

# WESTOWN METROPOLITAN DISTRICT

141 Union Boulevard, Suite 150  
Lakewood, Colorado 80228-1898  
Tel: 303-987-0835 • 800-741-3254  
Fax: 303-987-2032  
<http://Westownmd.Colorado.gov/>

## **NOTICE OF A SPECIAL MEETING AND AGENDA**

<u>Board of Directors:</u>	<u>Office:</u>	<u>Term/Expires:</u>
Cindy Baldwin	President	2023/May 2023
Samantha Pearson	Treasurer	2022/May 2022
Hunter Owen	Secretary	2022/May 2022
Ashley Copenhaver	Assistant Secretary	2023/May 2022
Rajeswary Iruthayanathan	Assistant Secretary	2023/May 2022

**DATE:**        **October 5, 2020**

**TIME:**        6:00 P.M.

**PLACE:**        DUE TO CONCERNS REGARDING THE SPREAD OF THE CORONAVIRUS (COVID-19) AND THE BENEFITS TO THE CONTROL OF THE SPREAD OF THE VIRUS BY LIMITING IN-PERSON CONTACT, THIS DISTRICT BOARD MEETING WILL BE HELD BY TELECONFERENCE ON ZOOM WITHOUT ANY INDIVIDUALS (NEITHER DISTRICT REPRESENTATIVES NOR THE GENERAL PUBLIC) ATTENDING IN PERSON. IF YOU WOULD LIKE TO ATTEND THIS MEETING, PLEASE USE THE FOLLOWING LINK.

<https://us02web.zoom.us/j/82543702484?pwd=NTVra1B0cHRwdFRtQXhnbVVIUWhTdZ09>

Meeting ID: 825 4370 2484

Passcode: 429687

Call In: 1-346-248-7799

### I.        ADMINISTRATIVE MATTERS

- A.        Present Disclosures of Potential Conflicts of Interest and confirm quorum.
- 

- B.        Approve Agenda, confirm location of the meeting, and posting of meeting notice.
- 

### II.       FINANCIAL MATTERS

- A.        Discuss potential refinancing of the District's General Obligation (Limited Tax Convertible to Unlimited Tax) Bonds, Series 2017A and Subordinate General Obligation Limited Tax Bonds, Series 2017B.
-

- B. Discuss and consider the engagement of Sherman & Howard L.L.C. as District Bond Counsel (enclosure).
- 

IV. OTHER BUSINESS

- A. \_\_\_\_\_

- V. ADJOURNMENT: **THE NEXT REGULAR MEETING IS SCHEDULED FOR NOVEMBER 18, 2020 (BUDGET HEARING).**

---

# SHERMAN & HOWARD

---

633 Seventeenth Street, Suite 3000, Denver, CO 80202-3622  
Telephone: 303.297.2900 Fax: 303.298.0940 www.shermanhoward.com

**Blake T. Jordan**  
**Direct Dial Number: (303) 499-3838**  
**E-mail: bjordan@shermanhoward.com**

**Tiffany L. Leichman**  
**Direct Dial Number: (303) 299-8104**  
**E-mail: tleichman@shermanhoward.com**

September 17, 2020

Board of Directors  
Westtown Metropolitan District  
c/o McGeady Becher P.C.  
450 E. 17th Avenue, Suite 400  
Denver, CO 80203-1254  
Attention: Elisabeth Cortese, Esq.

with a copy to:  
Special District Management Services Inc.  
141 Union Blvd #150  
Lakewood, Colorado 80228

Re: Engagement as bond counsel

Ladies and Gentlemen:

We are pleased to confirm our engagement as your bond counsel. We appreciate your confidence in us and will do our best to continue to merit it. The purpose of this letter is to set forth in writing the elements of our mutual understanding in establishing our attorney-client relationship.

This letter sets forth the role we propose to serve and the responsibilities we propose to assume as bond counsel in connection with the issuance of one or more series of bonds, notes, or other obligations (the "Bonds") by or on behalf of Westtown Metropolitan District (the "Issuer").

This letter supersedes and replaces any previous engagement letters between the Issuer and us pertaining to representing the Issuer on public finance matters. We understand that the governing body of the Issuer will authorize the execution of this letter at a meeting and will delegate to the presiding officer of the Issuer's governing body the authority to sign this letter and to represent the Issuer during any particular financing. Blake T. Jordan will be the member at the firm who will coordinate and oversee the services we perform on your behalf and Tiffany Leichman will be the lead attorney.

### **Scope of Employment**

Bond counsel is engaged as a recognized expert whose primary responsibility is to render an objective legal opinion with respect to the authorization and issuance of bonds. As your bond counsel, we will examine applicable law; consult with the parties to the transaction prior to the issuance of any particular series of Bonds; prepare customary authorizing and operative documents, review a certified transcript of proceedings; and undertake such additional duties as we deem necessary to render the opinion. Subject to the completion of proceedings to our satisfaction, we will render our opinion relating to the validity of the Bonds, the lien of the Bonds on the revenues pledged to the payment thereof, and the exclusion of the interest paid on the Bonds (subject to certain limitations which may be expressed in the opinion) from gross income for federal income tax purposes.

