNOR SENIOR RESIDENCES WAIVER REQUEST

Attached is the GM letter for support of the waiver request for Belnor Senior Residences to waive the requirements of Standard Procedure REG-IFSM-EC-2016-007. This waiver will allow the transfer of capacity credit from the Potomac Ridge II project owned by Route 210 Associates, LLC to Belnor Senior Residences owned by Belnor Senior Residences, LLC.

This item is to be presented at the August Commissioner’s meeting.

Also attached are additional information for the Commission package:

1. Draft Resolution
2. Standard Procedure REG-IFSM-EC-2016-007
3. Request for Waiver Public Notice
4. Request for Waiver Letter from Soltesz (Applicant’s Engineer)
5. Support of Waiver Letter from Prince George’s County Executive
6. Agreement of Flow Transfer Between Route 210 LLC and Belnor Residences LLC
7. Current Phase I Letter of Findings for Belnor Senior Residences

Upon signature, please let me know so I can pick up the letter to put in the Commission package.
Chair T. Eloise Foster  
and WSSC Commissioners  
Washington Suburban Sanitary Commission  
14501 Sweitzer Lane  
Laurel, MD 20707  

Subject: Request for Waiver of Standard Procedure No. REG-IFSM-EC-2016-007 for Proposed Belnor Senior Residences at 3800 St Barnabas Road, Suitland, Maryland 20746 in Prince George’s County  

Dear Chair Foster and Commissioners:  

On June 4, 2018, WSSC received a request from Soltesz, LLC (the “Engineer”) on behalf of Belnor Senior Residences, LLC (the “Developer”) to waive the requirements of SP REG-IFSMEC-2016-007 to allow the construction of the Belnor Senior Residences project consisting of 122 senior living apartments. On June 22, 2018, WSSC received a revised request from the Engineer with minor corrections to the flow capacities further discussed below.  

The project site is located at 3800 St Barnabas Road, Suitland, Maryland in Prince George's County. This lot was previously undeveloped. This project received an authorization through the Letter of Findings for DA6223Z17, on August 15, 2016. This authorization made the development dependent on WSSC CIP Project S-43.02, the Broad Creek Sewer Augmentation Project. Under the provisions of REG-IFSMEC-2016-007, this development would not be allowed to proceed until the Broad Creek Sewer Augmentation Project is completed.  

The Developer is requesting a transfer of authorized flow capacity from a previously approved project, Potomac Ridge II owned by Route 210 Associates LLC. Potomac Ridge continues to hold an authorization of 10,457 gpd capacity without dependency on the Broad Creek Sewer Augmentation Project under a Letter of Findings issued August 10, 2017. This is the remaining capacity following a transfer of 17,893 gpd to Top Golf at the Potomac Business Park per Resolution 2018-2166, approved on July 19, 2017. An agreement for the transfer of 10,457 gpd capacity between Route 210 Associates, LLC and Belnor Associates, LLC has been provided to WSSC.
If the transfer of capacity from Potomac Ridge II is granted, there is still a shortfall in capacity for this project of 1,743 GPD. The developer would be granted 276 GPD credit from a small sewer replacement project associated with this development. The developer has agreed to complete sewer rehabilitation work for capacity credit for the remaining 1,467 GPD in accordance with the Development Services Code Section 404.4.1. The developer’s engineer is currently working with Development Services Division staff to identify and design this sewer rehabilitation work.

BACKGROUND:

Article 5 (Collection System Modeling) of the 2005 SSO Consent Decree signed by Judge Messitte on December 7, 2005, specifies that “WSSC shall utilize a computer model of the Collection System to identify portions of the Collection System that may not have sufficient capacity to accommodate present or anticipated future flows, to plan sewer improvements, and to make determinations regarding future development of the Collection System.” Consent Decree, Article 5(A), Page 36.

The Consent Decree specifically requires WSSC to address overflows at the Broad Creek WWPS via implementation of a Broad Creek WWPS facility plan. Consent Decree, Article 10(B)(8), Page 51. The facility plan was instituted via the Broad Creek WWPS Augmentation Project (S-43.02) (hereinafter the “Augmentation Project”).

On May 1, 2009, after having developed a Collection System model, the WSSC adopted a new Standard Procedure (SP ENG 09-02) that established a protocol and test to be applied to any proposed development to determine whether WSSC sewerage capacity could accommodate the proposed development’s wastewater flow. On November 16, 2011, WSSC amended SP ENG 09-02 via Commission Resolution 2012-1945 to add a waiver process to this procedure. The new Standard Procedure (SP ENG 11-01) became effective on January 2, 2012. On September 21, 2016, WSSC amended SP ENG 11-01 via Commission Resolution 2017-2137 to further define the procedure and to modify the waiver process to this procedure. This Standard Procedure prohibits authorization of development that will connect to a sanitary sewer system with any CIP-size trunk sewer stretches or any wastewater pumping stations that have projected overflows based on existing dry weather flow (including groundwater infiltration) and rainfall dependent infiltration and inflow from a 2-year design storm specified by WSSC, unless mitigation is implemented. The applicants for such developments shall be required, as a condition for service, to obtain a Release for Service from WSSC for the sewer system improvements needed to eliminate excessive surcharging, as determined by WSSC, under the 2-year storm after addition of the proposed base sanitary flow from the development under review. Consideration and evaluation of alternate solutions including construction of new sewer lines and facilities and/or rehabilitation/reconstruction of existing sewer
mains, appurtenances, and facilities may be required. Any new sewers or facilities built shall be sized to handle projected future base sanitary flow and the infiltration and inflow from the 10-year design storm. The new Standard Procedure (SP REG-IFSMEC-2016-007) became effective on November 1, 2016. A copy of the SP is attached hereto.

