

**LIGHTHOUSE FOR CHILDREN, INC.  
BOARD MEETING**

**Date:** Wednesday, December 14, 2016

**Time:** 10:00 a.m. – Regular Meeting

Lighthouse for Children  
2405 Tulare Street  
Fresno, CA 93721

**AGENDA**

ITEM	SUBJECT	PRESENTER
1.	<b>CALL TO ORDER</b>	Chair Perea
2.	<b>POTENTIAL CONFLICTS OF INTEREST</b> Any Commission Member who has potential conflict of interest may now identify the item and recuse themselves from discussing and voting on the matter.	Chair Perea
3. Action Pg. 1	<b>MINUTES FROM OCTOBER 28, 2016 BOARD MEETING</b> Supporting Document	E. Reyes, E.D.
4. Action Pg. 3	<b>FINANCIAL REPORT FOR PERIOD ENDING OCTOBER 2016</b> Supporting Document	E. Reyes, E.D.
5 Action Pg. 5	<b>CONSENT OF REPRESENTATION BY LEGAL COUNSEL- POTENTIAL CONFLICT</b>	K. Price , Legal Counsel
6. Action Pg. 11	<b>MEMORANDUM OF UNDERSTANDING WITH VALLEY CHILDREN'S HOSPITAL FOR PROJECT ON LIGHTHOUSE FOR CHILDREN, INC. PROPERTY</b> Supporting Documents	E. Reyes, E.D.
7. Information	<b>PUBLIC COMMENT</b>	Chair Perea
8.	<b>ADJOURNMENT</b>	Chair Perea

NOTE: If you need disability modification(s) and/or other accommodation(s) in order to participate in this meeting, please contact the office at (559) 558-4900 at least 48 hours prior to the start of the meeting. Government Code Section 54954.2(a).





**LIGHTHOUSE FOR CHILDREN, INC.**  
**BOARD MEETING**

**December 14, 2016 –10:00 a.m.**

**2405 Tulare Street  
Fresno, CA 93721**

**AGENDA ITEM NO.4**

TO: Lighthouse for Children Board Members  
FROM: Emilia Reyes, Executive Director  
SUBJECT: Financial Report for Period Ending October 2016

**RECOMMENDED ACTION:**

Accept the Financial Report for period ending October 31, 2016.

**BACKGROUND:**

This item is intended to keep the Board apprised of the Lighthouse for Children (LFC) financial activity as of October 31, 2016 and to provide an opportunity to discuss and review financial activities for the reporting period.

**KEY POINTS:**

Revenues (53%)

- Fund Balance (103%) – This amount represents the amount budgeted along with the carryover balance from the preceding fiscal year.

Operating (6%) - Expenses are lower than projected for this period. Payments will be made in the remainder of the fiscal year.

**FISCAL IMPACT:**

All expenses have been anticipated and are within budget constraints for FY 2016 – 2017.

**LIGHTHOUSE FOR CHILDREN  
FINANCIAL STATEMENT  
OCTOBER 2016 (33%)**

**Revenues**

	<u>Budget Amounts</u>	<u>Actual Amounts</u>	<u>Variance</u>	<u>Percent Variance</u>
	<b>07/01/16-06/30/17</b>	<b>07/01/16-10/31/16</b>		
Fund Balance as of July 1, 2016	\$250,000	\$256,341	(\$6,341)	103%
Annual Rent Income	\$148,000	\$49,333	\$98,667	33%
Grants & Contracts	\$184,000	\$0	\$184,000	0%
<b>Total Revenues</b>	<b>\$582,000</b>	<b>\$305,674</b>	<b>\$276,326</b>	<b>53%</b>

**Expenses**

	<u>Budget Amounts</u>	<u>Actual Amounts</u>	<u>Variance</u>	<u>Percent Variance</u>
<b>Operating Expenses</b>				
Administrative Contract	\$25,000	\$0	\$25,000	0%
Tenant Improvement Construction (3rd Floor)	\$422,000	\$0	\$422,000	0%
Insurance	\$17,000	\$0	\$17,000	0%
Professional Services	\$8,000	\$2,424	\$5,576	30%
NMTC Interest Payments	\$110,000	\$33,428	\$76,572	30%
<b>Total Operating</b>	<b>\$582,000</b>	<b>\$35,852</b>	<b>\$546,148</b>	<b>6%</b>

