

**AGREEMENT TO PRESERVE MAYOWOOD
AS A HISTORIC SITE OPEN TO THE PUBLIC
AND
AS A MEMORIAL TO THE MAYO FAMILY**

THIS AGREEMENT, is entered into as of the ____ day of _____, 2011, by and between **The History Center of Olmsted County**, a Minnesota non-profit corporation (“HCOC”), and **Mayo Clinic**, a Minnesota non-profit corporation (“Mayo Clinic”).

RECITALS

FIRST—PURPOSE: The joint purpose of HCOC, Mayo Clinic, and the Mayo family is to ensure the long-term fulfillment of the purpose established by Charles W. Mayo and Alice P. Mayo in the **Mayowood Option Agreement** dated December 30, 1965 and recorded in the Office of the Olmsted County Recorder as Document Number 293199 (“**Mayowood Option Agreement**”) which is to hold Mayowood “as a historic site open to the public and as a memorial to the Mayo family.”

SECOND—CURRENT STATUS OF MAYOWOOD: HCOC has owned and operated Mayowood since 1965 in a manner that fulfills the purpose of Charles W. Mayo and Alice P. Mayo. Currently, Mayowood is in need of substantial updating and renovations. **Attachment A** sets forth proposed renovation and other work to update Mayowood at an estimated cost of \$2-3 million (“**Planned Improvements**”). HCOC does not have sufficient funding to cover the **Planned Improvements**. Currently, Mayowood is open to the public for portions of approximately 160 days per year as shown on the Summary of Public Use on **Attachment B** (“**Summary of Public Use**”).

THIRD—LONG-TERM COMMITMENT OF MAYO CLINIC: Subject to the terms of this Agreement, Mayo Clinic is prepared to immediately fund all of the **Planned Improvements** and to commit to the long-term preservation of Mayowood as a historic site and as a memorial to the Mayo family which will be open to the public as provided in this Agreement on the condition that fee title be transferred to Mayo Clinic upon the completion of the **Planned Improvements**.

FOURTH—CONSENT OF MAYO FAMILY: HCOC and Mayo Clinic are committed to fulfilling the purpose of Charles W. Mayo and Alice P. Mayo in the **Mayowood Option Agreement**. Towards that end, they will use their best efforts to identify and obtain consents of all persons who may have an interest under the **Mayowood Option Agreement** as heirs, executors, administrators, successors and assigns (“**Mayo Relatives Under Mayowood Option Agreement**”) or in the alternative, obtain a judicial determination that the **Mayowood Option Agreement** is not applicable to the transfer to Mayo Clinic.

NOW, THEREFORE, HCOC and Mayo Clinic agree as follows:

1. PURPOSE OF AGREEMENT: The purpose of this Agreement is to ensure that **Mayowood** is preserved as a historic site, and the final resting place of Charles W. Mayo and Alic P. Mayo, that is open for public use and is held as a memorial to the Mayo family and to improve the overall accessibility of **Mayowood** to the public, consistent with the historical nature of **Mayowood**. HCOC has owned and operated the residence formerly occupied by Charles W. Mayo and Alice P. Mayo since December 30, 1965. HCOC has determined that it can best fulfill the purposes set forth in the **Mayowood Option Agreement** by more directly involving Mayo Clinic with Mayowood. Mayo Clinic has provided substantial financial assistance for Mayowood in the past and has demonstrated its skill and commitment to maintaining historic sites associated with the Mayo family. The term “**Mayowood**” for purposes of this Agreement means the former Charles W. Mayo and Alice P. Mayo residence, adjacent contiguous land (all as legally described on **Attachment C**) and all improvements and equipment owned by HCOC used or useful in the operations of **Mayowood**. HCOC owns or has the right to use personal property originally bequeathed to HCOC, as well as subsequently donated and purchased and used or useful in the operation of **Mayowood** (“**Personal Property**”). It is the express intent of the parties to this Agreement that the transfer of Title to Mayowood as described in Paragraph 5 does not constitute transfer of ownership of the **Personal Property** described above and that title to such Personal Property shall remain in its current owner(s). The parties intend to preserve the Personal Property for Public Use and to make the **Personal Property** available for use by both parties under the terms of this Agreement. To that end, the parties intend to obtain agreements for the continued use of those items of Personal Property owned by other parties so that such Personal Property remains on site and available for public use. “**Public Use**” as used herein shall mean use of the premises by HCOC for the purpose of public tours, fundraising events, meetings, rentals and gardening consistent with the charitable and educational purposes of HCOC, or by other entities jointly authorized by HCOC and Mayo Clinic, including, but not limited to, Friends of Mayowood Residence and Historic Sites (“**FOM**”) and Master Gardeners of Olmsted County (“**MGOC**”).

2. CONSENT OF MAYO FAMILY: It is the intention of HCOC and Mayo Clinic to communicate with and to provide all relevant information to the relatives of Charles W. Mayo and Alic P. Mayo regarding the transaction contemplated in this Agreement. HCOC and Mayo Clinic agree that a specific contingency to this Agreement is that they obtain the consent of all **Mayo Relatives Under Mayowood Option Agreement** or a judicial determination that the **Mayowood Option Agreement** is not applicable to the transfer to **Mayo Clinic**. HCOC and Mayo Clinic agree to use their best efforts to identify and obtain the consents of the **Mayo Relatives Under Mayowood Option Agreement** and to coordinate all communications with the **Mayo Relatives Under Mayowood Option Agreement**. Given the wording of the **Mayowood Option Agreement** and the possible applicability of various Minnesota statutes regarding restrictions on real estate, a judicial determination is viewed to be essential so that HCOC, Mayo Clinic, and the **Mayo Relatives Under Mayowood Option Agreement** may proceed with certainty to ensure long-term preservation of **Mayowood**. Mayo Clinic shall pay all costs related to the judicial determination provided that all proposed expenses are approved in advance by an authorized representative of Mayo Clinic.

