



Dr. Christopher Harvey, Mayor  
Emily Hill, Mayor Pro Tem, Place 1  
Anne Weir, Place 2  
Maria Amezcua, Place 3  
Sonia Wallace, Place 4  
Aaron Moreno, Place 5  
Deja Hill, Place 6

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## Manor Housing Public Facility Corporation

Wednesday, May 01, 2024 at 6:00 PM

Manor City Hall, Council Chambers, 105 E. Eggleston St.

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### AGENDA

**CALL TO ORDER AND ANNOUNCE A QUORUM IS PRESENT**

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

*Non-Agenda Item Public Comments (white card): Comments will be taken from the audience on non-agenda related topics for a length of time, not to exceed three (3) minutes per person.*

*Agenda Item Public Comments (yellow card): Comments will be taken from the audience on non-agenda and agenda items combined for a length of time, not to exceed five (5) minutes total per person on all items, except for Public Hearings. Comments on Public Hearing items must be made when the item comes before the Council and, not to exceed two (2) minutes per person. No Action or Discussion May be Taken by the City Council during Public Comments on Non-Agenda Items.*

*To address the City Council, please complete the white or yellow card and present it to the City Secretary, or designee prior to the meeting.*

### REGULAR AGENDA

- 1. Consideration, discussion, and possible action to approve the Manor Housing Public Facility Corporation Minutes of the February 21, 2024, meeting.**
- 2. Consideration, discussion, and possible action authorizing the General Manager to negotiate and execute a legal services agreement with Bickerstaff, Heath, Delgado, Acosta LLP to provide project-based counsel, bond counsel, and general counsel services to the Corporation.**

- 3. Consideration, discussion, and possible action authorizing the General Manager to negotiate and execute a professional services agreement with Brown Graham & Company, P.C. for accounting services for the Manor Housing Public Facility Corporation.**
- 4. Consideration, discussion, and possible action authorizing the General Manager to negotiate and execute an agreement with Hilltop Securities to advise the Corporation in its role as General Partner in the anticipated Tower Road Apartments Project.**
- 5. Consideration, discussion, and possible action authorizing the General Manager to negotiate and execute an agreement with Chapman and Cutler LLP to serve as special tax counsel in connection with the Tower Road Apartments Project financing.**
- 6. Consideration, discussion, and possible action adopting the official seal of the Manor Housing Public Facility Corporation.**

## **ADJOURNMENT**

In addition to any executive session already listed above, the City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Section §551.071 (Consultation with Attorney), §551.072 (Deliberations regarding Real Property), §551.073 (Deliberations regarding Gifts and Donations), §551.074 (Personnel Matters), §551.076 (Deliberations regarding Security Devices) and §551.087 (Deliberations regarding Economic Development Negotiations).

## ***CONFLICT OF INTEREST***

*In accordance with Section 12.04 (Conflict of Interest) of the City Charter, “No elected or appointed officer or employee of the city shall participate in the deliberation or decision on any issue, subject or matter before the council or any board or commission, if the officer or employee has a personal financial or property interest, direct or indirect, in the issue, subject or matter that is different from that of the public at large. An interest arising from job duties, compensation or benefits payable by the city shall not constitute a personal financial interest.”*

*Further, in accordance with Chapter 171, Texas Local Government Code (Chapter 171), no City Council member and no City officer may vote or participate in discussion of a matter involving a business entity or real property in which the City Council member or City officer has a substantial interest (as defined by Chapter 171) and action on the matter will have a special economic effect on the business entity or real property that is distinguishable from the effect on the general public. An affidavit disclosing the conflict of interest must be filled out and filed with the City Secretary before the matter is discussed.*

### **POSTING CERTIFICATION**

I, the undersigned authority do hereby certify that this Notice of Meeting was posted on the bulletin board, at the City Hall of the City of Manor, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: Friday, April 26, 2024, by 5:00 PM and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

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/s/ Lluvia T. Almaraz, TRMC  
City Secretary for the City of Manor, Texas

### **NOTICE OF ASSISTANCE AT PUBLIC MEETINGS:**

The City of Manor is committed to compliance with the Americans with Disabilities Act. Manor City Hall and the Council Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 10 days prior to this meeting. Please contact the City Secretary at 512.215.8285 or e-mail [lalmaraz@manortx.gov](mailto:lalmaraz@manortx.gov)

AGENDA ITEM NO. 1

**AGENDA ITEM SUMMARY FORM**

**PROPOSED MEETING DATE:** May 1, 2024  
**PREPARED BY:** Lluvia T. Almaraz, Board Secretary  
**DEPARTMENT:** Administration

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**AGENDA ITEM DESCRIPTION:**

Consideration, discussion, and possible action to approve the Manor Housing Public Facility Corporation Minutes of the February 21, 2024, meeting.

**BACKGROUND/SUMMARY:**

**LEGAL REVIEW:** Not Applicable  
**FISCAL IMPACT:** No  
**PRESENTATION:** No  
**ATTACHMENTS:** Yes

- February 21, 2024, MPFC Meeting Minutes

**STAFF RECOMMENDATION:**

Staff recommends that the PFC Board approve the Manor Housing Public Facility Corporation Minutes of the February 21, 2024, meeting.



**MANOR HOUSING PUBLIC FACILITY CORPORATION  
REGULAR SESSION MINUTES  
FEBRUARY 21, 2024**

**PRESENT:**

Dr. Christopher Harvey, President

**COUNCIL MEMBERS:**

Emily Hill, Mayor Pro Tem, Vice-President  
Anne Weir, Board Member  
Maria Amezcua, Board Member  
Sonia Wallace, Board Member  
Aaron Moreno, Board Member (Absent)  
Deja Hill, Board Member

**CITY STAFF:**

Scott Moore, City Manager  
Lluvia T. Almaraz, City Secretary  
Ryan Phipps, Chief of Police  
Yalondra Valderrama Santana, Heritage & Tourism Manager  
Gregory Miller, Bond Counsel

**REGULAR SESSION – 6:30 P.M.**

With a quorum of the Board Members present, the regular session of the Manor Housing Public Facility Corporation was called to order by Board President Harvey at 6:35 p.m. on Wednesday, February 21, 2024, in the Council Chambers of the Manor City Hall, 105 E. Eggleston St., Manor, Texas.

**PUBLIC COMMENTS**

No one appeared at this time.

## REGULAR AGENDA

### 1. Consideration, discussion, and possible action to approve the Manor Housing Public Facility Corporation Minutes of the October 2, 2023, meeting.

**MOTION:** Upon a motion made by Board Member Wallace and seconded by Board Member Deja Hill to approve the Manor Housing Public Facility Corporation Minutes of the October 2, 2023, meeting.

There was no further discussion.

**Motion to approve carried 6-0**

### 2. Consideration, discussion, and possible action on a resolution approving and authorizing the General Manager to negotiate and execute various agreements and acknowledgements as beneficial, desired, or required to bring the W2 Manor Apartments project (the “Project”) to financial close, with such agreements and acknowledgements to include, without limitation or qualification, a Ground Lease Recognition Agreement along with other agreements and acknowledgements that pertain to the design, construction, financing, conveyance of interests in real property, establishment of housing affordability requirements, and the confirming and securing of certain tax exemptions with respect to the Project.

Gregory Miller, Bond Counsel discussed the proposed resolution.

Resolution No. 2024-MHPFC03: A Resolution of the Manor Housing Public Facility Corporation Approving and Authorizing the General Manager To Negotiate And Execute Various Agreements And Acknowledgements As Beneficial, Desired, Or Required To Bring The W2 Manor Apartments Project (The “Project”) To Financial Close, With Such Agreements And Acknowledgements To Include, Without Limitation Or Qualification, A Ground Lease Recognition Agreement Along With Other Agreements And Acknowledgements That Pertain To The Design, Construction, Financing, Conveyance Of Interests In Real Property, Establishment Of Housing Affordability Requirements, And The Confirming And Securing Of Certain Tax Exemptions With Respect To The Project.

**MOTION:** Upon a motion made by Board Member Weir and seconded by Vice President Emily Hill to approve Resolution No. 2024-MHPFC03 authorizing the negotiation and execution of certain agreements to bring the W2 Manor Apartments project to financial close.

There was no further discussion.

**Motion to approve carried 6-0**

## ADJOURNMENT

The Regular Session of the Manor Housing Public Facility Corporation was Adjourned at 6:46 p.m. on Wednesday, February 21, 2024.

These minutes were approved by the Manor Housing Public Facility Corporation on the 1<sup>st</sup> day of May 2024.

## APPROVED:

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Dr. Christopher Harvey  
PFC Board President

## ATTEST:

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Lluvia T. Almaraz,  
PFC Board Secretary



## PUBLIC FACILITY CORPORATION AGENDA ITEM SUMMARY FORM

**PROPOSED MEETING DATE:** May 1, 2024  
**PREPARED BY:** Scott Moore, General Manager

### AGENDA ITEM DESCRIPTIONS:

Consideration, discussion, and possible action authorizing the General Manager to negotiate and execute a legal services agreement with Bickerstaff, Heath, Delgado, Acosta LLP to provide project-based counsel, bond counsel, and general counsel services to the Corporation.

