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October 18, 2021

Ms. Andrea Villalobos, AICP, CNU-A
Planning Manager
Planning & Development Services
City of San Marcos
630 E Hopkins
San Marcos, TX 78666

RE: Request to Amend Resolution No. 2020-28R – Lantana Apartments

Dear Ms. Villalobos,

The Resolution of No Objection (“RONO”) for Lantana requires that the project comply with the ultimately selected Character District 5 (“CD5”) zoning development standards, but also requires perimeter fencing, which is inconsistent with CD5, and contradictory to its intent for open pedestrian access. We are requesting the removal of any reference to gates or fences from the RONO for the following reasons:

- CD5 is intended to promote walkability & Pedestrian access;
- A perimeter fence is not required for the project per Zoning Code, but only interjected in the RONO and the general project description during the RONO process was not meant to be construed as the final design, but merely a general preliminary design description that would be modified to conform to the Zoning Code for the property, once it was both Annexed and said Zoning identified. It was not meant to be construed at that time as anything other than an example of design elements in completed projects in other jurisdictions, many of which were Urban Core projects that required higher levels of security. MDG at the time of the RONO hearing did not know what the final Zoning for this project would be. Once it was arrived upon, the project was designed to conform to CD 5 standards once that specific Character District was selected as appropriate Zoning, duly recommended by Staff, and approved by Zoning and Planning;
- A perimeter fence does not add value to the project or any benefit to the City or San Marcos Public Housing authority and runs contrary to the “Walkability and Pedestrian Access” of other immediate projects in area (McCarty Commons and Mission Trail at El Camino for example), neither of which have perimeter fencing.
- The project is being required to comply with the CD5 block length maximums, which adds significant cost to the project and was not anticipated when very preliminary suggestions of project design was made for RONO Hearing;



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- The maximum block length requires the creation of public streets and substantially reduces the net developable area of the project by over 3 acres, which was not contemplated or envisioned in original plans, and had to be addressed to conform to CD 5 through the Permitting process;
- The perimeter fence, which would not be required under CD 5, adds additional unanticipated costs to the 100% affordable project;
- The public purpose being served by the project is the creation of workforce housing, and to provide an income producing asset for the SMPHA. The additional costs would reduce the income to SMPHA for its purposes of providing affordable housing and maintaining its present housing stock;
- There is no reason to require fencing that is not required in a market rate CD5 project while complying with all other CD5 requirements, especially when the surrounding CD 5 multi-family Market Rate projects have not been required to include perimeter fencing, and the very preliminary suggestion made during the RONO Hearing flies in the face of the intent of the actual ultimate Zoning requirements.

Additionally, during the final design phase we made a few changes to our amenities, which we feel will better serve our residents. See attached amenities list. We are still above the minimum number of points required by TDHCA. The following is a brief description of which amenities changed.

Adding:

- Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every 20 Units). Choose from a specific list identified in the Qualified Action Plan. (2 points);
- Sport Court or field (including, but not limited to, Tennis, Basketball, Volleyball, Soccer or Baseball Field) (2 points);
- Enclosed community sun porch or covered community porch/patio (1 point);
- Lighted pathways along all accessible routes (1 point);
- Activity Room stocked with supplies (Arts and Crafts, board games, etc.) (2 points);
- Recycling Service (includes providing a storage location and service for pick-up) (1 point);



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Removing:

- Controlled gate access for entrance and exit areas, intended to provide access that is limited to the Development's tenancy (1 point);
- Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every 40 Units). Choose from a specific list identified in the Qualified Action Plan. (1 point);
- Full perimeter fencing that contains the parking areas and all amenities (excludes guest or general public parking areas) (2 points);
- Library with an accessible sitting area (separate from the community room) (1 point);
- Community Dining Room with full or warming kitchen furnished with adequate tables and seating (3 points);
- Bicycle parking that allows for, at a minimum, one bicycle for every five Units, within reasonable proximity to each residential building that allows for bicycles to be secured with lock (lock not required to be provided to tenant) (1 point);

Please let me know if you have any questions and we look forward to this being presented before City Council.