3. PLANNED IMPROVEMENTS TO MAYOWOOD: The **Planned Improvements** on **Attachment A** are essential to preserve and to perpetuate **Mayowood** as a historic site and as

a memorial to the Mayo family. The cost of the **Planned Improvements** shall not exceed Three Million Dollars (\$3,000,000) (“**Improvement Costs**”), inclusive of a grant by Mayo Clinic to HOCC for one-half of the cost to inventory the historical collection located at **Mayowood**, not to exceed \$23,000. Upon satisfaction of the contingency in Section 2, Mayo Clinic agrees that it will immediately commence and shall proceed through completion of all of the **Planned Improvements**. Mayo Clinic agrees to pay all costs of the **Planned Improvements** and all related labor and services. Mayo Clinic shall not file any mortgage nor shall it permit any liens of any sort to be filed against **Mayowood** in connection with the **Planned Improvements**. HCOC and Mayo Clinic may mutually modify the **Planned Improvements** through a written agreement signed by their respective authorized representatives. Prior to commencement of work on the **Planned Improvements**, HCOC and Mayo Clinic shall mutually agree in writing on all issues related to the design and construction of the **Planned Improvements**.

4. MAYOWOOD OPEN TO PUBLIC: Currently, **Mayowood** is open to the public for portions of approximately 160 days per year as shown on the **Summary of Public Use** on **Attachment B**. HCOC and Mayo Clinic both agree that **Mayowood** shall continue to be open to the public at a frequency and on terms similar to the current public use identified on the **Summary of Public Use** and subject to the following specific terms and conditions:

- a. **Annual Schedule**: HCOC and Mayo Clinic shall cooperate in developing and updating an **Annual Schedule of Public Use to Mayowood** (“**Annual Schedule**”) which shall list all events and time periods that **Mayowood** is open to the public for each calendar year. All requests for public use of **Mayowood** (including requests from or through HCOC, **FOM**, **MGOC**, Mayo Clinic, or from members of the public) must be submitted to the individual designated by HCOC as its “Mayowood Coordinator” and to the individual designated by Mayo Clinic as its “Mayowood Coordinator” from time-to-time. Respective Mayowood Coordinators for HCOC and for Mayo Clinic will act on pending requests at least monthly. A decision shall be governed by the following principles:
 - i. Requests for **Public Use** by HCOC submitted by November 1st shall be approved by December 1st each year for the next calendar year to allow access to **Mayowood** on portions of a minimum of 140 days per year with access each day limited to the time necessary and appropriate for the scheduled activity, e.g., tours limited to specific hours taking into account volunteer and other staffing availability and taking into account actual frequency of people participating in public tours. **Public Use** by HCOC will be presumptively guided by the Summary of Public Use.
 - ii. Staffing to coordinate **Public Use** shall be provided by HCOC. Other organizations, such as **FOM** and **MGOC**, or individuals will be permitted to staff tours or other public events only with the approval of Mayo Clinic and HCOC. All **Public Use**, including individual staffing, public tours and events must comply with all requirements jointly established by Mayo Clinic and HCOC regarding conduct of the tours/events and compliance with all rules and regulations jointly established by Mayo Clinic and HCOC with respect to **Public Use** of **Mayowood**. HCOC shall have

priority to schedule access to Mayowood for Holiday Set-up and Tear-down as shown on the Summary of Public Use; however, HCOC will cooperate in accepting assistance Mayo Clinic may offer to accelerate the Set-up and Tear-down and/or to permit simultaneous Mayo Clinic use. Additionally, all **Public Use** and other use of Mayowood shall comply with all requirements reasonably established by and communicated by Mayo Clinic related to its policies and procedures for facilities, insurance, security, tax exemption, conservation of resources, etc.

- iii. Private use of **Mayowood** by individuals or organizations (other than HCOC or Mayo Clinic) shall have lower priority than tours and other events that are generally open to the public. HCOC will have access to **Mayowood** for rentals on portions of a minimum of 10 days per year when **Mayowood** is not otherwise in use by either HCOC or Mayo Clinic. HCOC shall be responsible for any damage related to its private use and shall hold Mayo Clinic harmless with respect to any taxes related to such private rentals by HCOC including any adverse impacts on the real property tax exemption of Mayowood. Rentals during this time must be approved by Mayo Clinic and HCOC based upon availability of **Mayowood**, the nature of the proposed activity and its impact on other use of **Mayowood** by the public or by Mayo Clinic or by HCOC, and all other issues such as liability, requests that fair market rent be charged given Mayo Clinic's and HCOC's tax exempt status, etc.
- iv. Mayo Clinic and HCOC shall keep the **Mayowood** schedule of events updated regarding times that all or portions of **Mayowood** are reserved for Mayo Clinic business uses pursuant to Mayo Clinic's internal space scheduling procedures in effect from time to time. Subject to the right of HCOC to schedule **Public Use** in the manner provided above per the presumptive annual schedule on the **Summary of Public Use**, Mayo Clinic shall have priority for all other use of **Mayowood** for Mayo Clinic business purposes. Mayo Clinic will act reasonably to ensure that flexibility exists for HCOC to schedule times and events for **Mayowood** to be open for **Public Use** and for private use by HCOC as provided in Section 4(a)(iii) above. Mayo Clinic and HCOC agree to reasonably accommodate each others reasonable requests for use of **Mayowood**. HCOC acknowledges that Mayo Clinic is likely to develop over time an annual schedule of recurring Mayo Clinic use of **Mayowood** just as HCOC has developed the **Summary of Public Use**. So long as Mayo Clinic's recurring use is consistent with the rights of HCOC to request **Public Use** as provided in this Agreement, HCOC will accommodate Mayo Clinic's recurring use including Mayo Clinic blocking periods that will be available for specific scheduling through Mayo Clinic's internal space reservation system, e.g. Mayo Clinic will block certain periods that it knows it typically has high need or recurring need for meeting space even though the specific internal use assignments have not been finalized. Ideally, both HCOC and Mayo Clinic will agree on major blocks of use of