### BACKGROUND/SUMMARY:

The Corporation currently engages Bickerstaff, Heath, Delgado, Acosta LLP as counsel to the PFC and Bickerstaff recently represented the Corporation in bringing the Manor Apartments project to financial close.

It is anticipated that the Corporation's next development will involve the issuance of bonds.

This item is to approve a contract for legal services that will replace the existing contract with Bickerstaff. The new contract will include services for bond counsel and will clarify that Bickerstaff's services for project-based representation will be payable at financial close of the transaction. As such, the fees will be payable on a contingent fee basis upon bond closing and/or financial close of a PFC project. Neither the Corporation nor the City will be obligated to pay fees for legal services out-of-pocket for these transactions except for the expenses of publication of any notices and any translation services, if any, if the projects are not financed. This fee structure is typical of PFC financings.

The agreement, as with the current agreement, provides for general counsel services apart from project-based services.

Bickerstaff is recommended based on its qualifications.

**LEGAL REVIEW:** Yes, Gregory Miller, Public Finance Counsel  
**FISCAL IMPACT:** The agreement modifies the billing rates for general counsel services as provided in the current contract for legal services.  
**PRESENTATION:** Yes  
**ATTACHMENTS:** Yes

- Form of agreement



**PROPOSED MOTION:**

Move that the Board authorize the General Manager to negotiate and execute an agreement with Bickerstaff, Heath, Delgado, Acosta LLP for legal services, with the scope of services and fee structure to be as stated in the form of agreement provided to the Board in connection with this item.

**STAFF RECOMMENDATION:** Staff recommends approval

# Bickerstaff Heath Delgado Acosta LLP

3711 S. MoPac Expy., Building 1, Suite 300, Austin, Texas 78746

## ENGAGEMENT AGREEMENT

This agreement sets forth the standard terms of our engagement as your attorneys. Unless modified in writing by mutual agreement, these terms will be an integral part of our agreement with you. Therefore, we ask that you review this agreement carefully and contact us promptly if you have any questions. Please retain this agreement in your file.

Identity of Client. We will be representing the interests of the Manor Housing Public Facility Corporation (the "MHPFC").

Attorneys. Bickerstaff Heath Delgado Acosta LLP is engaged by you as your attorneys, and I, Gregory D. Miller, will be the partner who will coordinate and supervise the services we perform on your behalf. The bulk of the work will be performed by myself. We routinely delegate selected responsibilities to other persons in our Firm when, because of special expertise, time availability or other reasons, they are in a better position to carry them out. In addition, we will try, where feasible and appropriate, to delegate tasks to persons who can properly perform them at the least cost to you.

The Scope of Our Work. You should have a clear understanding of the legal services we will provide. We will provide services related only to matters as to which we have been specifically engaged. Although in the future we may from time to time be employed on other matters, our present relationship is limited to representing the above-named client in the matters described in Exhibit A. We will at all times act on your behalf to the best of our ability. Any expressions on our part concerning the outcome of your legal matters are expressions of our best professional judgment, but are not guarantees. Such opinions are necessarily limited by our knowledge of the facts and are based on the state of the law at the time they are expressed. We cannot guarantee the success of any given matter, but we will strive to represent your interests professionally and efficiently.

### Fees for Legal Services.

Bond Counsel. Our fees and expenses in connection with the issuance of MHPFC Bonds will be payable at the time of the delivery of and payment for the Bonds, but our fees for these services are wholly contingent upon actual issuance of the Bonds. Should the Bonds not be issued, the MHPFC would be responsible only for payment of the costs of any newspaper publications or translation services incurred. The initial agreed fee schedule for services as Bond Counsel is attached as Exhibit B.

Project-Based Counsel to PFC. Our fees and expenses in connection with the representation of the MHPFC, including its wholly-controlled and owned special purpose entities, in connection with specific housing developments of the MHPFC will be payable from the time of the financial close of the transaction. Should financial close on a respective development project not occur the MHPFC would be responsible only for payment of the costs of any newspaper publications or translation services incurred. The initial agreed fee schedule for services as Counsel to the P General Partner is attached as Exhibit B.

General Counsel. Our charges for professional services are customarily based on the time devoted to the matter, the novelty and difficulty of the questions presented, the requisite experience, reputation and skill required to deal with those questions, time limitations imposed by the circumstances, and the amount involved and the results obtained. Unless otherwise indicated in writing, our fees for legal services are determined on the basis of the hourly rates of the respective lawyers and other timekeepers who perform the services. These rates vary depending on the expertise and experience of the individual. We adjust these rates annually, increasing them to reflect experience, expertise, and current economic conditions. We will notify you in writing if this fee structure is modified. The initial agreed billing rates for attorneys and other timekeepers engaged on your work are attached as Exhibit B.

Other Charges. All out-of-pocket expenses (such as copying charges, travel expenses, messenger expenses, filing and other court costs, and the like) incurred by us in connection with our representation of you will be billed to you as a separate item on your statement. A description of the most common expenses is included as Exhibit C and agreed to as part of this agreement.

Billing Procedures and Terms of Payment. Our billing period begins on the 16<sup>th</sup> of the month and ends on the 15<sup>th</sup> of the following month. We will render periodic invoices to you for legal services and expenses. We usually mail these periodic

invoices on or before the last day of the month following the latest date covered in the statement. Each invoice is due upon receipt, must be paid in U.S. Dollars, and is considered delinquent if not paid in full within 30 days of its stated date. Payment must be made to the Firm at 3711 S. MoPac Expressway, Building One, Suite 300, Austin, Texas, 78746. If any invoice is not paid within 30 days after its stated date, interest at the rate of 1 ½ percent per month (18 percent per annum) will accrue on the balance due. However, if at any time 18 percent per annum exceeds the highest interest rate permitted by applicable law, then the interest rate that will be applied to any overdue amounts will be reduced to the maximum rate permitted under applicable law. We will include all information reasonably requested by you on all invoices and will reference any purchase order number provided by you. Payment and interest, if any, will comply with the Prompt Payment Act (Texas Government Code Chapter 2251), if applicable, for any final invoices. If you have any question or disagreement about any invoice that we submit to you for payment, please contact me at your earliest convenience so that we can resolve any problems without delay. Typically, such questions or disagreements can be resolved to the satisfaction of both sides with little inconvenience or formality.

Termination of Services. You have the right at any time to terminate our employment upon written notice to us, and if you do we will immediately cease to render additional services. We reserve the right to discontinue work on pending matters or terminate our attorney-client relationship with you at any time that payment of your account becomes delinquent, subject to Court approval if necessary. In the event that you fail to follow our advice and counsel, or otherwise fail to cooperate reasonably with us, we reserve the right to withdraw from representing you upon short notice, regardless of the status of your matter. No termination, whether by you or by us, will relieve you of the obligation to pay fees and expenses incurred prior to such termination.

Retention of Documents. Although we generally attempt to retain for a reasonable time copies of most documents in the possession of this Firm related to the matter(s) described in Exhibit A, we are not obligated to do so indefinitely, and we hereby expressly disclaim any responsibility or liability for failure to do so. We generally attempt to furnish copies of all documents and significant correspondence to you at the time they are created or received, and you agree to retain all originals and copies of documents you desire among your own files for future reference. This document serves as notice to you that we will destroy such materials in accordance with the Firm's record retention policy, which may be amended from time to time and a copy of which will be provided at your request. It is our Firm's policy to destroy all copies, whether in paper or electronic form, of materials in connection with the representation seven (7) years after the completion of our work relating to this engagement or the completion of a particular project under this engagement, unless and to the extent an exception recognized in our document retention policy or other legal requirement applies to some or all of the subject materials and requires retention for a longer period of time. The Firm also reserves the discretion to retain its records of pertinent documents relating to its ongoing representation of a client, e.g. in a general counsel capacity. If you would like to obtain copies of materials in the Firm's possession related to this matter prior to the scheduled destruction of the materials, please notify the Firm. Because you will have been furnished with copies of all relevant materials contained in our files during the course of the active phase of our representation, if you later ask us to retrieve and deliver materials contained in a file that has been closed, you agree that we will be entitled to be paid a reasonable charge for the cost of retrieving the file, and identifying, reproducing, and delivering the requested materials to you.

Fee Estimates. We are often requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter. Our attorneys do their best to estimate fees and expenses for particular matters when asked to do so. However, an estimate is just that, and the fees and expenses required are ultimately a function of many conditions over which we have little or no control, especially in litigation or negotiation situations where the extent of necessary legal services may depend to a significant degree upon the tactics of the opposition. Unless otherwise agreed in writing with respect to a specific matter, all estimates made by us will be subject to your agreement and understanding that such estimates do not constitute maximum or fixed-fee quotations and that the ultimate cost is frequently more or less than the amount estimated.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, United States of America, without giving effect to its choice of laws provisions. Venue of any case or controversy arising under or pursuant to this Agreement will be exclusively in Travis County, Texas, United States of America.