As bond counsel, we will not assume or undertake responsibility for assisting in the preparation of the official statement or other offering document to be used in connection with the marketing of any Bonds (the "Official Statement"), nor are we responsible for performing an independent investigation to determine the accuracy, completeness or sufficiency of the Official Statement.

In rendering any opinion hereunder, we will rely upon the certified proceedings and other certifications of public officials and other persons furnished to us without undertaking to verify the same by independent investigation. Any such opinion will be addressed to the Issuer and will be executed and delivered by us in written form on the date a series of Bonds are exchanged for their purchase price (with respect to that series, the "Closing"), and will be based on facts and law existing as of such date.

Our services hereunder are limited to those contracted for explicitly in this letter. Specifically, but without implied limitation, our responsibilities do not include any representation by Sherman & Howard L.L.C. in any IRS audit or any litigation involving the Issuer or the Bonds, or any other matter. Neither do we assume responsibility for the preparation of any collateral documents (*e.g.*, environmental impact statements) which are to be filed with any state, federal or other regulatory agency. Nor do our services include financial advice (including advice about the structure of any Bonds) or advice on the investment of funds related to any Bond issue.

## **Representation of the Issuer**

In performing our services hereunder our client will be the Issuer. Accordingly, in any negotiations concerning the terms of the financing, we will represent the interests of the Issuer. We will work closely with the Issuer's attorney and will rely on his/her opinion with regard to specific matters, including pending litigation. We do not represent any developer or owner of property within the Issuer, nor do we represent the Board members in their individual capacity. We assume that other parties to the transaction will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction. Our limited representation of the Issuer does not alter our responsibility to render an objective opinion as bond counsel.

## **Conflicts of Interest**

Before accepting any new business, the Colorado Rules of Professional Conduct (the "Rules") require us to evaluate whether there are any ethical constraints to representing you in this new matter. As you are aware, our Public Finance Department practices in all areas of public finance in Colorado and other states, and in such practice simultaneously represents many political subdivisions, investment bankers/underwriters, trustees, financial institutions, and other companies and individuals. In addition, our other departments also represent various persons or institutions which may have or will have dealings with the Issuer, and which may be adverse to the Issuer.

We have completed a conflicts check within our firm and have found no current conflict between the Issuer and our existing clients, except as described below.

*Current or Anticipated Representations* - We have in the past, and are currently representing or are undertaking to represent, many of the firms which may be selected to act as your underwriter, financial advisor, or placement agent, as well as many of the banks which may be selected to act as trustee or paying agent, in unrelated bond or other transactions. Technically, because the Issuer sells its bonds to an underwriter or purchaser, and because the Issuer enters into agreements with the trustee or paying agent, the Issuer's interests can be viewed as "adverse" to those of such underwriter or bank. Our past, current, and anticipated representations of the underwriter and bank are not in any way connected to any Bonds of the Issuer which are currently contemplated or planned; however, under the ethical Rules, attorneys in our firm cannot simultaneously represent such adverse parties, even though the transactions are wholly unrelated, unless we reasonably believe that our representation of the Issuer will not adversely affect our relationship with such other parties, and unless each client, after consultation, consents to the adverse representation. Please be advised that we routinely receive the consent of underwriters and other public finance clients to our representation of governmental entities in matters unrelated to our representations of such clients.

*Future Representations* - In addition, during the course of our engagement with you or at some future time, it is likely that we will be asked to represent such parties, or other persons

or entities who have dealings with the Issuer, in other matters or transactions unrelated to any Bonds. Even though such existing and prospective engagements will be unrelated to any Bonds, we believe that good practice, and the Rules, require us to obtain the Issuer's consent thereto. With respect to our future representation of such parties in matters unrelated to any Bonds, we acknowledge that you might be concerned about confidentiality of information. The Rules prohibit the use of information obtained in our capacity as bond counsel to the disadvantage of the Issuer. Accordingly, we do not believe that our existing or former representation of the underwriter or the bank will act as a material limitation on our ability to represent the Issuer as bond counsel.

*Factors Considered* - We do not believe that our current, anticipated, or future engagements will materially limit or adversely affect our ability to represent the Issuer either: (i) because the potential for adversity is remote or minor and is outweighed by the consideration that it is unlikely that any advice given to other clients in unrelated transactions would be relevant to our representation of the Issuer in connection with any Bonds, or (ii) because such matters are or will be sufficiently different from this financing so as to make the representation not adverse to our representation of the Issuer in connection with any Bonds. In reviewing our current, anticipated, and potential future representation of the parties discussed above, we have considered: whether we can represent each client with undivided loyalty; whether we can protect the confidentiality of each client; the limited duration and extent of our engagement with the parties; the likelihood that a conflict will eventuate, possibly requiring our withdrawal from the representation; and should any conflict arise, any prejudice to each client which might result therefrom.

