

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT FOR THE MANOR APARTMENTS DEVELOPMENT

This First Amendment to Development Agreement for the Manor Apartments Development (this “**First Amendment**”) is dated effective February ____, 2023 (the “**First Amendment Effective Date**”), and is entered into between the **City of Manor**, a Texas home-rule municipal corporation (the “**City**”), and **Manor Apartments, LLC**, a Delaware Limited Liability Company (the “**Developer**”). The City and the Developer are sometimes referred to as a “**Party**” and collectively herein as the “**Parties**.”

RECITALS:

A. City and Developers previously entered into that certain Development Agreement for the Manor Apartments Development dated effective February 19, 2020 (the “**Agreement**”), for that certain multi-family use project located in the City of Manor, Travis County, Texas, as more particularly described in the Agreement.

B. The Developer determined that the Project, as the term is defined in the Agreement, is no longer viable as a market rate multi-family project.

C. The Developer has partnered with the Housing authority of the City of Austin to have a portion of the multi-family units be considered affordable according to Section 392 of the Texas Local Government Code in order to qualify for an affordable housing tax exemption.

D. The Developer is requesting that the City not object to Developer’s request to have a portion of the multi-family units be considered affordable according to Section 392 of the Texas Local Government Code in order to qualify for an affordable housing tax exemption.

E. The City and Developer desire to modify and amend the Agreement in certain respects, as more particularly set forth in this First Amendment to address Developer’s request.

AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree as follows:

(1) Incorporation of Recitals. The recitals set forth above are incorporated herein and made a part of this First Amendment to the same extent as if set forth herein in full.

(2) Capitalized Terms. All capitalized terms in this First Amendment shall have the same meanings as in the Agreement unless expressly provided otherwise herein.

(3) Term. Section 2.01 is hereby deleted in their entirety and replaced with the following:

“2.01. Term. The term of this Agreement shall be _____ () years from the Effective Date hereof, subject to earlier termination as provided in this Agreement.”

(4) Multi-family Units and Community Benefit Fund. Section 7.04 is hereby added to read as follows:

“7.04. Multi-family Units and Community Service Fund.

(a) Developer shall identify 132 multi-family units of the Project as affordable according to Section 392 of the Texas Local Government Code for individuals and families earning 80% or less of the Austin Metropolitan Statistical Area (Austin MSA) median household income and will commit to provide apartment community services including: annual financial literacy services and offsite multi-day per week after school programming.

(b) The community services will be paid by the City from a fund into which the Developer will contribute \$250,000 paid to the City within thirty (30) days of the First Amendment Effective Date.”

[OR]

(b) The community services will be paid by the City from a fund into which the Developer will contribute \$280,000 paid out in the amount of \$35,000 each year for 8 years on October 1 of each year, with the first \$35,000 payment being made within thirty (30) days of the First Amendment Effective Date.”

(6) Ratification of Agreement/Conflict. All terms and conditions of the Agreement are hereby ratified and affirmed, as modified by this First Amendment. To the extent there is any inconsistency between the Agreement and this First Amendment, the provisions of this First Amendment shall control.

(7) No Waiver. Neither City’s nor Developer’s execution of this First Amendment shall (a) constitute a waiver of any of its rights and remedies under the Agreement or at law with respect to the other party’s obligations under the Agreement or (b) be construed as a bar to any subsequent enforcement of any of its rights or remedies against the other party.

(8) Governing Law. This First Amendment shall be construed and enforced in accordance with the laws of the State of Texas.

(9) Signatory Warranty. The signatories to this Agreement warrant that each has the authority to enter into this Agreement on behalf of the organization for which such signatory has executed this Agreement.

(10) Interpretation. This Agreement has been jointly negotiated by the Parties and shall not be construed against a party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

(11) Anti-Boycott Verification. To the extent this First Amendment constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, Developer represents that neither Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer (i) boycotts Israel or (ii) will boycott Israel through the term of this First Amendment. The terms "boycotts Israel" and "boycott Israel" as used in this paragraph have the meanings assigned to the term "boycott Israel" in Section 808.001 of the Texas Government Code, as amended.

(12) Iran, Sudan and Foreign Terrorist Organizations. To the extent this First Amendment constitute a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, Developer represents that Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Contractor is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.

(13) Anti-Boycott Verification - Energy Companies. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this First Amendment. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, and to the extent such Section is not inconsistent with a governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds. As used in the foregoing verification, "boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by the preceding statement in (A).

(14) Anti-Discrimination Verification - Firearm Entities and Firearm Trade Associations. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association during the term of this First Amendment. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" means: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business

relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; but does not include (a) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; or (b) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

(15) Entire Agreement. The Parties hereto agree and understand that no oral agreements, or understandings, shall be binding, unless reduced to a writing which is signed by said Parties. The Parties hereto agree and understand that this First Amendment shall be binding on them, their personal representatives, heirs, successors and assigns.

(16) Counterparts. This First Amendment may be executed in multiple counterparts, each of which will be deemed an original, and all of which will constitute one and the same agreement.

[Signature pages follow]

EXECUTED in multiple originals, and in full force and effect as of the First Amendment Effective Date.

CITY:

CITY OF MANOR, TEXAS,
a Texas home-rule municipal corporation

By: _____
Name: Dr. Christopher Harvey
Title: Mayor

Attest:

By: _____
Name: Lluvia T. Almaraz
Title: City Secretary

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this ____ day of _____, 2023, by Dr. Christopher Harvey, Mayor of the City of Manor, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

Notary Public, State of Texas

DEVELOPER:

Manor Apartments, LLC,
a Delaware Limited Liability Company

By: _____
Name: _____
Title: _____

THE STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on this ____ day of _____, 2023, by
_____, _____ of Manor Apartments, LLC, a Delaware Limited Liability
Company, on behalf of said company.

(SEAL)

Notary Public, State of Texas