Standards of Professionalism and Attorney Complaint Information. Pursuant to rules promulgated by the Texas Supreme Court and the State Bar of Texas, we hereby advise you that the State Bar of Texas investigates and prosecutes complaints of professional misconduct against attorneys licensed in Texas. Information on the grievance procedures is available from the State Bar of Texas, and any questions you have about the disciplinary process should be addressed to the Office of the General Counsel of the State Bar of Texas, which you may call toll free at 1-800-932-1900.

Questions. If you have any questions from time to time about any aspect of our arrangements, please feel free to raise those questions. We want to proceed in our work for you with your clear and satisfactory understanding about every aspect of our billing and payment policies; and we encourage an open and frank discussion of any or all of the matters addressed in this agreement.

Acceptance of Terms. If this arrangement is acceptable to you and Dallas County, please sign the enclosed duplicate original of this agreement and return it and the required retainer to us at your earliest convenience. We truly appreciate the opportunity to be of service to you and look forward to working with you in a mutually beneficial relationship.

DRAFT

**AGREED TO AND ACCEPTED**

MANOR HOUSING PUBLIC  
FACILITY CORPORATION

BICKERSTAFF HEATH DELGADO ACOSTA LLP

By: \_\_\_\_\_

\_\_\_\_\_  
[Printed name]

Title: \_\_\_\_\_

Date: \_\_\_\_\_

cc: Billing Department

By: \_\_\_\_\_  
Gregory Dion Miller

DRAFT

## Exhibit A — Scope of Services

Bickerstaff Heath Delgado Acosta LLP

While we agree that in the future we may from time to time be employed on other matters, this agreement provides that our relationship is limited to representing and counseling you in connection with the following:

- *Bond Counsel*. Generally, we will perform all usual and necessary legal services as bond counsel in connection with the authorization, issuance, and delivery of LIHTC Bonds and other bonds of the MHPFC, including conduit bonds.
- *Project-Based Counsel to MHPFC*. Generally, we will perform all usual and necessary legal services as general and transactional counsel in connection with the incorporations of special purpose entities, negotiation, structuring, and drafting of real estate, partnership, and other legal documents for the MHPFC's development projects and representing the MHPFC in bringing the financing of each project to financial close.
- *General Counsel*. Generally, we will perform all usual and necessary legal services as general and transactional counsel in connection with any business of the MHPFC that is not directly related to a specific development for which we are expected to be paid from fees earned by the PFC upon financial close on a development transaction or from the closing of any bond transaction.
- Other legal services assigned or requested, only if the scope of which is confirmed by you in writing at the time of assignment

Other legal services not assigned or requested, and confirmed in writing, are specifically not within the scope of our representation.

**Exhibit B — Billing Rates**  
Bickerstaff Heath Delgado Acosta LLP

**Bond Counsel**

Par amount \$19,999,999 or less	\$65,000
Par amount \$20,000,000 or more	\$70,000 <i>plus</i> \$4.00 per \$1,000 of bonds in excess of \$20,000,000

**Project-Based Counsel to MHPFC**

\$100,000 per transaction

**General Counsel**

<b>Timekeeper</b>	<b>2024 Billing Rate</b>
Gregory Dion Miller, Partner	\$380
Sara Labashosky, Associate	\$310
Legal Assistants/Specialists	\$205

**Exhibit C—Client Costs Advanced**  
Bickerstaff Heath Delgado Acosta LLP

The firm incurs expenses on behalf of clients only when required by the legal needs of the clients. Some cases or matters require extensive use of outside copy facilities, and other cases may not be so paper-intensive. Standard services handled within the firm are not charged, and client specific expenses are billed to the client needing those services. An explanation of the billing structure is as follows:

#### Not Charged

Secretarial and word processing time, routine postage, file setup, file storage, local or ordinary long distance charges, fax charges, and computerized legal research data charges.

#### Delivery Services

Outside delivery services are used for pickup and delivery of documents to the client as well as to courts, agencies, and opposing parties. Outside delivery fees are charged to the client at the rate charged to the firm. Overnight delivery services are also charged at the rate charged to the firm. Firm Office Services Department personnel may provide delivery service in urgent situations and charges for such in-house service will not exceed the charge that would be made by an outside service in a similar situation.

#### Postage

Our postal equipment calculates exact U.S. postage for all sizes and weights of posted material. The rate charged for postage is the same as the amount affixed to the material that is mailed. We will not charge clients for postage on routine correspondence; however, the cost of large-volume mail, certified mail, or other additional mail services will be charged to the client.

#### Copies and Prints

Our standard rate for black and white copies and prints made by firm personnel is \$0.15 per page. Color copies and prints are charged at a standard rate of \$0.55 per page. These charges cover paper, equipment costs, and other supplies. If savings can be realized within the required time frame by sending copy jobs to subcontractors, the firm uses only qualified legal services copiers and the cost charged to the client is the same as the amount billed to the firm.

#### Phone Charges

Only charges for conference calls or international calls are charged, and charges are billed at the same amount billed to the firm by the outside provider.

#### Travel

Attorney and other timekeeper time spent traveling on behalf of a client is billed to the client. Hotel, meals, local transportation, and similar expenses are charged based on receipts and travel expense forms submitted by the attorney. Documentation is available to the client if requested.

#### Maps

Maps produced in conjunction with a project will be billed at \$50 for each 34 x 44 inch map and \$20 for each smaller map, plus cost (time fees) for preparation.

#### Other Expenses

Expenses incurred with outside providers in connection with the client's legal services will be paid by the client directly to the outside provider unless specifically arranged in advance. If the firm agrees to pay outside providers, the cost charged to the client is the same as the amount billed to the firm. Examples of such charges include: court reporter fees, filing fees, newspaper charges for publication notices, expert witness fees, consultants and other similar expenses.

### **Exhibit D—Verification Required by Texas Government Code Chapter 2271**

Bickerstaff Heath Delgado Acosta LLP



By signing below, Bickerstaff Heath Delgado Acosta LLP hereby verifies the following:

1. The Firm does not boycott Israel; and
2. The Firm will not boycott Israel during the term of this Engagement Agreement.

SIGNED BY:

\_\_\_\_\_  
Gregory Dion Miller  
May 1, 2024

This Verification is incorporated and made a part of the Engagement Agreement between Bickerstaff Heath Delgado Acosta LLP and the Manor Housing Public Facility Corporation.

DRAFT



**PUBLIC FACILITY CORPORATION  
AGENDA ITEM SUMMARY FORM**

**PROPOSED MEETING DATE:** May 1, 2024  
**PREPARED BY:** Scott Moore, General Manager

**AGENDA ITEM DESCRIPTIONS:**

Consideration, discussion, and possible action authorizing the General Manager to negotiate and execute a professional services agreement with Brown Graham & Company, P.C. for accounting services for the Manor Housing Public Facility Corporation.

**BACKGROUND/SUMMARY:**

The Manor Housing Public Facility is required to keep records of its financial transactions and accounts, and also to provide reporting to state and occasionally federal tax and revenue authorities. Attached to this Summary Form is a proposed agreement between the MHPFC and Brown Graham & Company, P.C. for the provision of accounting services.

Brown Graham is recommended based on its qualifications.

**LEGAL REVIEW:** Yes, Gregory Miller, Public Finance Counsel  
**FISCAL IMPACT:** Yes, This agreement is a fee for services to be billed at an hourly rate  
**PRESENTATION:** Yes  
**ATTACHMENTS:** Yes

- Engagement Letter

**PROPOSED MOTION:**

Move to authorize the General Manager to negotiate and execute an agreement with Brown Graham & Company, P.C. for auditing and accounting services of the type and at the rates stated in the draft agreement provided to the Board.

**STAFF RECOMMENDATION:** Staff recommends approval



Amarillo | Austin | Pampa  
Prosper | Spearman

May 1 2024

Manor Housing Public Facility Corporation  
105 E. Eggleston St.  
Manor, TX 78653

This letter is to confirm our understanding of the terms and objectives of our engagement and the nature and limitations of the services we will provide.

### **Preparation of the Financial Statements**

You have requested that we prepare the quarterly financial statements of Manor Housing Public Facility Corporation (Manor PFC), which include current and future special purpose entities whose sole member will be Manor PFC (collectively "the Corporation") in furtherance of Manor PFC housing projects. The Corporation's quarterly financial statements will comprise the statement of net position as of each quarter-end from January 1, 2024, through December 31, 2024, and the related statement of revenues, expenses and change in net position for each quarter then ended. These financial statements will not include a statement of cash flows and related notes to the financial statements as required by accounting principles generally accepted in the United States of America. We are pleased to confirm our acceptance and our understanding of this engagement to prepare the financial statements of the Corporation by means of this letter. The services address in this engagement letter does not include annual tax or compilation engagements. Additional services may be requested in writing by the Manor PFC including but not limited to new LLCs, etc. and additional fees will apply as agreed upon by both parties.

