

**MEMORANDUM OF UNDERSTANDING
BETWEEN
Nicklaus Olmsted Buffalo, Inc.
AND
Buffalo Olmsted Parks Conservancy**

This Memorandum of Understanding (MOU), dated March 29, 2019, is by and between the 501(c)3, NYS nonprofit, Nicklaus Olmsted Buffalo, Inc. referred to as “Company,” and the 501(c)3, NYS nonprofit, Buffalo Olmsted Parks Conservancy, Inc. referred to as “Conservancy.” This is an instrument between parties for cooperation and communication; it is not intended to be a contract.

A. Purpose

The purpose of this MOU is to develop a framework of cooperation between Company and Conservancy, form common ground areas of interest pertaining to potentially new and/or modified park amenities in the Buffalo Olmsted Park System, and provide clarity around the communication, documentation, studies and process required for Conservancy and City consideration. Part of the Company’s proposed projects and activities appear to be consistent with the Conservancy’s 2008 published Master Plan for the park system. Formal approval by the City of Buffalo would be required for any actual park projects on City-owned land. The Conservancy’s Board of Trustees would also need to officially approve any proposed projects within the Olmsted landscape.

B. The City of Buffalo

In entering into this MOU, Company and Conservancy acknowledge that, in accordance with all applicable local laws, regulations, codes and ordinances, the Office of the Mayor and Buffalo Common Council, through adoption of appropriate resolutions, local laws and/or issuance of executive authority, must approve and authorize any and all work performed on any city park, including any Frederick Law Olmsted park or parkway, for which the City of Buffalo engages the Conservancy to oversee and maintain. It is also noted that this MOU instrument does not constitute the Conservancy or Company as speaking on behalf of the City of Buffalo in any way.

C. The Buffalo Olmsted Parks Conservancy

In entering into this MOU, the Company acknowledges the Conservancy as the 40-year, mission-based steward of the Olmsted park system, and will follow its process of assessing newly proposed or modified park amenities, including but not limited to providing required documentation and studies referenced in Section E, with formal review by the Conservancy’s Long Range Planning Committee and Design Review Committee, in alignment with the Conservancy’s published and updated Master Plan.

D. Statement of Respective and Mutual MOU Benefits and Interests

Conservancy benefits include clarifying roles, including the assurance for factual and supportive communications involving the Conservancy and its Olmsted Parks brand. Other benefits include activating long term restorative plans in furthering its mission focus in accordance with

its master plan, while supporting and sustaining National Register of Historic Places status for the Olmsted park system.

Company benefits include clarified roles and responsibilities, understanding of processes required by the Conservancy, as well as authenticity of communication about the Conservancy in connection with Company's accomplishing its mission of providing public recreation spaces and education, employment and vocational training to underserved youth in the City of Buffalo.

Mutual benefit for the parties is the opportunity to clarify the roles and responsibilities of the parties, and to collect and share proprietary data on park features and trending improvements. And, if successful, the benefit of future restorative public amenities in each of South Park and Delaware Park which may combine and further sustain the missions of both nonprofits and their respective affiliations.

E. Responsibilities of the Parties

The primary responsibility of the Conservancy will be to inform the Company in the process and requirements for project consideration and the related provision of documentation, studies, and business plans, which will be requisite for presentation, consideration, and any approval of Conservancy and the City of Buffalo. The Conservancy will routinely engage with the Company in the detailed development and approval of any public communication and marketing messaging between the parties as it pertains to the Conservancy or any reference to the historic Olmsted park system of Buffalo.

The primary responsibilities of the Company are to fully finance and contract with professionals who will perform and provide the requisite documentation, studies, public input, business plans, and future designs that will be presented to the Conservancy and the City of Buffalo for their consideration. As to responsible communications, the Company will collaborate on developing solicitation plans, and clearly state on its marketing/advertising/fundraising materials that any funds solicited or collected by the Company for its initiatives do not directly benefit the Conservancy, and are not considered a gift to the Conservancy. Furthermore, the Company will devote its best efforts to prevent donor confusion between Company and Conservancy independent fundraising efforts.