Mayowood by December 1st of each year for the next calendar year. Even after initial blocks of use are established for a year, HCOC and Mayo Clinic agree to reasonably accommodate each other to maximize overall use of **Mayowood** requested by both HCOC and Mayo Clinic. Even when one party is using **Mayowood**, it will be open to accommodating compatible simultaneous use and uses that follow each other on the same day, e.g. HCOC will periodically agree to permit Mayo Clinic to close off a room for a Mayo Clinic meeting on some days (private days excluded) when **Mayowood** is scheduled for public tours; HCOC will permit compatible Mayo Clinic use on days when **Mayowood** is scheduled for Tours and for Holiday set-up or tear-down; and Mayo Clinic will permit compatible HCOC Public Use and HCOC requested private use on days when Mayo Clinic is using only a portion of **Mayowood** or is using it for only a portion of a day or evening.

- v. Mayo Clinic and HCOC will designate from time-to-time portions of **Mayowood** that are not accessible to the public and areas that are accessible to the public only with Mayo Clinic's prior approval. These areas with limited access or no access to the public shall include areas designated by Mayo Clinic for storage of business records, staff offices, general storage areas, areas under renovation, areas requiring special security to protect works of art/valuable equipment/fragile items, and other areas that Mayo Clinic reasonably designates for limited access or no access to the public. Mayo Clinic and HCOC will designate from time-to-time portions of **Mayowood** (or other places acceptable to HCOC) that are not accessible to the public for the secure storage of HCOC's Christmas decorations and items related specifically to the **Public Use of Mayowood** by HCOC.

5. TRANSFER OF TITLE TO MAYO CLINIC UPON COMPLETION OF PLANNED IMPROVEMENTS: Upon completion of **Planned Improvements** with expenditures of at least \$2 million as evidenced by a detailed accounting provided by Mayo Clinic and approved by HCOC, HCOC shall transfer title to **Mayowood** to Mayo Clinic as provided on **Attachment D ("Terms of Real Estate Transfer")**. Transfer to Title will not affect the obligations of the parties under the terms of this agreement. The agreements made herein shall run with the land and bind the parties in perpetuity except as this agreement may be modified by the joint written agreement of the parties. A Memorandum of Agreement in form acceptable to HCOC and Mayo Clinic shall be recorded at the office of the Olmsted County, Minnesota Recorder's office to memorialize the existence of this Agreement.

- a. **Mayo Clinic to Maintain Mayowood as Historic Site:** Mayo Clinic shall maintain **Mayowood** in good condition and shall timely provide and pay for all necessary replacement of fixtures or facilities, reroofing, restructuring, rebuilding, maintenance of heating, cooling, electrical, sewerage, water or other systems, and shall, in general, maintain the historical nature of **Mayowood** in a good and workmanlike manner and consistent with the manner in which Mayo Clinic

maintains other historic properties associated with the Mayo family.

- b. **Mayo Clinic Sole Authority for Operating and Maintaining Mayowood:** After transfer of title to Mayo Clinic, Mayo Clinic shall have sole authority and responsibility to employ, contract, supervise, and direct any and all personnel that Mayo Clinic deems necessary for the efficient operation, maintenance, and repair of **Mayowood**. All salaries, wages, and other compensation of such employees and contractors shall be the sole responsibility of Mayo Clinic. This provision will not affect the agreement of the parties as to **Public Use** and private use of **Mayowood** by HCOC as set out in Section 4 above. HCOC has sole responsibility to arrange for adequate staffing and supervision of all of its **Public Use** and its private use of Mayowood. All use rules of Mayowood shall be enforced by HCOC during such use. HCOC shall be responsible for any damage occurring during its Public Use or its private use of Mayowood.
- c. **Obligation to Repair/Rebuild In the Event of Damage/Destruction:** In the event **Mayowood** suffers damage or destruction involving 50% or less of the value of the improvements as of the date of the damage/destruction, Mayo Clinic agrees that it will immediately commence and shall proceed through completion restoration of **Mayowood** to its condition prior to the damage/destruction and shall pay all costs not covered by insurance. Mayo Clinic shall not file any mortgage nor shall it permit any liens of any sort to be filed against **Mayowood** in connection with restoration of the damage/destruction. Prior to commencement of restoration work, Mayo Clinic shall review with HCOC the design and construction plans for the restoration. Any material change from the design/plans of the improvements that existed immediately before the destruction/damage must be mutually agreed upon in writing by HCOC and Mayo Clinic. In the event **Mayowood** suffers damage or destruction involving more than 50% of the value of the improvements as of the date of the damage/destruction, then HCOC and Mayo Clinic shall mutually agree in writing regarding whether to reconstruct the improvements (and on all related design/plans, timing, and other related details) or on any alternative use or disposition of **Mayowood** which HCOC and Mayo Clinic jointly conclude is consistent with the historic purposes of **Mayowood**. If HCOC and Mayo Clinic agree to reconstruct **Mayowood** following damage/destruction greater than 50%, then the proceeds from insurance shall be available for such reconstruction cost. In the event HCOC and Mayo Clinic agree on some other use or disposition of **Mayowood** following damage/destruction greater than 50%, the insurance proceeds shall be available for work to return the site to a safe condition and for any mutually agreed upon improvements related to the alternative use or disposition and any remaining insurance proceeds shall be retained by Mayo Clinic as reimbursement for the initial **Planned Improvements**.