### ***Our Responsibilities***

The objective of our engagement is to prepare financial statements in accordance with accounting principles generally accepted in the United States of America (GAAP) based on information provided by you. We will conduct our engagement in accordance with Statements on Standards for Accounting and Review Services (SSARSs) promulgated by the Accounting and Review Services Committee of the AICPA and comply with the AICPA's Code of Professional Conduct, including the ethical principles of integrity, objectivity, professional competence, and due care.

We are not required to, and will not, verify the accuracy or completeness of the information you will provide to us for the engagement or otherwise gather evidence for the purpose of expressing an opinion or a conclusion. Accordingly, we will not express an opinion or a conclusion nor provide any assurance on the financial statements.

Our engagement cannot be relied upon to identify or disclose any financial statement misstatements, including those caused by fraud or error, or to identify or disclose any wrongdoing within the Corporation or noncompliance with laws and regulations.

### **Management Responsibilities**

The engagement to be performed is conducted on the basis that you acknowledge and understand that our role is to prepare financial statements in accordance with GAAP. You have the following overall responsibilities that are fundamental to our undertaking the engagement in accordance with SSARs:

- a. The selection of GAAP as the financial reporting framework to be applied in the preparation of the financial statements.
- b. The design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.
- c. The prevention and detection of fraud.
- d. To ensure that the Corporation complies with the laws and regulations applicable to its activities.
- e. The accuracy and completeness of the records, documents, explanations, and other information, including significant judgments, you provide to us for the engagement.
- f. To provide us with:
  - i. Access to all information of which you are aware is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters.
  - ii. Additional information that we may request from you for the purpose of the preparation of the financial statements, and
  - iii. Unrestricted access to persons within the Corporation of whom we determine it necessary to make inquiries.

The financial statements will not be accompanied by a report. However, you agree that the financial statements will clearly indicate that no assurance is provided on them.

### **Bookkeeping and Other Accounting Services**

We will provide the various accounting and consulting services as specified in Exhibit A accompanying this letter.

We will not perform management functions or make management decisions for you. However, we may provide advice, research materials, and recommendations to assist you in performing your functions and making decisions. You must agree to perform the following functions in connection with our bookkeeping and other services engagements:

- Make all management decisions and perform all management functions;
- Assign a competent individual to oversee the services;
- Evaluate the adequacy of the services performed;
- Evaluate and accept responsibility for the results of the services performed; and
- Establish and maintain internal controls, including monitoring ongoing activities.

### **Other Relevant Information**

Shannon Andre', CPA is the engagement shareholder and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

Should you require financial statements for third-party use, we would be pleased to discuss with you the requested level of service. Such engagement would be considered separate and not deemed to be part of the services described in this engagement letter.

Our fee estimate is based on the number of hours (including travel time) required by the level of the staff assigned to complete the engagement plus actual out-of-pocket expenditures. Our billing rate is subject to annual increase for at least cost of living increment. Our current hourly rate is as follows:

<u>Staff Level</u>	<u>Hour Rate</u>
Engagement Shareholder	\$340
Tax Principal	\$230
Accounting Manager	\$175
Associate	\$125
Para-professional	\$95 - 100

The fee estimates as outlined on the accompanying Exhibit A are based on our experience in working with clients similar to the Corporation and are assuming that (1) we will have anticipated cooperation from the Corporation's personnel by providing us information in a timely manner, and (2) the business activities are minimal in the Manor PFC's normal operations.

We will bill once a month and all invoices are payable when presented.

In accordance with our firm policies, work may be suspended if your account becomes thirty (30) days or more overdue and will not be resumed until your account is paid in full. A finance charge of 1% per month, which is an annual rate of 12%, will be added to all invoices that remain unpaid for more than 60 days. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination. The suspension or termination of our work may result in adverse consequences to you including your failure to meet deadlines imposed by governments, lenders, or other third parties. You agree that we will not be responsible for your failure to meet such deadlines, or for penalties or interest that may be assessed against you resulting from such failure.

You agree to release, indemnify, defend, and hold us harmless from any liability or costs, including attorney's fees, resulting from management's knowing misrepresentations to us.

We look forward to a continued relationship with your organization, and we are available to discuss the contents of this letter or other professional services you may desire.

We appreciate the opportunity to be of service to you and believe that this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If the foregoing terms are in accordance with your understanding, please sign the copy of this letter in the space provided and return it to us.

Respectfully,

*Brown, Graham & Company, P.C.*

Austin, Texas

**RESPONSE:**

This letter correctly sets forth our understanding.

Acknowledged and agreed by: Manor Housing Public Facility Corporation

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT A

## ACCOUNTING AND CONSULTING SERVICES OUTLINE AND ESTIMATED FEES

- I. **One-time upfront services (this one-time upfront fee can be built in and to be paid from the closing of the new deals in the future):**
  - a. **Accounting and consulting services attributable to the project/partnership (*Estimated cost \$1,500- \$3,500 depending on size and complexity of deal and agreements*):**
    - i. Read the Limited Partnership Agreement, Ground Lease Agreement and its related MOU, Development and Co-Development Agreements, Consulting Agreement, Master Contract and Sub-contractor Agreement, Partnership Management Fee Agreement and Incentive Management Fee Agreement and other significant agreements that HFC is involved through its wholly owned LLCs;
    - ii. Reconcile initial loan & equity closing statement as compared to the above agreements;
    - iii. Summarize all significant related party transactions between the PFC (or through its LLCs) and the partnership, and
    - iv. Meeting with the Board to go over component unit evaluation, ground lease evaluation and related party transaction summary between the PFC and the limited partnership.
  - b. **Accounting and consulting services attributable to any new LLCs that are created for a new project (*Estimated cost for all tasks below is to be \$2,000*):**
    - i. Read all organizational documents for the LLCs;
    - ii. Create an organizational chart to track all the LLCs in relation with the PFC and the partnership;
    - iii. Initial set up of accounting files and records for the LLCs in QuickBooks;
    - iv. Write up accounting considerations of the blended/discretely presented component unit (all LLCs in relationship to the PFC, and the partnership in relationship to GP LLC);
    - v. Write up accounting consideration of the ground lease (operating lease vs. capital lease);
    - vi. Reconciled significant transactions per the land purchase closing statement or per the initial loan & equity closing statement to all agreements and recorded them in QuickBooks accordingly, and
- II. **Recurring services:**
  - a. **Annual ongoing services (*charged on our currently hourly rate*):**
    - i. Assist the GP LLC to review the audit draft report and draft tax return of any formed partnership(s) prior to the President of the GP LLC signing the management representation letter for the audit and signing the tax return.

- b. **Monthly recurring accounting, consulting services and quarterly financial statements preparation services for the PFC (Estimated monthly cost \$650 with increases of \$250 - \$450 for each additional project/partnership):**
- i. Monthly accounts receivable function to prepare invoices for various fees when they become due as well as recording cash receipts and tracking the payment status accordingly;
  - ii. Monthly accounts payable function to enter the vendor bills into QuickBooks and process payments accordingly upon the authorization and approval by Manor PFC's personnel for payment processing;
  - iii. Preparation and maintenance of monthly reconciliation schedules;
  - iv. Reconciliation of amount recorded in the trial balance to the supporting schedules;
  - v. Periodic adjustments, among others, as wells as certain other services;
  - vi. Preparation of quarterly combined financial statements (without statement of cash flow and notes to the financial statements) including a supplemental schedule of a combining financial statements (with individual columns for each entity), and
  - vii. Monitor the various fees due to LLCs.
- III. **Other accounting functions as requested (charged on our currently hourly rate):**
- i. Monthly tele-conference with the Board of Directors (or provision of written presentation for the Board's review) to discuss monthly financial statements;
  - ii. Prepare cash flow analysis due to the PFC and its wholly owned LLCs for the next five years per the above agreements;
  - iii. assistance to interact and provide the information to the external auditor
    - 1. Provide and update the reconciliation schedules to suit the needs of the external auditor;
    - 2. Prepare annual financial statements to include statement of cash flows, and
    - 3. Prepare notes related to the PFC, the LLCs and the partnership to be included in ACFR.
  - iv. Preparation of annual budget, and
  - v. Any other services that are not included as part of the monthly or annual recurring services.
- IV. **Tax services:**
- i. One-time service - Entity Election and 168(h) election for the GP LLC (***Estimated cost - \$450 for the GP LLC***);
  - ii. One-time services – Set up Texas Franchise account with the Texas Comptroller's Office for the LLCs, if needed (***Estimated cost - \$350 for each LLC formed during fiscal year 2024***);
  - iii. Annual service – Preparation of federal return for each GP LLC (***Estimated cost - \$650***);
  - iv. Annual services – Preparation of Texas franchise return filings for all LLCs (***Estimated cost - \$400 for each LLC***).