**LIGHTHOUSE FOR CHILDREN, INC.**

**Board Meeting  
December 14, 2016 – 10:00 a.m.  
2405 Tulare Street  
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**AGENDA ITEM NO.5**

TO: Lighthouse for Children Board Members  
FROM: Emilia Reyes, Executive Director  
SUBJECT: Consent of Representation by Legal Counsel – Potential Conflict

**RECOMMENDED ACTION:**

Authorize Chair to execute Conflict Waiver.

**REASON FOR RECOMMENDED ACTION:**

**Background:**

Legal Counsel has provided the attached letter outlining the disclosure of a potential conflict and proposing waiver consent for this Board's review and approval pertaining to Valley Children's Hospital. Counsel has also provided the same letter to the First 5 Fresno County Commission and will be providing an overview of the document and the recommended action at the meeting.

Baker Manock  
& Jensen <sup>PC</sup>  
ATTORNEYS AT LAW

December 6, 2016

The Honorable Henry R. Perea, Chair  
Lighthouse for Children, Inc.  
2405 Tulare Street  
Fresno, California 93721

Re: Consent of Representation – Potential Conflict

Dear Chair Perea:

As you know, Baker Manock & Jensen, PC, represents, as general counsel, Lighthouse for Children ("LFC").

LFC is negotiating with Valley Children's Hospital ("VCH") regarding the possibility of entering into a definitive agreement, wherein LFC would enter into a multi-party agreement with VCH and First 5 Fresno County to construct a building on the current Lighthouse for Children campus (the "Proposed Transaction"). LFC owns the Lighthouse for Children building, and First 5 Fresno County is the master tenant in a lease for the building. I am writing to inform you that my firm has represented VCH on matters completely unrelated to the Proposed Transaction.

The California Rules of Professional Responsibility ("Rules") govern the practice of law for attorneys. The Rules require attorneys to provide certain written disclosures to clients whenever it undertakes the representation of multiple clients in a matter where the attorney has had a prior relationship with other parties or witnesses. The Rules limit representation of clients simultaneously, even on different matters, when their interests may potentially conflict without informed written consent. Rule 3-310(c) states:

A member (attorney) shall not, without the informed written consent of each client:... (1) Accept representation of more than one client in a matter in which the interests of the clients potentially conflict; or (2) Accept or continue representation of more than one client in a matter in which the interests of the clients actually conflict; or (3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in first matter is adverse to the client in the first matter.

Kenneth J. Price  
*Attorney at Law*  
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The Honorable Henry R. Perea  
December 6, 2016  
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In accordance with the Rules, we are obliged to inform you that it is conceivable that LFC's interests and VCH's interests could be adverse to one another. To be clear, my firm would continue to represent LFC, and First 5 Fresno County, on all matters including the Proposed Transaction. We would not represent VCH regarding the Proposed Transaction. Rather, VCH would be represented by its own legal counsel. In the event that litigation should arise between LFC and VCH, my office would recuse itself from representing LFC regarding controversies pertaining to the Proposed Transaction.

Under the circumstances, we think that it is prudent for LFC to provide written consent to Baker Manock & Jensen, PC's representation of VCH regarding matters unrelated to the Proposed Transaction. VCH has already provided its consent to our representation of LFC on the Proposed Transaction. Attached are the California Rules of Professional Conduct Sections 3-310 (Avoiding the Representation of Adverse Interests) and 3-600 (Organization as Client).

Please sign below indicating the LFC Board's consent to our representation. As always, if you have any questions concerning the foregoing, please feel free to call me at your convenience.