6. DISPUTE RESOLUTION AND TERMINATION:

- a. **Informal Resolution of Disputes:** In the event of any disagreement between HCOC and Mayo Clinic regarding the terms of this Agreement, each party agrees to use good faith to resolve the issues through informal mediation. If immediate individuals who are charged with dealing with a particular issue for HCOC and for Mayo Clinic are unable to agree on a resolution, then either party can send a written notice to the other defining in writing the following:
- i. The specific nature of the subject of dispute from its perspective; and
 - ii. The specific proposed resolution from its perspective.

The other party shall respond within ten (10) days of receiving the notice by stating in writing the following:

- i. The specific nature of the subject of dispute from its perspective; and
- ii. The specific proposed resolution from its perspective.

If the individuals immediately responsible for dealing with the issue for the respective parties are unable to promptly resolve the matter after the exchange of notices, then a meeting shall be scheduled within ten (10) days of the written request of either party that shall involve the President and/or the Executive Director of HCOC and the physician and administrative leaders for Facilities for Mayo Clinic, along with such other supporting individuals as either party wishes to have present. During the meeting, the parties shall discuss the issue and try to reach an agreement.

- b. **Arbitration:** If mediation as described above does not result in a mutually-executed settlement agreement (or full withdrawal of all claims), the parties shall proceed to binding arbitration pursuant to the Minnesota Uniform Arbitration Act (Minn. Stat. § 572.08 et seq.). The arbitration process shall be initiated at such time as one party receives a written demand for arbitration from the other. Once the arbitration process is initiated, HCOC shall have fourteen (14) days to designate one member of HCOC as an arbitrator and Mayo Clinic shall have fourteen (14) days to designate one employee of Mayo Clinic as an arbitrator. Once designated, the two arbitrators shall have fourteen (14) days to designate a neutral arbitrator to form a 3-arbitrator panel. The neutral arbitrator must have no affiliation with either HCOC or Mayo Clinic. If the parties' appointed arbitrators are unable to agree upon a neutral arbitrator within fourteen (14) days, then the neutral arbitrator shall be chosen by the office of the American Arbitration Association ("AAA") located in Minneapolis, Minnesota within thirty (30) additional days. The neutral arbitrator shall be generally experienced in the legal and technical matters related to the dispute. The arbitration shall occur in Rochester, Minnesota, and the majority decision of the arbitration panel shall be final and binding upon the parties both as to law and fact.

- i. Initial Disclosures. Within twenty-one (21) days after the selection of the neutral arbitrator, the parties shall exchange written disclosures listing with reasonable specificity: (i) all exhibits expected to be used by the party at arbitration, and complete copies of such exhibits, (ii) all witnesses the party expects to call to testify at the arbitration, and (iii) the substance of the expected testimony of each witness. Copies of such disclosures shall also be provided to the arbitrators. No exhibit may be offered or witness called if the same does not appear in the disclosures, and no witness may testify as to matters not described in the disclosure, except for rebuttal testimony as may be permitted by the arbitration panel.
- ii. Discovery Period. Within fourteen (14) days after the disclosures are exchanged, the parties shall submit interrogatories, requests for production of documents and proposed notices of deposition to the arbitrators, and within an additional fourteen (14) days the arbitration panel shall issue to both parties a joint discovery order. The discovery period shall not exceed sixty (60) days from the issuance of the discovery order.
- iii. Scope of Discovery. Discovery shall be limited to that ordered by the arbitrators as being reasonable and necessary, and in no case shall exceed the deposition of two (2) witnesses per party, and/or the exchange of more than twenty-five (25) specific and non-compound interrogatories by each party, and/or two (2) specific requests by each party for the production of documents considered by the arbitrator to be reasonably relevant and not unduly burdensome.
- iv. Hearing. The arbitration hearing, which shall be confidential to the parties and not open to the public, shall not exceed two (2) days, unless otherwise agreed to in writing by the parties, and shall be completed within thirty (30) days following the close of discovery. The arbitration panel may not admit any testimony or other evidence which the arbitration panel determines is not reasonably relevant to the issues in dispute, and shall exclude from evidence statements, discussions, representations and offers made by either party at the mediation session. No record shall be made of any proceedings of the arbitration
- v. Final Decision. The arbitration panel shall issue a final written decision no later than sixty (60) days following the end of the arbitration hearing. Such decision shall state the arbitration panel's findings as to law and fact. The decision shall be kept confidential by the parties. The arbitration panel shall be limited to determining and ordering the payment of actual and direct damages if any, and may order the payment of indirect, special, incidental, or consequential damages only where bad faith has been found and/or to the extent required to fulfill obligations under any indemnity provisions of this Agreement. The arbitration panel shall not order the payment of punitive or exemplary damages in any case.