Sincerely,

Mark Tolley
Lantana San Marcos, LP
Mission Development Group, LLC.
Partner

cc: Lana Wagner
San Marcos Housing Authority
Executive Director

John Latham
Lantana San Marcos, LP
Mission Development Group, LLC.
Partner

LEGAL DESCRIPTION

BEING A 9.93 ACRE TRACT OF LAND, OUT OF THE CYRUS WICKSON SURVEY, ABSTRACT NO. 474, HAYS COUNTY, TEXAS, BEING ALL OF THE REMAINDER OF A 6.0 ACRE TRACT OF LAND AS CONVEYED TO GEORGE BARNUM OF RECORD IN VOLUME 208, PAGE 116 AND ALL OF A 4.0 ACRE TRACT OF LAND AS CONVEYED TO GEORGE BARNUM OF RECORD IN VOLUME 216, PAGE 41, BOTH OF THE DEED RECORDS OF HAYS COUNTY, TEXAS.

BENCHMARKS

BM1: (POINT #300) SET PK NAIL ON TOP OF CONCRETE CURB WITH WASHER STAMPED "KFW CONTROL" AT ELEVATION = 678.21' SET BY KFW SURVEYING.
BM2: (POINT #301) SET 1/2" IRON ROD WITH PINK PLASTIC CAP ON TOP OF CONCRETE CURB AT ELEVATION = 677.26' SET BY KFW SURVEYING.

COORDINATION NOTE:

- CONTACT GRANDE TO COORDINATE CABLE TV SERVICE. 1-800-218-5725.
- CONFIRM REQUIREMENTS AND COORDINATE WITH CITY OF SAN MARCOS PUBLIC SERVICES DEPARTMENT FOR INSPECTIONS AND CONDUIT SIZES FOR PRIMARY AND SECONDARY ELECTRICAL SERVICES. (512)-393-8000.
- CONTACT AT&T TO COORDINATE TELEPHONE SERVICE. 1-800-464-7928.
- CONTRACTOR TO COORDINATE WITH CENTERPOINT ENERGY TO PLAN GAS SERVICES. (800)-427-7142.
- CONTRACTOR TO COORDINATE WITH CITY OF SAN MARCOS PUBLIC SERVICES DEPARTMENT TO PLAN SANITARY SEWER. (512)-393-8000.
- CONTRACTOR TO COORDINATE WITH CITY OF SAN MARCOS PUBLIC SERVICES DEPARTMENT CORPORATION TO PLAN WATER SERVICE. (512)-393-8000.
- CONTRACTOR SHALL CONTACT 1-800-DIG-TESS A MINIMUM OF 48 HOURS PRIOR TO THE START OF CONSTRUCTION.