Very truly yours,



Kenneth J. Price  
BAKER MANOCK & JENSEN, PC

KJP:sdg

cc: Ms. Emilia Reyes, Executive Director

The Honorable Henry R. Perea  
December 6, 2016  
Page 3 of 5

CONSENT TO REPRESENTATION

Having considered the disclosures set forth above, on behalf of Lighthouse for Children, the undersigned hereby acknowledges Baker Manock & Jensen, PC's representation of Valley Children's Hospital on matters unrelated to the Proposed Transaction.

By: \_\_\_\_\_  
Henry R. Perea, Chair

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

Rule 3-310. Avoiding the Representation of Adverse Interests.

- (A) For purposes of this rule:
- 1) "Disclosure" means informing the client or former client of the relevant circumstances and of the actual and reasonably foreseeable adverse consequences to the client or former client;
  - 2) "Informed written consent" means the client's or former client's written agreement to the representation following written disclosure;
  - 3) "Written" means any writing as defined in Evidence Code section 250.
- (B) A member shall not accept or continue representation of a client without providing written disclosure to the client where:
- 1) The member has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; or
  - 2) The member knows or reasonably should know that:
    - a) the member previously had a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; and
    - b) the previous relationship would substantially affect the member's representation: or
  - 3) The member has or had a legal, business, financial, professional, or personal relationship with another person or entity the member knows or reasonably should know would be affected substantially by resolution of the matter; or
  - 4) The member has or had a legal, business, financial, or professional interest in the subject matter of the representation.
- (C) A member shall not, without the informed written consent of each client:
- 1) Accept representation of more than one client in a matter in which the interests of the clients potentially conflict; or
  - 2) Accept or continue representation of more than one client in a matter in which the interests of the clients actually conflict; or
  - 3) Represent a client in a matter and at the same time in a separate matter except as a client a person or entity whose interest in the first matter is adverse to the client in the first matter.

- (E) A member shall not, without the informed written consent of the client or former client, accept employment adverse to the client or former client where, by reason of the representation of the client or former client, the member has obtained confidential information material to the employment.

**LIGHTHOUSE FOR CHILDREN, INC.**

**Board Meeting  
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**AGENDA ITEM NO.6**

TO: Lighthouse for Children Board Members  
FROM: Emilia Reyes, Executive Director  
SUBJECT: Memorandum of Understanding with Valley Children's Hospital for Project on Lighthouse for Children, Inc. Property

**RECOMMENDED ACTION:**

Approve Memorandum of Understanding (MOU) with Valley Children's Hospital for Project on Lighthouse for Children, Inc. Property.

**REASON FOR RECOMMENDED ACTION:**

**Background:**

During the September 7, 2016 meeting, the Lighthouse for Children (LFC) Board of Directors directed staff to open a 30-day period to allow for interested healthcare providers to submit a Letter of Interest for a potential partnership to develop a building adjacent to the Lighthouse for Children facility in Downtown Fresno to provide health-related services to young children ages 0 - 5 and their families. At the October 28, 2016 Board meeting, two healthcare providers made presentations to the Board on their submitted Letters of Interest for the project. The LFC Board of Directors considered the Letters of Interest as well as the presentations and took action to authorize staff to commence negotiations on a definitive agreement with Valley Children's Hospital (VCH) to construct the proposed project.

As a result of the Board's action, staff and legal counsel have prepared the attached MOU outlining the terms of a proposed arrangement with VCH. With limited exception, the MOU is not binding on the parties. Rather, it creates a framework for the two organizations to work together to (i) plan for the eventual construction of a building adjoining the Lighthouse for Children building and (ii) agree upon the services that will occur in the new building. The result of this plan will be a definitive agreement – whether a purchase agreement or a long-term lease – to allow for the construction of the project.

The term of the MOU is the earlier of (i) the execution of the definitive agreement or (2) one-year. The MOU does the following:

**Non-Binding Obligations:**

(1) LFC will convey to VCH, either through the transfer of title or a long-term lease, the portion of the Lighthouse for Children property known as the "Wood Chips" property. The determination of the method of conveyance of the real property interest will depend upon the direction to be provided by the New Market Tax Credit investors. The MOU specifies that the transfer of title of the Wood Chips property to VCH is the preferred method of conveyance. The definitive document will require that the project will always be used for purposes consistent with the mission of LFC and First 5 Fresno County (F5FC).