- c. **Costs and Fees.** Both parties shall be responsible for their own costs and fees (including attorney's fees) associated with the mediation and arbitration, and shall split the common costs and fees of mediation and arbitration evenly. However, if the arbitration panel finds that either party has acted in bad faith with respect to the dispute, it may order a different division of the common costs and fees.
- d. **Equitable Relief.** Nothing in this Section prohibits either party from seeking equitable relief to protect its rights to the extent that irreparable harm may occur and monetary damages would not be a sufficient remedy, except that neither party shall seek to enjoin mediation and arbitration as described in this Section.
- e. **Governing Rules and Law.** To the extent consistent with the terms of this Agreement, the mediation and arbitration processes are governed by the Commercial Arbitration Rules of the AAA.

7. **GENERAL TERMS:**

Section 1. Entire Agreement. This Agreement constitutes the final, complete and exclusive agreement between the parties with respect to its subject matter and supersedes all past and contemporaneous agreements, promises, and understandings, whether oral or written, between the parties.

Section 2. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, legal representatives, successors and assigns.

Section 3. Amendments. This Agreement may not be amended or modified except by a writing signed by both parties and identified as an amendment to this Agreement.

Section 4. No Assignment. Neither party may assign its rights hereunder to any third party without the prior written consent of the other party. Any purported assignment in violation of this clause is void. Such written consent, if given, shall not in any manner relieve the assignor from liability for the performance of this Agreement by its assignee. The assignor shall provide prompt notice to the other party upon making such assignment.

Section 5. Independent Contractor. It is mutually understood and agreed that the relationship between the parties is that of independent contractors. Neither party is the agent, employee, or servant of the other. Except as specifically set forth herein, neither party shall have nor exercise any control or direction over the methods by which the other party performs work or obligations under this Agreement. Further, nothing in this Agreement is intended to create any partnership, joint venture, lease, or equity relationship, expressly or by implication, between the parties. Neither party has authority to enter into contracts that bind the other party or create obligations on the part of the other party without the prior written authorization of the other party.

Section 6. Notices. All notices between the parties related to this Agreement shall be in writing, sent by certified mail with copy by facsimile addressed as follows:

If to HCOC: Executive Director
The History Center of Olmsted County
1195 West Circle Drive SW
Rochester, MN 55902
Facsimile: 507-289-5481

with a copy to:
President of HCOC Board
1195 West Circle Drive SW
Rochester, MN 55902

If to Mayo Clinic: Mayo Clinic
Attn: Craig Smoldt/Administrator, Facilities
200 First Street SW
Rochester, MN 55905
Facsimile: 507-266-4596

with a copy to:
Mayo Clinic Legal Department
Attn: Chief Legal Officer
200 First Street SW
Rochester, MN 55905
Facsimile: 507-284-0929

Notices sent by certified mail shall be deemed delivered on the third day following the date of mailing. Either party may change its address or facsimile number by giving written notice in compliance with this section.

Section 7. Severability. In the event any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect as if the invalid or unenforceable provision had never been a part of the Agreement.

Section 8. Use of Name. Neither Party shall use the names or trademarks of the other Party or any of the other party's affiliated entities in any advertising, publicity, endorsement, or promotion unless the other Party has provided prior written consent for the particular use contemplated. With regards to use of Mayo's name, all requests for approval pursuant to this Section must be submitted to the Mayo Clinic Public Affairs Business Relations Group, at the following E-mail address: publicaffairsbr@mayo.edu at least 5 business days prior to the date on which a response is needed. The terms of this section survive the termination, expiration, non-renewal, or rescission of this Agreement. This provision shall not apply to the use of, or reference to the name **Mayowood** by either party.

Section 9. Waiver. The failure of either party to complain of any default by the other party or to enforce any of such party's rights, no matter how long such failure may continue, will not constitute a waiver of the party's rights under this Agreement. Silence by either party of any breach of any provision of this Agreement shall not be construed as a waiver of any subsequent

breach of the same or any other provision. No part of this Agreement may be waived except by the further written agreement of the parties.

Section 10. Contingent on HCOC Membership Approval. This Agreement is contingent upon approval of the Members of HCOC.

The parties have signed this Agreement as set forth below:

MAYO CLINIC, a Minnesota Non-Profit Corporation

By: _____
Name: _____
Title: _____
Date Signed: _____

By: _____
Name: _____
Title: _____
Date Signed: _____

HISTORY CENTER OF OLMSTED COUNTY, a Minnesota Non-Profit Corporation

By: _____
Name: _____
Title: _____
Date Signed: _____

By: _____
Name: _____
Title: _____
Date Signed: _____

**ATTACHMENT A
PLANNED IMPROVEMENTS**

The following list includes very preliminary estimates for projects which HCOC, Mayo Clinic, and their consulting architects feel are initial priority projects for improvement of Mayowood. Actual costs, scope, and even the specific projects on the initial list may change as mutually agreed prior to initiation of the improvements:

Description	Preliminary Cost Estimate
Stabilize NE Corner	\$250,000
Front Porch Reconstruction After Stabilization	150,000
Floors 1 and 2 Refurbish Interior	555,000
• Electrical	222,000
• Plumbing	166,500
• HVAC	222,000
Ballroom Refurbish Interior	115,500
• Electrical	33,000
• Plumbing	24,750
• HVAC	66,000
Fuel Tank Removal	60,000
Hazardous Material Abatement	150,000
Exterior Wall & Window Repair and/or Replacement, Caulking & Repainting	150,000
Fees, Inspections, Permits, Etc.	300,000
Contingency for Potential Future Improvements as Agreed	535,250
TOTAL	\$3,000,000

**ATTACHMENT B
SUMMARY OF PUBLIC USE**

ATTACHMENT C
LEGAL DESCRIPTION OF MAYOWOOD

Parcel 1

A tract of land in the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 17, Township 106 North, Range 14 West of the Fifth Principal Meridian, Olmsted County, Minnesota, more particularly described as follows:

Commencing at the NE corner of said Section 17, thence South 89°29'45" W, a distance of 735.7 feet along the North line of the NE $\frac{1}{4}$ of said Section 17; thence South 39°04' W, a distance of 147.7 feet; thence South 41°06' W, a distance of 215.4 feet; thence South 35°12'30" W, a distance of 25.0 feet to the true point of beginning; thence South 35°12'30" W, a distance of 332.5 feet; thence South 56°39' W, a distance of 150.6 feet to the point on the West line of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 17; thence South 0°29'15" E, a distance of 79.7 feet along the West line of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 17; thence South 65°22' E; a distance of 88.75 feet; thence South 06°22'30" E, a distance of 228.8 feet; thence South 06°31'30" W, a distance of 134.35 feet; thence North 89°29'45" E, a distance of 600.0 feet; thence North 03°22' W, a distance of 404.5 feet; thence North 25°12'30" E, a distance of 210.0 feet; thence North 56°47'30" W, a distance of 293.0 feet; thence North 64°47'30" W, a distance of 200.0 feet to the true point of beginning, containing in all, 10.0 acres of land, more or less.

Parcel 2

A strip of land 27.0 feet in width, lying in the Southeast Quarter of Section 8, and the Northeast Quarter of Section 17, Township 106 North, Range 14 West, and being 7.0 feet on the Westerly side and 20.0 feet on the Easterly side of the following described line:

Commencing at the Southeast corner of said Section 8; thence due North, assumed bearing, along the East line of said Southeast Quarter a distance of 329.0 feet; thence South 74 degrees 05 minutes West 197.7 feet; thence North 72 degrees 00 minutes West 30.0 feet for point of beginning of the line to be described, said point being in the centerline of Count Road "D", as constructed and occupied in 1968; thence South 38 degrees 18 minutes West 88.0 feet; thence South 9 degrees 00 minutes West 90.0 feet; thence South 77 degrees 12 minutes West 137.1 feet; thence South 58 degrees 14 minutes West 129.4 feet; thence South 33 degrees 31 minutes West 448.8 feet; thence South 27 degrees 47 minutes West 50.0 feet, more or less, to the Northeasterly boundary of the land conveyed previously to the Olmsted County Historical Society by a quitclaim deed recorded on December 30, 1965 in Book 332 of Deeds on Page 785, and there terminating.

Parcel 3

That part of the Northeast Quarter of Section 17, Township 106 North, Range 14 West, described as follows:

Commencing at the northeast corner of said Northeast Quarter; thence South 00°41'35" East, assumed bearing, along the east line of said Northeast Quarter 200.00 feet to the north line of Lot 6, Block 1, MAYOWOOD HILLS THIRD SUBDIVISION; thence North 89°06'13" West along the north line of said Lot 6 a distance of 100.00 feet to the northwest corner thereof; thence South 00°41'35" East along the west line of said Lot 6 a distance of 290.30 feet; thence North 45°39'34" West 388.56 feet for a point of beginning; thence North 33°04'57" West 260.20 feet to the north line of said Northeast Quarter; thence North 89°54'00" West along said north line, 10.24 feet to the easterly boundary of the land conveyed to the Olmsted County Historical Society by a Quit Claim deed recorded on May 13, 1968, in Book 339 of Deeds on Page 880 (the next two courses are along said easterly boundary); thence South 33°31'00" West 429.82 feet; thence South 27°47'00" West 49.84 feet to the northeasterly boundary of land conveyed to the Olmsted County Historical Society by a Quit Claim Deed recorded on December 30, 1965, in Book 332 of Deeds on Page 785 (the next three courses are along the northeasterly and easterly boundary of said land); thence South 56°47'30" East 270.26 feet; thence South 25°12'30" West 210.00 feet; thence South 06°10'04" East 418.27 feet to the southeast corner of said lands conveyed in Book 332 of Deeds on Page 785; thence North 13°50'35" East 966.35 feet to the point of beginning.

AND

That part of the Southeast Quarter of Section 8, Township 106 North, Range 14 West, described as follows:

Commencing at the southeast corner of said Southeast Quarter; thence North 89°54'00" West, assumed bearing, along the south line of said Southeast Quarter 513.99 feet for the point of beginning; thence continue North 89°54'00" West along said south line 10.24 feet to the easterly boundary of the land conveyed to the Olmsted County Historical Society by a Quit Claim deed recorded May 13, 1968, in Book 339 of Deeds on Page 880; thence North 33°31'00" East along said easterly line, 9.33 feet; thence South 33°04'57" East 11.09 feet to the point of beginning.

Parcel 4

A part of the east half of the Northeast Quarter of Section 17, and the Southeast Quarter of the Southeast Quarter of Section 8, all in Township 106 North, Range 14 West, Olmsted County, Minnesota described as follows:

Commencing at the southeast corner of the Southeast Quarter of said Section 8; thence North, assumed bearing, along the east line thereof, 329.0 feet; thence South 74 degrees 05 minutes West, 197.7 feet; thence North 72 degrees 00 minutes West, 30.00 feet for a point of beginning; thence continue North 72 degrees 00 minutes West along the centerline of the County Road