**PUBLIC FACILITY CORPORATION  
AGENDA ITEM SUMMARY FORM**

**PROPOSED MEETING DATE:** May 1, 2024  
**PREPARED BY:** Scott Moore, General Manager

**AGENDA ITEM DESCRIPTIONS:**

Consideration, discussion, and possible action authorizing the General Manager to negotiate and execute an agreement with Hilltop Securities to advise the Corporation in its role as General Partner in the anticipated Tower Road Apartments Project.

**BACKGROUND/SUMMARY:**

The Corporation currently engages Hilltop Securities as a municipal advisor to the Corporation.

It is anticipated that the Corporation's next project will involve the issuance of Low Income Housing Tax Credit Bonds. For these types of transactions, the Corporation itself, or a special purpose entity of the Corporation, will be a general partner in a partnership formed with the developer of the transaction.

This item is to approve an agreement for financial advisory services with Hilltop Securities specifically as financial advisor to the Corporation in its role as general partner for such transactions. The advisor's compensation for its work on each such project is contingent on the successful bond financing of the project and neither the City nor the Corporation is responsible for payment of those fees.

Hilltop is recommended based on their qualifications.

**LEGAL REVIEW:** Yes, Gregor Miller, Public Finance Counsel  
**FISCAL IMPACT:** No  
**PRESENTATION:** Yes  
**ATTACHMENTS:** Yes

- Service Agreement

**PROPOSED MOTION:**

Move that the Board authorize the General Manager to negotiate and execute an agreement with Hilltop Securities for advisory services for the Corporation in its role as general partner in connection with the Corporation transactions involving the sale of bonds, with the scope of services and fee structure to be as stated in the form of agreement provided to the Board in connection with this item.

**STAFF RECOMMENDATION:** Staff recommends approval



**Timothy Earl Nelson**

Senior Managing Director – Public Finance  
Tim.Nelson@hilltopsecurities.com  
512-481-2022

2700 Via Fortuna  
Suite 410; Building 2  
Austin, Texas 78746

April 22, 2024

**VIA E-MAIL**

Dr. Christopher Harvey  
President  
Manor Housing Public Facility Corporation  
105 E. Eggleston St.  
Manor, TX 78653

Dr. Harvey,

As you know, Hilltop Securities Inc. (“Hilltop”) is currently providing **Manor Housing Public Facility Corporation** (the “Client”) with municipal advisory services pursuant to a certain **Municipal Advisory Agreement, dated 10/2/2023** (the “MA Agreement”). The MA Agreement provides for Hilltop to advise the Client regarding the issuance and sale of certain indebtedness or debt obligations that may be authorized and issued or otherwise created or assumed by the Client from time to time during the term of the MA Agreement.

The Client has requested that Hilltop provide certain additional advisory services in connection with the participation of the Client as the parent entity of, and the 100% sole member of, the proposed “**to-be-formed**” GP LLC (the “Company”) in the ownership partnership of “**to-be-formed**” LP (the “Borrower”) sponsored **Tower Road Apartments** (the “Transaction”). Hilltop and the Client believe that the requested services related to the Transaction are not within the description of services of the MA Agreement. Therefore, we are pleased to submit this agreement and set-forth terms for the engagement of Hilltop by the Client as its advisor for the term of this letter agreement (the “Agreement”) with respect to the Transaction.

Description of Services

Upon the request of an authorized representative of the Client, Hilltop agrees to perform the consulting services stated in the following provisions of this Agreement and, for having rendered such services, the Company agrees to pay to Hilltop the compensation as provided in Attachment A. Hilltop will provide:

1. Negotiation; Documentation: Assist the Company in negotiating and reviewing all partnership related documentation for the Transaction;
2. Advice: Provide advice to the Company regarding the amount and timing of payments to be received for each of the roles contemplated related to the proposed multifamily development;
3. Meetings: Agree to attend all Board Meetings as requested by the Company;

4. Conference Calls: Agree to be available for all conference calls/meetings as requested by the Company; and
5. Closing of Transaction: Assist the Company in closing of the Transaction, including, if applicable, the generation of the Closing Memorandum.

#### Compensation and Expense Reimbursement

The fees and reimbursable expenses due to Hilltop for the services set forth and described herein shall be in accordance with Attachment A, attached hereto. Payment for services shall be due and payable upon receipt of an invoice therefor.

#### Term and Termination

This Agreement shall become effective as of the date executed by the Client as set forth on the signature page hereof and shall remain in effect until the closing of the Transaction unless terminated earlier by either party, with or without cause, upon at least thirty (30) days prior written notice, stating in such notice the effective date of the termination. In the event of such termination, it is understood and agreed that only the amounts due Hilltop for fees and expenses incurred to the date of termination will be due and payable.

#### Miscellaneous

1. Limitations on Liability. The Company and the Client acknowledge and agree that in any event, regardless of the cause of action, Hilltop's total liability (including loss and expense) to the Company and the Client in the aggregate shall not exceed the gross amount of fees received by Hilltop pursuant to this Agreement. The limitations on liability set forth in this Agreement are fundamental elements of the basis of the bargain between Hilltop, the Client, and the Company, and the pricing for the services set forth above reflect such limitations.
2. Required Disclosures. Attached hereto as Attachment B, Hilltop is providing its Municipal Advisor Disclosure Statement, which sets forth disclosures by Hilltop of material conflicts of interest (the "Conflict Disclosures"), if any, and of any legal or disciplinary events required to be disclosed pursuant to MSRB Rule G-42(b) and (c)(ii). The Conflict Disclosures also describe how Hilltop addresses or intends to manage or mitigate the disclosed conflicts of interest, as well as describing the specific type of information regarding, and the date of the last material change, if any, to the legal and disciplinary events required to be disclosed on Forms MA and MA-I filed by Hilltop with the Securities and Exchange Commission.

Included as Attachment C, is a general description of the financial characteristics and material risks associated with the Transaction that are foreseeable to us at this time.

3. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this Agreement shall be of no force or effect except for a subsequent modification in writing signed by all parties hereto.
4. Choice of Law. This Agreement shall be construed and given effect in accordance with the laws of the State of Texas.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

If the foregoing correctly sets forth the terms of our Agreement, please sign the enclosed copy of this engagement letter in the space provided and return it to us.

**HILLTOP SECURITIES INC.**

By: \_\_\_\_\_  
Name: Mr. Timothy Earl Nelson  
Title: Senior Managing Director

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2024

**MANOR HOUSNG PUBLIC FACILITY  
CORPORATION**

By: \_\_\_\_\_  
Name: Dr. Christopher Harvey  
Title: President  
Authorized Officer

**ATTACHMENT A****FORM AND BASIS OF COMPENSATION**

The fees due to Hilltop for the services described in this Agreement with respect to each Transaction during the term of this Agreement shall be as set-forth below, or as otherwise negotiated in advance and agreed to by the parties in writing:

For services relating to execution of the Transaction specified in the Agreement and referred to therein, Hilltop shall receive an advisory fee ("Advisory Fee") equal to \$50,000.

The Advisory Fee is contingent upon closing and shall be payable to Hilltop, by the Borrower, at the time of the closing of the Transaction.

**Please note that the above fees are paid by the Borrower and not by the Client.**

## **ATTACHMENT B**

### **MUNICIPAL ADVISOR DISCLOSURE STATEMENT**

This disclosure statement (“Conflict Disclosures”) is provided by **Hilltop Securities Inc.** (“the Firm”) to you (the “Client”) in connection with our current municipal advisory agreement, (“the Agreement”). These Conflict Disclosures provide information regarding conflicts of interest and legal or disciplinary events of the Firm that are required to be disclosed to the Client pursuant to MSRB Rule G-42(b) and (c)(ii).

#### **PART A – Disclosures of Conflicts of Interest**

MSRB Rule G-42 requires that municipal advisors provide to their clients disclosures relating to any actual or potential material conflicts of interest, including certain categories of potential conflicts of interest identified in Rule G-42, if applicable.

***Material Conflicts of Interest*** – The Firm makes the disclosures set forth below with respect to material conflicts of interest in connection with the Scope of Services under the Agreement with the Firm, together with explanations of how the Firm addresses or intends to manage or mitigate each conflict.

***General Mitigations*** – As general mitigations of the Firm’s conflicts, with respect to all of the conflicts disclosed below, the Firm mitigates such conflicts through its adherence to its fiduciary duty to Client, which includes a duty of loyalty to Client in performing all municipal advisory activities for Client. This duty of loyalty obligates the Firm to deal honestly and with the utmost good faith with Client and to act in Client’s best interests without regard to the Firm’s financial or other interests. In addition, because the Firm is a broker-dealer with significant capital due to the nature of its overall business, the success and profitability of the Firm is not dependent on maximizing short-term revenue generated from individualized recommendations to its clients but instead is dependent on long-term profitability built on a foundation of integrity, quality of service and strict adherence to its fiduciary duty. Furthermore, the Firm’s municipal advisory supervisory structure, leveraging our long-standing and comprehensive broker-dealer supervisory processes and practices, provides strong safeguards against individual representatives of the Firm potentially departing from their regulatory duties due to personal interests. The disclosures below describe, as applicable, any additional mitigations that may be relevant with respect to any specific conflict disclosed below.