WAIVER PROCESS:

In accordance with the “Procedural Requirements” stated in SP REG-IFSMEC-2016-007, the WSSC Corporate Secretary assigned a Log Number to the Request, notified the Chair and Vice-Chair of the Request, posted the Request on the WSSC website, and forwarded the Request to the General Manager/CEO for review and recommendation. The Request also included a signed letter from the Prince George’s County Executive supporting the Request as required under SP REG-IFSMEC-2016-007.

SP REG-IFSMEC-2016-007 requires that I provide you with my recommendation with regard to the disposition of the Request.

Pursuant to SP REG-IFSMEC-2016-007, the Commission may “deny the Request or grant it in whole or in part.” In addition, Commission “may impose conditions it deems necessary on any grant of the Request.” See SP REG-IFSMEC-2016-007, Page 3.

SP REG-IFSMEC-2016-007 states that “Any grant of the waiver request in whole or in part shall be based on the Commission’s determination that:

(a) Considering the specific facts and circumstances presented in the Request, application of those SP provisions for which a waiver is sought will be unduly burdensome or will cause an undue hardship;

(b) The underlying purpose of the SP will be disserved or frustrated by applying its requirements to the facts and circumstance set forth in the Request; and

(c) Grant of the Request will be in the public interest.”

See SP REG-IFSMEC-2016-007, Pages 3-4. (Emphasis added).

FINDINGS:

I will address each of these elements below.
A. Considering the specific facts and circumstances presented in the Request, application of those SP provisions for which a waiver is sought will be unduly burdensome or will cause an undue hardship.

The Belnor Senior Residence project includes 122 senior living apartments with a total projected flow of 12,200 gpd. The project connects to an existing sewer main along the northeast side of the property, which had sufficient local sewer capacity. However, because Belnor Senior Residence is located within the Broad Creek Sewer Basin, all flows from this site are in excess of the available wet weather capacity. This development is dependent on WSSC CIP Project S-43.02, the Broad Creek Sewer Augmentation Project. Under the provisions of REG-IFSMEC-2016-007, this development would not be allowed to proceed until the Broad Creek Sewer Augmentation Project is completed.

The Applicant is proposing to transfer the remaining 10,457 GPD of authorized capacity from Potomac Ridge II development, DA4229Z05, to support this development. Potomac Ridge was authorized on October 14, 2005 to construct 135 homes with a projected flow of 28,350 GPD and is not subject to SP REG-IFSMEC-2016-007. A transfer of 17,893 gpd to Top Golf at the Potomac Business Park per Resolution 2018-2166, was previously approved on July 19, 2017.

A waiver of SP REG-IFSMEC-2016-007 is required to facilitate this transfer of capacity allowing the developer to move forward with the Belnor Senior Residence development and remove the dependency on the Broad Creek Augmentation Project. Without such a transfer, the development would remain dependent on the Broad Creek Augmentation Project until it is completed.

As the letter from Prince George’s County Executive Baker explains, this development provides affordable housing for seniors, which is needed within the local area. Requiring the developer to delay this project for completion of the Augmentation Project would result in further delay in opening this development.

B. The underlying purpose of the SP will be disserved or frustrated by applying its requirements to the facts and circumstance set forth in the Request.

Potomac Ridge II currently has an approved Amended Letter of Findings DA4229Z05, dated August 10, 2017, for 10,457 GPD following the capacity transfer to the Top Golf development. They have offered to forego the remaining development capacity until such time as the Broad Creek Augmentation Project is completed. The remaining allocated capacity from this proposed development will offset the majority of the capacity needed for the Belnor development. If this waiver is approved, this
requirement would be formalized via issuance of an Amended Letter of Findings for DA4229Z05. Because there is still a shortfall in capacity for this project of 1,743 GPD, the developer will be required to complete sewer rehabilitation work for capacity credit in this amount in accordance with the Development Services Code Section 404.4.1. Therefore, the underlying purpose of the SP will not be disserved or frustrated by granting the waiver.

C. **A grant of the Request will be in the public interest.**

The Developer has included a letter from the Prince George’s County Executive indicating that the proposed Belnor Senior Residence project is in the public interest. Specifically, the County Executive has noted that the development will provide affordable housing for seniors. WSSC recognizes the economic benefits are in agreement with the public interest, and further acknowledges the proposed flow from Belnor Senior Residences will not affect the existing sewer collection system beyond the parameters previously authorized for the Potomac Ridge II project. The requested transfer of capacity along with the sewer rehabilitation work for credit fully mitigates any risk of increase adverse impact to WSSC’s existing sewer collection system, sustaining the interest of the public. Therefore, I believe it is in the public interest to grant the Request.

**RECOMMENDATION:**

SP REG-IFSMEC-2016-007 states that any waiver request must satisfy all three elements above. I believe the Developer has satisfied all three elements. Therefore, I recommend that this request for a waiver of SP REG-IFSMEC-2016-007 be approved subject to issuance of an Amended Letter of Findings for DA4229Z05 and plan revisions to all previously approved SEP’s associated to this project.

Sincerely,

*Carla A. Reid*
General Manager

Enclosures

cc: Gary J. Gumm, Chief Engineer, WSSC
Ray Chicca, Development Services Division Manager, WSSC
WHEREAS, the Washington Suburban Sanitary Commission ("Commission") is authorized and empowered pursuant to Section 17-403 of the Public Utilities Article, Annotated Code of Maryland, to adopt regulations governing use of the Commission’s Sewer Model in conjunction with Phase I Hydraulic Planning Analyses; and

WHEREAS, the Commission, by resolution on September 21, 2016, adopted Standard Procedure (SP) REG-IFSM-EC-2016-007 establishing procedures for so using the Commission Sewer Model and that Standard Procedure became effective November 1, 2016; and

WHEREAS, SP REG-IFSM-EC-2016-007 allows applicants for developments that are subject to the requirements of the Standard Procedure to request a waiver of some or all of the provisions stated in the Standard Procedure, subject to certain requirements; and