(Olmsted County Highway 125) a distance of 41.2 feet; thence North 60 degrees 22 minutes 30 seconds West, 209.8 feet; thence South 12 degrees 48 minutes 00 seconds West, 136.65 feet; thence South 47 degrees 30 minutes West, 226.76 feet; thence South 39 degrees 04 minutes West, 155.3 feet to a point on the south line of Section 8, at the lake shore; thence continue South 39 degrees 04 minutes West, 147.7 feet; thence South 41 degrees 06 minutes West, 215.4 feet; thence South 35 degrees 12 minutes 30 seconds West, 25.0 feet; thence South 64 degrees 47 minutes 30 seconds East, 200.00 feet; thence South 56 degrees 47 minutes 30 seconds East, 1.9 feet; thence North 27 degrees 47 minutes East, 50.0 feet; thence North 33 degrees 31 minutes East, 448.8 feet; thence North 58 degrees 14 minutes East 129.4 feet; thence North 77 degrees 12 minutes East, 137.1 feet; thence North 09 degrees 00 minutes East, 90.0 feet; thence North 38 degrees 18 minutes East, 88.0 feet to the point of beginning.

Except all that part of the following two described parcels:

1. A strip of land conveyed by Quit Claim Deed dated May 13, 1968, and recorded on December 10, 1968, in Book 339 of Deeds on Page 880, to the Olmsted County Historical Society, said strip being 7 feet in width adjacent to the following described line on the northerly and westerly side thereof:

Beginning at the point of beginning of the first above described tract; thence South 38 degrees 18 minutes West, assumed bearing, along the easterly line of said tract, 88.0 feet; thence South 09 degrees 00 minutes West, 90.0 feet; thence South 77 degrees 12 minutes West, 137.1 feet; thence South 58 degrees 14 minutes 00 seconds West, 129.4 feet; thence South 33 degrees 31 minutes West, 448.8 feet; thence South 27 degrees 47 minutes West, 50.0 feet, more or less, to the northeasterly boundary of the land conveyed to the Olmsted County Historical Society by a Quit Claim Deed recorded on December 30, 1965, in Book 332 of Deeds on Page 785, and there terminating.

2. Commencing at the point of beginning of the first above described tract; thence North 72 degrees 00 minutes West, assumed bearing, along the northerly line of said tract, 7.46 feet to the westerly line of a 27.00 foot strip of land conveyed to the County of Olmsted in Book 339 of Deeds, Page 880, for a point of beginning; thence South 38 degrees 18 minutes West, along said westerly line, 87.24 feet; thence South 09 degrees 00 minutes West, 87.09 feet; thence South 77 degrees 12 minutes West, 133.53 feet; thence South 58 degrees 14 minutes West, 133.00 feet; thence North 50 degrees 56 minutes 15 seconds West, 109.57 feet; thence North 47 degrees 30 minutes East, 224.00 feet; thence North 40 degrees 24 minutes East, 139.10 feet to the centerline of County Road No. 125; thence South 60 degrees 22 minutes 30 seconds East, along said centerline, 125.00 feet; thence South 72 degrees 00 minutes East, 33.74 feet to the point of beginning. Being subject to the County Road No. 125 right-of-way over the northerly boundary thereof.

The first above described tract also being subject to the County Road No. 125 right-of-way over the northerly boundary thereof.

Containing 2.14 acres more or less.

ATTACHMENT D
TERMS OF REAL ESTATE TRANSFER

ARTICLE I
Purchase and Sale

1.1 Transfer After Satisfaction of Contingencies: Upon satisfaction of the contingencies in Section 2 regarding required consents from the **Mayo Relatives Under Option Agreement** and in Section 3 regarding completion of the **Planned Improvements**, HCOC agrees to convey to Mayo Clinic and Mayo Clinic hereby agrees to accept transfer of title to the following:

(a) The **Mayowood** real estate described on **Attachment C** with all and singular the rights and appurtenances pertaining to such real property, including any right, title and interest of HCOC in and to adjacent streets, alleys, right-of-ways and easements (all of such real property, rights and appurtenances being hereinafter referred to as the “**Real Property**”); and

(b) All improvements now or hereafter constructed and completed or under construction with respect to and situated on the **Real Property**, if any.

All of the foregoing items purchased under this Agreement shall be collectively hereinafter sometimes referred to as the “**Property**.”

1.2 Consideration: Payment in full of the **Planned Improvements** by Mayo Clinic and Mayo Clinic’s ongoing commitments in this Agreement shall be the total consideration for transfer of the **Property**.

ARTICLE II
Representations and Warranties of HCOC

2.1 HCOC represents and warrants to Mayo Clinic as follows:

(a) HCOC will convey title to the **Property** by general warranty deed, free and clear of any and all liens, mortgages, pledges, security interests, leases, charges, encumbrances, easements, joint ownerships, or restrictions of any kind, except for Permitted Title Exceptions as set forth in **Attachment D-2** attached hereto and incorporated herein by this reference.

(b) HCOC represents and warrants that HCOC has made a good faith review of all records relating to the **Property** which HCOC currently knows to be in HCOC’s possession. Based upon such good faith review, HCOC is not aware of any litigation, proceeding, claim, or investigation, pending or threatened, or of any contract or agreement to which HCOC is currently a party which would adversely affect the **Property**. In the event that HCOC becomes aware of any such matter prior to closing, HCOC will immediately disclose all relevant information regarding such matter to Mayo Clinic. Mayo Clinic shall have ten (10) days after the disclosure of any such information during which Mayo Clinic may elect, as its sole and exclusive remedy,

to terminate this Agreement. Upon any such termination, neither party shall have any further obligations or responsibilities hereunder.