TRENCH EXCAVATION SAFETY PROTECTION

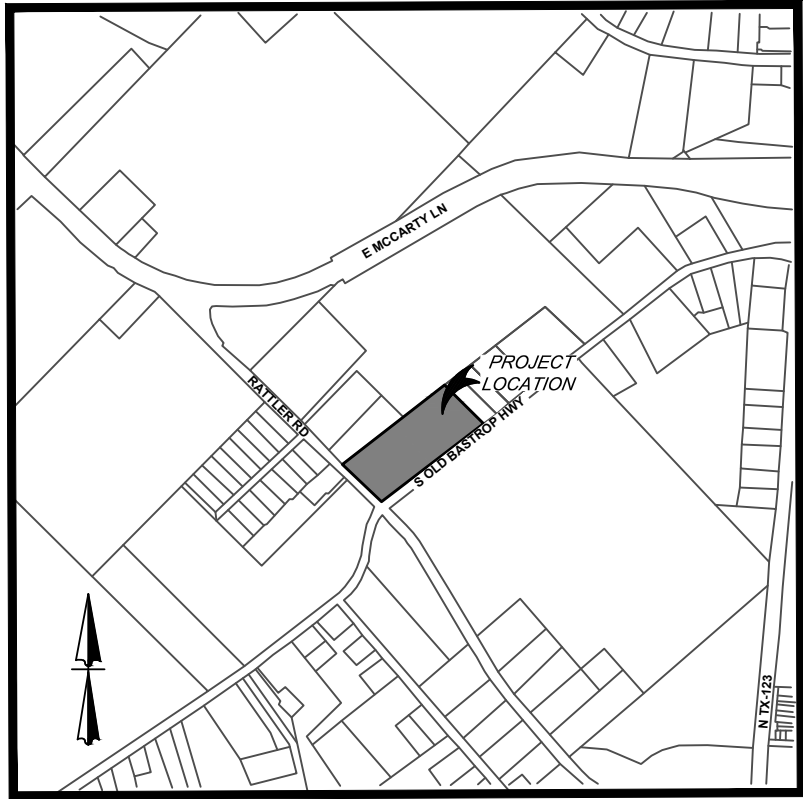
CONTRACTOR AND/OR CONTRACTOR'S INDEPENDENTLY RETAINED EMPLOYEE OR STRUCTURAL DESIGN/GEOTECHNICAL/SAFETY/EQUIPMENT CONSULTANT, IF ANY, SHALL REVIEW THESE PLANS AND ANY AVAILABLE GEOTECHNICAL INFORMATION AND THE ANTICIPATED INSTALLATION SITES WITHIN THE PROJECT WORK AREA IN ORDER TO IMPLEMENT CONTRACTOR'S TRENCH EXCAVATION SAFETY PROTECTION SYSTEMS, PROGRAMS AND/OR PROCEDURES FOR THE PROJECT DESCRIBED IN THE CONTRACT DOCUMENTS. THE CONTRACTOR'S IMPLEMENTATION OF THESE SYSTEMS, PROGRAMS AND/OR PROCEDURES SHALL PROVIDE FOR ADEQUATE TRENCH EXCAVATION SAFETY PROTECTION THAT COMPLY WITH AS A MINIMUM, OSHA STANDARDS FOR TRENCH EXCAVATIONS. SPECIFICALLY, CONTRACTOR AND/OR CONTRACTOR'S INDEPENDENTLY RETAINED EMPLOYEE OR SAFETY CONSULTANT SHALL IMPLEMENT A TRENCH SAFETY PROGRAM IN ACCORDANCE WITH OSHA STANDARDS GOVERNING THE PRESENCE AND ACTIVITIES OF INDIVIDUALS WORKING IN AND AROUND TRENCH EXCAVATION.

CAUTION!! THE CONTRACTOR SHALL BE REQUIRED TO LOCATE ALL PUBLIC OR PRIVATE UTILITIES INCLUDING BUT NOT LIMITED TO: WATER, SEWER, TELEPHONE AND FIBER OPTIC LINES, SITE LIGHTING ELECTRIC, SECONDARY ELECTRIC, PRIMARY ELECTRICAL DUCTBANKS, LANDSCAPE IRRIGATION FACILITIES, AND GAS LINES. ANY UTILITY CONFLICTS THAT ARISE SHOULD BE COMMUNICATED TO THE ENGINEER IMMEDIATELY AND PRIOR TO CONSTRUCTION THE CONTRACTOR SHALL CONTACT 1-800-DIG-TESS A MINIMUM OF 48 HOURS PRIOR TO THE START OF CONSTRUCTION. ANY DAMAGE TO EXISTING UTILITIES SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND THE REPAIR SHALL BE AT CONTRACTOR'S SOLE EXPENSE WHETHER THE UTILITY IS SHOWN ON THESE PLANS OR NOT.

