

MEMORANDUM OF AGREEMENT

This Agreement dated as of November 22, 1999, is entered into by and between The Town of Belmont, acting by and through its Board of Selectmen ("Belmont"), and The McLean Hospital Corporation ("McLean").

Recitals

McLean has asked Belmont to cause a re-zoning of the approximately 238 acres of land in Belmont owned by McLean (the "Property") by adopting a zoning by-law amendment in the form attached hereto as Attachment A.

Such a rezoning would be based on the following conditions:

- a. preservation of certain portions of the Property as open space, and assurance of public access thereto, through a conservation restriction and public access easement;
- b. conveyance of a certain portion of the Property to Belmont for use as public open space;
- c. conveyance of a certain portion of the Property to Belmont for use as a municipal cemetery;
- d. coordinated management of the publicly-owned and privately-owned open space;
- e. conveyance of a certain portion of the Property to Belmont for the development of affordable housing;
- f. preservation of certain historically significant features of the Property;
- g. stipulating the continuing tax status of the Property;
- h. monitoring traffic to and from the Property, limiting the same to pre-determined levels and mitigating the effect thereof upon local roads;
- i. use of the existing soccer field on the Property;
- j. conveyance of certain additional rights and easements for public use; and
- k. reimbursement of up to \$500,000 of consultant costs incurred by Belmont.

Whereas, McLean is willing to perform certain agreements, as set forth below, if and only if the proposed zoning by-law amendment is adopted at a Special Town Meeting in the form attached hereto as Attachment A without modification;

Now, therefore, Belmont and McLean agree that, if and only if the proposed zoning by-law amendment is adopted at a Special Town Meeting in the form attached hereto as Attachment A without modification, then Belmont and McLean shall each perform the following actions on the fifth business day after approval by the Attorney General of the adopted zoning by-law amendment; provided however, that with respect to the actions described in Sections 1 through 5, 9 and 10 below: (a) if any application for design and site plan approval has been filed within one year following the date of such Special Town Meeting and a corresponding application for building permits has been filed within sixty (60) days of the granting of design and site plan approval (all such applications having been filed in good faith as being in compliance with the applicable zoning, building code and other regulatory provisions in the reasonable judgment of the applicant), then Belmont and McLean shall each perform its respective obligations on the first business

day after the issuance of the building permits applied for within such sixty day period; or (b) if no such application for design and site plan approval has been filed within one year following the date of such Special Town Meeting (or no such application for building permits has been filed within the sixty day period described above), then Belmont and McLean shall each perform its obligations on the first business day after such one year period (or the subsequent sixty day period, as the case may be) ends:

1. McLean will execute, acknowledge and record Conservation Restrictions in the form attached hereto as Attachments B1 and B2. The holder of the Conservation Restrictions shall be The Trustees of Reservations and/or such other holder as Belmont and McLean shall approve, such approval not to be unreasonably withheld.

2. McLean will convey to Belmont for open space preservation and use good and clear record and marketable title to the portion of the Property shown on Attachment C hereto (McLean acknowledging that Belmont intends to convey a portion thereof in accordance with Attachment L). McLean shall prior to such conveyance remove the soils and asphalt currently stockpiled within the North Meadows area as described in the McPhail Associates report, regrade and reseed such area to a safe and stable (non-erosive) condition and provide Belmont with a reasonable update to the McPhail report (including confirmatory post-removal sampling) confirming that the land to be conveyed to Belmont does not contain hazardous materials within the meaning of applicable state and federal law. McLean acknowledges that despite such conveyance, it remains responsible for hazardous materials on such land to extent provided for a former owner or operator of land under applicable state and federal law.

3. McLean will convey to Belmont, to be used in perpetuity for open space in an open and natural condition or for municipal cemetery use, good and clear record and marketable title to the portion of the Property shown on Attachment D hereto. Belmont, McLean and the Cemetery Commission will enter into an agreement regarding the cemetery in the form attached hereto as Attachment K.

4. Belmont and McLean will enter into a land management agreement in the form attached hereto as Attachment E. The management agent shall be the Massachusetts Audubon Society or such other agent as Belmont and McLean shall approve, such approval not to be unreasonably withheld.

5. McLean will convey to Belmont for the development of affordable housing, mixed-income housing containing affordable units and/or parking accessory to affordable housing good and clear record and marketable title to the portion of the Property shown on Attachment F hereto, together with an easement permitting vehicular access to such property from the to-be-constructed access to the Property from Pleasant Street.

6. Belmont and McLean will enter into an historic preservation agreement in the form attached hereto as Attachment G.

7. Belmont and McLean will enter into a tax agreement in the form attached hereto as Attachment H. Belmont will pursue a special act of the Legislature ratifying such agreement.

8. Belmont and McLean will enter into a traffic monitoring and mitigation agreement in the form attached hereto as Attachment I.

9. Belmont and McLean will enter into an agreement regarding the existing soccer field on the Property in the form attached hereto as Attachment J.

