

**MEMORANDUM OF UNDERSTANDING**  
**[Resource Partner Not-for-Profits]**

**THIS MEMORANDUM** ("Memorandum") is made effective as of the 31st day of March, 2016 by and between and **ROCHESTER HOUSING CHARITIES, INC.**, a not-for-profit corporation formed under Internal Revenue Code §501(c)(3) (hereinafter referred to as "RHC"), as a supporting not-for-profit of the **ROCHESTER HOUSING AUTHORITY**, a municipal housing authority (hereinafter referred to as the "Authority" or "RHA") and South Wedge Planning Committee not-for-profit with offices located at 224 Mt Hope Ave ("Partner" or "name of entity"). The Partner is a community not-for-profit entity that provides services to the community and has a resource network.

**WHEREAS**, RHC, as a tax exempt supporting organization, as that term is defined under the Internal Revenue Code and as described above desires to further the goals expressed in a certain strategic Memorandum of Understanding ("MOU") with RHA for specific projects;

**WHEREAS**, RHC's human infrastructure needs to be developed by partnering with other not-for-profit corporations to accomplish mutually agreed upon goals;

**WHEREAS**, RHC is striving to obtain the necessary technical expertise, financial resources, and support services with the goal of transitioning the services and technical skills and to move forward and to further such goal RHC entered into a certain Management Services Agreement ("MSA") with the Authority;

**WHEREAS**, RHC, in furtherance of the support relationship, as desired by the Authority, shall subject, to any restrictions or applicable terms of the MSA and MOU, enter into this Memorandum with [name of entity]; and

**WHEREAS**, RHC shall during the term of this Agreement, perform reasonable and necessary diligence to mutually protect RHC's financial resources and [name of entity] (not-for-profit) agrees to such reasonable oversight;

**WHEREAS**, RHC, by entering into this Memorandum, is striving to maximize relationships and networks to benefit and support the Authority and its mission;

**NOW THEREFORE**, in consideration of the premises and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the parties) the parties hereto set forth their mutual understanding as follows:

**1. UNDERSTANDING AND SERVICES TO BE PROVIDED**

The Partner or ("name of entity") and RHC hereby acknowledge that the following three categories of services (collectively, the "Services") shall be provided by the Partner and utilized for the benefit of RHC and Partner:

1.1. Administration and Matching Funds

- (a) Administrative personnel to supplement RHC support services until such time as a full-time person is hired independently by RHC;
- (b) Consistent with any policy direction envisioned by both RHC and RHA, the ability to utilize experienced housing development staff; and
- (c) Work with RHC to secure matching funds from non-federal sources to benefit RHC and Partner for certain identified projects.

1.1.2. Workforce Development Programs

- (a) Assist RHC in development a progressive Section 3 and M/WBE program and recruitment of businesses to better enhance the Authority's objectives;
- (b) Workforce Development programs to support RHA residents; and
- (c) Pre-apprentice training programs.

1.1.3. Complementary Programs for low income residents

The Provider has access to and expertise in certain services that can be utilized by RHC to assist its support mission for the Authority.

1.1.4. Specialized Projects

The Provider shall work with and collaborate with RHC on the projects as described in Schedule "A" annexed hereto.

**2. TERMINATION**

- 2.1 Notwithstanding the foregoing, either party has the right to terminate this Agreement and/or all or part of the Services provided hereunder upon a minimum of forty five (45) days written notice.
- 2.2 In the event of termination, the parties shall work cooperatively to wind down the projects in progress.

**3. NOTICES**

- 3.1. Any demand, notice or other communication (hereinafter in this Section 3 referred to as a "Communication") to be given in connection with this Agreement shall be given in writing and may be given by personal delivery, by registered mail or by transmittal by facsimile (if a facsimile number is provided below) addressed to the recipient as follows:

To the: Rochester Housing Charities, Inc.  
 [With temporary address of:]  
 675 West Main Street  
 Rochester, New York 14611

Attention: I. Geena, ONZ, Chairperson

Tel. No.: \_\_\_\_\_

To the Service  
 Partner: \_\_\_\_\_  
 Rochester, New York \_\_\_\_\_

Attention: Executive Director or Board Chairperson

Tel. No.: \_\_\_\_\_

Or such other address, facsimile number or individual as may be designated by notice by any party to the other. Any Communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the third Business Day following the deposit thereof in the mail and, if given by facsimile, on the day of transmittal thereof. If the party giving any Communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such Communication shall not be mailed but shall be given by personal delivery or by facsimile.



#### **4. APPROVAL AND ACKNOWLEDGEMENT**

- 4.1. This Memorandum must be approved by the RHC board and presented to the Authority for discussion and acknowledgement.
- 4.2. The Authority's Commissioners are aware of their respective obligations under the Conflict of Interest and Ethics guidelines of RHA.
- 4.3. The Partner's board approves this Memorandum and acknowledges the obligations under its respective Conflict of Interest and Ethics Guidelines.
- 4.4. The Parties shall work together on joint press and media statements related to their joint efforts and projects.