**I. Affiliate Conflict.** The Firm, directly and through affiliated companies, provides or may provide services/advice/products to or on behalf of clients that are related to the Firm’s advisory activities within the Scope of Services outlined in the Agreement. Hilltop Securities Asset Management (HSAM), a SEC-registered affiliate of the Firm, provides post issuance services including arbitrage rebate and treasury management. The Firm’s arbitrage team verifies rebate and yield restrictions on the investments of bond proceeds on behalf of clients in order to meet IRS restrictions. The treasury management division performs portfolio management/advisor services on behalf of public sector clients. The Firm, through affiliate Hilltop Securities Asset Management (HSAM), provides a multi-employer trust tailor-made for public entities which allows them to prefund Other Post-Employment Benefit liabilities. The Firm has a structured products desk that provides advice to help clients mitigate risk through investment management, debt management and commodity price risk management products. These products consist of but are not limited to swaps (interest rate, currency, commodity), options, repos, escrow structuring and other securities. Continuing Disclosure services provided by the Firm work with issuers to assist them in meeting disclosure requirements set forth in SEC rule 15c2-12. Services include but are not limited to ongoing maintenance of issuer compliance, automatic tracking of issuer’s annual filings and public notification of material events. The Firm administers government investment pools. These programs offer governmental entities investment options for their cash management programs based on the entities specific needs. The Firm and

the aforementioned affiliate's business with a client could create an incentive for the Firm to recommend to a client a course of action designed to increase the level of a client's business activities with the affiliates or to recommend against a course of action that would reduce or eliminate a client's business activities with the affiliates. This potential conflict is mitigated by the fact that the Firm and affiliates are subject to their own comprehensive regulatory regimes.

**II. PlainsCapital Bank Affiliate Conflict.** The Firm, directly and through affiliated companies, provides or may provide services/advice/products to or on behalf of clients that are related to the Firm's advisory activities within the Scope of Services outlined in the Agreement. Affiliate, PlainsCapital Bank, provides banking services to municipalities including loans and custody. The Firm and the aforementioned affiliate's business with a client could create an incentive for the Firm to recommend to a client a course of action designed to increase the level of a client's business activities with the affiliates or to recommend against a course of action that would reduce or eliminate a client's business activities with the affiliates. This potential conflict is mitigated by the fact that the Firm and affiliates are subject to their own comprehensive regulatory regimes.

**III. Other Municipal Advisor or Underwriting Relationships.** The Firm serves a wide variety of other clients that may from time to time have interests that could have a direct or indirect impact on the interests of Client. For example, the Firm serves as municipal advisor to other municipal advisory clients and, in such cases, owes a regulatory duty to such other clients just as it does to Client. These other clients may, from time to time and depending on the specific circumstances, have competing interests, such as accessing the new issue market with the most advantageous timing and with limited competition at the time of the offering. In acting in the interests of its various clients, the Firm could potentially face a conflict of interest arising from these competing client interests. In other cases, as a broker-dealer that engages in underwritings of new issuances of municipal securities by other municipal entities, the interests of the Firm to achieve a successful and profitable underwriting for its municipal entity underwriting clients could potentially constitute a conflict of interest if, as in the example above, the municipal entities that the Firm serves as underwriter or municipal advisor have competing interests in seeking to access the new issue market with the most advantageous timing and with limited competition at the time of the offering. None of these other engagements or relationships would impair the Firm's ability to fulfill its regulatory duties to Client.

**IV. Secondary Market Transactions in Client's Securities.** The Firm, in connection with its sales and trading activities, may take a principal position in securities, including securities of Client, and therefore the Firm could have interests in conflict with those of Client with respect to the value of Client's securities while held in inventory and the levels of mark-up or mark-down that may be available in connection with purchases and sales thereof. In particular, the Firm or its affiliates may submit orders for and acquire Client's securities issued in an Issue under the Agreement from members of the underwriting syndicate, either for its own account or for the accounts of its customers. This activity may result in a conflict of interest with Client in that it could create the incentive for the Firm to make recommendations to Client that could result in more advantageous pricing of Client's bond in the marketplace. Any such conflict is mitigated by means of such activities being engaged in on customary terms through units of the Firm that operate independently from the Firm's municipal advisory business, thereby reducing the likelihood that such investment activities would have an impact on the services provided by the Firm to Client under this Agreement.

**V. Broker-Dealer and Investment Advisory Business.** The Firm is dually registered as a broker-dealer and an investment advisor that engages in a broad range of securities-related activities to service its clients, in addition to serving as a municipal advisor or underwriter. Such securities-related activities, which may include but are not limited to the buying and selling of new issue and outstanding securities and investment advice in connection with such securities, including securities of Client, may be undertaken on behalf of, or as counterparty to, Client, personnel of Client, and current or potential investors in the

securities of Client. These other clients may, from time to time and depending on the specific circumstances, have interests in conflict with those of Client, such as when their buying or selling of Client's securities may have an adverse effect on the market for Client's securities, and the interests of such other clients could create the incentive for the Firm to make recommendations to Client that could result in more advantageous pricing for the other clients. Furthermore, any potential conflict arising from the firm effecting or otherwise assisting such other clients in connection with such transactions is mitigated by means of such activities being engaged in on customary terms through units of the Firm that operate independently from the Firm's municipal advisory business, thereby reducing the likelihood that the interests of such other clients would have an impact on the services provided by the Firm to Client.

**VI. Compensation-Based Conflicts.** Fees that are based on the size of the issue are contingent upon the delivery of the Issue. While this form of compensation is customary in the municipal securities market, this may present a conflict because it could create an incentive for the Firm to recommend unnecessary financings or financings that are disadvantageous to Client, or to advise Client to increase the size of the issue. This conflict of interest is mitigated by the general mitigations described above.

Fees based on a fixed amount are usually based upon an analysis by Client and the Firm of, among other things, the expected duration and complexity of the transaction and the Scope of Services to be performed by the Firm. This form of compensation presents a potential conflict of interest because, if the transaction requires more work than originally contemplated, the Firm may suffer a loss. Thus, the Firm may recommend less time-consuming alternatives, or fail to do a thorough analysis of alternatives. This conflict of interest is mitigated by the general mitigations described above.

Hourly fees are calculated with, the aggregate amount equaling the number of hours worked by Firm personnel times an agreed-upon hourly billing rate. This form of compensation presents a potential conflict of interest if Client and the Firm do not agree on a reasonable maximum amount at the outset of the engagement, because the Firm does not have a financial incentive to recommend alternatives that would result in fewer hours worked. This conflict of interest is mitigated by the general mitigations described above.

**VII. Additional Conflicts Disclosures.**

The Firm has identified the following additional potential or actual material conflicts of interest:

- The Firm represents multiple issuers/obligors on same project.
- Employees of Hilltop Securities Inc. may, from time to time, serve on the board of directors of various state housing associations – such as Texas Association of Local Housing Finance Agencies (TALHFA) and Texas Affiliation of Affordable Housing Providers (TAAHP) – such participation may or may not result in conflicts of interest with or between clients of Hilltop Securities Inc.

In addition to serving as Municipal Advisor to the Issuer on the transaction, the Firm or an affiliate may be providing other services to the Issuer unrelated to the transaction or outside the scope of the Municipal Advisory Agreement and either will receive additional fees or may receive additional fees for such other services from the Issuer.

- The Firm serves as bidding agent escrow agent, GIC bidding agent, or swap advisor for the Issuer or provides derivatives or commodities hedging services to the Issuer and receives fees either under a separate contract or from a third-party.



- The Firm's affiliate, Hilltop Securities Asset Management, LLC, provides arbitrage rebate compliance services to the Issuer either under a separate contract or under the municipal advisory fee structure.
- The Firm has served as financial advisor to the general partner on prior or current transactions, for which it will receive a financial advisory fee in addition to the fees to be received for serving as Municipal Advisor to the Issuer under a separate contract.

## **PART B – Disclosures of Information Regarding Legal Events and Disciplinary History**

MSRB Rule G-42 requires that municipal advisors provide to their clients certain disclosures of legal or disciplinary events material to its client's evaluation of the municipal advisor or the integrity of the municipal advisor's management or advisory personnel.

Accordingly, the Firm sets out below required disclosures and related information in connection with such disclosures.