WHEREAS, Soltesz, LLC, on behalf of Belnor Senior Residences, LLC, requested a waiver of SP REG-IFSM-EC-2016-007 for the Belnor Senior Residences Project that proposes to construct 122 senior living apartments at 3800 St. Barnabas Road, Suitland, MD in Prince George’s County; and

WHEREAS, the Belnor Senior Residences Project, as proposed, is subject to the requirements of SP REG-IFSM-EC-2016-007; and

WHEREAS, the General Manager/CEO has determined that the waiver request meets the requirements and legal standard established by SP REG-IFSM-EC-2016-007 and has recommended approval of the waiver request subject to certain conditions; and

WHEREAS, the Commission has fully reviewed and considered the Belnor Senior Residences request for a waiver of SP REG-IFSM-EC-2016-007 and the recommendation with conditions, as presented by the General Manager/CEO.

NOW, THEREFORE, BE IT RESOLVED, this ____ day of August, 2018, that the Commission hereby approves the request for a waiver of SP REG-IFSM-EC-2016-007 as submitted by Soltesz, LLC on behalf of Belnor Senior Residences, LLC, subject to the conditions as specified by the General Manager/CEO in her letter to the Commission dated July 23, 2018; and
BE IT FURTHER RESOLVED, that the Corporate Secretary shall notify Soltesz, LLC on behalf of Belnor Senior Residences, LLC of the Commission’s decision as required by SP REG-IFSM-EC-2016-007.

A True Copy.

Sheila R. Finlayson, Esq.
Corporate Secretary
STANDARD PROCEDURES
OF THE
WASHINGTON SUBURBAN SANITARY COMMISSION

ORIGINATOR & POSITION
Gary Gumm
Engineering & Construction
Team Chief

SP NUMBER
REG-IFSM-EC-2016-007
SUPERSEDES
ENG 11-01

APPROVE BY/DATE
COMMISSION
September 21, 2016

EFFECTIVE
DATE
November 1, 2016

RECURRING
REVIEW
PERIOD:
3 yrs.

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OF 4

SUBJECT: USE OF THE WSSC SEWER MODEL IN CONJUNCTION WITH PHASE 1 HYDRAULIC PLANNING ANALYSES

Definitions*

Base sanitary flow – Proposed sanitary flow generated from new or re-development as determined using base sanitary flow factors listed in the WSSC Pipeline Design Manual.

CIP Sized Sewer Lines – Gravity sewers with an inside diameter 15-inches or greater.

Overflow – Wastewater exiting the top of any structure in the wastewater collection system (including manholes, vaults, wetwells and other facilities) and flowing out of the structure onto the ground surface or into a water body. This definition does not take into consideration structures with welded or sealed lids.

Projected Overflow – Overflow predicted by the WSSC Sewer Model.


Release for Service: The date ownership of the improvement transfers from the Applicant/Owner/Developer to WSSC. Upon issuance of the Release for Service, the Applicant agrees that title to the water and/or sewer system and appurtenances transfers to WSSC and WSSC shall assume ownership, maintenance and operation responsibility for the water and/or sewer system and appurtenances within the bounds of the easement conveyed to WSSC and in the public right of way.

Safe Pumping Capacity – The measured flowrate that a wastewater pumping station is capable of pumping with the largest pump out of service based on the latest published Pump Station Capacity Evaluation as required by the Consent Decree, Civil Action No. PJM 04-03679, Messite, 2005. Safe pumping capacity shall be the basis utilized when evaluating pump station capacity.

Start of Construction – The date upon which all of the following have been completed by the Applicant, as determined by WSSC: Design Plans approved by WSSC, SEP or DRP permit obtained, Performance Bonds provided, all necessary easements obtained and recorded, all necessary permits for construction obtained and construction has actually started.

Surcharge – A condition in which the hydraulic grade in a gravity sewer is greater than the interior diameter of the sewer.

* For terms not defined herein, see the Development Services Process Manual Code, effective April 15, 2016, or any successor document.
Purpose

To establish the procedure for use of the WSSC Sewer Model during SEP Phase 1 Hydraulic Planning Analyses (HPA), other development or redevelopment in order to reduce to the maximum extent practical the probability of Sanitary Sewer Overflows (SSO) and excessive sewer surcharging in accordance with the purpose and intention of Section V, Article Five of the Consent Decree, Civil Action No. PJM 04-03679, Messite, 2005). This procedure applies to CIP-size sewer and all wastewater pumping stations included in the WSSC Sewer System Model. As described below, the WSSC Sewer Model may be used to assess the potential impact of proposed developments on the affected CIP size sewer system and determine any required conditions for service to be included in the Letter of Findings by WSSC.

The adequacy of local sewers (i.e. non-CIP-size) will continue to be evaluated by the Development Services Group.

Proposed Development above Projected 2-Year Overflow

This section shall apply to all proposed new developments or re-development (with an SEP or Site Utility Plan) that increase base sanitary flow from the site connecting into or upstream of any CIP-size trunk sewer stretches or any wastewater pumping stations that have projected overflows based on existing dry weather flow (including groundwater infiltration) and rainfall dependent infiltration and inflow from a 2-year design storm specified by WSSC. The applicants for such developments shall be required, as a condition for service, to obtain a Release for Service (RFS) from WSSC for the sewer system improvements needed to eliminate excessive surcharging, as determined by WSSC, under the 2-year storm after addition of the proposed base sanitary flow from the development under review. Consideration and evaluation of alternate solutions including construction of new sewer lines and facilities and/or rehabilitation/reconstruction of existing sewer mains, appurtenances, and facilities may be required. Any new sewers or facilities built shall be sized to handle projected future base sanitary flow and the infiltration and inflow from the 10-year design storm.