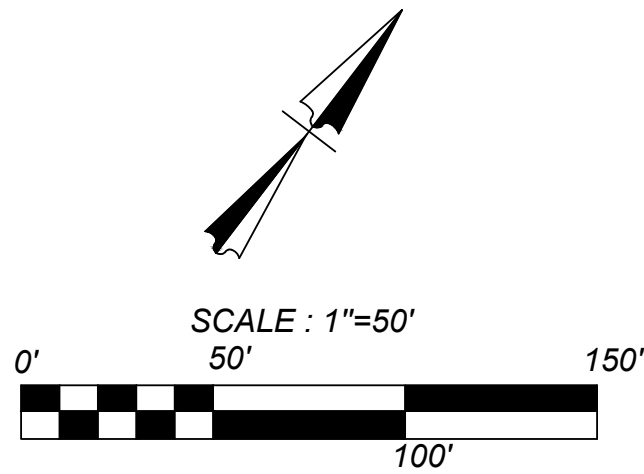
Curve Table					
Curve #	LENGTH	RADIUS	DELTA	CHORD BRG	CHORD DIST
C1	40.17'	1031.00'	002°13'57"	N47°04'08"W	40.17'

TRAFFIC/SW SUMMARY TABLE -

Building Use		APARTMENT HOMES	
Total Floor Area (sq. ft.)			
Minimum Parking Ratio		1.05 per	BEDROOM
Maximum Parking Ratio		150% OF MINIMUM REQUIRED	
Bicycle Parking Ratio		1 per	20 UNITS
REGULAR			
Minimum Required Parking		353	
Maximum Required Parking		530	
Actual/Proposed Parking		350	
Maximum Compact Spaces (30%)		105	
Compact Spaces Proposed		0	
Bicycle Required Parking		11	
HANDI-CAPPED (ADA)			
Required H.C. Parking		8	
Required V. A. Parking		2	
Proposed Universal H.C. Parking		12	
Proposed V.A. Parking		2	
Proposed Total H.C. Parking		14	
APPROACH(ES)			
Approach Width- (ft.)		N/A	
Flare/Radius (ft.)		N/A	
Approach Area-(sq. ft.)		N/A	
SIDEWALK(S)			
Sidewalk Width - (ft.)		0	
Sidewalk Length (linear ft.)		0	
Sidewalk Area (sq. ft.)		0	