10. McLean will convey to Belmont (provided that Belmont must accept such conveyance within a reasonable time, taking into account any planning processes which Belmont may be actively pursuing, after receiving notice from McLean that McLean's development planning requires Belmont's acceptance or rejection of such conveyance and that Belmont shall, after such acceptance, be responsible for the maintenance and upkeep of the building or land conveyed): (a) an appropriate building for use as a cultural center (if Belmont accepts such conveyance, an appropriate adjustment to the traffic monitoring and mitigation agreement shall be made to exclude traffic generated by Belmont's use of the

cultural center); (b) an appropriate area along Pleasant Street for an anticipated bike path following a vote by the Board of Selectmen approving the bike path through Belmont; and (c) easements or fee title along Pleasant Street as necessary to alter such street (and related sidewalks), provided that such grants under clauses (b) and (c) shall not exceed ten feet in depth from the existing Pleasant Street right-of-way except as needed in the opinion of the Town Engineer to create adequate sight lines for the proposed new access to the Property from Pleasant Street (where in excess of ten feet in depth, such grants shall consist of easements, not transfers of fee title); all of the foregoing at no cost to Belmont, provided, however, that Belmont shall be responsible for any costs related to any such projects.

11. McLean will reimburse Belmont the documented costs of its consultants in the rezoning process, such reimbursement not to exceed \$500,000. McLean will further reimburse Belmont for reasonable additional inspectional services, with any fees for building permits paid being offset against such costs.

12. Belmont has determined that any proposed roadways within the McLean District will be "driveways" and, therefore, will not be subject to the Rules and Regulations of the Board of Survey.

13. Belmont and McLean agree that vehicular access to Zone 1A under the proposed zoning by-law amendment shall be provided through the area shown on Exhibit C to the Conservation Restriction (Attachment B1).

14. McLean shall execute, acknowledge and deliver an agreement providing that no more than 10,000 square feet of gross floor area located on the Property shall be used for child day care, not including the continuation or relocation of the existing facility, and that all of the attendees within such 10,000 square feet of child day care facilities shall be the children of parents working or living at the Property, except as allowed by Belmont.

15. Belmont and McLean agree that if the Town's adoption of the proposed zoning amendment is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction prior to the performing of the actions described in Sections 1 through 5, 9 and 10 above (except for such a determination which applies only to a portion of the zoning amendment which does not materially impair the rights of Belmont or McLean thereunder), then the provisions of this Memorandum (other than Section 11) and each of the agreements and documents referenced herein shall be null and void.

16. Belmont will pay McLean \$2.2 million in consideration for McLean's agreement to reduce the allowed gross floor area from 200,000 to 150,000 square feet in the Research and Development Subdistrict. Such payment will be made through: (a) waiver of the reimbursement of consultant fees set forth in Section 11 of this Memorandum; (b) reduction of \$200,000 in McLean's obligation to provide funding for traffic mitigation measures pursuant to Section II of Attachment I to this Memorandum; and (c) payment of \$1.5 million at the time of approval by the Planning Board of the concept plan submitted for development of the Research and Development Subdistrict. Belmont and McLean agree that if Belmont fails to pay the \$1.5 million at the time of such approval then, notwithstanding the other provisions of the Memorandum, McLean shall not be required to perform its obligations in Sections 1 through 5, 9 and 10 until such payment is made.

17. McLean agrees that the site plan review process shall include the submission of evidence, to the satisfaction of the Planning Board, of compliance with all of the ancillary agreements attached hereto, including the Traffic Monitoring and Mitigation Agreement, Attachment I.

18. McLean agrees that any change of use from a psychiatric use to a non-psychiatric use would be a "substantially different purpose" requiring site plan review under Section 6A.4 of the proposed Zoning By-Law amendment.

19. McLean agrees to grant to the Town an option, in a form satisfactory to the Town, to purchase up to sixteen lots contiguous to the high quality open space in Zone 1A at a price of \$200,000

per lot, provided, however, that if at least six lots are not so purchased by September 30, 1999 the option will terminate.

McLean agrees that it shall take no action, prior to the consummation of the actions described in Sections 1 through 5, 9 and 10, which would be inconsistent with its performance of such actions at the specified time. Without limiting the foregoing, McLean agrees during such interim period to comply with the provisions of the Conservation Restriction described in Section 2 as if they were in full force and effect and to retain ownership of the land which is the subject of Sections 1 through 5, 9 and 10. Nothing in this paragraph shall be deemed to require McLean to allow public access to the Property during such interim period.

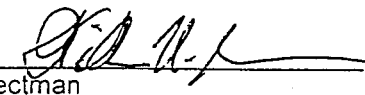
The foregoing obligations shall run with the land now owned by McLean Hospital Corporation in Belmont, Massachusetts. A notice thereof in the form of Attachment M shall be executed by McLean and recorded with the Registry of Deeds upon adoption of the zoning amendment described herein. This Agreement shall not take effect until ratified by a majority vote of Town Meeting of the Town of Belmont. Upon such ratifying vote, this Agreement shall not be amended in any material respect except by a further majority vote of Town Meeting.

Executed under seal as of the date first above written.

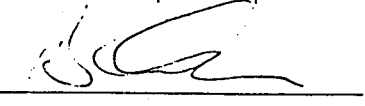
Town of Belmont

By: 
Selectman

By: 
Selectman

By: 
Selectman

The McLean Hospital Corporation

By: 
Its Duly Authorized President