In addition, the development will be evaluated for the potential impact of any projected surcharging and, in particular, the potential for causing backups into homes or businesses. Any surcharging in a sewer segment that contains service connections in which the hydraulic grade within the sewer is higher than the basement floor elevation (for structures with basements) or first floor elevation (for structures without basements) is prohibited as the condition will potentially cause sewage backups into the structures. The applicants for such developments shall be required, as a condition for service, to obtain a Release for Service (RFS) from WSSC for the sewer system improvements that eliminate back-ups under the 2-year storm after addition of the proposed base sanitary flow from the development under review.

All Other Proposed Development:

All other proposed development projected to generate new base sanitary flow of over 100,000 net gallons per day (gpd) into a CIP-size trunk sewer or wastewater pumping station shall be modeled to determine potential impact on that CIP-size trunk sewer or wastewater pumping station. Modeling conditions shall include the existing sewer system, any proposed sewer system improvements under construction at the time of the HPA or HPA amendment under review by WSSC, existing dry weather flows (including groundwater infiltration), rainfall dependent infiltration and inflow from a 10-year design storm specified by WSSC, the proposed base sanitary flow from the development under review, and the proposed base sanitary flow from any other developments in the subject sewer basin with an approved and unexpired HPA that are also projected to generate more than 100,000 net gallons per day.
Under these conditions, there shall be no projected overflows from the sewer system caused or exacerbated by the proposed development. Otherwise, the applicant shall be required to implement sewer system improvements that eliminate the risk of overflows under the 10-year storm and eliminate excessive surcharging under a 2-year design storm specified by WSSC. Consideration and evaluation of alternate solutions including construction of a new sewer lines and facilities and/or rehabilitation/reconstruction of existing sewer mains, appurtenances, and facilities may be required. Any new sewers or facilities built shall be sized to handle the projected future base sanitary flow and infiltration and inflow from the 10-year design storm. In addition, the development will be evaluated for the potential impact of any projected surcharging and, in particular, the potential for causing backups into homes or businesses.

WSSC may allow service to the development prior to the Release for Service of the sewer system improvements required herein only if the Applicant shows proof of “Start of Construction” of the sewer improvements, as defined herein. Depending on the size and scope of the required sewer improvements, WSSC may also place additional conditions upon Applicant, as determined by WSSC, prior to allowing WSSC service to the development at “Start of Construction”.

**HPA Amendments**

Proposed developments shall be re-evaluated by WSSC at the time of any Letter of Findings amendment if there is any increase in the projected flow from the development into any off site sewers. Developments may also be re-evaluated by WSSC if any contiguous developments are submitted by the same applicant and the combined base sanitary flow exceeds the 100,000 gpd threshold. The results of the WSSC Sewer Model are valid as long as the HPA or HPA amendment Letter of Findings is valid.

**Request for Waiver**

Applicants for developments that are subject to this Standard Procedure (“SP”) may request a waiver of some or all of this SP’s provisions hereof in accordance with the following requirements.

A. **Procedural Requirements**

1. A Request for Waiver (“Request”) shall be in writing and shall be filed with WSSC’s Corporate Secretary. Each filing shall consist of one (1) paper original and one (1) paper copy, and must be executed by a duly authorized officer, director or principal of the applicant.

2. A Request shall be filed no more than thirty (30) days after the occurrence of the facts and circumstances on which the Request relies in demonstrating compliance with the legal standard set forth herein. A Request shall be complete upon filing, and shall contain documents, records and other evidence supporting all assertions of fact therein.

3. To demonstrate that grant of the Request is in the public interest, the applicant shall include with its Request a signed letter from the County Executive and/or the Chair of the County Council in which the development is located stating that the County Executive and/or Chair: carefully reviewed the Request; understands why the Request is necessary; supports the Request; and recommends grant of the Request by the Commission.
4. Upon receipt, the Corporate Secretary shall: (a) assign a Log Number to the Request, (b) notify the Chair and Vice-Chair of receipt of the Request; (c) arrange to have notice of the Request appear on WSSC’s Internet homepage (www.wsscwater.com) within three (3) business days of receipt; and (d) forward the original to the General Manager/CEO.

5. Upon receiving the Request from the Corporate Secretary, the General Manager/CEO shall have thirty (30) days to review the Request, assess its merits and prepare a recommendation to the Commission regarding the Request’s disposition. In preparing a recommendation, the General Manager/CEO may consider any public comment received during the thirty (30) day period.

6. The Commission shall act on the Request within 60 days of receiving the General Manager/CEO’s written recommendation, which time period may be extended by agreement of the Applicant and the General Manager/CEO. The Corporate Secretary shall notify the applicant in writing of the Commission’s action on the Request within five (5) business days thereof.

B. Commission Action and Legal Standard

1. The Commission may deny the Request or grant it in whole or in part. The Commission may impose conditions it deems appropriate on any grant of the Request.

2. Any grant in whole or in part shall be based on the Commission’s determination that:

(a) considering the specific facts and circumstances presented in the Request, application of those SP provisions for which a waiver is sought will be unduly burdensome or will cause an undue hardship;

(b) the underlying purpose of the SP will be disserved or frustrated by applying its requirements to the facts and circumstances set forth in the Request; and

(c) the granting of the Request will be in the public interest.
REQUEST TO WAIVE STANDARD PROCEDURE NO. REG-IFSM-EC-2016-007

Soltesz, LLC, on behalf of Belnor Senior Residences, LLC, requests that WSSC approve a waiver of WSSC Standard Procedure ("SP") No. REG-IFSM-EC-2016-007 (formerly WSSC SP ENG 11-01) in connection with its proposed construction of a senior residence facility at 3800 St. Barnabas Road, Suitland, Maryland. Under the requirements of SP No. REG-IFSM-EC-2016-007, use of the senior residence facility at the location above must await completion by WSSC of its Broad Creek Basin Augmentation Project. In a letter to WSSC Corporate Secretary Sheila R. Finlayson, which WSSC received on June 4, 2018, Soltesz, LLC asks WSSC to waive SP No. REG-IFSM-EC-2016-007 to allow construction of the facility to proceed. The basis for the waiver request is a transfer of existing sewer capacity credits from The Peterson Companies to Belnor Senior Residences, LLC that would permit the project to proceed.