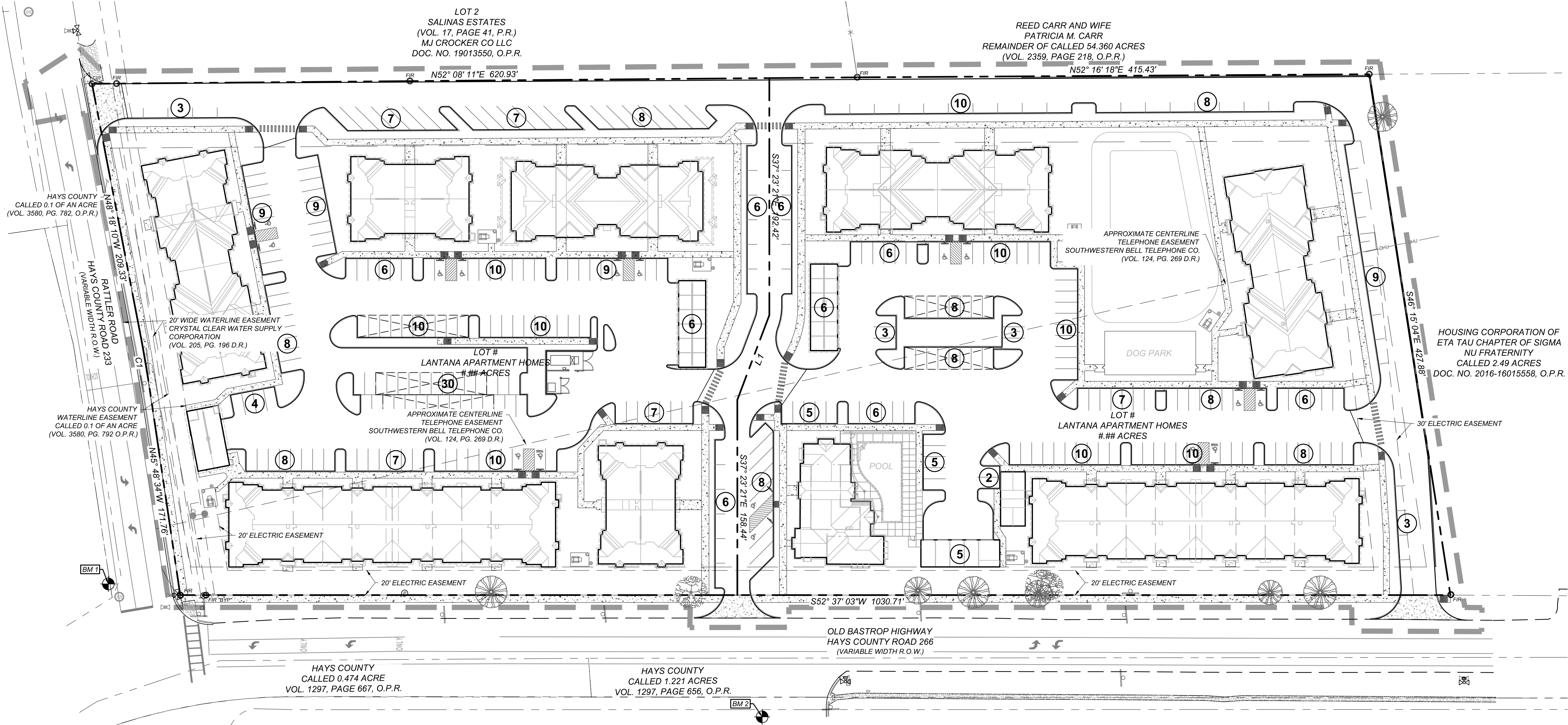


LOCATION MAP
N.T.S.



LEGEND

LIMITS OF CONSTRUCTION	
PROPERTY LINE	
ADJACENT PROPERTY LINE	
EXISTING CONCRETE	
EXISTING CURB	
EXISTING SANITARY SEWER MANHOLE	
EXISTING SIGN	
EXISTING OVERHEAD UTILITY AND POWER POLE	
EXISTING FENCE	
SITE BENCHMARK SEE DESCRIPTION THIS SHEET	
PROPOSED FIRE HYDRANT	
PROPOSED CURB	
PROPOSED RIBBON CURB	
PROPOSED SIDEWALK	
PARKING STALL COUNT	
EXISTING TREE. REFERENCE LANDSCAPE PLANS FOR TREE PRESERVATION AND TREE REMOVAL	



THE LANTANA APARTMENT HOMES
OLD BASTROP HWY, SAN MARCOS, TEXAS
OVERALL SITE PLAN

JOB NO. 713-02-01
DATE: SEPTEMBER 2020
DRAWN: A.B. CHECKED: J.L.

SHEET NUMBER:

C4.0

**AGREEMENT PROVIDING FOR PAYMENT IN LIEU OF TAXES FOR
LANTANA ON BASTROP LOW INCOME HOUSING TAX CREDIT PROJECT**

This agreement (the "Agreement") dated as of February 18, 2020 is entered into by and between the City of San Marcos, Texas ("City"), and Mission DG, Ltd., a Texas limited partnership (the "Partnership"), upon terms and conditions set forth herein.

RECITALS

WHEREAS, the Partnership intends to construct, equip and manage an affordable multifamily apartment facility in San Marcos, Hays County, Texas, to be known as Lantana on Bastrop Apartments and to be constructed on the property described on Exhibit A attached hereto (the "Facility" or the "Property"); and

WHEREAS, the Facility will be exempt from ad valorem taxation pursuant to Section 11.11 of the Texas Tax Code (the "Exemption"); and

WHEREAS, the City has a public purpose for entering into this Agreement and held a meeting on February 4, 2020, whereby the City decided that it is in the interest of the City and the public to enter into this Agreement to facilitate the development of affordable housing within the City;

WHEREAS, following said hearing, the City further approved a Resolution of No Objection to the issuance of Low Income Housing Tax Credits for the Facility, subject to the requirement that the Partnership enter into an agreement with the City providing for the payment of funds in lieu of the tax revenue lost due to the Exemption;

WHEREAS, the Partnership desires to make annual payments to the City (each a "Payment") to preserve tax revenue to the City that is lost through the Exemption; and

WHEREAS, the City finds that this Agreement serves the public purpose of promoting affordable and workforce housing for its residents;

NOW, THEREFORE, in consideration of the foregoing and other consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Partnership agrees to pay the City a Payment of \$11,000.00, annually, as provided below. The Partnership agrees to continue to make the Payment each subsequent year the Partnership owns the Facility and the Property receives an exemption from ad valorem taxes.