#### **5. WAIVERS**

- 5.1. No amendment, waiver or termination of this Agreement will be binding unless executed in writing by the parties to be bound hereby. No waiver of any provision of this Agreement will be deemed or will continue a waiver unless expressly provided.

#### **6. CONFLICTS**

The parties acknowledge that the Authority has Commissioners who may serve on Boards, act in executive positions or serve in other capacities with resource Partners. Accordingly, this Memorandum is entered into to avoid any conflicts with any Commissioner. Moreover, RHC is a separate entity from the Authority, and each Commissioner understands the conflicts policy.

- 6.1. The Partner hereby discloses the name of its officer or Board member in Schedule "B" annexed hereto that is subject to this section.

#### **7. ADDENDUMS**

The parties may enter into addendums to this Memorandum as appropriate.

*[Remainder of page left intentionally blank]*

IN WITNESS WHEREOF, this Memorandum has been executed by the parties hereto.

**ROCHESTER HOUSING CHARITIES, INC.**

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

Name:

Title: Chairperson

[name of Partner entity]

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

Name:

Title: Executive Director or  
Appropriate Board officer

Dated: \_\_\_\_\_

Acknowledged by: \_\_\_\_\_

Rochester Housing Authority  
Finance Director

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2. **TERMINATION**

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To the: Rochester Housing Charities, Inc.  
[With temporary address of:]  
675 West Main Street  
Rochester, New York 14611

Attention: I. Geena Cruz Chairperson

Tel. No.: \_\_\_\_\_

To the Service  
Partner:

\_\_\_\_\_  
Rochester, New York \_\_\_\_\_

Attention: Executive Director or Board Chairperson

Tel. No.: 256-1740

Or such other address, facsimile number or individual as may be designated by notice by any party to the other. Any Communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the third Business Day following the deposit thereof in the mail and, if given by facsimile, on the day of transmittal thereof. If the party giving any Communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such Communication shall not be mailed but shall be given by personal delivery or by facsimile.



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

Name:

Title: Chairperson

[name of Partner entity]

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

Name:

Title: Executive Director or  
Appropriate Board officer

Dated: \_\_\_\_\_

Acknowledged by: \_\_\_\_\_

Rochester Housing Authority  
Finance Director



Christopher Hennelly &lt;chennelly55@gmail.com&gt;

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**Finances**


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**Christopher Hennelly** <chennelly55@gmail.com>

Fri, Apr 8, 2016 at 7:26 PM

To: Nathaniel Mich &lt;nathaniel.mich@gmail.com&gt;

Cc: "coconnor@hselaw.com" &lt;coconnor@hselaw.com&gt;, Donna &lt;donna.roethel.lenhard@gmail.com&gt;

Nathaniel &amp; Christine

As I have said to finance you have 7 payrolls at roughly 8k till 6/30 The DHCR has never come in until September which would mean you have an additional 4 payrolls. Magic 88k of payroll and the 15k loaned will be gone by this Friday 5k of that was used for last payroll. You barely have this weekend to wait to make decisions.

SEAC has 15k cash. John ordered me to write a check for 8.5 out of SEAC funds for Tonya on contract that has yet to be countersigned by city or even paid for. I declined and said in text messages "Tony will have your balls john if you do this". I reminded him that I wouldn't do it and it was wrong. Leaving SEAC with little capital to even to help pay SWPC bills is insanity. Rearranging a few things here or there or some agreement with Housing Charities isn't going to cut it.

John wanted to meet again to get a check done so I proposed Friday as it would give some days and daylight for him to think through what I warned him about.

I spoke with Donna about my direct conversations with Christine at finance meeting as well as My private meeting in November with you Nathaniel about what has been going on at SWPC/SEAC.

Last night I also contacted Tony and Mark to ask them to stop this specific transaction of 8.5k or at least hear me.

This is the second time a check for large amount I've had to interdict (6k for pardi partnership).

They agreed that the transaction shouldn't happen. This am 11 emails back and forth with Tony and Mark they agreed Tony would contact John. Aprox two hours later John texted me "can't meet today".

I'm in one day a week. When I'm in John may show up in my three years here for an hour or maybe two hours. I'm not here the other days. Everyone of Your employees have confirmed that this is Johns standard procedure or worse no show at all.

I have no doubt the members of these boards love and care about the organizations and to be of service to the community. I furthermore have no doubt that John is very talented and appears to be bored, disconnected from the organization and unavailable. He is not some villain who got in this jam. He is not solely to blame. Over the years he apparently believed this was okay to get 56k plus benefits for a few hours a day. The board and John owe each other an apology for treating one another this way. Accountability and desired outcomes are not mutually exclusive.

No one from either board has stepped foward to apologize to the employees/contractors that work under John and taken their ethical concerns and acted on them.

Even your auditors were told two years ago when they asked "is John ever here?".

So the simple answer is your out of cash. I sent to Nathaniel, Tony, Mark and Christine an interim finance statement showing what trouble we were in in March and I was chided for including that by John.