(c) To the best of HCOC's knowledge, the **Property** has not been used for the production, storage, deposit or disposal of toxic, dangerous or hazardous substances, pollutants or contaminants, including but not limited to nuclear fuel or waste, nor have any such substances, pollutants or contaminants ever been placed or located upon the **Property**, which substances, pollutants or contaminants, if found upon the **Property**, would subject the owner of the **Property** to any damages, penalties or liabilities under any applicable federal, state or local law. The foregoing representation and warranty shall survive the date of closing.

(d) HCOC represents and warrants that there are no pending or contemplated eminent domain proceedings affecting the **Property** or any part thereof.

ARTICLE III **Title Examination**

3.1 HCOC shall furnish immediately to Mayo Clinic an abstract or abstracts of title to the **Real Property** certified to date to include proper searches covering bankruptcies, state and federal judgments and liens, and levied and pending special assessments.

3.2 Mayo Clinic shall promptly obtain a Commitment for an Owner's Policy of Title Insurance or Title Opinion and HCOC shall be allowed ten (10) business days after receipt of the Commitment or Title Opinion for making any objections. Objections must be made in writing or shall be deemed waived. If Mayo Clinic fails to object within said period of ten (10) business days, the condition of title to the **Real Property** shall be deemed approved. If Mayo Clinic objects to any title matters, HCOC must elect either to rescind this Agreement within ten (10) days of receipt of the objection or HCOC shall be deemed to have agreed to use reasonable efforts to satisfy such objections prior to the Closing Date. In the event that HCOC is unable to satisfy such objections prior to the Closing Date despite HCOC's reasonable efforts, Mayo Clinic shall have the option and exclusive remedy to terminate this Agreement in writing or to waive such objections and to close the Purchase of the Property.

ARTICLE IV **Closing**

4.1 The consummation of the purchase and sale contemplated hereby (herein referred to as the "**Closing**") shall be held within ten (10) days of completion of the **Planned Improvements** at Mayowood, or at such other place and time as HCOC and Mayo Clinic shall mutually agree upon in writing. The date and hour of **Closing** are herein referred to as the "**Closing Date**."

4.2 At the **Closing**:

(a) Subject to Mayo Clinic's performance, HCOC shall execute and deliver to Mayo Clinic the following: 1) a General Warranty Deed conveying good and marketable title to the

Real Property, subject only to the Permitted Title Exceptions set forth in **Attachment B**; 2) a standard form HCOC's Affidavit; 3) a Certificate of Real Estate Value; and 4) such other documents reasonably requested by the Title Insurance Company or by Mayo Clinic which are necessary to close the transaction.

(b) HCOC shall pay for all general add valorem real estate taxes due and payable in the year prior to the year of **Closing** and all prior years. General add valorem real estate taxes that are due and payable in the year of **Closing** shall be prorated as of the **Closing Date**. All general add valorem real estate taxes that are due and payable in the year after the year after **Closing** and subsequent years shall be paid by Mayo Clinic.

(c) Mayo Clinic agrees to pay or to assume the unpaid balance of all levied, pending and deferred special assessments applicable to the **Property** as of the **Closing Date** and the amount shall be included in determining the value of the **Planned Improvements**.

(d) Other costs incurred in closing the transaction contemplated by this Agreement shall be prorated between the parties according to the local custom and practice in the place of **Closing**.

ARTICLE V

Investigation Contingency; As Is Condition

5.1 HCOC agrees to permit Mayo Clinic, at Mayo Clinic's sole cost and expense, at any time prior to the **Closing Date**, through its employees and representatives, to conduct such investigations and examinations of the **Property** as it deems necessary or advisable, and HCOC will cooperate fully in such investigation. Such investigation may include, but is not limited to, surveying, soil testing, tests for the presence of pollutants, contaminants, and toxic or hazardous substances, and other various studies. Mayo Clinic agrees to indemnify and hold HCOC harmless from all injury, death, or property damage, or claims of any kind whatsoever arising out of or in any way incidental to Mayo Clinic's presence on the **Property** for any purpose. Mayo Clinic shall furnish to HCOC a copy of any such tests and examinations, and Mayo Clinic agrees to keep all information relating to such tests and examinations confidential (except to the extent disclosure is required by law) unless and until this transaction closes. Mayo Clinic shall have the right, at Mayo Clinic's sole cost and expense, to satisfy itself of the following conditions on or before the **Closing Date**:

5.2 Except as specifically stated in this Agreement, HCOC makes no warranties or representations whatsoever, express or implied, with respect to the soil condition, zoning, permitted uses, condition of any improvements, prior use, or environmental condition of the subject property or any surrounding property (including all facilities, improvements, and structures thereon, surface waters thereon or adjacent thereto, or soil and ground water thereunder), HCOC's operations conducted on the subject property, the adequacy, sufficiency or accuracy of any plans, reports, or specifications which HCOC may provide to Mayo Clinic, or HCOC's compliance with any federal, state, or local environmental health or safety law or regulation.

ATTACHMENT D-2

- 1) Building and zoning laws, ordinances, and State and Federal regulations.
- 2) Reservation of any mineral or mineral rights to the State of Minnesota.
- 3) Real estate taxes as provided in Section 5.2(c).
- 4) Special assessments levied or pending after the **Closing Date**.
- 5) Easements covenants, conditions, restrictions, reservation, and all other matters of record and all unrecorded matters of which Mayo Clinic is or should become aware during Mayo Clinic's physical investigation of the **Property**.

DM:413494 v5

January						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

March						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

April						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

May 2010

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1 Public Tours 11-4
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

June 2010

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1 Public Tours 11-4	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

July 2010

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1 Public Tours 11-4	2	3
4 Holiday	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

August 2010

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1 Public Tours 11-4	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