(2) LFC and VCH will cooperate to prepare entitlements for the project. The cost of constructing and entitling the project will be borne by VCH. The parties anticipate that the project will be 6,000-12,000 square feet and must be consistent with the architectural elements of the current LFC building.

**Binding Obligations:**

(3) Within 60 days of signing the MOU, LFC, F5FC and VCH will work together to develop the list of services that will be provided as part of the new project.

(4) During the term of the MOU, LFC and VCH will not negotiate with another party regarding the disposition of the Wood Chips property.

**FISCAL IMPACT:**

Limited financial impact at this point. LFC is incurring some expense attributable to staff time and attorneys/consulting fees to develop the definitive agreement. However, this agreement must come back to the Board before LFC incurs any financial future financial commitments.

**FUTURE IMPLICATIONS:**

The construction of this project on the wood chips area of the Lighthouse for Children property to house specialized health-related activities has been a long-term objective of LFC and First 5 Fresno County. Approving this MOU signifies the official start of a new partnership with VCH to materialize this goal.

## MEMORANDUM OF UNDERSTANDING

### (Lighthouse for Children, Inc./First 5 Fresno County – Valley Children's Hospital)

THIS MEMORANDUM OF UNDERSTANDING (this "MOU") to be effective on \_\_\_ day of December, 2016 (the "Effective Date"), is made by and between Lighthouse for Children, Inc., a California nonprofit public benefit corporation ("LFC"), the Children and Families Commission of Fresno County, a California public agency ("F5FC"), and Valley Children's Hospital, a California nonprofit public benefit Corporation ("VCH"). LFC, F5FC, and VCH are collectively referred to herein as the "Parties" and individually referred to herein as a "Party."

### RECITALS

A. LFC is the owner of that Lighthouse for Children building located at 2405 Tulare Ave, Fresno, California 93721 (the "LFC Facility"). LFC and F5FC are parties to that certain lease agreement, wherein F5FC is the master tenant of the LFC Facility.

B. During its September 7, 2016 Board meeting, the LFC Board of Directors directed staff to open a 30-day period to allow interested healthcare providers to submit a Letter of Interest for a potential partnership to develop a building adjacent to the LFC Facility (the "Proposed Facility"). The goal of the partnership is that this new building would house additional health related services for young children and families aligning with the purposes of LFC and F5FC.

C. On or about October 10, 2016, VCH submitted a Letter of Interest to LFC expressing its interest to construct such a building on the LFC Facility property (the "VCH Letter of Interest"). The VCH Letter of Interest is attached hereto as Exhibit "A", attached hereto and incorporated herein by this reference.

D. On October 28, 2016, the LFC Board of Directors considered various Letters of Interest and took action to authorize staff to negotiate a definitive agreement with VCH to construct the Proposed Facility.

E. The LFC Facility is financed by New Market Tax Credits ("NMTC"), which incentivizes community development and economic growth through the use of tax credits that attract private investment to distressed communities. The NMTC program, however, requires certain approvals by NMTC investors in order to transfer title or materially modify the value of the LFC Facility.

F. By this MOU, the Parties seek to layout the framework for respective contribution to the Proposed Facility and generally describe the services to occur therein, all which would later be memorialized by a subsequent definitive agreement (the "Definitive Agreement").

NOW, THEREFORE, in consideration of the recitals set forth above, which are herein incorporated by this reference, and the mutual covenants and undertakings set forth herein, the mutual receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Real Property:

A. The Parties anticipate that the Definitive Agreement will provide, in some capacity, that LFC will convey a portion of real property at the LFC Facility, depicted in Exhibit "B" attached hereto and incorporated herein by this reference (the "Wood Chips Property"), to VCH for the Proposed Facility, either through the transfer of title or long-term lease of the Wood Chips Property. LFC shall, in consultation with VCH, determine the method of conveyance (i.e. transfer of title or lease) based upon the direction LFC receives from NMTC investors. The parties agree that the transfer of title of the Wood Chips Property is preferable to a long-term lease. The Parties agree that LFC shall make the determination of VCH's property interest by no later than April 30, 2017.