2. If at any time the Property no longer receives an exemption from ad valorem taxes, this Agreement shall automatically terminate, and be of no further force and effect.

3. Payments are due from the Partnership to the City on or before January 31 for the previous tax year. The first Payment is due from the Partnership to the City on or before January 31 of the calendar year following the year of construction completion and occupancy stabilization. If the Partnership fails to pay the Payment to the City within such time, and such

failure continues for ten days after written notice of such default to the Partnership by the City, the City shall have the right to exercise any and all legal remedies available to it to obtain such payment. The Partnership agrees to pay the statutory amounts for penalties, interest, attorney's fees, and costs of collection applicable to suits to recover delinquent ad valorem taxes under Texas Tax Code Chapter 33 for failure to remit timely Payments to the City as a contractual obligation even though the Property will be exempt from local ad valorem taxation.

4. All Payments shall be made payable to the City of San Marcos and shall be sent to the Director of Finance, City of San Marcos, 630 East Hopkins Street, San Marcos, Texas 78666.

5. To the extent permitted by law, a holding by any court that any part or any provision in this Agreement is invalid, illegal or unenforceable in any respect shall not affect any other provision, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been a part of the Agreement.

6. This Agreement may not be amended except in a writing specifically referring to this Agreement and signed by the parties hereto. Any right created under this Agreement may not be waived, except in a writing specifically referring to this Agreement and signed by the party waiving the right. Provided, however, termination of this Agreement shall not relieve the Partnership, or its successors, from any payments due to the City prior to such termination.

7. If for any reason the Partnership should fail to make the Payment in accordance with this Agreement, the parties agree that: (a) the Payment that would have been paid, plus; (b) the amount of any interest allowed by applicable laws on the Payment, plus; (c) the City's reasonable attorney's fees and costs of collection should any action be required in order to compel payment of all such amounts shall serve as liquidated damages from the Partnership to the City. Nothing in this Agreement shall be construed as creating a lien against the Property, nor shall the City be entitled to place a lien on the Property for any unpaid portion of the Payment.

8. Any notice provided or permitted to be given pursuant to this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the party to be notified, postage prepaid, certified mail, with return receipt requested, by fax (with confirmation of receipt), by personal delivery service or nationally recognized air courier service. For purposes of notice, the addresses of the parties shall be as set forth below:

To the City:

Director of Finance
City of San Marcos 630 E. Hopkins St.
San Marcos, Texas 78666

To the Partnership:

Mission DG, Ltd.
P.O. Box 830926
San Antonio, TX 78283
Attn: Mark Tolley

9. This Agreement shall be governed by the laws of the State of Texas. Venue for

any action concerning this Agreement shall be in the District Courts of Hays County, Texas.

10. The Partnership may not assign, transfer or otherwise convey any of its rights or obligations under this Agreement to any other person or entity without the prior consent of City, which consent shall not be unreasonably withheld, conditioned on (i) the prior approval of the assignee or successor and a finding by City that the proposed assignee or successor is financially capable of meeting the terms and conditions of this Agreement and (ii) prior execution by the proposed assignee or successor of a written agreement with City under which the proposed assignee or successor agrees to assume and be bound by all covenants and obligations of the Partnership under this Agreement. Any attempted assignment without City's prior consent shall constitute grounds for termination of this Agreement and following ten (10) calendar days of receipt of written notice from City to the Partnership.

11. This Agreement constitutes the entire understanding between the parties and supersedes any prior negotiations, discussions, agreements, and understandings between the parties with respect to the subject matter of this Agreement.

12. This Agreement shall continue for a term concurrent with the Exemption of the Property. Notwithstanding anything herein to the contrary, at such time as the Property no longer receives an exemption from ad valorem taxes, this Agreement shall automatically terminate, and be of no further force and effect.