F. Fundamental Understandings and Assurances

The Conservancy and the Company have reached an understanding per this cooperative MOU that the Conservancy is the 40-year old steward, advocate and authority on Buffalo's Olmsted Park System, and that the Company will confer with and reference the Conservancy as the experienced technical entity and authority, and at all times respect its public-private operational agreement with the City of Buffalo.

The Conservancy and the Company understand that, on behalf of its residents and taxpayers, the City of Buffalo is the owner of all public Olmsted parkland and park system, and therefore retains all rights, authorities and approvals as to its properties, and is obligated by law to fulfill its Charter to the public.

The Conservancy and Company have reached an understanding that the Company is actively pursuing development of a public recreation amenity and public educational facility on privately owned land adjacent to an historic Olmsted park. As such it is actively seeking \$500,000 in

local funding to supplement and support the further acquisition of regional, state or other funding from outside the Buffalo area for this amenity and for planning document development.

The Conservancy and the Company have reached an understanding that as the Company's public recreation amenity and public education facility on Hopkins Street is undergoing local fundraising initiatives, due to the Company inclusion of "Olmsted" within its company name, there will be cooperative and direct shared knowledge between the Company and the Conservancy to avoid solicitation conflicts, public or donor confusion, or negative impacts to fundraising capacities. The Company understands that should the Conservancy experience fundraising and/or financial hardships as a direct, documented result of the Company's initiatives, such hardship being independently verified, the Conservancy reserves the right to publicly retract support for this endeavor and will petition for the removal of the Olmsted moniker from the Company.

The Conservancy and the Company have reached an understanding regarding South Park and the reference of the Arboretum as a sole endeavor of the Conservancy and not a project of the Company, and that among the reasons the Company is pursuing its charitable projects is to be of assistance to the Conservancy in any future undertaking the Conservancy may, in its sole discretion, decide to pursue relating to the Arboretum. Furthermore, it will be made clear to the public and donors that the Conservancy is not affiliated in any manner with the recreational amenity or educational facility planned for Hopkins Street adjacent to South Park.

The Conservancy and the Company have reached an understanding regarding Delaware Park and its existing golf course, and that among the reasons the Company is pursuing its charitable projects is to be of assistance to the Conservancy in any future undertaking the Conservancy may, in its sole discretion, decide to pursue relating any re-design and/or modest upgrade of the Delaware golf course.

The Conservancy and the Company have reached an understanding on the benefits of aligned communication messaging, with clear, collaborative acknowledgement, and that the Company and the Conservancy will work collaboratively in the development and delivery of facts and accuracy on the status of this project, its marketing pursuits, or any future plans, to any private donor or to the public through any means of media or promotion.

The Company has made the assurance that the Conservancy is not responsible for any financial contribution to any Company endeavor, nor is the Conservancy responsible or liable for any contributions received by the Company for its endeavors.

G. Upon Signature

The Company understands that this MOU provides no assurance of project success, and there is no guarantee of approvals by those of authority for any Company-proposed park amenities or modifications within the Buffalo Olmsted Park System.

The Company and Conservancy agree on developing a detailed post-signature communications plan that will be strictly adhered to as to content and message, including but not limited to the Conservancy developing the first press release with Company input, followed by a joint presentation to the media/editorial board which will include Company and Conservancy Board representation. There will be no independent outreach or audience given to the media by either

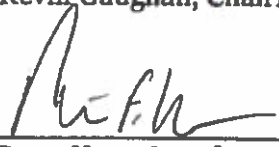
party as a result of this MOU. Furthermore, as to other advertising (i.e. videos, commercials, etc.), the Conservancy will approve all scripts or messages in alleviating further donor confusion.

The Company and/or the Conservancy may withdraw from this MOU at any time at its individual and sole discretion with a letter of withdraw in writing and signature by the respective Board of Trustees/Directors. Any revisions or changes to this MOU must be mutually agreed upon in writing with signatures.


Signatures:

NICKLAUS OLMSTED BUFFALO, INC.

By: 
Kevin Gaughan, Chairman and CEO

By: 
Peter Hunt, Member, Board of Directors

BUFFALO OLMSTED PARKS CONSERVANCY

By: 
Dennis Horrigan, Chairman

By: 
Stephanie Crockatt, Executive Director