I'm not angry at either of you im disappointed that it's come to this. Neither of you wanted this outcome and you staked your own reputations to serve without fame or compensation on these boards.

Folks can get angry at me all they like and they have. I love accounting and i love what I do. I care and work hard for my clients. I have been doing triage here and trying to engage people to make better choices.

There are ways to come back from the edge here.

I'm in my office all weekend on south ave.

Respectfully

Christopher

[Quoted text hidden]

## Eileen Thomas

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**From:** Nathaniel Mich <nathaniel.mich@gmail.com>  
**Sent:** Tuesday, March 01, 2016 9:02 PM  
**To:** Mark Greisberger, Jr.; Tony Sciarabba; Rebecca Webb; Dave Halter; Frank Logan; coconnor@hselaw.com; John Page; Eileen Thomas  
**Subject:** Phone Call with RHC lawyer

Hello Friends,

Once again, a lengthy e-mail. Thank you for taking the time to read it in its entirety. A separate email with minutes from our last SWPC board meeting will follow.

Christine and I spoke with H. Todd Bullard of Harris Beach, the lawyer to whom John directed us, for about half an hour today. We thought it was a helpful conversation, the major points of which, and our reaction to, I have written out for you below. I have also reached out for recommendations for independent counsel to look over these documents with us. Please feel free to reply all with any feedback, questions, or lawyer recommendations you may have. Christine, please correct me if I missed or mischaracterized anything. John, there are a few highlighted items below that require a response from you. Likewise, there are a few items that require [REDACTED] feedback/input.

First of all, Todd was *not* involved in drafting the Independent Contractor Agreement, so he was unable to answer our questions about that document in particular. John, can you give us the contact information for the person who drafted the IC agreement? What follows, therefore, is focused on the MOU.

It was the intention of Todd and the RHC to draft a model document that could be a template for any relationship RHC may form with a partnering organization. That is part of the reason for some of the generalities of language, and items that don't necessarily pertain to SWPC or SEAC. He told us that this was still a working document as far as the RHC was concerned; they don't consider it final. We found Todd to be very receptive to incorporating our feedback into the document. I'll take it section by section:

### 1. Understanding and Services to be Provided

We raised that we were concerned that the document didn't list any benefits or services that RHC may provide to partner organizations ("Provider" or "Service Provider" in the document). We asked that he include an appendix, customized to each partner, which lays out what the Partner organization gets out of this arrangement. He is willing to do that and will adopt that for the template in general. John/[REDACTED], what would you like to see included in that appendix? For example, I would want to include language that guarantees long-term land and programmatic control over the farmers market grounds.

## 2. Termination

Item 2.1 will be deleted.

Item 2.2 will be changed to read (more or less): “Either RHC or the Service Provider has the right to terminate this Agreement and/or all or part of the Services provided hereunder upon a minimum of forty five (45) days written notice.”

## 4. Approval and Acknowledgment

Language will be added to item 4.1 to make it clear that the MOU must also be approved by the Board of the Service Provider as well.

## 6. Conflicts

We requested, and Todd agreed, that for each Provider, a 6.1 be added to include Provider-specific details and that a schedule that entails a specific conflict of interest disclosure will be appended to the document. John, please draft such a disclosure (also, we still need one from you regarding Diamond PI before any more funds can be released for the Small Houses project).

That’s it for specific changes/issues. One last point that also touches on the IC agreement: According to Todd, it is the ultimate intention of RHC to have “their own employee,” relating to the following statement on the first page: “Whereas, RHC’s *human infrastructure needs to be developed* by partnering with other not-for-profit corporations to accomplish mutually agreed upon goals” (emphasis added). We are concerned that this may set us up for losing Jen as an employee and losing direction over her work altogether in the near future – a concern that I have voiced throughout this process, and an outcome that we thought this arrangement was meant to prevent. Fundamentally, of course, it is Jen’s right to choose whichever employer or form of employment she likes. However, I don’t want to create a situation where Jen may feel undue pressure – or, just as important, may be perceived to feel undue pressure – to choose one employment arrangement over another.

This leads me to the following: although the employment particulars of Jen’s potential IC arrangement would largely be between her and RHC, SWPC/SEAC still have a vested interest in the work being done, since they are putatively and at least partially being done under our aegis. Therefore, when we speak with the individual(s) who drafted the IC agreement, we will press for SWPC/SEAC (perhaps just SWPC, since we are the employer of record?) to be signing parties to that document as well. Language will also need to be included in that document that clarifies her continuing relationship (for the 6-month duration of this trial) with SWPC/SEAC.

Additionally, we want to include language in this MOU that preserves our ability to publish and publicize information about projects that we work on with RHC in contexts include public feedback meetings, funding



applications, print/web/media publications, etc. This is in response to the confidentiality language in the IC agreement, which needs to be addressed as well. Ideally, the two will agree, but the section in the MOU should be written to supercede possible restrictions in other agreements signed by the partner, I think. I can take a crack at drafting this language, though ideally, an independent counsel would do this for us.

I think that about covers it. Again, please reply with any feedback or questions you may have.

Thanks,

Nathaniel