In accordance with SP REG-IFSM-EC-2016-007, WSSC's General Manager/CEO has thirty (30) days from WSSC's receipt of Soltesz's letter and required supporting materials to consider the waiver request and to make a recommendation concerning its disposition to the full Commission. The Commission, under the regulation, shall then act on the Request within sixty (60) days of receiving the General Manager's written recommendation, unless such time period has been extended by agreement of the parties. When recommending action to the Commission, the General Manager/CEO may, but is not obligated to, consider any public comment received during the thirty (30) day period. Additional information concerning Soltesz's request may be obtained from Sheila Finlayson, Esq., WSSC Corporate Secretary at (301) 206-8200.
June 22, 2018

Ms. Sheila R. Finalyson Esquire
Corporate Secretary Office
Washington Suburban Sanitary Commission
14501 Sweitzer Lane
Laurel, Maryland 20707

Re: Belnor Senior Residence
WSSC Project No. DA6223217
Soltesz No.: 3474-00-00

Dear Ms. Finalyson,

On behalf of our Client, Belnor Senior Residences, LLC, Soltesz is requesting approval for a re-allocation in existing sewer capacity to Belnor Senior Residences, which drains to the Broad Creek Pumping Station. This re-allocation proposal would transfer capacity from the Potomac Ridge II site owned by The Peterson Companies (TPC) (10,457 gpd) to the Belnor Senior Residences site. TPC has agreed to transfer existing sewer capacity credits to Belnor Senior Residences, LLC. The credits provided by TPC will allow the Belnor Senior Residence project to move forward once they are ready for the Use and Occupancy Permit to be issued in September 2018. It will also satisfy the requirement of WSSC's CleanWater Program (CWP) for the Broad Creek Pumping Station. Credits totaling 10,457 gpd will be transferred from TPC to Belnor Senior Residences.

The Potomac Ridge II site has available sewer credits of 10,457 gpd. This proposal intends to transfer 10,457 gpd from the Potomac Ridge II site to the Belnor Senior Residences site. As a result of the sewer capacity transfer, any further development at Potomac Ridge II is limited to a total of 0 gpd until the Broad Creek WWPS augmentation is complete in December 2019.

The proposed use for Belnor Senior Residences consists of 122 apartment units. Using 100 gpd per unit delivers a total of 12,200 gpd. The August 15, 2016, letter of findings for Belnor outlines the Broad Creek basin sewer dependency issue as it relates to the Belnor site. In order to meet the criteria required for the WSSC CWP, the developer of Belnor Senior Residences proposes to obtain 10,457 gpd in available credits from the TPC site to go with their available credit of 276 gpd for the main line sanitary sewer replacement performed as part of the project. Additionally, the requirement for the Belnor site is 12,200 gpd minus 10,457 gpd, minus 276 gpd, which leaves 1,467 gpd. This shortfall requirement will be addressed in the future sewer rehabilitation project per DS Code 404.4.1. This will meet their overall site requirement of September 12,200 gpd.

The Belnor Senior Residences, LLC, in an effort to address the requirements of the WSSC CWP proposes to re-allocate existing available sewer capacity from Potomac Ridge II, for the benefit of Belnor Senior Residence.

Given that the Broad Creek WWPS augmentation project is nearing completion in December 2019 and the Belnor Senior Residences won't be user ready until its September 2018 opening, we feel that it can be reasonably anticipated that the additional capacity will be available. If this transfer of credits is not granted, the County would lose an immediate and unique development opportunity that brings growth to the area, including significant commercial taxes as well as jobs and recreational opportunities.

If you have any further questions or concerns, please do not hesitate to contact our office.

Sincerely,

Soltesz, LLC

Timothy H. Davis, RLA, AICP, LEED AP
Associate

4300 Forbes Boulevard, Suite 230, Lanham, MD 20706 // P 301.794.7555 F 301.794.7656 // www.solteszco.com
p:\34740000\docs\corres\finalyson_062218thdocx
July 6, 2018

Ms. Eloise T. Foster  
Chair  
Washington Suburban Sanitary Commission  
14501 Sweitzer Road  
Laurel, Maryland 20707

RE: The Belnor Senior Residences REG-IFSM-EC-2016-007

Dear Ms. Foster:

I am writing you in support of the Request for Waiver ("Waiver") of standard procedure REG-IFSM-EC-2016-007 for the Belnor Senior Residences ("The Belnor") project being submitted by Soltesz LLC ("applicant"). Specifically, the applicant is requesting approval of a reallocation/transfer of capacity from the Potomac Ridge II site owned by The Peterson Companies (TPC) to the Belnor Senior Residences site. As described below, TPC has agreed to transfer existing sewer capacity credits to Belnor Senior Residences LLC. The credits provided by TPC will allow The Belnor to move forward once it is ready for the Use and Occupancy Permit to be issued in July 2018. It also will satisfy the requirement of WSSC's Clean Water Program (CWP) for the Broad Creek Pumping Station.

The Potomac Ridge II site owned by TPC has available sewer credits of 10,457 gpd. The proposal is to transfer 10,457 gpd from the Potomac Ridge II site to The Belnor. Because of the proposed sewer capacity transfer, any further development at Potomac Ridge II will be limited to 0 gpd until the Broad Creek WWPS augmentation is completed in December 2019.

