

**AGREEMENT GRANTING A WARRANT FOR THE
USE OF PURPOSE BUILT STUDENT HOUSING**

Pursuant to Section 1.5.2 of the San Marcos SmartCode, Subpart C of the San Marcos Code of Ordinances, this Agreement Granting a Warrant for the Use of Purpose Built Student Housing (the "Agreement") is entered into by and between 417 N. Comanche Partners, L.L.C. and the City of San Marcos, Texas (the "City").

Date: August 15, 2017

Case No.: SCW-17-02

Project: Multi-story student oriented residential development located on the Property.

Project Address: 323 Lindsey Street and 410 North Street

Property: As shown in Exhibit A, attached hereto and made a part hereof for all purposes.

Applicant: 417 N. Comanche Partners, L.L.C., 4801 Spicewood Springs Road, Suite 100, Austin, Texas 78759

City: City of San Marcos, Texas, a home rule municipal corporation, 630 East Hopkins, San Marcos, Hays County, Texas 78666

1. Warrant Approved: The City hereby grants a Warrant under Section 1.5.2 of the San Marcos SmartCode, Subpart C of the San Marcos Code of Ordinances, to allow the use of Purpose Built Student Housing on the Property, subject to the following:

a. Compliance with Laws. The Project shall be constructed in accordance with applicable building codes, zoning ordinances, including all multifamily residential design standards, and laws.

b. Consistency with Proposed Plans. All buildings, structures and improvements related to the Project shall be completed in substantial conformance with the plans and visual representations presented to the City Council as shown in Exhibit "B," attached hereto and made a part hereof.

c. Student Leases. Any residential dwelling lease that is executed and effective before the issuance of a certificate of occupancy by the City enabling the tenant to occupy the premises shall include a late delivery provision providing as follows:

"In the event the Leased Premises are unavailable for occupancy on or before the commencement date of this Lease, Landlord shall offer Tenant the choice of: 1) accepting temporary safe, decent, and sanitary housing, provided by Landlord, at an alternate location within the City of San Marcos, or within a seven mile radius of the Leased Premises, with Tenant



remaining bound by the terms of the Lease; or 2) terminating the Lease with no financial penalty and with full reimbursement to Tenant of all deposits and pre-paid items within 10 days.”

Before execution of any such lease, Applicant or Applicant’s successor or assignee operating the Purpose Built Student Housing allowed by this Agreement shall, first, provide a copy of its form lease to the City for review and written approval consistent with this paragraph.

d. Reports. Upon the written request of the City’s staff, Applicant or Applicant’s successor or assignee shall provide a written report to the City disclosing the residential occupancy rates and parking usage for the Project during the periods specified in the request.

e. Parking. The parking ratio for the Project shall be at least 0.85 parking spaces per bedroom.

f. Subject to Zoning. The Warrant granted by this Agreement is subject to approval of a zoning designation of SmartCode T5 Urban Center District for an approximately .20286 acre portion of the Property addressed at 323 Lindsey Street.

2. Miscellaneous Terms. This Agreement is subject to the following additional terms and provisions.

a. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters contemplated herein.

b. Amendments. This Agreement may only be amended by written and duly executed instrument approved by the City Council of the City following a public hearing after a review and recommendation by the Planning and Zoning Commission of the City.

c. Assignment. This Agreement may be assigned only with the written approval of the San Marcos City Council, except that it may be collaterally assigned to any lender of Applicant in connection with the interim or permanent financing of the Project upon written notice to the City of such assignment.

d. Applicable Law and Venue. This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas. Venue for any legal proceedings shall lie in State courts located in Hays County, Texas. Venue for any matters in federal court will be in the United States District Court for the Western District of Texas.

f. Severability. In the event any provision of this Agreement is illegal, invalid, or unenforceable under applicable present or future laws, then, and in that event, it is the intention of the parties that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.




g. Third Parties. The parties intend and agree that this Agreement shall not benefit or create any right or cause of action in or on behalf of any third-party beneficiary, or any individual or entity other than the City, and the Applicant.

h. Immunity. The City, in entering this Agreement does not waive its immunity from suit or any other limitations on its liability, contractual or otherwise, as granted by the Texas Constitution or applicable laws of the State of Texas.

EXECUTED effective as of the Date first stated above.

CITY OF SAN MARCOS:

By: 
Bert Lumbreras, City Manager

417 N. COMANCHE PARTNERS, L.L.C.:

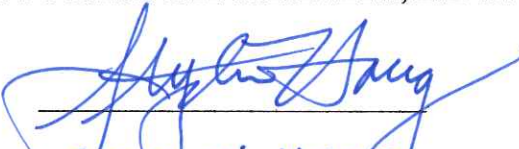
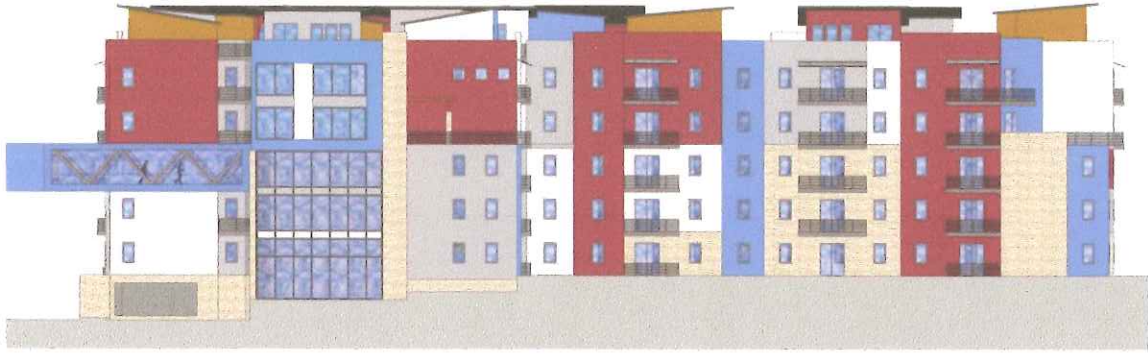
By: 
Name: STEPHEN HAUG
Title: MANAGER

EXHIBIT B

CONCEPTUAL ELEVATIONS



NORTH ELEVATION

COMANCHE II
417 N. COMANCHE ST.
SCALE: N.T.S.

ARCHITECTURE LAND PLANNING LANDSCAPE DESIGN CONSTRUCTION ADMINISTRATION
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280 Adkins Ferry Road, Suite 212
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CONCEPTUAL ELEVATIONS



EAST ELEVATION

COMANCHE II
417 N. COMANCHE ST.
SCALE: N.T.S.

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CONCEPTUAL ELEVATIONS



SOUTH ELEVATION

COMANCHE II
417 N. COMANCHE ST.
SCALE: N.T.S.

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CONCEPTUAL ELEVATIONS



WEST ELEVATION

COMANCHE II
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SCALE: N.T.S.

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CONCEPTUAL RENDERINGS



A handwritten signature in blue ink, consisting of stylized, overlapping loops and lines.

CONCEPTUAL RENDERINGS



GA

CONCEPTUAL RENDERINGS



CA