**I. Material Legal or Disciplinary Event.** The Firm discloses the following legal or disciplinary events that may be material to Client's evaluation of the Firm or the integrity of the Firm's management or advisory personnel:

- For related disciplinary actions please refer to the Firm's BrokerCheck webpage.
- The Firm self-reported violations of SEC Rule 15c2-12: Continuing Disclosure. The Firm settled with the SEC on February 2, 2016. The firm agreed to retain independent consultant and adopt the consultant's finding. Firm paid a fine of \$360,000.
- The Firm settled with the SEC in matters related to violations of MSRB Rules G-23(c), G-17 and SEC rule 15B(c) (1). The Firm disgorged fees of \$120,000 received as financial advisor on the deal, paid prejudgment interest of \$22,400.00 and a penalty of \$50,000.00.
- The Firm entered into a Settlement Agreement with Rhode Island Commerce Corporation. Under the Settlement Agreement, the firm agreed to pay \$16.0 million to settle any and all claims in connection with The Rhode Island Economic Development Corporation Job Creation Guaranty Program Taxable Revenue Bond (38 Studios, LLC Project) Series 2010, including the litigation thereto. The case, filed in 2012, arose out of a failed loan by Rhode Island Economic Development Corporation. The firm's predecessor company, First Southwest Company, LLC, was one of 14 defendants. HilltopSecurities' engagement was limited to advising on the structure, terms, and rating of the underlying bonds. Hilltop settled with no admission of liability or wrongdoing.
- On April 30, 2019, the Firm entered into a Settlement Agreement with Berkeley County School District of Berkeley County, South Carolina. The case, filed in March of 2019, arose in connection with certain bond transactions occurring from 2012 to 2014, for which former employees of Southwest Securities, Inc., a predecessor company, provided financial advisory services. The Firm agreed to disgorge all financial advisory fees related to such bond transactions, which amounted to \$822,966.47, to settle any and all claims, including litigation thereto. Under the Settlement Agreement, the Firm was dismissed from the lawsuit with prejudice, no additional penalty, and with no admission of liability or wrongdoing.

- From July 2011 to October 2015, Hilltop failed to submit required MSRB Rule G-32 information to EMMA in connection with 122 primary offerings of municipal securities for which the Firm served as placement agent. During the period January 2012 to September 2015, the Firm failed to provide MSRB Rule G-17 letters to issuers in connection with 119 of the 122 offerings referenced above. From October 2014 to September 2015, the Firm failed to report on Form MSRB G-37 that it had engaged in municipal securities business as placement agent for 45 of these 122 offerings. This failure was a result of a misunderstanding by one branch office of Southwest Securities. Hilltop discovered these failures during the merger of FirstSouthwest and Southwest Securities and voluntarily reported them to FINRA. The Firm paid a fine of \$100,000 for these self-reported violations.
- In connection with a settlement on July 9, 2021, the U.S. Securities and Exchange Commission found that, between January 2016 and April 2018, the Firm bought municipal bonds for its own account from another broker-dealer and that, on occasion during that time period, the other broker-dealer mischaracterized the Firm's orders when placing them with the lead underwriter. The SEC found that, among other things, the Firm lacked policies and procedures with respect to how stock orders were submitted for new issues bonds to third parties, including the broker-dealer that mischaracterized the Firm's orders. The SEC found violations of MSRB Rules G-27, G-17, and SEC rule 15B(c)(1) and a failure to reasonably supervise within the meaning of Section 15(b)(4)(E) of the Securities Exchange Act of 1934. The Firm was censured and ordered to pay disgorgement of \$206,606, prejudgment interest of \$48,587 and a penalty of \$85,000.

**II. How to Access Form MA and Form MA-I Filings.** The Firm's most recent Form MA and each most recent Form MA-I filed with the SEC are available on the SEC's EDGAR system at [Forms MA and MA-I](#). The SEC permits certain items of information required on Form MA or MA-I to be provided by reference to such required information already filed by the Firms in its capacity as a broker-dealer on Form BD or Form U4 or as an investment adviser on Form ADV, as applicable. Information provided by the Firm on Form BD or Form U4 is publicly accessible through reports generated by Broker Check at <http://brokercheck.finra.org/>, and the Firm's most recent Form ADV is publicly accessible at the Investment Adviser Public Disclosure website at <http://www.adviserinfo.sec.gov/>. For purposes of accessing such BrokerCheck reports or Form ADV, click previous hyperlinks.

### **PART C – MSRB Rule G-10 Disclosure**

MSRB Rule G-10 covers Investor and Municipal Advisory Client education and protection. This rule requires that municipal advisors make certain disclosures to all municipal advisory clients. This communication is a disclosure only and does not require any action on your part. The disclosures are noted below.

1. Hilltop Securities Inc. is registered with the U.S. Securities and Exchange Commission and the Municipal Securities Rulemaking Board as a Municipal Advisor.
2. You can access the website for the Municipal Securities Rulemaking Board at [www.msrb.org](http://www.msrb.org)
3. The Municipal Securities Rulemaking Board has posted a municipal advisory client brochure. A copy of the brochure is attached to the memo. This link will take you to the electronic version [MA Client Brochure](#)

**PART D – Future Supplemental Disclosures**

As required by MSRB Rule G-42, this Municipal Advisor Disclosure Statement may be supplemented or amended, from time to time as needed, to reflect changed circumstances resulting in new conflicts of interest or changes in the conflicts of interest described above, or to provide updated information with regard to any legal or disciplinary events of the Firm. The Firm will provide Client with any such supplement or amendment as it becomes available throughout the term of the Agreement.

## **ATTACHMENT C**

### **DISCLOSURE OF MATERIAL RISKS**

Municipal entities and other obligated parties should carefully consider the risks of all securities transactions prior to execution. A certain level of risk is inherent in all liabilities. The key is to determine whether the level of risk is acceptable. Risks will vary depending upon the structure and terms of the partnership agreement. There are risks that are common to all deal types and some that are specific to each transaction. Some risks can be mitigated if properly identified ahead of time. Some risks are out of the control of all parties involved in the transaction and therefore cannot be mitigated nor avoided. Some risks are borne by the participant, resulting in the participant demanding a higher compensation to offset the acceptance of risk.

As a municipal advisor, it is our fiduciary duty to analyze every aspect of a client's financial situation. A municipal advisor must take into account all assets and all liabilities of the client, current and anticipated, to create the best financial plan to achieve the client's objectives. No single transaction is viewed as separate and apart from prior transactions. The analysis includes a number of other factors, but it must include a thorough understanding of the client's risk tolerance compared to the material risks associated with a specific contemplated transaction.

The following is a general description of the financial characteristics and material risks associated with the Transaction that are foreseeable to us at this time. As the transaction progresses, material changes to the risk disclosures identified here will be supplemented for your consideration. However, the discussion of risks contained here should not be considered to be a disclosure of all risks or a complete discussion of the risks that are mentioned. Nothing herein constitutes or shall be construed as a legal or tax advice. You should consult your own attorney, accountant, tax advisor or other consultant for legal or tax advice as it relates to this specific transaction.

#### **Legal Risks**

While the use of limited liability companies can limit the risk of litigation, there is no guaranty that a court would not "pierce the corporate veil" and look to the parent entity to meet any legal obligations of the LLC for which it is the sole member.

#### **Reputation Risk**

While the use of limited liability companies can limit the legal risk of litigation, there is no way to insure against the reputational risk that might be suffered through the Client's involvement with the proposed real estate partnership.

#### **Tax Compliance Risk**

The operation of a partnership formed for the purpose of developing a project using the tax credit program is subject to a number of requirements under the United States Internal Revenue Code, as enforced by the Internal Revenue Service (IRS). You must take certain steps and make certain representations prior to the closing of a tax credit transaction. You also must covenant to take certain additional actions after the closing of the tax credit transaction. A breach of your representations or your failure to comply with certain tax-related covenants may cause the interest on the bonds to become taxable retroactively to the date of issuance of the bonds, which may result in an increase in the interest rate that is paid on the bonds or the mandatory redemption of the bonds. The IRS also may audit you or the bond issue, in some cases on a random basis and in other cases targeted to specific types of bond issues or tax concerns. This description of tax compliance risks is not intended as legal advice and you should consult with your counsel regarding tax implications of participating in a partnership.



**PUBLIC FACILITY CORPORATION  
AGENDA ITEM SUMMARY FORM**

**PROPOSED MEETING DATE:** May 1, 2024  
**PREPARED BY:** Scott Moore, General Manager

**AGENDA ITEM DESCRIPTIONS:**

Consideration, discussion, and possible action authorizing the General Manager to negotiate and execute an agreement with Chapman and Cutler LLP to serve as special tax counsel in connection with the Tower Road Apartments Project financing.

**BACKGROUND/SUMMARY:**

It is anticipated that the Corporation's next project, the Tower Road Apartments development, will involve the issuance of Low Income Housing Tax Credit (LIHTC) bonds. For these types of transactions, the Corporation will issue such bonds for the project. The ability to obtain and maintain the LIHTC credit for the purchasers of the bonds requires strict compliance with the applicable regulations by the Corporation and the developer. For these reasons, it is customary for issuers, such as the Corporation, to engage tax counsel for a LIHTC transaction to ensure that the applicable federal tax regulations are being satisfied as the transaction is structured.

The tax counsel's compensation for its work on the project is contingent on the successful bond financing of the project and neither the City nor the Corporation is responsible for payment of those fees.

Chapman Cutler is recommended based on their qualifications.