The proposed use for The Belnor consists of 122 residential units for seniors. Using 100 gpd per unit delivers a total of 12,200 gpd. An August 15, 2016 WSSC letter of findings for The Belnor outlined the Broad Creek basin sewer dependency issue as it relates to The Belnor site. In order to meet the criteria required for the WSSC CWP, The Belnor Senior Residences LLC, the developer of The Belnor, proposes to obtain 10,457 gpd in available credits from the TPC's Potomac Ridge II site to complement The Belnor's available credit of 276 gpd. The remaining 1,467 needed to fulfill the total amount of 12,200 gpd will be obtained by improvements to the existing system with the future sewer rehabilitation project per code 404.4.1. This transfer of credits will enable The Belnor to meet its overall site requirement of 12,200 gpd.

Wayne K. Curry Administration Building, 1301 McCormick Drive, Largo, MD 20774  
(301) 952-4131  
www.princegeorgescounty.md.gov
Ms. Eloise T. Foster
Page 2
July 6, 2018

The Belnor is an important project for Prince George's County and for Suitland in that it will provide greatly needed housing specifically for seniors. Moreover, The Belnor will provide beautiful, yet affordable, housing for those seniors whose income is between 40% average median income (AMI) and 60% AMI. The Belnor, located on St. Barnabas Road between Branch Avenue and Silver Hill Road, already has created a lot of excitement in the community, with a waiting list exceeding 200 seniors for its 122 units. The Belnor's many amenities, including, but not limited to, a cyber cafe, workout room, putting green, walking paths, rose garden and medical room, will make it an invaluable asset to our community.

I am pleased to submit this letter of support for the subject Request for Waiver Application. The WSSC's expeditious approval of this waiver will allow The Belnor to open its doors on time, this fall, to our seniors in need of quality and affordable housing.

Sincerely,

Rudolph L. Baker, III
County Executive

cc: The Honorable Karen Toles, County Council Member, District 7
Barry L. Stanton, Deputy Chief Administrative Officer for Public Infrastructure
Thomas Himler, Deputy Chief Administrative Officer for Budget, Finance, Economic Development and Administration
Brad W. Frome, Assistant Deputy Chief Administrative Officer for Public Infrastructure
T. Eloise Foster, Vice Chair, Washington Suburban Sanitary Commission
Chris Lawson, Vice Chair, Washington Suburban Sanitary Commission
Omar M. Boullware, Commissioner, Washington Suburban Sanitary Commission
Fausto R. Bayonet, Commissioner, Washington Suburban Sanitary Commission
Howard A. Denis, Commissioner, Washington Suburban Sanitary Commission
Thomasina V. Rogers, Commissioner, Washington Suburban Sanitary, Commission
Sheila R. Finlayson, Corporate Secretary, Washington Suburban Sanitary Commission
Carla A. Reid, General Manager/CEO, Washington Suburban Sanitary Commission
Andre J. Gingles, Esquire, Gingles, LLC
Lisa Bolden, L.A. Bolden Company
Sarah Constant, Mission First Housing Group
Daniel Henson, Henson Development
Lavinia A. Baxter, Special Assistant to the Deputy Chief Administrative Officer for Utilities and Public Infrastructure
June 12, 2018

Belnor Residences, LLC
c/o L.A. Bolden Company
641 S Street, NW, 3rd Floor
Washington, D.C. 20001

Re:     Letter of Agreement Re: Transfer of Approved Washington Suburban Sanitary Commission Credits

Dear Ms. Bolden:

On behalf of Route 210 Associates LLC ("Route 210"), we appreciate the conversations and meetings we have been able to have with you on behalf of Belnor Residences, LLC ("Belnor"). As a result of this dialogue, we are prepared to move forward with the appropriate approvals to allow a transfer of the sewer capacity (the "Transfer") approved by the Washington Suburban Sanitary Commission ("WSSC") for the Route 210-owned Potomac Ridge II ("Potomac Ridge") for use by Belnor at 3800 St. Barnabas Road for its project known as "The Belnor Senior Residences" ("The Belnor").

Should the Agency Approvals (explained below) require additional items materially related to the Transfer but not addressed by this Agreement, the Agreement may be modified in writing by the parties or amended with the acquiescence of the parties by any such additional agreement necessary to effectuate the Transfer.

Background:
Route 210 has valid approvals from Prince George’s County, the Maryland-National Capital Park and Planning Commission, and WSSC (the "Agency Approvals") that allow for the development of approximately 136 single-family dwellings at Potomac Ridge. Route 210 intends at some time in the future to move forward with the allowable development, some alternative development or transfer the approved sewer capacity for that development to other development in the area. Sewer capacity in the area applicable to the Route 210 development projects—including Potomac Ridge—and the Belnor project will be enhanced by 2020 as a result of the completion of the WSSC Broad Creek Augmentation Project ("WSSC Project"). Belnor desires to move forward with its development of The Belnor, and WSSC has identified that development would require approximately 12,200 gallons per day. Route 210, at this time has approximately 10,457 gallons per day unused at its Potomac Ridge, and it is possible development would not move forward prior to completion of the WSSC Project in 2020. To facilitate Belnor’s desire to move forward, Route 210 is willing to transfer its existing capacity at Potomac Ridge to Belnor for its development of The Belnor. Route 210’s willingness to transfer the capacity is premised on the promise of Belnor to fund all expenses applicable to the Transfer, including but not limited to consulting, engineering, and legal fees, as well as Route 210 staff time, which amount the parties estimate to be Ten Thousand Dollars ($10,000.00). The parties agree the Transfer will be processed by Saltesz and Gingles, LLC. Route 210 shall be responsible for moving forward expeditiously with that process. Notwithstanding the estimate of the costs cited above, Belnor will be responsible for reimbursing Route 210 for the actual costs of the Transfer. Route 210 will keep copies of any
invoices that it receives related to the escrow and will furnish those invoices to Belnor upon reasonable request.