B. Upon LFC's determination of VCH's property interest, the Parties shall cooperate to prepare entitlements for the Proposed Facility on the Wood Chips Property. Such entitlements will include an application to the City of Fresno to parcelize the Wood Chips Property as required by the Subdivision Map Act, the preparation and submission of a conditional use permit application to the City of Fresno, compliance with the California Environmental Quality Act, and any other City land use requirements. The Parties anticipate that VCH shall be responsible for the costs of all land use entitlements, including any applicable mitigation imposed by the City or any other governmental agency.

C. VCH shall be solely responsible for financing the construction of the Proposed Project. The Parties anticipate that the Proposed Facility will be approximately 6,000 – 10,000 square feet. The Parties will work cooperatively to agree upon the architectural design for the Proposed Project. VCH shall design the Proposed Project in a manner that is consistent with the architectural elements of the LFC Facility. The Proposed Facility shall be constructed in such a manner that minimally impacts the operations of LFC and F5FC at the LFC Facility.

D. In the event that VCH obtains title to the Wood Chip Property, VCH agrees to record a covenant, using language reasonable satisfactory to LFC, restricting its services and activities at the Proposed Project to comply with the mission of LFC and F5FC, as well comply with NMTC requirements regarding the use of the Wood Chips Property. For illustrative purposes only, LFC's purpose are:

(i) to provide vision and means for Fresno County children to enter school in good health, ready and able to learn, and emotionally well-developed by providing culturally, individually and developmentally appropriate parenting and nurturing support and access to resources regarding health care, nutrition and smoking prevention and cessation;

(ii) to serve as an incubator for knowledge in the community regarding child welfare and development; and

(iii) to generally carry out the goals of F5FC and to develop infrastructure that promotes the social welfare of Fresno County children and their parents.

2. Services. Within sixty (60) days of the execution of this MOU, a delegation of boards and staff of LFC and F5FC, and VCH representatives will meet to commence discussions regarding a comprehensive menu of services that the Parties will

provide at the Proposed Facility; subject to the final design and functionality of the Proposed Facility. The services will closely align with the VCH Letter of Intent and will be memorialized in the Definitive Agreement, any other agreement deemed appropriate by the Parties.

3. Term. This MOU shall commence upon the Effective Date and terminate on December 31, 2017 or the execution of the Definitive Agreement, whichever is first occurring (the "Term").

4. Exclusivity. During the Term of this MOU, LFC and F5FC agree that they will not negotiate with another party regarding the disposition of the Wood Chips Property. During the Term of this MOU, VCH agrees that it will not develop another project within Downtown Fresno to provide the services described in the VCH Letter of Interest and agrees to be bound by the Letter of Interest.

5. MOU Enforceability. This MOU is merely intended to lay out the material terms described in the Definitive Agreement, is not intended to be discretionary approval for the purposes of the California Environmental Quality Act, and its provisions, except Sections 2-4, shall not be binding upon either Party.

6. Entire Agreement. This MOU supersedes and replaces all prior negotiations, representations and agreements, written or oral, among the parties hereto related to the subject matter hereof.

7. Assignment. This MOU shall not be assigned by any party hereto, except upon the prior written consent of the other parties hereto.

8. Governing Law. This MOU shall be governed by the laws of the State of California, without regards to conflict of laws principles of such jurisdiction.

9. Counterparts. This MOU may be executed in one or more counterparts (including by facsimile, PDF or other electronic means), each of which will be deemed an original and all of which together will constitute one and the same agreement.

IN WITNESS WHEREOF the Parties have executed this MOU as of the last written date below.

**Lighthouse for Children, Inc.**

By: \_\_\_\_\_  
Henry R. Perea, Chair

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

**Valley Children's Hospital**

By: \_\_\_\_\_  
Todd Suntrapack, President and CEO

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

**Children and Families Commission of  
Fresno County**

By: \_\_\_\_\_  
Henry R. Perea, Chair

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