13. This Agreement may be simultaneously executed in multiple counterparts, which, taken together, shall be considered as original, and all of which constitute one and the same instrument.

Executed to be effective as of the date first set forth above.

CITY OF SAN MARCOS:

By: 

Name: Bert Lumbraeras

Title: City Manager

MISSION DG, LTD:

By: Cisneros Miramontes DG, LLC,
its general partner

By: 

Name: Mark Volter

Title: Partner

EXHIBIT A The Property

METES AND BOUNDS

Being 9.933 acres of land, more or less, out of the C. Wickson Roberts Survey, Abstract No. 474, Hays County, Texas, and consisting of a portion 6.0 acres described in Deed recorded in Volume 208, Page 116, Deed Records of Hays County, Texas and all of 4.0 acres described in a Deed recorded in Volume 216, Page 41, Deed Records of Hays County, Texas, said 9.933 acres being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod set for the South corner of this 9.933 acres, same being on the intersection of the northwest Right-of-Way of Old Bastrop Highway and the northeast Right-of-Way of Ratlier Road and the **POINT OF BEGINNING**;

THENCE along the northeast Right-of-Way of said Ratlier Road the following courses and distances:

North 46 degrees 04 minutes 57 seconds West (called North 46 degrees 05 minutes 31 seconds West), a distance of 171.75 feet to a point, and for the beginning of curve to the left;

Along said curve to the left with a radius of 1031.00 feet, an arc length of 40.17 feet (called 40.31 feet), a chord length of 40.17 feet, a chord bearing of North 47 degrees 05 minutes 19 seconds West, and a delta angle of 2 degrees 13 minutes 57 seconds to a point of tangency;

North 48 degrees 19 minutes 21 seconds West (called North 48 degrees 19 minutes 55 seconds West), a distance of 209.33 feet to a 1/2 inch iron rod set for the southwest corner of this 9.933 acres;

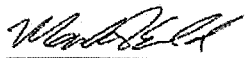
North 52 degrees 07 minutes 00 seconds East (called North 55 degrees 25 minutes 00 seconds East), at a distance of 19.92 feet pass a 1/2 inch iron rod found (monument of record dignity) in the for the South corner of Lot 2, Salinas Estates (Volume 17, Page 41), and in all a total distance of 620.93 feet to a 3/8 inch iron rod found for an angle corner of this 9.933 acres, same being the East corner of said Lot 2, and an angle corner of the Reed and Patricia Carr Revocable Trust 54.360 acre tract (Volume 2359, Page 218);

THENCE along the line common to this 9.933 acres and said Carr 54.360 acres, North 52 degrees 15 minutes 07 seconds East (called North 55 degrees 25 minutes 00 seconds East), a distance of 415.43 feet (called 415.50 feet) to a 1/2 inch iron rod found (monument of record dignity) for the North corner of this 9.933 acres, same being the West corner of the Housing Corporation of Eta Tau Chapter of Sigma Nu Fraternity 2.49 acre tract (Document No. 16015558);

THENCE along the line common to this 9.933 acres and said Sigma Nu 2.49 acres, South 46 degrees 16 minutes 15 seconds East (called South 43 degrees 40 minutes 00 seconds East), a distance of 427.83 feet (called 426.70 feet) to a 1/2 inch iron rod found for the northeast corner of this 9.933 acres, same being the South corner of said Sigma Nu 2.49 acres and on the northwest Right-of-Way of said Old Bastrop Highway;

THENCE along northwest Right-of-Way of said Old Bastrop Highway, South 52 degrees 35 minutes 52 seconds West (called South 55 degrees 25 minutes 00 seconds West), at a distance of 1009.91 feet pass a 1/2 inch iron rod found, and in all a total distance of 1030.71 feet to the **POINT OF BEGINNING** and containing 9.933 acres of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof. Bearings shown herein are based on actual GPS observations, Texas State Plane Coordinate, South Central Zone, Grid.


Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
May 3, 2019.