Further, the parties acknowledge Route 210 may determine, at its sole discretion, to move forward with a portion of its development at Potomac Ridge subsequent to the Transfer and prior to the completion of the WSSC Project. If Route 210 decides to move forward prior to completion of the WSSC Project, this would require an additional approval by the WSSC ("Residual Capacity Approval"). The parties agree this would be a more substantive change, and the estimated costs to obtain the Residual Capacity Approval would be approximately Ninety Thousand Dollars ($90,000.00), and this amount shall be placed in escrow prior to effectuation of the Transfer and subject to an Escrow Agreement.

To the extent Belnor does not utilize all of the capacity transferred to it by Route 210, Belnor shall, at its cost, transfer such unused capacity back to Route 210.

**Governmental Approvals:**
Route 210 will initiate the process to secure the Transfer, and Belnor will file any additional applications, plans and documents necessary for WSSC that are not part of the Route 210 filings for the Transfer. Belnor has been in contact with WSSC and initiated discussions with Route 210 based on these discussions. As a result, Route 210 makes no representations relative to the approval of the Transfer by WSSC but does commit to make all of the required filings and provide the required supporting documentation—in its custody—necessary for WSSC action.

**Financial Contribution:**
Route 210 and Belnor agree there is a financial contribution by Belnor to Route 210 for the Transfer. The sole intent of the payments mentioned herein are to have the costs of the Transfer and potential costs of the Residual Capacity Approval borne by Belnor.

**Payments:**
Payment of the Ten Thousand Dollars ($10,000.00) by Belnor to Route 210 shall be tendered at the time of execution of the Agreement by Belnor, and no application shall be filed prior to receipt of that payment. Payment by Belnor into the Escrow Account shall occur within ten (10) days of the action by WSSC approving the Transfer. Any costs in excess of Ten Thousand Dollars ($10,000.00) incurred by Route 210 in connection with the Transfer shall be reimbursed by Belnor within fifteen (15) days of request by Route 210.

**Binding:**
This Letter of Agreement is intended solely to express the mutually accepted terms of Belnor and Route 210 to accomplish the intended Transfer and to provide for Residual Capacity Approval if Route 210 elects to proceed prior to completion of the WSSC Project. This Letter of Agreement shall not give rise to any right or obligation based upon any legal or equitable theory of any kind that is not specifically related to the Transfer and Residual Capacity Approval. Both parties agree the filing and acceptance of the Transfer filing to WSSC by Route 210 creates no rights, liabilities or other exposure for Route 210, agents, contractors or affiliates with regard to the Belnor development referred to herein as The Belnor.
Route 210 Associates LLC
By: MVP Management LLC, a Maryland limited liability company

By: ____________________________
Jon M. Peterson

Its: ____________________________

Date: 4/13/2018

Agreed and Accepted:

Belnor Residences, LLC
By: Belnor Residences Manager, LLC, its manager

By: ____________________________
Sarah Constant

Its: ____________________________

Date: 4/18/18
August 15, 2016

Belnor Senior Residences, LLC
C/o Sarah Constant
1330 New Hampshire Ave, Suite 116
Washington, DC 20036

Re: Phase I Letter of Findings WSSC Project No. DA6223Z17, Belnor Senior Residences

Dear Ms. Constant:

A hydraulic planning analysis has been completed on the Belnor Senior Residences project. The project has been conceptually approved. Please refer to the enclosed 200'-scale sketch along with the summary table and list of conditions included in this letter, which provide the results of our analysis.

<table>
<thead>
<tr>
<th>SEWER</th>
<th>WATER</th>
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<tbody>
<tr>
<td>WWTP Service Area: Prince George's Broad Creek</td>
<td>Hydraulic Zone Group: Prince George's High</td>
</tr>
<tr>
<td>Mini-Basin Number: 11-043</td>
<td>Pressure Zone: 450A</td>
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<tr>
<td></td>
<td>High Grade: 445 feet</td>
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<tr>
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<td>Low Grade: 400 feet</td>
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Washington Suburban Sanitary Commission
The following is a list of conditions that apply to this project and must be met before a Service Connection Permit will be issued under the Applicant Built process.

**PROPERTY WILL BE ASSESSED**
If a connection to an existing WSSC-built main line extension is made, a front-foot-benefit assessment and any deferred connection costs will be levied against the property served. A yearly charge will appear on your County property tax bill for a set period of time -- currently 23 years. For details contact the Property Assessment Unit on 301-206-8032.

**PAY ABANDONMENT/RELOCATION COSTS**
The development may necessitate the relocation / abandonment of existing WSSC facilities. Such work and related expenses will be the responsibility of the applicant. The applicant must take all necessary and appropriate steps to ensure continuous and uninterrupted service to existing WSSC customers.

**MANDATORY REFERRAL PROCESS**
This project may be subject to the Maryland-National Capital Park and Planning Commission’s Mandatory Referral Program, depending on its planned water / sewer infrastructures and associated appurtenances. It is the Applicant’s responsibility to contact the appropriate County’s Department of Park and Planning for specific guidance and their standards for Mandatory Referral Review. During Phase 2 Design Review, WSSC must be notified, if the project is subject to the Mandatory Referral Process.

**SANITARY SEWER CONDITIONS**

**BROAD CREEK BASIN**

**SEWER SYSTEM DEPENDENCY**
Based on the Sewer Modeling analysis for this basin, projected flows during a 2-year design storm exceed the capacity of downstream sewers. In accordance with proposed WSSC Standard Procedure SP ENG-11-01, sewer system improvements will be required and your project will be dependent upon sewer system improvements that eliminate the risk of potential overflow and Project No. S-43.02, Broad Creek Wastewater Pumping Station Augmentation in the adopted FY13 Capital Improvements Program. WSSC cannot guarantee the completion date of this project. Please contact the WSSC Project Delivery Group at 301-206-8328 for information on the current project status.