*Consent Requested* - In determining whether to consent to and waive the foregoing conflicts of interest, you should understand that your waiver includes your acknowledgement and agreement: (i) that you are not entitled to information we will obtain during our representation of the underwriter, bank, or other parties, and (ii) that we have no duty to provide such information to you or to use it in representing you. We advise you to discuss with your general counsel the advantages and risks involved in such simultaneous, adverse representations. Pursuant to such consultation and the matters discussed herein, we will treat your execution of this letter as consent to our current, anticipated, and future representations of such other parties in matters unrelated to any Bonds. If at any time a question should arise about an adverse representation, please do not hesitate to contact us.

### **Document Retention**

At or within a reasonable period after Closing, we will direct a review of the file to determine what materials should be retained as a record of the representation and those which are no longer needed. Ordinarily, we will return original legal documents to you along with the Closing transcripts, and we will retain for several years such materials as correspondence, final substantive work product, documents obtained from the client, and documents obtained from third

parties. We will not retain such materials as duplicates of the above-described material, or drafts and notes that do not appear needed any longer.

As to the client file materials that we retain, ordinarily the firm will keep those for a period of seven years after the final maturity of any particular issue of Bonds. At the end of that time, unless the Issuer has advised us in writing to the contrary, we will destroy the bulk of the file. If the file is especially voluminous, we may return the client file to you sooner than the end of this period as our storage facilities are limited, however, we always reserve the right to retain a copy of the files. If the Issuer wishes to make other arrangements for retention or disposition of files, please so advise us in writing.

### **Electronic Communications**

Although the Issuer and our firm recognize e-mail may not always be a secure method of communication, and could be intercepted and read by persons who are not the intended recipients, the Issuer and the firm agree to the use of unencrypted e-mail for communications made during the course of this engagement, including communications containing confidential information or advice. The Issuer may, however, at any time request us to use a specified more secure or different method of communication for confidential information or advice, including communications about a particular subject, and we will take reasonable measures to implement the request from the Issuer.

### **Fee Arrangement**

At this time the size of any Bond issue, the nature of the security therefor, and other matters have not been determined. Additionally, the nature of any other legal services which may be requested hereunder is undetermined. As a result, it is agreed that for such future Bond issues, if any, we will represent the Issuer hereunder for a reasonable, mutually agreed-upon fee, based upon the structure of the particular transaction and our responsibilities in connection therewith. In addition, we will expect to be reimbursed for all out-of-pocket expenses, including travel costs, photocopying, deliveries, long distance telephone charges, filing fees, and other necessary office disbursements in connection with that transaction.

Our fees for acting as bond counsel, unless otherwise agreed to at the time, will be contingent upon the Issuer being legally able to proceed to Closing, to be paid at the Closing out of the Bond proceeds or other legally available moneys of the Issuer. In the event that the Issuer is able to issue a particular Bond issue as a matter of law, but chooses not to as a result of financial or other factors, our fees will not be contingent, and in such event we will bill the Issuer for the time spent on such Bond issue at our usual hourly rates, plus out-of-pocket expenses. Mr. Jordan's current hourly rate is \$660 an hour and Ms. Leichman's currently hourly rate is \$415 an hour.

With respect to the provision of legal services in connection with municipal finance matters which do not result in the issuance of Bonds, our fees will be at our usual hourly rates, plus out-of-pocket expenses, and shall not be contingent.

### **Termination of Engagement**

The above fees contemplate compensation for usual and customary services as described above. Upon delivery of the opinion or opinions referenced herein, our responsibilities hereunder will terminate with respect to a particular financing. Specifically, but without implied limitation, we do not undertake to provide continuing advice to the Issuer or to any other party to the transaction.

This engagement is terminable by either party upon 15 days' notice to the other party; provided that: (i) the foregoing shall not alter or affect our responsibilities to the Issuer under the Code of Professional Responsibility or other applicable laws, rules, and regulations; and (ii) if the Issuer terminates us without cause while we are engaged in a matter on its behalf for which attorney or paralegal time has been expended, the Issuer will pay us our usual fees for such time spent, at our then-applicable hourly rates.

### **Approval**

If the foregoing terms of this engagement are acceptable to you, please so indicate by returning to us a copy of this letter signed by an authorized officer.

We sometimes do not receive signed engagement letters back from clients for various reasons, but the client still wishes for us to serve as their bond counsel. Accordingly, so that we may begin work on this matter soon per your instructions, if you do not return a signed letter to us or inform us of any comments or objections to this letter, we will consider this letter and the referenced fee arrangement to govern our relationship unless you and we agree otherwise in writing.



We are pleased to have the opportunity to serve you and look forward to a mutually satisfactory and beneficial relationship. If at any time you have questions concerning our work or our fees, we hope that you will contact us immediately.

**SHERMAN & HOWARD L.L.C.**



By: Blake T. Jordan



Accepted and Approved:

**WESTOWN METROPOLITAN DISTRICT**

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

Its: \_\_\_\_\_

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