**LEGAL REVIEW:** Yes, Gregory Miller, Public Finance Counsel  
**FISCAL IMPACT:** No  
**PRESENTATION:** Yes  
**ATTACHMENTS:** Yes

- Engagement Letter

**PROPOSED MOTION:**

Move that the Board authorize the General Manager to negotiate and execute an agreement with Chapman Cutler LLP for tax counsel in connection with the sale of bonds financing the Tower Road Apartments Project, with the scope of services and fee structure to be as stated in the form of agreement provided to the Board in connection with this item.

**STAFF RECOMMENDATION:** Staff recommends approval

April 23, 2024

**VIA E-MAIL**

Manor Housing Public Facility Corporation  
Attention: Christopher Harvey

Manor Leased Housing Development I, LLC  
Attention: Neal Route  
[nroute@dominiuminc.com](mailto:nroute@dominiuminc.com)

Re: Manor Housing Public Facility Corporation  
(Tower Road Apartments)

Gentlemen:

As you know, we will represent and serve as special tax counsel ("*Special Tax Counsel*") to the Manor Housing Public Facility Corporation (the "*Issuer*") in connection with the proposed issuance of tax-exempt obligations for the Tower Road Apartments project (the "*Bonds*"), the proceeds of which are to be loaned to Manor Leased Housing Associates I, Limited Partnership (the "*Borrower*"). We look forward to working with you on this financing and wanted to take this opportunity to set forth the scope of our responsibilities as Special Tax Counsel in connection with the captioned financing, and to describe the basis for our compensation.

*Identification of Client.* In our role as Special Tax Counsel in conduit bond issues such as this, although the Issuer only, and not the Borrower, Manor Leased Housing Development I, LLC (the "*Developer*") or any affiliate of the Borrower or the Developer, is our client, the fees and expenses of Special Tax Counsel are the responsibility of the Borrower and the Developer.

*Scope of Services.* As Special Tax Counsel, we will deliver an opinion regarding the excludability of interest on the Bonds from gross income for federal tax purposes. In connection with our role as Special Tax Counsel, we will prepare the tax documentation and certifications and conduct the tax analysis needed to give the opinion regarding the excludability of interest on the Bonds from gross income for federal tax purposes and will file any required documents and forms with the Internal Revenue Service.

Our duties as Special Tax Counsel are limited as stated above. Among other things, our duties *do not* include:

1. Giving any advice, opinion or representation as to the financial feasibility or the fiscal prudence of issuing the Bonds or any other aspect of the Bond transaction, such as the investment of Bond proceeds (except for any rebate memorandum or explanation of rebate and yield

limitations), or the making of any investigation of or the expression of any view as to the creditworthiness of the Bonds.

2. Assisting in the preparation or review of an official statement or any other disclosure document with respect to the Bonds (except for any written material submitted by us for inclusion in such document) or performing an independent investigation to determine the accuracy, completeness or sufficiency of any such document or rendering any advice, view or comfort that the official statement or other disclosure document does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

3. Preparing any requests for tax rulings from the Internal Revenue Service, blue sky or investment surveys with respect to the Bonds or state legislative amendments.

4. Opining on securities law compliance or as to the continuing disclosure undertaking pertaining to the Bonds; or, after the execution and delivery of the Bonds, providing advice as to any Securities and Exchange Commission investigations or concerning any actions necessary to assure compliance with any continuing disclosure undertaking.

5. After the issuance of the Bonds, providing continuing advice to the Borrower or any other party concerning any actions necessary to assure that interest paid on the Bonds will continue to be tax-exempt.

6. Any representation of the Borrower in the event an audit of the Borrower or this transaction is commenced by the Internal Revenue Service. However, if separately engaged, we would be available to undertake representation for such purpose.

*Legal Fees.* Based upon our current understanding of the terms, structure, size and schedule of the proposed financing, the duties we will undertake pursuant to this engagement letter, the time we estimate will be necessary to effectuate the transaction and the responsibilities we will assume, our fee for Special Tax Counsel services will be \$1.25 per \$1,000 of principal amount of Bonds issued. Additionally, we would expect to be reimbursed for any out-of-pocket expenses incurred, including, but not limited to those incurred in connection with the publication of notice of the TEFRA hearing.

We will require a retainer in the amount of \$15,000 be paid to us for our work as Special Tax Counsel when the acknowledgement for this engagement letter is returned by the Developer. We will bill our actual fees and expenses against this deposit. The remaining portion of our fee and cost reimbursement for this financing will be due on the closing date for the Bonds and may be reimbursed by the Borrower. The Borrower may pay the remaining fees out of the proceeds of



the Bonds, subject to federal tax law limits, or out of other funds available to the Developer or the Borrower, at your option. If for any reason the financing is abandoned or terminated, we would expect to bill for services rendered and expenses incurred to the date of abandonment or termination of the financing. In such case, we would look to the Developer for the payment of such fees. Our willingness to proceed with our work as Special Tax Counsel is expressly premised on the understanding that we will be paid for such work, whether or not the Bonds are actually issued.

*IRS Audits.* Please be advised that the Internal Revenue Service (the “Service”) has an ongoing program of auditing tax-exempt obligations to determine whether, in the view of the Service, interest on such tax-exempt obligations is includible in the gross income of the owners thereof for federal income tax purposes. Certain types of transactions may be targeted for audit, including multi-family housing financings.

It has been reported in industry trade publications that the Service has found non-compliance with various tax requirements in a substantial percentage of audited transactions. The most common outcome resulting from adverse determinations by the Service in these situations has been the mandatory prepayment or redemption of the Bonds at the conclusion of the audit, together with a payment by the conduit borrower of a settlement amount to the Service to preserve the tax-exempt status of interest previously paid on the Bonds. You should be aware that, under current law, no party has the right to an independent review by a court of the tax-exempt status of the Bonds prior to a formal declaration of taxability of interest on the Bonds by the Service and an assessment against the recipient of interest paid on the Bonds.

*Consent to Potential Adverse Party Conflict.* In light of the extent of our finance-related practice, it is possible that some of our present or future clients will have matters adverse to the Issuer during the course of this engagement. From time to time, we represent in a variety of capacities and consult with most underwriters, investment bankers, credit enhancers such as bond insurers or issuers of letters of credit or liquidity facilities, rating agencies, investment providers, brokers of financial products, financial advisors, conduit issuers and other persons active in the public finance market on a wide range of issues. The Issuer’s acceptance of our services and execution of this engagement letter constitutes its consent to these other past, present and future engagements.

*General Terms.* Upon execution of this engagement letter, the Issuer will be our client, and an attorney-client relationship will exist between us. However, our services as Special Tax Counsel are limited as set forth in this engagement letter, and the execution of this engagement letter by the Developer and the Issuer will constitute an acknowledgment of those limitations.





Manor Housing Public Facility Corporation  
April 23, 2024  
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This engagement letter shall be deemed to have been made, executed and delivered in the State of Texas. The parties hereto agree that any action or proceeding related directly or indirectly to this agreement shall, at our election, be maintained only in courts located in the State of Texas. The parties hereto hereby irrevocably consent to the jurisdiction and venue of any such court.

This engagement letter contains the entire agreement between the parties hereto respecting the settlement of any lawsuit. The parties hereto acknowledge and agree that this agreement shall be governed by and construed in accordance with the laws of the State of Texas.

Please acknowledge your acceptance of this engagement letter by executing in the space provided below and returning an executed engagement letter to us at your earliest convenience.

[Remainder of page intentionally left blank.]



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April 23, 2024  
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Sincerely,

CHAPMAN AND CUTLER LLP

By Ryan J. Bowen  
Ryan J. Bowen

ACKNOWLEDGED AND AGREED TO:

MANOR LEASED HOUSING DEVELOPMENT I, LLC

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

MANOR HOUSING PUBLIC FACILITY CORPORATION

By \_\_\_\_\_  
Name: Christopher Harvey  
Title: President



**PUBLIC FACILITY CORPORATION  
AGENDA ITEM SUMMARY FORM**

**PROPOSED MEETING DATE:** May 1, 2024  
**PREPARED BY:** Scott Moore, General Manager

**AGENDA ITEM DESCRIPTIONS:**

Consideration, discussion, and possible action adopting the official seal of the Manor Housing Public Facility Corporation.

**BACKGROUND/SUMMARY:**

It is reasonable to expect that the Manor Housing Public Facility will be required to place its seal on certain documents needed for its upcoming transactions.

This item is for the Board's adoption of an official seal of the Corporation.

**LEGAL REVIEW:** Yes, Gregory Miller, Public Finance Counsel  
**FISCAL IMPACT:** No  
**PRESENTATION:** Yes  
**ATTACHMENTS:** Yes

- Proposed seal

**PROPOSED MOTION:**

Move that the Board adopt as the official seal of the Manor Housing Public Facility Corporation a seal in the form of the one provided to the Board in support of this item.

**STAFF RECOMMENDATION:** Staff recommends approval

# **Manor Housing Public Facility Corporation**

**Meeting of the Board of Directors**

**May 1, 2024**

**Materials for the Selection of the Official Seal of the MHPFC**

**Option No. 1**



**Option No. 2**