The applicant may also choose to conduct a sewer system rehabilitation to remove excess inflow/infiltration (Clearwater) from the sewer system in lieu of downstream relief improvements as defined by WSSC Special Procedures ENG.
11-01. This work shall be completed as a Developer Relocation Project (DRP) as described in the Development Services Code (DSC). The Applicant shall contact Development Services Group (DSG) for more information with regards to this Clearwater option. Clearwater work shall be completed in accordance with Sewer System Rehabilitation Flow Credits described in Chapter 4, Section 404 of the DSC. In addition, an amended HPA is required for such a revision at WSSC’s discretion.

**SEWER AVAILABLE.**
An existing sanitary sewer is available to provide service to this project. Sanitary sewer service may be obtained by constructing service connections without a public extension. Each property connecting to the existing lines will be assessed at the rate prevailing at the time of the main's construction (see “PROPERTY WILL BE ASSESSED” above).

**WATER MAIN CONDITIONS**

**LARGE DIAMETER WATER MAINS IN THE VICINITY**

There is a 24-inch diameter water main located in the vicinity of this project. WSSC records indicate that the pipe material is Ductile Iron (DI).

Prior to submittal of Phase 2 System Integrity review, it is the applicant’s responsibility to test pit the line and determine its exact horizontal and vertical location as well as to verify the type of pipe material. *The applicant’s engineer is responsible for coordinating with WSSC for monitoring and inspecting test pits for this project.* Results of the test pit findings must be accurately depicted on ALL Phase 2 plan submittals and support documents.

**WATER AVAILABLE.**
An existing 24-inch water main is available to provide service to this project. Water service may be obtained by constructing service connections without a public extension. Each property connecting to the existing lines will be assessed at the rate prevailing at the time of the main’s construction (see “PROPERTY WILL BE ASSESSED” above).

**PRESSURE REDUCING VALVES REQUIRED**
Due to high water pressure conditions (greater than 80 psi), the on-site plumbing system requires pressure reducing valves for buildings with first floors below 270 feet.
OUTSIDE METERS

Any residential water service over 300 feet in length will require an outside meter. Any commercial water service connections, built to serve a standard or minor site utility (on-site) system over 80 feet in length will require an outside meter. Exceptions will be considered for existing properties / complexes currently served by inside meters where replacements or new service is required.

EASEMENT CONDITIONS

COORDINATION WITH OTHER BURIED UTILITIES

Refer to WSSC Pipeline Design Manual Pages G-1 and G-2 for utility coordination requirements. No structures or utilities (manholes, vaults, pipelines, poles, conduits, etc.) are permitted in the WSSC easement unless specifically approved by WSSC. Longitudinal occupancy of WSSC easements (by other utilities) is not permitted. Proposed utility crossings of WSSC pipelines or easements that do not adhere to WSSC’s pipeline crossing and clearance standards will be rejected at the design plan review phase. Refer to WSSC Pipeline Design Manual Part Three, Section 3. Failure to adhere to WSSC crossing and clearance standards may result in significant impacts to the development plan including impacts to proposed street and building layouts.

The applicant must provide a separate “Utility Plan” to ensure that all existing and proposed site utilities have been properly coordinated with existing and proposed WSSC facilities and easements. Upon completion of the site construction, any utilities that are found to be located within WSSC’s easements (or in conflict with WSSC pipelines) must be removed and relocated at the applicant’s expense.

IMPACTS DUE TO GRADING / PIPE LOADING CHANGES

Any grading, change in pipe loading (including but not limited to proposed fill or excavation), adjustment to manhole rims, fire hydrant relocations, placement of access roads or temporary haul roads, temporary sediment control devices, paving construction or construction related activity of any kind over an existing WSSC water or sewer main or within an existing WSSC easement requires advance approval by WSSC. Any proposed public street grade establishment plan (GEP) with an existing WSSC water or sewer main of any size located within the existing or proposed public street easement requires WSSC approval directly on the original GEP prior to approval of the GEP by the County Department of Public Works and Transportation. Any work (design, inspection, repair, adjustment, relocation, or abandonment) of existing WSSC facilities is done at the sole expense of the applicant / builder / developer. For Relocations work associated with a Systems Extension Project or a Site Utility Project, contact the Development Services Group. Please arrange for this review before plan submittal. See WSSC Design Manual C-11.
CONNECTION AND SITE UTILITY CONDITIONS

ABANDON EXISTING SERVICE CONNECTION.
The existing 11/2-inch water connection must be abandoned and reconnected to the existing 24-inch main (DI), with an 8-inch. The developer must absorb the abandonment cost. If the connection is being carried on tax bill as deferred, the connection must be paid in full.

SITE UTILITY PROCESS REQUIRED.
The Site Utility process is usually required for water lines greater than 2 inches in diameter or sewer lines greater than 4 inches. Contact Permit Services at 301-206-8650 or at www.wsscwter.com for more information on electronic submittal of Site Utility plans.

ENVIRONMENTAL CONDITIONS
The applicant must resolve all environmental issues directly with the Environmental reviewer. All outstanding environmental issues must be resolved prior to the Design Phase.

The next step in the process is Site Utility Plan Review. See “Site Utility Process Required,” above.

If you have any questions or concerns, please feel free to contact me at 301-206-8642 or Jonathan.Madagu@wsscwter.com.

Sincerely,

G Madagu
Jonathan P. Madagu
Project Manager
Development Services Group

Beth Kilbourne, P.E.
Development Unit Coordinator
Development Services Group
Enclosure:  WSSC Standard Procedure SP ENG-11-01

cc:   SOLTESZ, LLC – Juan Solano
       Ms. Shirley Branch (sabrand@co.pg.md.us) - Department of the Environment - Prince George's County Government.